

# **PERCEPTION OF PETROLEUM PROFITS TAX COMPLIANCE IN NIGERIA**

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## **Copyright Statement**

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## **ABSTRACT**

The aim of this research is to examine whether the extent of tax compliance by oil producing companies in Nigeria is determined by the knowledge, remuneration and incentives of government tax officials. This study sets out to investigate the extent of compliance of oil and gas (exploration and production) companies with the Petroleum Profits Tax Act and to confirm whether lack of sufficient knowledge of the PPT law and poor remuneration and incentives of government tax officials affect tax administration in the upstream sector of the petroleum industry in Nigeria.

An extensive literature review was conducted on the historical and legislative background and the incentives available to petroleum companies in Nigeria. The review also covered theories of taxation, tax administration and compliance, tax reforms, tax avoidance and evasion. The literature review revealed gaps which this study attempts to fill. This research has concepts that require both qualitative and quantitative approaches in its design, data collection and data analyses. Consequently, a combination of quantitative and qualitative methods was adopted for this study. Face to face interviews were held with experienced regulatory, tax, petroleum companies' officials and tax and audit practitioners. The researcher uses literature to develop hypotheses which are tested using survey results and backed up by personal interviews. This helps in obtaining results about the behaviour of taxpayers and tax officials in the upstream sector of the petroleum industry in Nigeria. By using a survey, the researcher is able to assess the perceptions of a cross-section of stakeholders in the Nigerian oil industry about the level of compliance with the PPT law. The personal interviews with oil experts provide the benefit of their in-depth knowledge of the oil industry in Nigeria and furnish an understanding of their social world.

This research seems to support the perception that the oil producing companies may not be complying fully with the provisions of the Petroleum Profits Tax Act and the Petroleum Act in relation to the payments of royalty and PPT. Interview results suggest that there is a lack of an adequate database of all company taxes paid in Nigeria, minimisation of monthly Royalties and PPT instalments, a dearth of experts on fiscal issues, overwhelming influence of the oil producing companies, poor attitude and inadequate knowledge of the operations of the petroleum industry amongst government tax officials.

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## ABBREVIATIONS

ACCA - Association of Chartered Certified Accountants

CBN - Central Bank of Nigeria

CITN - Chartered Institute of Taxation of Nigeria

CITA – Companies Income Tax Act

COMD - Crude Oil Marketing Department

DPR – Department of Petroleum Resources

EFCC - Economic and Financial Crimes Commission

FIRS - Federal Inland Revenue Service

FBIR - Federal Board of Inland Revenue

GDP - Gross Domestic Product

GT - Government Take

ICAN - The Institute of Chartered Accountants of Nigeria

IMF - International Monetary Fund

IRS - Internal Revenue Service

LIBOR - London Inter Bank Offer Rate

LTO - Large Taxpayers Office

MOU - Memorandum of Understanding

NAPIMS - National Petroleum Investments Management Service

NEITI - Nigerian Extractive Industries Transparency Initiative

NNPC – Nigerian National Petroleum Corporation

OECD - Organisation for Economic Cooperation and Development

OEL - Oil Exploration Licence

OML - Oil Mining Lease

OPEC - Organisation of the Petroleum Exporting Countries

OPL - Oil Prospecting Licence

OSP - Official Selling Price

PPT - Petroleum profits tax

PPTA - Petroleum Profits Tax Act

PSC - Production sharing contracts

RGT - Revised Government Take

TRP - Tax Reference Price

RRT - Randomized response technique

VAT – Value Added Tax

# **CHAPTER 1 INTRODUCTION**

## **1.1 Background to the research**

There is a dearth of literature on the petroleum profits tax (PPT) regime and compliance of oil and gas (exploration and production) companies with the PPT law in Nigeria. A gap appears to exist between what is documented in the form of legislation and the concessions enjoyed by the petroleum companies. Even though petroleum revenue accounts for over 90% of the nation's total export earnings, little is known about petroleum exploration and production. The current tax rate of 85% on petroleum profits makes petroleum taxation a principal revenue source of government but specialised knowledge of PPT in Nigeria is limited. Despite the phenomenal contribution which petroleum has made to the economy of Nigeria since becoming independent in 1960, the paradox of plenty comes into play in assessing the well-being of the nation. Khan (1994, page 183) reported that Nigeria began to suffer "Dutch Disease in 1970's" due to "increasing dependency on oil revenues, tremendous expansion of the public sector, increases in public expenditure, higher indebtedness, and a collapsing non-oil economy". "Dutch Disease" is a very specific condition. It can affect rich and poor countries. Nigeria (and other poor, resource-rich countries) may indeed suffer from Dutch Disease. Ford (2002, page 25) reported that when Holland was awash with revenue from gas it spent most of it on paperwork and administration instead of channelling it into productive uses. Soros (2002, page 21) noted that "all over the world, countries that should be rich remain poor". He reported that "though blessed with valuable minerals such as oil, diamonds and gold, the ordinary people of Angola, Nigeria, Kazakhstan and elsewhere are mired in poverty while corrupt officials prosper. Nigeria also suffers from many other problems which have their root in the institutions of governance.

Very few companies, largely multinationals, are engaged in petroleum operations in Nigeria and there are also a few wholly indigenous participants. The companies operate principally under joint venture arrangements or in production sharing contracts (PSC) with the Federal Government. There are a few other operators under other forms of arrangements - for example, risk service contracts. The major operators include Shell, Mobil-Exxon, Chevron, Agip and Elf. Most of the multinationals use tax specialists from their Head Offices. The Big Four accounting firms (Akintola Williams Deloitte, PricewaterhouseCoopers, KPMG and Ernst & Young) also act as advisers to the multinationals. There are a few indigenous operators who use mostly indigenous tax practitioners as tax advisers. The Petroleum Profits Tax Act (PPTA) which is the principal law regulating PPT in Nigeria covers the administration, imposition, ascertainment and assessment of PPT. It also covers the collection, recovery, offences and penalties for non-compliance. The PPTA requires companies engaged in petroleum operations to prepare estimated tax returns and actual returns and be assessed for PPT by the Federal Inland Revenue Service (FIRS).

One thing is to have legislation and regulations guiding the administration, assessment and payment of PPT, another is the effective compliance with the law. Government, over time, issued directives and granted concessions to the petroleum companies on taxation of petroleum profits. These directives and concessions when applied directly reduce the quantum of tax payable by the petroleum companies. The PPT law is not regularly updated with the directives and concessions granted. In 1986, Government introduced the Memorandum of Understanding (MOU) granting certain incentives to exploration and production companies. The MOU provided for minimum guaranteed notional margin per barrel of crude oil for investment in oil exploration. The MOU which expired in 1991 was renewed, but expired once again in 1995. Further renewal did not take place until July 2000 (effective January 2000) even though the affected companies continue to adhere to the expired MOU. The 2000 MOU had a three-year term unless otherwise extended by

mutual agreement of the affected parties. The PPT law, when taken in conjunction with the MOU, is rather complex considering the array of formulae prescribed by the MOU. There have been reports of tax avoidance and evasion by some oil companies, for example, Igbikiowubo (2005, page 1) reported that Chevron is “embroiled in a \$10.8 billion tax evasion scam following queries raised against them by ABZ Integrated Limited, tax consultants to the EFCC”; Akande (2005, page 1) reported that “Nigeria must have lost millions of dollars of revenue due from contractors lifting Nigeria’s crude oil, who are not being assessed for tax and so have been avoiding taxes due to the Federation Account”. The weak tax administration may have affected tax compliance, for example, Omoigui (2006, page 10) acknowledged “the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption”. Tax officials operate under the civil service structure with low pay when compared with the private sector. The taxpayers, principally the oil companies, engage officials who are highly qualified, remunerated and motivated. The PPT law requires the oil companies to render tax returns to the FIRS, which is required by law to review the returns and assess the companies accordingly. There is the problem of adequate and prompt monitoring of compliance with the tax law due to shortage of high level manpower and lack of necessary infrastructure. Omoigui (2006b, page 43) identified some of the challenges facing tax administration in Nigeria as need to build competencies within FIRS, structure, poor salary levels and lack of requisite training. Considering the very limited number of oil operators in Nigeria it follows that very limited number of tax specialists act as advisers to the oil companies and the FIRS. Consequently, certain issues cannot be readily addressed in the interest of the nation without bringing in foreign experts. Considering the rather complex fiscal regimes and perceived low knowledge of tax laws and inadequate training of tax officials, it is unclear whether the oil companies fully comply with the PPT law.



The dearth of literature on the PPT regime in Nigeria, coupled with the gaps existing between the legislation and concessions granted to companies engaged in petroleum operations and the limited exposure of accountants to the taxation of petroleum companies, motivated the researcher to conduct this research. The researcher believes that it is worthwhile to conduct an empirical study, through formalised research in the area of PPT in Nigeria. This study will enhance regular compliance with the PPT regime. Hence it is of significance to embark on the study.

## **1.2 Aim and objectives of the study**

### **1.2.1 Aim of the research**

The aim of this research is to examine whether the extent of tax compliance by oil producing companies in Nigeria is determined by the knowledge, remuneration and incentives of government tax officials. This research sets out to make some contribution to tax literature on petroleum and attempts to achieve the following purpose:

**“To investigate the extent of compliance of oil and gas (exploration and production) companies with the Petroleum Profits Tax Act in Nigeria and to confirm whether lack of sufficient knowledge of the PPT law and poor remuneration and incentives of government tax officials affect tax administration in the upstream sector of the petroleum industry in Nigeria.”.**

### **1.2.2 Objective of the research**

The research objective is the investigation of tax compliance by oil producing companies in Nigeria. In order to achieve the above aim, the researcher sets out the descriptive, analytical and theoretical approach as follows:-

#### **A. Descriptive**

- To provide the historical and legislative background to the fiscal regimes regulating petroleum profits taxation in Nigeria, particularly PPT Act and Memorandum of Understanding (MOU).

- To provide legislative background to petroleum exploration and production in Nigeria, particularly Petroleum Act;
- To provide legislative background to tax administration in Nigeria, particularly Federal Inland Revenue Service Act and proposed bills affecting PPT administration in Nigeria.

## **B. Analytical**

- To determine the extent of compliance of oil and gas (exploration and production) companies with the PPT Act in relation to the payment of PPT;
- To determine the extent of compliance of oil and gas (exploration and production) companies with the Petroleum Act in relation to the payment of royalty;
- To confirm that lack of sufficient knowledge of the PPT law and poor remuneration and incentives of government tax officials affect tax administration in the upstream sector of the petroleum industry in Nigeria;

## **C. Theoretical**

- To discuss relevant literature on tax administration and tax compliance including tax theories for example, game theory, equity theory, deterrence theory and prospect theory;
- To discuss relevant literature that highlights tax non-compliance, particularly tax avoidance and evasion;
- To highlight the policy implications of the research findings; and
- Proffer recommendations for the improvement of compliance with the PPT law in Nigeria.

## **1.3 Significance of study**

The findings of the study provide empirical evidence of the impact of compliance of oil and gas (exploration and production) companies with the PPT law in Nigeria. The recommendations of the study when implemented should impact on the way the regulators, FIRS, tax practitioners, oil producing companies, policymakers and Government will

utilise the knowledge to improve compliance with the PPT law in Nigeria. The results reported by the thesis are of interest to those who work on the economic development of resource-rich countries, for the inability of such governments to collect their rightful taxes is one of the many constraints on their development.

#### **1.4 Research questions**

The questions for which answers are found in order to meet the research aims include:

- (a) Do oil and gas (exploration and production) companies in Nigeria fully comply with the provisions of the PPT Act in relation to the payments of PPT?
- (b) Do oil and gas (exploration and production) companies in Nigeria fully comply with the provisions of the Petroleum Act in relation to the payment of royalties?
- (c) Does a significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions, which is responsible for ineffective tax administration in the upstream sector of the petroleum industry in Nigeria?
- (d) Do the oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of (c) above?
- (e) Is the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria sub-optimal given the disparity in remuneration and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions?

#### **1.5 Research hypotheses**

The researcher conducts literature reviews in the following chapters and seeks to use the literature to develop hypotheses which will be tested in the course of the study.

## **1.6 Scope of the study**

The study is on the operations of oil and gas activities in Nigeria. The country is made up of 36 states and the capital, Abuja. The nation is divided into six geo-political zones, South-West, South-East, South-South, North-East, North-West and North-Central. Certain zones are more active in the oil and gas business than others. Hence they assume more prominence in the study. For example, oil and gas exploration and production in Nigeria are carried out in the Niger Delta. The Head Offices of the oil operators are located principally in Lagos. The operational zones are largely in Port Harcourt and Warri. Lagos as the commercial capital of Nigeria is more attractive for the purpose of eliciting information or data required for the study. Therefore, our respondents are drawn from Lagos, Port Harcourt, Warri, Kaduna and Abuja. The respondents are the taxpayers (the oil companies), the regulators (DPR and FIRS), tax and audit practitioners (for example, the Big 4 – Akintola Williams Deloitte, PricewaterhouseCoopers, KPMG and Ernst & Young).

## **1.7 Difficulties facing the study**

The difficulties facing the study are:

- (a) Dearth of local literature on the subject matter and the paucity of current literature on PPT regime and compliance of oil producing companies with the PPT law in Nigeria.
- (b) There is the possibility of tax evasion in Nigeria but no multinational will readily admit involvement in tax evasion.
- (c) Civil servants normally would like to listen, rather than reveal information. In fact, Section 39(2) of the Federal Inland Revenue Service (Establishment) Act 2007 specifically prohibits tax officials from revealing information on the taxation of companies but can only do so with the express approval of the Minister, failing which, on conviction, are liable to

both fine and imprisonment. Such matters are still classified as “secret and confidential information”.

- (d) The oil companies pay PPT and Royalties to the CBN and such monies are credited to the Federation Account. The Federal Government then appropriates monies to the three tiers of government i.e. Federal, States and local governments after the passage of Appropriation Bills by the National Assembly. The implementation of the budgets by the various tiers of government and possible misappropriation of funds which may occur, considering perceived corruption in the Nigerian economy, are outside the scope of this study.
- (e) As the government policy on gas is rapidly changing and the taxation of profits on gas is principally being brought under the Companies Income Tax Act, this study does not cover the taxation of profits on gas.
- (f) There is presently no national record of all taxpayers in Nigeria; hence there is still the problem of determining the extent of tax compliance within the Nigerian economy.
- (g) The researcher attempted to carry out a quantitative analysis of available financial data but the data was unreliable and the answers were therefore not convincing.

## **1.8 Structure of the study**

The research study is covered in nine chapters. As the literature surrounding the current study is very extensive, relevant materials are reviewed and reported in three separate “literature review” chapters which explore previous works by other researchers on or around the subject matter. Issues that may influence this research or other future research and how the researcher’s work contributes to the extant literature, are evaluated in the context of current study. The advent of information technology, particularly the internet,

has brought to the fore rapidity in information availability and dissemination. The researcher obtained some information on the research topic from the internet and other sources. The researcher is mindful of the need to respect and acknowledge the authors and materials obtained from those sources.

Chapter 2 on “Historical and legislative background” covers petroleum production in Nigeria, administration of PPT, the PPT Act, MOU, Tax Reform Bills 2005, Petroleum Industry Bill 2008, royalties and incentives available to companies engaged in petroleum operations in Nigeria. The chapter discusses essential provisions of the PPT Act and the Petroleum Act to enable readers readily comprehend the rather complex fiscal regimes.

Chapter 3 titled “Tax administration and compliance” covers previous research on tax compliance and administration, theories of taxation and tax reforms. It discusses the consequences of tax complexity, the economic justification for taxation, and theoretical approaches to tax compliance such as game theory, equity theory, deterrence theory and prospect theory. Tax compliance models are discussed in the context of the use of models to estimate the degree of taxpayer compliance and the use of survey to measure tax compliance. It also discusses the key problems and challenges of tax administration and the key features of tax reforms presently being implemented in Nigeria.

Chapter 4 covers meaning of tax avoidance and evasion and measure to combat tax avoidance and evasion. It also covers reported cases of how some oil companies appear to evade taxes in Nigeria.

Chapter 5 titled “Research methodology” describes the methodology that is employed in this study. It considers the background to qualitative and quantitative approaches and the justification of the approach adopted. Research methodology consists of procedures

followed in designing, identifying, collecting and analysing data to answer research questions through scientific enquiry and interpretation. This research has concepts that require both quantitative and qualitative approaches in its design, data collection and data analysis. Consequently, a combination of quantitative and qualitative methods is adopted for this study. The chapter covers parametric and non parametric statistics and the choice of statistical methods adopted in this study. The chapter also covers research design, research hypotheses, population, sample and sampling technique, data collection, research instrument, conceptual and theoretical issues involved in research methodology, survey, statistical tools and analytical procedures and data analysis and reporting.

In Chapter 6, the researcher sets out the hypotheses which are tested in this study in order to answer the research questions. The hypotheses are derived partly from previous literature as described in the literature review and partly from the researcher's experience of the Nigerian oil industry, then tested using the survey results and backed up by the interviews. Tests conducted to support the hypotheses are principally looking at the responses to survey questions.

Chapter 7 deals with "Analysis and interpretation of survey results". In this chapter, the author presents an analysis of the research data collected from the survey and discusses the hypothesis tests of the questionnaire data. It contains commentary (illustrated with selected tables) using results of frequency tests and other statistical analysis conducted using SPSS software. It covers the tests of hypotheses, evidence obtained from the questionnaire, support (or otherwise) for the hypotheses and interpretation.

Chapter 8 titled "Analysis and interpretation of data – qualitative" covers the qualitative aspect which provides valuable insight and illumination into PPT administration and tax compliance in Nigeria. Due to the exploratory nature of this study, conducting face to face

interviews with experienced regulatory, tax and government officials provide the benefit of their in-depth knowledge of the petroleum industry and corroborate some of the findings of the quantitative research.

Chapter 9 on “Conclusions and recommendations” covers the findings relating to the research objectives, implications on related literature, limitations of the research, areas of further research and policy recommendations based on the conclusions.

Figure 1-1 shows a schematic diagram of the chapters while Figure 1-2 shows the contribution to knowledge.



**Figure 1-1** schematic diagram of the research study

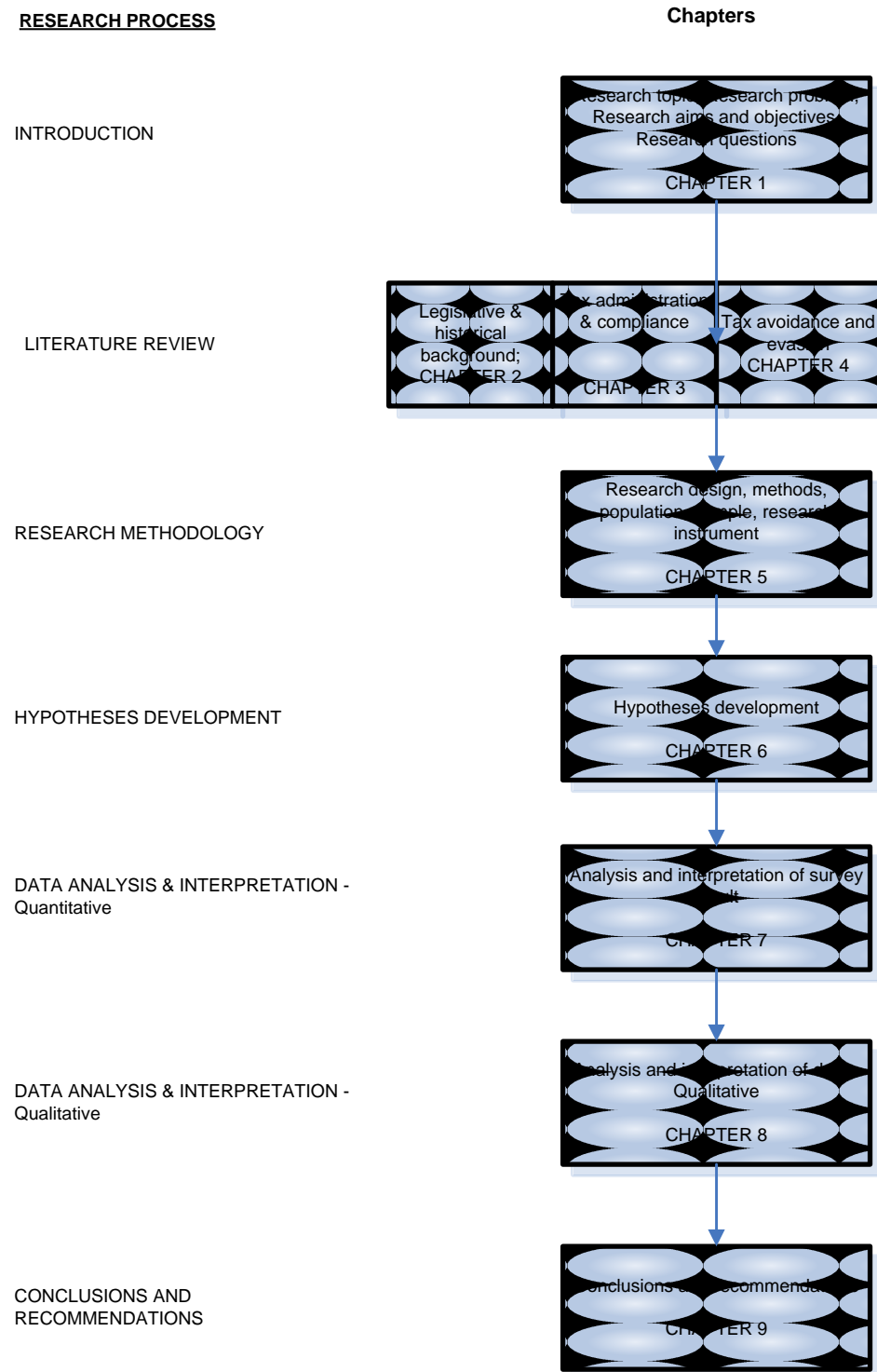
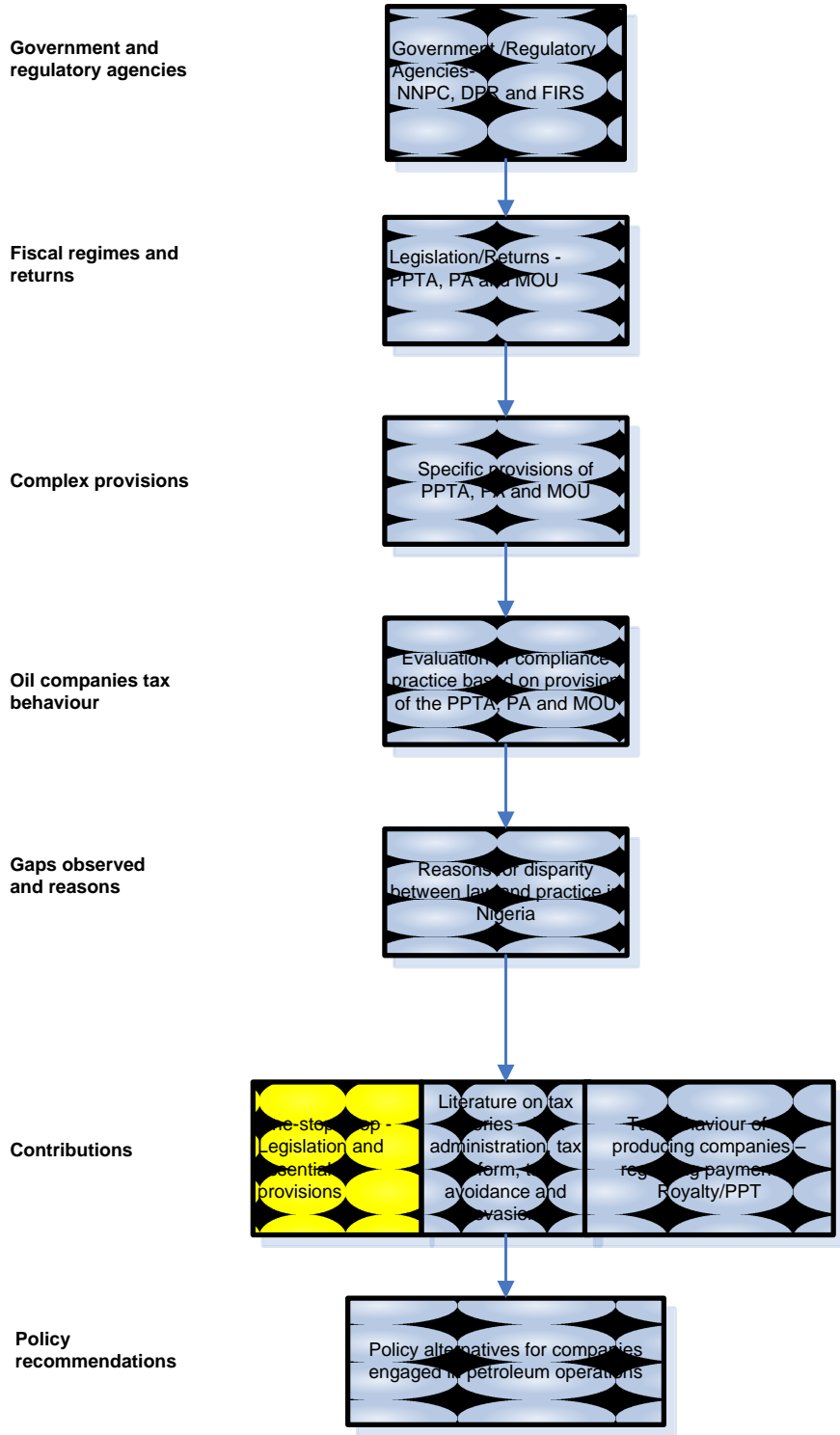


Figure 1-2 showing the contribution to knowledge



## **CHAPTER 2   HISTORICAL AND LEGISLATIVE BACKGROUND**

### **2.1   Introduction**

In the first chapter, the dearth of literature on petroleum taxation and the low awareness of the PPT law in Nigeria were highlighted. The complexity of the PPT law when taken with the MOU and the ill-funded tax administration came into focus. This is against the background that as petroleum is the dominant revenue earner for Nigeria and PPT is the major source of tax revenue, there is the need for proper understanding of the PPT law by tax officials, taxpayers and tax consultants to enhance compliance with the PPT law in Nigeria.

In this chapter, the author presents the historical background to petroleum production and fiscal regimes in Nigeria. The background provides the relevant and needed information which otherwise is not readily available and also helps readers and users in appreciating the complexity of the fiscal regimes. The chapter deals with the importance and rationale for PPT, MOU, and administration of taxation and oil incentives. This chapter further discusses the provisions of the Petroleum Profits Tax Act, the Petroleum Act, key features of the PPT Bill 2005, the Petroleum Industry Bill 2008 and the FIRS Act 2007.

One thing is to have legislation and regulations guiding the administration, assessment and payment of PPT, another is the effective compliance with the law. Consequently, tax administration and compliance are discussed in the next chapter.

### **2.2   About Nigeria**

Nigeria is a country rich in mineral resources, vast agricultural lands and human capital with abundant cultural diversity. There are three principal ethnic groups, Yoruba, Hausa and Ibo in the West, North and East, respectively. There are over 250 ethnic groups occupying 910,768 sq km of

land and 13,000 sq km of water (total 923,768 sq km). Nigeria is the sixth largest producer of crude oil in OPEC and eleventh in the world. The country produces 2.10 million barrels (NNPC 2008, page 4) of crude oil per day. The Nigerian economy relied on agricultural and trading activities from pre-independence era to the mid 1970's at which time; agriculture employed over two-thirds of the population and accounted for a third of the GDP. Cotton, groundnut, cocoa, palm oil, rubber, timber, hides and skins constituted the principal exports of Nigeria. However, over the years, successive government policies led to large fiscal deficits, large domestic and external debts, significant abandoned projects, ill-maintained infrastructure, poor public utilities and high level of unemployment. Since the mid 1970's, the economy has "become heavily dependent on earnings from oil, which account for more than half of the Federal Government revenue and over 90% of export earnings" (National Planning Commission 2006 page 1). Nigeria's per capita income dropped from US\$1100 in the 1970's to about US\$340 in early 2000 making Nigeria one of the least developed countries in the world.

### **2.2.1 Importance of petroleum and petroleum taxation to the Nigerian economy**

Prior to the discovery of oil in Nigeria, the taxation of agricultural commodities constituted the principal component of direct taxation for the nation. Thereafter, "the share of oil in total export value rose from less than one percent in 1958 to a peak of 97 percent in 1984" and has virtually remained at about 90 percent since then (Nigeria databank 2006, page 1). The contribution of oil to the total GDP of Nigeria ranged between 35.6% in 1981 and 32.6% in 2004.

Over forty pieces of legislation and amendments affecting the petroleum industry have been passed in Nigeria. These include Mineral Act 1958, Mineral Oils Act 1958, Petroleum Profits Tax Act 1959, Oil Pipelines Act, Mineral Oils (Safety) Regulations 1963, Oil in Navigable Waters Act 1968, Petroleum Act 1969, Oil Terminal Dues Act 1969, Petroleum (Drilling and Production) Regulations 1969, Offshore Oil Revenues Act 1971, Nigerian National Petroleum Corporation Act

1977 and Associated Gas Re-injection Act 1979 (Oremade 1986, page 27). In Nigeria, only companies engaged in petroleum operations are subjected to tax under the PPT Act. Companies coming under the PPT law are principally those in joint venture arrangements with the NNPC, PSC and sole risk and independent operators.

Companies engaged in petroleum operations are currently taxed at 85%. The rate has been at that level since 1 April 1975. Prior tax rates are as follows:

<b>Period</b>	<b>Rate</b>
Up to March 20, 1971	50%
March 21, 1971 to September 30, 1974	55%
October 1, 1974 to November 30, 1974	60.78%
December 1, 1974 to March 31, 1975	65.75%
With effect from 1 April 1975	85%

However, companies producing under production sharing contracts (PSC) are taxed at 50%. Ordinarily, the tax rate of 85% may be regarded as rather high but the various incentives which the oil companies enjoy need to be considered. For example, deduction of expenditure on the oil operations under Section 10 of the PPT Act, granting of investment tax credits and capital allowances as well as guaranteed notional margin constitute benefits which reduce the effect of high tax rates.

### **2.2.2 Rationale for taxation of petroleum profits**

Dworin and Kennedy (1985, page 81) acknowledged that “oil is produced and consumed throughout the world” and that “there are significant variations in the basic economic and geographical characteristics of an oil deposit in different regions” and that “the allocation of drilling opportunities among producers is not generally determined by competitive bidding”. These put a burden on governments. Ordinarily, governments in various countries use taxation as a means of raising revenue to meet their financial obligations to the citizenry (Hardwick et al 1999, page 20). Koch (2003, page 55) cited Rohter (1999) who warned that “government institutions aren’t going to perform any better until they have resources, which they may obtain when people

pay their taxes”. Cords (2005, page 1521) acknowledged that “all governments require a steady source of revenue, requiring efficient tax collection”. Job et al (2007, page 84) posited that “taxation systems are fundamental to democratic governance”. Davies et al 2008, page 3 acknowledged that “most Americans recognise that federal government provides a number of valuable programs for the citizenry” and these services require funding from “income tax or equivalent levy”. The taxes may be either direct or indirect. Direct taxes include PPT, companies’ income tax and personal income tax, while indirect taxes include import duties, export duties, excise duties and value added tax. For a country that is endowed with petroleum, like Nigeria, the taxation of petroleum profits is justified in that:

- (a) Petroleum belongs to the nation; hence the country through its government should partake of the profits from petroleum;
- (b) Government, as part of its responsibilities to the nation, provides essential infrastructures which are not paid for at all except through imposition of taxes;
- (c) Government requires funds to maintain law and order; and
- (d) “Petroleum operations inevitably degrade the environment; so government has to spend massively on anti-pollution programmes to make the oil region wholesome”. For these and other reasons, government is justified in imposing petroleum taxes and other levies (Oremade 1986, page 5).

## **2.3 Administration of taxation**

### **2.3.1 Administration of tax in Nigeria**

The due administration of the PPT Act in Nigeria was vested on the Federal Board of Inland Revenue (FBIR). The Board carried out all acts relating to the assessment and collection of the tax in Nigeria. Under the FIRS Act 2007 the FBIR was dissolved and the FIRS was established as an autonomous parastatal and its Management Board. The new FIRS Board has been criticised for

being comprised principally of civil servants and government functionaries, though the present Chairman of FIRS was appointed by the President from the private sector. With regard to official secrets, all information and documents supplied or produced in connection with the Act are treated as confidential. Section 39 (2) of the FIRS Act 2007 precludes a tax officer, unless authorised by the Minister, from communicating any confidential information or the content of any such document to any person, else the officer commits an offence and is “liable on conviction to a fine of ₦200,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment”.

### **2.3.2 FIRS Act 2007**

Under this Act, the FIRS is responsible for the administration of the various Federal tax laws in Nigeria including all the functions that were initially performed by the FBIR while the FIRS Board was given overall supervision of the FIRS. Part II, Sections 7 and 8 of the Act covers the powers and functions of the Board and the Service. The FIRS Board provides the general policy guidelines, manage and superintend the policies on matters relating to the administration of the revenue assessment, collection and accounting, strategic plans, employment and staff remuneration. The FIRS, on the other hand, has powers to assess, collect, enforce payment of taxes, review tax regimes, carry out examination and investigation, determine losses arising from tax fraud or evasion, enforce compliance and regulatory actions, exchange of information, staff exchange, maintain database of taxpayers, research, enforce and eradicate tax related offences, issue taxpayer identification number, conduct awareness and enlightenment campaign and conduct oversight functions over all taxes and levies accruable to Federal Government. The Act provides for the setting up of the Technical Committee which is empowered to “consider all tax matters that require professional and technical expertise and make recommendations to the Board” (Section 10, FIRS Act 2007). The Act states that the Executive Chairman shall be appointed by the President

and be the chief executive and accounting officer and “be responsible for the execution of the policy and the day to day administration of the affairs” of the FIRS (Section 11, FIRS Act 2007). The FIRS may appoint and employ consultants, including tax consultants and accountants to transact any business “provided that such consultants shall not carry out duties of assessing and collecting tax or routine responsibilities of tax officials” (Section 12(4), FIRS Act 2007).

The FIRS Act 2007 provides that FIRS shall establish and maintain a fund which shall consist and be credited with “a percentage as determined by the National Assembly of all non-oil and gas revenue collected by the Service which may be appropriated by the National Assembly for the capital and recurrent expenditures of the Service” (Section 15). The FIRS is required to render its stewardship which must be audited by independent auditors, annually.

The FIRS Act 2007 states that “there shall be refunded to taxpayers, after proper auditing by the FIRS such over payment of tax as is due”. The FIRS “shall decide on who is eligible for the refund” subject to “such rules and conditions as may be approved by the Board”. Any tax refund “shall be made within 90 days of the decision of the FIRS” with “the option of setting off against future tax by the taxpayer”. “For the purpose of tax refund, the Accountant-General of the Federation shall open a dedicated account into which shall be paid monies for settling such refunds”. The FIRS shall administer the dedicated account, and “prepare an annual budget for tax refund to be funded from the Federation Account as may be approved by the National Assembly” (Section 23). The FIRS Act provides an array of offences and penalties ranging from fines and/or imprisonments for offences such as communicating confidential information, failure to deduct and remit tax, obstructing a tax official, making untrue statements and rendering false returns.



## **2.4 Petroleum Profits Tax Act**

### **2.4.1 Introduction**

The Petroleum Profits Tax Act (PPTA) is the principal legislation which governs the taxation of companies engaged in petroleum operations in Nigeria. The PPTA imposes tax upon the profits from the winning of petroleum in Nigeria, provides for the assessment and collection of PPT in Nigeria. The law took effect from 1 January 1958 and has had several amendments. Government came up with a consolidated version of the PPT Act as CAP P13 of the Laws of the Federation of Nigeria 2004. PPTA (as amended) is considered in the following sections.

Petroleum Profits Tax (Amendment) Bill 2005 (PPT Bill 2005) forms part of the government tax reforms but it is yet to be passed into law. The key features of the Bill are considered in Section 2.4.2 of this chapter. Section 2 of the PPTA states as follows:

**Petroleum operations** means the winning or obtaining and transportation of petroleum or chargeable oil in Nigeria by or on behalf of a company for its own account by any drilling, mining, extracting or other like operations or process, not including refining at a refinery, in the course of a business carried on by the company engaged in such operations, and all operations incidental thereto and any sale of or any disposal of chargeable oil by or on behalf of the company.

For a company to be subjected to tax under the PPTA, the company must be engaged in petroleum operations. “Petroleum operations” involve the whole of the following activities:

1. Winning or obtaining petroleum;
2. Transportation of the petroleum from source of winning to a storage point for export;
3. Operations incidental to petroleum operations; and
4. Sale or disposal of chargeable oil won in the concession area.

If a company does not do the four activities together, the company cannot be taken to be engaged in petroleum operations. The definition of petroleum operations specifically excludes refining at a refinery. The profits from operations at a refinery are subjected to companies’ income tax under CITA and not PPT (Oremade 1986, page 17).

Only companies engaged in petroleum operations are subjected to PPT. The tax is levied on the profits of the company for the accounting period during which the company is engaged in petroleum operations. Individuals are prohibited from engaging in petroleum operations in Nigeria. The PPTA allows two or more companies to engage in petroleum operations as partners or in joint venture and requires the resultant tax liability to be apportioned among the companies (Section 24 (2) and (3)). Non-resident oil companies are assessed directly or in the name of each company's resident manager (Section 25). Where a company is in receivership or liquidation, the tax due may be assessed on the company's receiver or liquidator (Section 27).

The profits of a company for an accounting period are the aggregate of the proceeds of sale of all chargeable oil sold, the value of all chargeable oil disposed of and all incidental income. The value of chargeable oil so disposed of is the aggregate of the value of that oil as determined for the purpose of royalty less any cost of extraction and "transportation and storage of that oil between the field of production and the place of its disposal" (Section 9 PPTA).

#### **2.4.2 Deductions**

Under Section 10 of the PPTA rents, royalties, interest, repairs, bad and doubtful debts, drilling of an exploration well, first two appraisal wells in the same field, pension contribution, customs and exercise duties are tax deductible. The PPT Bill 2005 seeks to allow the following expenses incurred in the accounting period as tax deductible:

- .1 Rents and premiums on land or building occupied for the purpose of petroleum operations and business.
- .2 Rents, other than rents included in the definition of royalties in the Act and non-productive rents.

- .3 Removal of all royalties on “natural gas sold and actually delivered to the NNPC or sold to any other buyer or customer”, as allowable deduction under Section 10 and would now allow under Companies Income Tax Act (CITA).
- .4 Royalties on condensate injected into crude oil.
- .5 Interest above “London Inter Bank Offer Rate (LIBOR) subject to a maximum spread as may be prescribed by the Minister.
- .6 Expenses on work-over wells.
- .7 Expenditure including intangible drilling costs directly incurred in connection with the drilling of an appraisal or development well.
- .8 Contribution to a pension, provident or other society, scheme or fund which may be approved, with or without retrospective effect, by the National Pension Commission pursuant to the Pension Reform Act 2004.
- .9 Duties, and development levies paid to agencies and parastatals of the Federal Government, State or local government council and
- .10 Provision for abandonment and restoration cost with the setting aside of a specific fund for abandonment and restoration cost.

PPT Bill 2005 seeks to remove incentives for gas utilisation, separate petroleum business from other lines of business, confirm assessable tax rate of 50% on PSC companies, confirm that PSCs signed between 1993 and 1 July 1998 are entitled to claim investment tax credit, encourage and promote more transparency and accountability in that it requires relevant information on budgets, production, lifting, exported crude, joint venture and PSC to be provided to the FIRS regularly and

provide for the Accountant-General of the Federation to meet with oil operators monthly for reconciliation of all sales, receipts and taxes. Section 13 of the PPTA specifically disallows capital expenditure, insurance claims, income tax, depreciation of assets and expenditure on purchase of information relation to the existence of petroleum deposit, as tax deductible.

### **2.4.3 Capital allowances**

A company engaged in petroleum operations is allowed under Section 20 of PPT Act to claim capital allowances on its qualifying capital expenditure only if the company was the owner of the asset at the end of its accounting period and the asset was in use for the purposes of petroleum operations carried on by it.

**“Qualifying expenditure”** incurred in an accounting period may be classified as “qualifying plant expenditure,” “qualifying pipeline and storage expenditure”, “qualifying building expenditure” or “qualifying drilling expenditure”.

Qualifying expenditure incurred by a company before its first accounting period is deemed to be qualifying expenditure incurred by it on its first day of its first accounting period (Paragraph 1, Second Schedule PPTA). Types of capital allowances are as follows:

#### **(a) Petroleum investment allowance**

Petroleum investment allowance is an allowance which is due to a company that has “incurred qualifying capital expenditure wholly, exclusively and necessarily for the purposes of petroleum operations carried out by it”. The allowance is due “for the accounting period in which that asset was first used” for its petroleum operations at the following rates (Table 1 Paragraph 5 Second Schedule PPTA):

Qualifying expenditure in respect of	Rate per centum
On-shore operations .....	5

Operations in territorial waters and continental shelf areas up to and including 100 metres of water depth	10
Operations in territorial waters and continental shelf areas in water depth between 100 metres and 200 metres .....	15
Territorial waters and continental shelf beyond 200 metres	20

(b) **Investment tax credit**

The PPT Act allows companies that operate under PSC to “claim an investment tax credit in accordance with the provisions of the PSC”. The PPT Bill 2005 confirms that “petroleum producing company which executes a PSC on or before 1 July 1998 shall, throughout the duration of the PSC, be entitled to claim an investment tax credit in accordance with the provisions of the PSC”. The Bill states that “the investment tax credit applicable to the contract area shall be 50 per cent flat rate of qualifying capital expenditure incurred or recognised in the accounting period”. The Minister may vary the rate with the approval of the Federal Executive Council (Section 22(1) and (2)).

(c) **Annual allowance**

An annual allowance shall be computed at the following rates:-

Annual allowance	Rate per centum
First year .....	20
2 <sup>nd</sup> year .....	20
3 <sup>rd</sup> year .....	20
4 <sup>th</sup> year .....	20
5 <sup>th</sup> year .....	19

(Table II, Paragraph 6, Second Schedule PPTA).

“There shall be retained in the books, in respect of each asset 1% of the initial cost of the asset which may only be written off” or disposed off in accordance with the authority of a certificate of disposal issued by the Minister (Paragraph 6, Second Schedule PPTA).

#### **2.4.4 Tax returns**

The PPT law provides for returns of estimated tax, preparation and delivery of accounts and particulars, assessment, payment, repayment of tax overpaid and appeals. The PPTA requires a company engaged in petroleum operations to submit to the FIRS a return of its estimated tax for such accounting period, not later than two months after the commencement of each accounting period. The company may submit a revised estimated tax if the initial return submitted requires revision (Section 33). Every company engaged in petroleum operations shall with respect to any accounting period deliver to the FIRS, within five months after the end of its accounting period, a copy of its accounts (bearing an auditor's certificate) and the actual tax return containing a declaration, which shall be signed by a duly authorised officer of the company, or its liquidator, receiver or agent of such liquidator or receiver (Section 30 PPTA).

#### **2.4.5 Payment of tax**

The tax for any accounting period "shall be payable in equal monthly instalments together with a final instalment". The first monthly payment is due "not later than the third month of the accounting period" and "where the accounting period is less than a year, in an amount equal to equal monthly proportion, of the amount of tax estimated to be chargeable for such accounting period" (Section 45 PPTA). The final instalment, also known as the 13<sup>th</sup> instalment, is made after rendering returns on 31 May following the end of the company's financial year.

### **2.5 Petroleum Industry Bill 2008**

A new bill, The Petroleum Industry Bill 2008 seeks to give effect to the proposed structural and fiscal changes in the Nigerian oil and gas industry. A single and comprehensive legislation is proposed to replace the various petroleum and fiscal laws. Some new institutions are being established, for example, Nigerian Petroleum Directorate, National Petroleum Assets Management Agency, Nigerian National Petroleum Company, Petroleum Products Regulatory Agency and

Nigerian Petroleum Research Centre. It seeks to give effect to the restructuring of the present NNPC. The fiscal provisions under the Bill cover incorporated joint venture companies, national oil company, PSC, upstream gas operations, marginal field operators and indigenous oil companies. In computing the profits of a company for an accounting period, the Bill provides for the deduction of “all benchmarked, verified and approved expenditure” within Nigeria. However, only 80% of all such expenditure incurred outside Nigeria may be allowed as tax deductible. Allowable deductions are largely similar to those under Section 10 of the PPTA. The Bill disallows gas flare penalty, demurrage and surcharges incurred at the ports or fines, all workover expenditure except intangible drilling costs and signature or production bonuses. Applicable rate of tax is dependent on the nature of operations conducted by a company, for example, petroleum operations 85%, upstream gas operations 45%, upstream gas operations in a PSC or deep offshore area 35%, companies that have not fully amortised all pre-production capitalised costs 65.75%, petroleum operations in contract area by PSC in deep offshore and inland basin 50%. The Bill imposes an obligation for the provision of FIRS with certain data. The Bill is a subject of controversy between the international oil companies and Federal Government.

## **2.6 Royalties**

Petroleum Act is the principal legislation governing oil exploration and production in Nigeria. The law governs the issuance of Oil Exploration Licence (OEL), Oil Prospecting Licence (OPL) and Oil Mining Lease (OML). The law also regulates the assessment to royalty in the concession area. Royalties are paid on petroleum won in a concession area. There have been several amendments to the principal Act since 1969. An oil exploration licence entitles the grantee to explore for petroleum in the concession area. An oil prospecting licence grants the licensee to prospect for petroleum within the concession area while oil mining lease entitles the grantee a lease “to search for, win, work, carry away and dispose of petroleum” in the concession area (Section 2(1)(c),

Petroleum Act 1969). Paragraph 61 of the Petroleum (Drilling and Production) Regulations, annexed to the Petroleum Act covers royalties. The provisions include:-

(a) Quarterly payment of royalties. The royalties must be paid “not more than one month after the end of every quarter” or as the minister may direct.

(b) Royalty payments, within areas of water depth, are at the following rates:

onshore areas .....	20%
areas up to 100 metres .....	18.5%
areas up to 200 metres .....	16.5%
areas from 201 to 500 metres .....	12.5%
areas from 501 to 800 metres .....	8%
areas from 802 to 1000 metres .....	4%
areas beyond 1000 metres .....	0%

(Paragraph 61(1), CAP P10 LFN 2004, page 116).

“Areas up to and beyond 100 metres of water are considered to refer to depth of water measured from low water mark” (Oremade 1986, page 42).

If any dispute arises as to the amount of royalty due for a quarter, the licensee or lessee shall pay within the time provided whatever he admits to be due and “where on the settlement of the dispute by agreement, arbitration or otherwise, any further amount is agreed or found to be due, shall pay that further amount within seven days of the settlement” (Paragraph 61(2)).

The chargeable value of crude oil and casinghead petroleum spirit is computed as follows:

(a) Ascertain the quantity of crude oil produced from each field of production in the areas,

(b) Reduce that quantity by the quantities of the following, to be certified by the Director of Petroleum Resources:

(i) Usage by the company in carrying out its operations,

(ii) Returns into a formation,



(iii) Losses or evaporation, if reasonable,

- (a) Multiply the posted price of the reduced quantity by the number of barrels to which that quantity is equivalent, and aggregate the results for all fields in the area covered by each licence or lease (Oremade 1986, page 43).

Official Selling Price (OSP) replaced posted price from 1 January 1986. Ordinarily, liability to royalty should be computed on quantity of crude oil produced at the field of production. Adjustments of \$0.003 for each one-tenth degree fluctuation in every API gravity above or below the stipulated API gravity are allowed (Oremade 1986 page 44).

## **2.7 Memorandum of Understanding (MOU)**

The MOU is a formal agreement between the Federal Government of Nigeria and oil producing companies in joint venture operations with the NNPC. Government in its quest to enhance crude oil exports and encourage investments in exploration, development, oil recovery and gas utilisation activities introduced certain incentives under the MOU effective 1<sup>st</sup> January 1986. Oil companies were guaranteed a certain profit margin irrespective of market condition; but the companies have to comply with some stipulated terms and conditions. The MOU became necessary when the oil industry was experiencing a slump in the mid 1980's and government deemed it fit to inject new life into the upstream sector of the economy. The MOU was designed to enhance petroleum exploration and production, increase capital investments, and enhance the nation's petroleum reserves. The margin encompasses a combination of formulae used to arrive at the incentive which is known as MOU tax credit. The initial MOU was replaced by the MOU signed in July 1991, effective 1<sup>st</sup> January 1991. In consideration of the oil company undertaking to increase its work programme and lift a certain portion of NNPC equity crude (on which profits from the sale are shared equally), the company was guaranteed a minimum profit of US \$2.30 or US \$2.50 per barrel after tax, depending on the level of capital investment. Under the MOU, oil companies were entitled to reserves additions bonus and production bonus both of which were treated as tax offsets

against their PPT liability for the year. The reserves additions bonus was between 10 and 50 cents per barrel and could be claimed where a company could establish that additions to its oil and condensates reserves exceeded its production for the accounting year. To the extent that in any one calendar year the actual technical cost of operations exceeded \$3.50/bbl on average and such excess was due to capital investment cost being equal to or exceeded \$1.50/bbl, the company was entitled to a production cost bonus. For the purpose of the MOU, Government Take (royalty and PPT) relating to the joint venture operations between NNPC and the oil company for any fiscal accounting year is the lower of Government Take according to the 31<sup>st</sup> December 1985 and PPT regulations calculated by substitution of Official Selling Price (OSP) for Posted Price and the Revised Government Take (RGT) calculated by the Offset Pricing Formula. The MOU was further revised in year 2000. It gives the oil companies an incentive, the MOU tax credit, which is used as a tax offset against the companies PPT liability. This incentive has the effect of reducing the tax payable by the oil company. The MOU tax credit under the fiscal incentives of the 2000 MOU is the difference between initial Government Take computed as royalty plus PPT using posted price and Revised Government Take computed as royalty plus PPT using the Tax Reference Price. The 2000 MOU has a three-year term unless otherwise extended by mutual agreement of the affected parties. The 2000 MOU further contains a clause stating that “in the event that Government fails to provide the new fiscal regime, this Memorandum will continue to apply notwithstanding the termination thereof until Government comes up with the new fiscal regime in which case this Memorandum shall terminate forthwith”. The MOU is in addition to other incentives available to companies engaged in petroleum operations in Nigeria. The MOU was designed in such a way as to guarantee notional margins at times of changing oil prices. The MOU tax credit is used as a tax offset against PPT liability and has the effect of reducing the tax payable by the oil company in joint venture with NNPC. The 2000 MOU tax credit is computed as the difference between:

1. Government Take (GT) computed as royalty and PPT by substitution of Posted Price with Official Selling Price (OSP); and
2. Revised Government Take (RGT) computed as royalty and PPT, by substitution of Posted Price with Tax Reference Price (TRP).

It is the lower of Government Take and Revised Government Take that constitutes the “MOU tax credit”. The MOU states that Government Take (GT) “according to the 31/12/1985 royalty and PPT regulations, as amended” shall be “calculated by substitution of Posted Price with Official Selling Price (OSP)”. GT is the sum of PPT and royalty computed using Official Selling Price instead of Posted Price. The MOU also states that the Revised Government Take “according to the 31/12/1985 royalty and PPT regulations, as amended”, shall be “calculated by substitution of Posted Price with Tax Reference Price (TRP)”. There are complex formulae for deriving the RGT as well as Revised royalty, Revised PPT, Tax Inversion Penalty Tax Reference Price and Applicable Guaranteed Notional Margin.

## **2.8 Incentives available to oil companies**

There are several incentives that are available to companies engaged in petroleum operations in Nigeria. The incentives include graduated royalty rates, instalment tax payments, and consolidation of operational expenses, reduced royalty rates on deep offshore concessions, petroleum investment allowance and investment tax credit. Government has recently approved graduated royalty rates for offshore concessions and royalty in areas beyond 1000 metres of water depth is zero percent. The PPTA permits the consolidation of operational expenses of the oil companies where a company experiences a dry hole in one lease concession and is successful in another. The costs of the unsuccessful well may be aggregated with the operational cost of a successful well and both costs are regarded as tax deductible in computing the PPT liability of the oil company. Section 10(1) (j) of PPTA allows expenditure incurred in the drilling of an

exploration well whether the wells are productive or not, to be treated as tax deductible. Royalty rates for PSC for deep offshore concessions, as contained in Section 5(1) of the Deep Offshore and Inland Basin Production Sharing Contracts Decree are as follows:-

201 – 500 metres water depth	12%
501 – 800 metres water depth	8%
801 – 1000 metres water depth	4%
Excess of 1000 metres water depth	0%

The royalty rate payable under PSC in the Inland Basin is fixed at 10% (Section 5(2)).

Petroleum investment allowance is granted to a company in respect of any qualifying asset for the accounting period when the asset was first used. The allowances on qualifying expenditure are granted at rates ranging from 5% for onshore operations and 20% for operations beyond 200 metres of water depth. The PPTA Act allows companies that operate under production sharing contracts to “claim an investment tax credit in accordance with the provisions of the PSC”.

## **2.9 Summary**

This chapter articulates the essential provisions of the PPT law, the Petroleum Act, the FIRS Act and the PPT amendments awaiting passage into law. The PPT law has provisions for deriving income from crude oil exported, allowable expenses, disallowed expenses, adjusted profits, assessable profits, chargeable profits and chargeable tax. The chapter also exposes the rather complex nature of MOU with its array of formulae which, on cursory look, presents an incomprehensible basis of computing PPT. This puts to test the ability of the taxpayers and the tax administrators to readily comprehend the law. The FIRS Act 2007 provides the climate to effect a tax reform and may help in putting the tax administration in Nigeria on a platform to perform effectively and efficiently. The need for continued use of the current MOU comes into context as there is the possibility that both taxpayers and tax officials may not have in-depth knowledge and

understanding of the MOU. There has also been the question whether the legislators and policymakers introduce laws which are capable of being properly administered, in the manner in which the legislators or those who drafted the law envisaged, by the FIRS officials. There is the possibility that the PPT law may be inappropriate for the calibre of staff having to administer it. With little or no training of tax officials and rather complex tax law to grapple with, the taxpayers may be having a field day and Nigeria may be the loser in terms of revenue. With the tax reforms currently being carried out in Nigeria, there is the likelihood that things may change, but whether there is the political will to get it through will become evident in due course. The World Bank Group and PricewaterhouseCoopers opined that “complex tax systems cut tax revenues for government and make it very hard to assess the true tax burden on businesses” (Alli 2006, page 31). The basic principles of transparency, simplicity and burden normally used in assessing tax fairness come into play when considering the fiscal regimes in Nigeria and which the policymakers should imbibe. ACCA (2006, page 60) describes transparency as “the extent to which the tax system is designed to be easily understood and accessed”, simplicity as “an important indicator when assessing the fairness of tax systems” and burden as “the extent to which certain groups, such as businesses or families, may pay disproportionately more tax”.

## **CHAPTER 3 LITERATURE REVIEW 1: TAX ADMINISTRATION AND COMPLIANCE**

### **3.1 Introduction**

In this chapter, the author, in order to draw leads and focus on the research topic, presents a summary of the literature surrounding previous research on tax administration and compliance, theories of taxation and tax reforms. The chapter discusses the consequences of tax complexity, the economic justification for taxation, theoretical approaches to tax compliance such as game theory, equity theory, deterrence theory and prospect theory. Tax compliance models are discussed in the context of the use of models to estimate the degree of taxpayer compliance and the use of survey to measure tax compliance. An understanding of the economic justification for taxation and theoretical approaches to tax compliance may enable tax administration and compliance to be readily comprehended. Literature on this topic is considered at Section 3.4. The chapter also discusses the key problems and challenges of tax administration and the key features of tax reforms presently being implemented in Nigeria. These help in preventing the researcher from veering off from the main objective and make the study more beneficial to the readers. The researcher utilises the theories and topics to develop the hypotheses which are tested in this study.

Tax avoidance and evasion are considered in Chapter 4 to illuminate the problem of tax non-compliance.

### **3.2 The consequences of tax complexity**

In an environment where the fiscal regimes are complex, both taxpayers and tax officials face enormous difficulties (Fernald, 1945 page 342). Strader and Fogliasso (1989, page 40) posited that “because of complex laws, mistakes can be made either in favour of the taxpayer

(undercompliance) or in favour of government (overcompliance)”. Antenucci (1995, page 121) suggests that “complexity negatively affects compliance”. Schauer and Bajor (2007, page 17) cited Krause (2000) who opined that “complex and ambiguous laws cause compliance to suffer”. Carnes and Cuccia (1996, page 40) cited Carroll (1987) and Cialdini (1989) who confirmed that “complexity frustrates taxpayers and is itself perceived as being unfair”. They also suggest that “complexity may represent evasion opportunity for some and a source of unintentional non-compliance for others” and that “complexity also increases taxpayers’ uncertainty about the tax law”. Alm (1991, page 585) argued that “taxpayer uncertainty arises because of impression and complexity in the tax code, lack of uniform training and abilities among government auditors, taxpayer ignorance of penalties or the factors that cause an audit, frequent changes in tax code ...”. Andreoni et al (1998, page 846) confirmed that “many taxpayers are bewildered by the complexity of the tax laws and the uncertainty of enforcement”. Davies et al (2008, page 3) acknowledged that “it is widely recognised that complexity has a number of associated costs that negatively impact society”. Complexity of tax laws is considered in more detail in Section 3.6.1.

### **3.3 Tax compliance and administration**

Tax compliance relates to how taxpayers respond to their tax obligations while tax administration relates to tax authority. In the following sections, the researcher discusses introductory material to tax compliance, effects of non-compliance on government revenue, causes of non-compliance, strategies to encourage compliance and tax administration.

#### **3.3.1 Introductory material**

The costs to the taxpayer are usually regarded as compliance costs (MA Taxation 2006, page 8-2). Tanzi et al (1993, page 807:5) regards compliance costs as “closely associated with the behaviour of the tax administration and more likely to be connected with tax evasion”. They regard compliance costs as “costs to the taxpayer in terms of lost time, added stress, payments to tax

accountants and lawyers, trips to the tax office and so forth associated with a given tax payment”. Administrative costs are costs borne by the central government and therefore evenly spread over the population. However, administrative costs may be contrasted with compliance costs where only the taxpayers are responsible (MA Taxation 2006, page 8-3). Tanzi et al (1993, page 807:4) advised that “a tax administration should be careful to minimise not only the explicit costs it bears (its collection costs) but also the costs borne by taxpayers and the economy”. Sandford (1995, page 1) posited that tax compliance “costs are costs incurred by taxpayers in meeting the requirements laid on them by the tax law and the revenue authorities. They are costs over and above the actual payment of tax and over and above any distortion costs inherent in the nature of tax; costs which would disappear if the tax was abolished”.

### **3.3.2 Effects on government revenue**

Cords (2005, page 1521) reported that “a high rate of tax compliance is essential to the operations of the government” and that “without efficient collection of tax revenues, the government cannot function”. He said that “while most people comply with their tax obligations with little resistance, not all people pay their taxes voluntarily or on time” and that “all governments require a steady source of revenue, requiring efficient tax collection”. Ali et al (2001, page 186) confirmed that “non-compliance is a major problem for the federal tax authorities”. Johnson et al (2010, page 121) opined that “tax non-compliance is a quantitatively important phenomenon that significantly affects revenue sources for governments”.

### **3.3.3 Causes of non-compliance**

Considering the rather complex PPT law, it is likely that the tax administration may not be able to perform effectively if tax officials have limited knowledge and understanding of the fiscal regimes and if tax administration lacks quality personnel and appropriate training (Ndekwe, 1989 page 47). Chan et al (2000, page 97) posited that “educated taxpayers may be more aware of non compliance



opportunities (i.e. loopholes)". The taxpayers may look for loopholes and take advantage to minimise their tax liabilities, as PPT involves estimated payments on account, and tax compliance may be affected. Alm (1991, page 591) reported that "those who believe that others cheat are more likely to cheat themselves and that an individual's perception of how he or she is treated relative to others affects compliance". Sakurai and Braithwaite (2003, page 375) opined that "increased ambiguity in tax law has allowed individuals and companies to make decisions about how much risk they wish to take in interpreting the law to suit their purposes". Feltham and Paquette (2002, page 27) acknowledged that "taxpayers are rational economic agents who seek to minimise their expected tax liability by choosing their optimal estimated tax payment at the beginning of the year, taking into account their eventual reporting decision at the filing date". They opined that "high-type taxpayers who make low estimated tax payments are more likely to evade" (page 39) and that "taxpayers who overpay at the estimated tax payment date will incur an opportunity loss as overpayments constitute interest-free loans to the revenue authority" (page 30). Carnes and Cuccia (1996, page 40) cited Stout (1990, A1) who acknowledged that "tax laws have become so intricate that even accountants, attorneys, and the Internal Revenue Service (IRS) have difficulty interpreting many of the laws' provisions".

Andreoni et al (1998, page 818) acknowledged that "the problem of tax compliance is as old as taxes themselves. Characterising and explaining the observed patterns of tax non-compliance, and ultimately finding ways to reduce it, are obvious importance to nations around the world". In many countries, income taxes for either incorporated or unincorporated bodies may be owed but may not be voluntarily reported. Cox and Eger 111 (2006, page 269) cited Andreoni et al (1998) who indicated that "tax gap is often used as a measure of tax non-compliance" and described tax gap as "the difference between the income tax actually owed by the taxpayer, and what the taxpayer

reported and voluntarily paid on a timely basis”. But the extent and width of the liability still remain a problem for which researchers are still struggling to find an all-time solution.

The Australian Commissioner of Taxation Michael D’Ascenzo recently said “when we talk about compliance we talk about the whole range of activities that may be important in trying to get people to do the right thing” (Kingswood 2009, page 24). Erard (1997, page 2) said that “when the focus of a study is on tax non-compliance, the observer typically is taken to be a national revenue department, and the reference income concept is the level of taxable income”. He referred to tax non-compliance as “an important subject that is intricately connected to the public finance issues of equity, efficiency and incidence” and that if “higher-income taxpayers can systematically evade a large share of their taxes than lower-income taxpayers, the effective tax system will be less progressive than the legislated one”. Forest and Sheffrin (2002, page 76) warned that “perceptions of an unfair tax system (whatever their source) may be a cause of non-compliance”. Strader and Fogliasso (1989, page 39) identified tax rate structure, the system of controls and tax complexity as factors affecting taxpayer non-compliance”. Cords (2005, page 1529) indicated that an individual’s perceptions that the tax system is unfair or treats similarly situated taxpayers differently may reduce compliance”. Koch (2003, page 55) acknowledged that “taxpayers are reluctant to comply if they perceive little or nothing is received for their contribution i.e. services”. Noncompliance will therefore include “wilful evasion, honest mistakes, honest differences of opinion between the taxpayer and the IRS, overstating deductions and playing the audit lottery. Playing the audit lottery is generally described as taxpayers taking questionable positions which are likely to be overturned by the IRS if there is an audit” (Stroope 1988, pages 17 and 18).

### **3.3.4 Strategies to encourage compliance**

Milliron and Toy (2001, page 85) gave seven government controlled tax compliance features as “deduction permitted, IRS information services, withholding and information reporting, preparer

responsibilities and penalties, the probability of audit, tax rates and taxpayer penalties. The Australian Tax Office (ATO) has recently come up with compliance agreements with taxpayers. Under the arrangement, the “ATO will show businesses what their risk profiles are and in turn businesses can show their own profiles provided they are honest representation in terms of full disclosure of what the risks may be” (Kingswood 2009, page 31). Lederman and Mazza (2005, page 1423) reported that “books about tax administration tend to fall into one of two broad categories; those that paint the Internal Revenue Service (IRS) as an agency peopled by corrupt out-of-control bureaucrats who take pleasure in seeing innocent taxpayers suffer, and those that tell readers how to structure their affairs to minimise the risk of incurring an IRS employee’s wrath during a tax audit”. They cited Johnston (2002) who acknowledged “the many varieties of tax fraud; the difficulties the IRS faces in pursuing high-income individuals; the influence the affluent have on law making; and Congress success in tying the hands of the IRS” and the inability of “IRS employees to pursue known acts of non-compliance because of resource limitations and political pressures” (Lederman and Mazza 2005, page 1424). Johnston was said to have attributed “blame for the current state of tax enforcement to judges who ignore financial reality in favour of textualist constructions, lawyers who facilitate tax dodges by providing a sense of legitimacy to otherwise questionable transactions and accountants and advisors who market tax-saving schemes” (Lederman and Mazza 2005, page 1433). Koch (2003, page 56) warned that “the taxpayer is less likely to comply if he/she perceives the institution as corrupt”.

Cords (2005, page 1524), argues that “an understanding of the motivations that lead to tax compliance is important to understanding how to improve tax compliance”. He noted that “economic factors, legal consequences, social norms, and personal beliefs all influence tax compliance”. He indicated that “an individual will likely comply with the requirements of the tax laws if the expected cost of tax compliance is less than the expected cost of non-compliance” and

that “the expected cost of non-compliance depends on the likelihood of detection, the size of penalties available, and the nature of the penalties that may be imposed if non-compliance is discovered”. He cited the legal consequences of non-compliance as contributing to “taxpayers’ decisions to comply” and that “these factors include the likelihood of detection, the amount and nature of penalties (e.g. monetary or criminal), the likelihood that severe penalties will be imposed and the cost of compliance”. Governments may enforce tax collection using civil procedures or criminal proceedings. The use of civil procedures limits criminal proceedings to the minimum. Going through the courts in criminal proceedings is more exertive than civil proceedings principally because of the burden of proof in criminal proceedings and the rather high costs of pursuing such proceedings. It is also time consuming getting cases through criminal proceedings (M A Taxation 2006, page 8-5). Snow and Warren (2005, page 865) confirmed that in order “to encourage voluntary compliance with the tax code, the US Internal Revenue (IRS) relies heavily on a policy of auditing tax returns and levying penalties when undeclared income is detected, with penalties linked to the amount of tax evasion discovered”. Witte and Woodbury (1985, page 1) confirmed that in the United States, “large portions of the Tax Equity and Financial Responsibility Act of 1982 (TEFRA) were designed to improve compliance, TEFRA relies on expanding third party information reporting to the IRS and on increasing penalties”. Tanzi et al (1993, page 807:3) claimed that “the higher are the penalties, the more probable it is that they will not be applied. If the high penalties lead to a reduction in the cost of administration, this reduces the probability of detection and thus the number of cases requiring the imposing of penalties”. They advised that “for the penalties to be effective, they must be applied quickly” and warned of the “existence of administrative corruption” and that “if the individual who gets caught can bribe some tax officials, and if the bribe is less than the penalty, then the theory becomes ambiguous” (Tanzi et al 1993, page 807:4). Cords 2005 (page 1556) gave justifications for imposing penalties as “deterrence, punishment, and reimbursement or compensation for the costs imposed on or incurred by the

government”. Snow and Warren (2005, page 865) opined that “the relatively small penalties levied for detected evasion, combined with low probability of an audit, would seem to provide taxpayers with a strong incentive to engage in rational evasion behaviour”.

Under the existing tax laws in Nigeria, the penalties prescribed for non-compliance are rather low; however, the current tax reform has introduced some enforcement penalties and stiff punishment.

### **3.3.5 Tax administration**

The main tasks of tax administration includes provision of information and instruction to taxpayers, processing of tax returns and payments, enforcing the collection of tax using penalties and interest on overdue taxes, controlling and supervising the tax affairs of people by performing check-ups, investigations and audit. The tasks also include legal services and complaints. In this regard, the tax administration takes tax cases, pursue non-payment deal with the complaints of diverse taxpayers (Tanzi and Pellechio 1995 in MA Taxation 2006, page 8-2).

### **3.4 The economic justification for taxation**

Activities such as production, buying and selling take their roots from economics. These economic activities employ scarce resources, which when utilised in an efficient manner; generate profits part of which goes back to the investors in form of return on investments. Government also partakes in the economic activities in various forms – for example, setting fiscal policies under which those engaged in economic activities pay taxes, and which the Federal Government, together with other forms of revenue, use for meeting its obligations to the citizenry. Hardwick et al (1999, page 19) described businesses as operating with scarce resources and making good use of these resources in order to make profits. They noted that “firms have to pay for the resources they use and will make profits only if they sell their products for more than they cost to produce”.

...In addition, businesses are crucially dependent on the performance of the national economy, in terms of factors such as the growth of output, inflation and level of

employment. Government often introduce policy measures (such as changes in expenditure or taxes) to influence such variables (Hardwick al 1999, page 20).

James and Nobes (1996, page 7) argued that “what the government gives it must first take away...taxation is one method of transferring resources from the private to the public sector, but there are others”. James and Nobes also referred to Adam Smith’s fourth canon of taxation on the principle of taxation as follows:

...every tax ought to be contrived as both to take out and 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 (James and Nobes 1996, page 20).

They cited Smith (1776, Book V, Ch. II) who described four ways by which taxes could fail to meet this requirement as a “great number of officers” may be needed to levy the tax, it may “obstruct the industry of the people”, penalties may be inflicted on individuals attempting to evade the tax; and taxpayers may be subject to “frequent visits and the odious examination of the tax-gatherers”. Mckerchar (2003, page 4) acknowledged that “compliance costs were in accord with that developed by Adam Smith, including the cost of vexation which, while not strictly an expense, was included in what a person would willingly pay to be redeemed from the “...odious examination of the tax gatherers”. James and Nobes also quoted Smith saying that “it is in some one or other of these four different ways that taxes are frequently so much more burdensome to the people than they are beneficial to the sovereign” (James and Nobes 1996, page 7).

Steinmo (1993, page 1) confirmed that governments need lots of money. “How they get this money and whom they take it from are two of the most difficult political issues faced in any modern political economy. These are issues that are settled quite differently in different societies”. He further confirmed that “taxation is both at the core of the redistributive efforts of the modern welfare and has been the central instrument of state economic policy since World War II”. Kay and King (1991, page 153) asked “who then actually pays the corporation tax”? They described

corporation tax as appearing “to be levied on company profits” but distinguished “two components which make up the figures that companies report as their profits”, one being “return on the capital that companies use in conducting their business” and the second component “corresponds to a more natural concept of profit”. Davies et al (2008, page 3) acknowledged that “most Americans recognise that the federal government provides a number of valuable programs for its citizenry, and understand that these services require funding from a variety of sources, including an income tax or equivalent levy”. Hite (1988, page 47) confirmed that “the individual tax system is the federal government’s primary source of revenue”. Generally, PPT falls within the wider taxes which the Government of Nigeria utilises in generating revenue to meet its commitments.

The literature pinpoints the background to the taxation of business and the fundamental principles of taxation. Adam Smith’s canons of taxation form the pillar of taxation in that they set the need for tax compliance and bring to the fore such concepts as penalties and tax evasion. James and Nobes dealt with burdens of taxation as administrative costs, compliance costs as well as penalties and tax evasion. Steinmo reinforced taxation as being the core of redistributive efforts in modern welfare state.

### **3.5 Theoretical approaches to tax compliance**

These are the theories which the researcher needed to choose from in designing his research model. In discussing the economic justification for taxation and tax administration and compliance, (Sections 3.1 to 3.4), the literature pinpointed certain concepts or constructs such as complexity of tax laws, tax avoidance and evasion, penalties, deterrence, game playing (i.e. whether or not to pay appropriate taxes), tax audit, training and abilities among government tax officials came into focus. In the following sections, the researcher discusses theories on tax research (for example, game theory, equity theory, deterrence theory and prospect theory) as well as some tax compliance models which early writers have utilised, in order to obtain a systematic

view of certain phenomena which are present in the theories and which help in choosing a direction for the development of hypotheses and the measurement of perception of petroleum profits tax compliance in Nigeria. Kerlinger (1979) in Collis and Hussey (2003, page 122) described theory as “a set of interrelated constructs (variables), definitions and propositions that presents a systematic view of phenomena by specifying relationships among variables, with the purpose of explaining natural phenomena”. Tax compliance has been a subject of research for some time now. Tax avoidance and evasion has also been subject of various researches using different theories to explain the phenomena. Due to the dearth of literature on tax research in Nigeria, the theories used by the few Nigerian researchers as well as theories used on tax matters by other scholars outside Nigeria are considered in the sections that follow. Tax research may help in:

- explaining or predicting behaviour of taxpayers and tax officials.
- assisting government agencies to predict the impact of tax laws or predict strategies relating to responses thereon.
- policy setting
- predicting likely outcome of litigation on a tax matter.

Swenson (1989, page 53) gave an insight into one of the basic objectives of non-legal tax research which is “to uncover information about how the world works – in this particular instance, by developing and testing theories of how people behave, individually and collectively, when it comes to taxation. That, in turn, can help us explain or predict behaviour”. Swenson stated that “using psychological and sociological theories on why people indulge in antisocial or criminal behaviour”, for example, “researchers have developed theories about why some people cheat on their taxes”. These are actually “used by government agencies to predict the impact of tax laws or to identify strategies for dealing with expected responses to them, like non-compliance”. Swenson



went further to say that “non-legal tax research may also be used in policy setting” and that “in such cases, the researcher will want to find out the impact of a law just passed or estimate the potential impact of one that soon will be”. Cox and Eger 111 (2006, page 261) posit that “income tax compliance research focuses on determining how changes in government policy, the probability of detection, penalties associated with evasion and other factors affect taxpayers’ compliance decisions”.

### **3.5.1 Game theory**

Swenson, 1989 page 54) depicts “the taxpayer and Revenue Canada as playing a sequential period adversarial game until compliance/auditing strategy equilibrium occurs”. Tanzi et al (1993, page 807/3) cited “the writing of Allingham and Sandmo (1972) in “their classic theoretical paper on tax evasion”, about “the problem of tax evasion, as seen from the taxpayer’s point of view”, and which “they discussed as a kind of game theory”. The taxpayer is considered to face “the decision of whether or not to evade taxes” which is “similar to playing a lottery”. The taxpayer is regarded as having a choice which may be “based on the expected gains or losses associated with the decision”. They posited that “the cost of tax evasion is connected to the probability of being caught and the consequences of this outcome” and that the Allingham and Sandmo model highlights “fines that can considerably exceed the original tax due” and “the individual will pay these fines” only if caught, and that “probability can be very low”.

Wadhawan and Gray (1998, page 5) consider “tax compliance as a game between the tax authority and taxpayers”, and cited Hoeflich (1983) as having “refined the portfolio paradigm”. They went further to say that “tax evaders justify their cheating by the belief that everyone else does the same thing and/or the benefits they receive from government fall below their share of the tax burden”. Franzoni (1999, page 56) cited taxpayers’ evasion decision model that was developed by Allingham and Sandmo ([1972] 1991) and Srinivasan (1993), and revised by Yitzhaki (1974) and

that “if the taxpayer does not want to take any risk, he reports his income in full; otherwise, he reports only a fraction of it and bears the risk of being caught and fined” (Franzoni 1999, page 56). Zheng (2002, page 2), in a game theoretical model, analysed “taxpayers’ decisions on reporting financial income and taxable income to the tax authority, and the tax authority’s strategic auditing”. He opined that “the tax authority is more likely to audit taxpayers reporting high accounting income but low taxable income than those reporting no accounting-tax differences.”

### **3.5.2 Equity theory**

Stroope (1988, page 25) claimed that “traditional equity theorists indicate two types of equity within a tax system: horizontal equity and vertical equity”. He posited that “horizontal equity requires equals to be treated equally” while “vertical equity requires an appropriate differentiation among unequals, i.e. those who can afford to pay more should pay more” and that “participants in an inequitable exchange relationship will experience frustration and anger and will often take severe measures to restore equity in the exchange relationship”. He claimed that “if taxpayers believe the government is not spending tax dollars wisely, equity in exchange theory would postulate tax evasion to be a likely result” (Stroope 1988, pages 25 and 26). Swenson (1989, page 55) also confirmed that “equity theory has been used to examine subjects’ propensity to evade taxes because of perceived inequities”. King and Sheffrin (2002, page 507) argued that “individuals may attempt to restore equity because of perceptions of inequity in the tax system.” They opined that “when taxpayers believe the tax system to be unfair, the most common reasons are the existence of too many loopholes, the wealthy and large corporations can evade taxes by hiring accountants and using tax shelters and the exchange of tax dollars for public goods and services is unequal” (King and Sheffrin 2002, page 512).

### 3.5.3 Deterrence theory

Stroope (1988, page 31) said “the deterrent effects of penalties and other forms of punishment have been examined in some of the studies, and conflicting results have been obtained. The conflict has been attributed to the confounding impact of other interrelated factors.” Stroope cited Vogel (1974) who found that “social status and group attitudes toward tax compliance were more important than fear of penalties”. Stroope (1988, page 31) also cited Coppinger (1983) who suggested that “continuing to increase penalties might not only fail to increase compliance but could even have the opposite effect and actually cause compliance to decrease”.

### 3.5.4 Prospect theory

Stroope (1988, page 32) confirmed that Kahneman and Tversky (1979) “developed prospect theory as an alternative to expected utility theory for decision making under uncertainty”. He noted that “prospect theory helps explain some taxpayers’ behaviour which expected utility theory could only label as irrational behaviour”. He said:

Prospect theory assumes that people make decisions under uncertainty on the basis of their individual value functions and in some instances, select alternatives which are inconsistent with maximising the expected utilities of their choices (Stroope 1988, page 33).

Stroope (1988, page 34) said that “prospect theory suggests a taxpayer is willing to incur a risk for the purpose of avoiding filing and having to pay tax, which he or she would be unwilling to incur for the purpose of obtaining a larger refund.” King and Sheffrin (2002, page 508) also confirmed that “most individuals will prefer a certain outcome to a gamble even if the gamble has a higher mathematical expectation because people are generally risk averse”. They call this “the *certainty effect*”. “So, a “sure thing” or an event with low probability of occurring is over-weighted compared to a probable event of high probability” and that according to prospect theory, the taxpayer chooses the option which is safe and certain, to the standard deduction. King and Sheffrin (2002, page 505) referred to the US Internal Revenue Code which states that “tax evasion

occurs when an individual knowingly and wilfully fails to declare taxable income” and that “tax evasion is not a trivial problem”. A summary of tax literature in which some of the foregoing theories are discussed is shown as Table 3-1.

**Table 3-1** Summary of theories on tax compliance

<b>Theory</b>	<b>Topic</b>	<b>Key Issues</b>	<b>Author</b>
Game Theory	Tax evasion	Taxpayer and IRS play sequential period adversarial game.  Whether to pay tax becomes similar to playing a lottery, in that one is free either to buy or not a lottery ticket.  Tax authority is more likely to audit taxpayers reporting high accounting income but low taxable income than those reporting no accounting – tax differences.	Swenson (1989)  Tanzi et al (1993)  Zeng (2002)
Equity Theory	Tax compliance, tax evasion	Horizontal equity-requires equals to be treated equally. Vertical equity requires an appropriate differentiation among unequals, those who should pay more should pay more.  Individuals may attempt to restore equity because of perceptions of inequity in the tax system.	Stroope (1988)  King and Sheffrin (2002)
Deterrence Theory	Tax evasion, penalties	Increasing penalties may fail to increase compliance and may cause compliance to decrease.	Stroope (1988)
Prospect Theory	Tax evasion	People make decisions under uncertainty on the basis of their individual value functions and may select alternatives which are inconsistent with maximising the	Stroope (1998)

		<p>expected utilities of their choices.</p> <p>The taxpayer chooses the option that is safe and certain to standard deduction.</p>	<p>King and Sheffrin (2002)</p>
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The theories discussed above, particularly game theory, equity theory, deterrence theory and prospect theory are used in the following sections with other references, to focus on the specific topics on the behaviours of taxpayers and tax officials.

### **3.5.5 Measuring tax compliance**

Tax compliance models have been used in the past to measure tax compliance. Certain researchers use a mathematical modelling approach or experiment based approach to estimate the degree of taxpayer compliance while others use surveys to measure tax compliance.

#### **(a) Use of models to estimate the degree of taxpayer compliance**

Tax compliance models are discussed in this section in order to be guided by the elements which are instructive in the models in determining the content of the questionnaire used for this study. Cox and Eger 111 (page 261, 2006) cited Becker (1968) who described “income tax compliance as an application of his criminal activity and punishment model, which is the foundation of modern tax compliance research. Generally, the model indicates that as auditing and enforcement are increased, tax collections and overall compliance increase”. The model, also referred to as path model, shows that “a taxpayer’s behaviour has a direct effect on tax compliance”. The path coefficient corresponds to “a regression coefficient that indicates the strength and direction of the effect” (page 265). The model is “formalised in structural equations form” which “contains random variables and structural parameters, which provide the latent variable, taxpayer economic behaviour and the dependent variable and tax compliance” (page 266). Davis (1995, page 115)

cited Alm et al (1992) confirming that “early research in the economics of tax compliance used experiments to test decision-theoretic models of taxpayer reporting”. The “characteristic of this work was an environment in which taxpayers were assumed to know their tax liability, leading to a focus on tax evasion” (page 116), and that “the trend in experiments has been toward examination of strategic, game-theoretic contexts, uncertain tax settings...” (page 116). Alm et al (1990, page 603) used “a model of individual tax compliance behaviour, including evasion and avoidance” which is “developed and estimated”. The model recognises “the importance of marginal income tax rates, payroll tax contributions and benefits, and the probability of detection and the penalty on unpaid taxes. Share equations for avoidance, evasion and reported income are estimated using individual-level data”. The model analyses the effects of tax rates probabilities, penalties, and payroll benefits on avoidance and evasion choices of individuals”. Alm et al (1990, page 603) “first develop a theory of individual choice among three types of compensation”. They then estimate the resulting share demand equations using a unique set of data set which has detailed information on the compensation paid to roughly one-quarter of the labour force in Jamaica in 1983. Measures of reported taxable income, evasion income, and avoidance income for individual workers in the formal sector were derived. They also constructed “measures of the marginal income tax rate, marginal payroll rates and benefits, the probability of detection and the penalty on evasion for individual workers,” to estimate the responses of workers to the full range of tax structure parameters”. Reckers et al (1994, page 826) cited Smith and Kinsey (1987) in reporting that “the primary theoretical framework in economics for the study of non-compliance has been deterrence theory. This framework assumes that taxpayers rationally perform a cost-benefit analysis of non-compliance taking into consideration the value of the marginal tax dollar and the risks of sanctions”. Reckers et al (1994, page 827) cited Scholz (1985) who posited that “in classical deterrence models, taxpayers choose a compliance level that maximises utility (what is best for the taxpayer), and sociological models; this choice also considers the social obligations

and self-image of the taxpayers as well...” The test instrument for this experiment “consisted of instructions, a tax case scenario, dependent measure, inquiries concerning tax ethics, and a post experiment questionnaire” Chan et al (2000, page 85) posited that “Fischer Model incorporates economic, sociological and psychological variables into a comprehensive model. Specifically, demographic variables (e.g. age, gender), non-compliance opportunity (e.g. education, income level, income source and occupation), attitudes and perceptions (e.g. taxpayer moral development and attitude toward fairness of the tax system), the structure of the tax system (e.g. complexity of the tax system, contact with tax authorities, sanctions, detection probability and tax rates) are included”. A structural equations approach is used to empirically model and test the multiple constructs identified in the Fischer model (Chan et al 2000, page 84). “The structural models are tested using a maximum likelihood algorithm based on correlation matrices including variables such as age, gender, national differences, educational level, income level, moral development, attitude and taxpayer compliance (page 92). Davis (1995) and Chan et al (2000) who used a mathematical modelling approach or experiment based approach to estimate the degree of taxpayer compliance also used survey to measure tax compliance, and these are further discussed under the section on use of surveys below. Andreoni et al (1998, page 825) reported that “the models in this literature generally fall into two groups. The first assumes that the tax agency can announce and commit to its audit rule before taxpayers file returns. These models have much in common with a standard principal-agent problem. In contrast, models in the second group assume that the tax agency cannot commit to its audit but instead decides which taxpayers to audit after all returns have been filed. The models in the second group make use of standard game-theoretic concepts of equilibrium, especially sequential equilibrium”.

## **(b) Use of surveys to measure tax compliance**

Davis (1995, page 116) described a second approach where taxpayer behaviour typical study “is descriptive (lacking explicit theoretical justification for inclusion of variables and uses survey methods to examine the relationship between tax evasion (or some other measure of behaviour) and socioeconomic variables such as income level, socioeconomic class membership, occupation, age, sex and educational background”. Chan et al (2000, page 89) also used a four-part research instrument consisting of demographic, educational and income characteristics, a six-case Defining Issues Test (DIT), taxpayer attitude survey and hypothetical tax expansion scenario, to test whether taxpayer compliance is influenced by differences in the tax system structures and cultures of the U.S. and Hong Kong. The instrument was administered on a “convenience sample of taxpayers” enrolled in certain universities in Hong Kong and the U.S. Schauer and Bajor (2007, page 19) used “a survey to evaluate tax compliance in a within subjects framework. The survey was designed with four components. The first component gathers information regarding respondents’ perception of his/her knowledge of income tax laws, his/her perceived compliance with those laws, and the perceived detection and penalty risks associated with non-compliance”. The second component deals with “the use tax rather than an income tax”. The third component provides “self-reported proxies for the individual’s attitudes” while the fourth component provides demographic data. “The survey was distributed to all 4,400 employees at the author’s University”. The research evaluates “the impact of detection risk for actual taxpayers facing the detection risk of an actual taxing authority for two different taxes with significantly different detection risks. The within subjects methodology also allows for the isolation of detection risk since all other factors are constant” (Schauer and Bajor (2007, page 15). Andreoni et al (1998, page 823), who used several approaches to measuring compliance, reviewed the “standard expected utility model of the income-reporting decision” and discussed “models in which enforcement rules are determined



jointly with reporting decisions” and thereafter evaluated “the models both in terms of their predictive power and their potential usefulness for policymakers”. They focused on “four alternative sources of information used by researchers to measure and study evasion: audit data, in some cases linked to census information; survey data; tax amnesty data; and data generated through laboratory experiments (page 836) They acknowledged “innovative models of tax reporting and enforcement decisions have been used to investigate a variety of policy-related issues, including the impact of enforcement rules on compliance, the shadow value of enforcement expenditures, and the effects of evasion on labour supply and capital investment” (page 819). Andreoni et al (1998, page 837) acknowledged that “surveys on tax compliance have been undertaken in a number of countries, including the U.S, Australia, Canada, Spain and Sweden. Overall, survey data appears to be most useful in two situations: when matched with tax return and audit data, supplying a rich array of additional social and attitudinal variables; and when incorporated into structural econometric models, to test alternative theories of taxpayer motivation and behaviour”. Andreoni et al (1998, page 822) also acknowledged that “compliance and enforcement data, when they exist are difficult to obtain and few countries outside the U.S. have been studied. Those that have been studied, such as Netherlands, Spain, Switzerland and Jamaica indicate that the effects of income tax rates and enforcement variables on compliance are similar to those of the U.S”.

**(c) Other approaches to measuring tax compliance**

The foregoing shows that empirical research on tax compliance may be based on surveys and mathematical and statistical techniques. Stroope (1988, page 20) identified three broad types of methods used in tax research as experiments, namely tax game simulations, surveys, or interview data and analysis of IRS data. Stroope (1988, page 20) cautioned that “using IRS data has been very limited” and “that there are probably two major reasons why there has been little research

using IRS data”, that is, “confidentiality requirements have limited the availability of the data and also the IRS data does not include information relating to many of the factors suggested by the theories”. Stoope suggested that “the use of surveys and questionnaires can provide much more data than would be available from IRS data.”

#### **(d) Applying the approaches to measuring tax compliance**

Models are used to inform survey design. The Fischer Model of tax compliance provides the researcher with guidance on the underlying constructs (e.g. perceptions of the tax laws, complexity of the tax systems, perception of the knowledge and training of government tax officials), using a questionnaire survey of tax professionals in Nigeria (from government and industry) and a number of interviews, in testing the perception (using descriptive statistics) of oil companies compliance with tax regimes in Nigeria. The researcher opted not to try and replicate the Fischer Model in its entirety, but to be guided by the elements which the model uses and which are instructive in determining the content of the questionnaire used for this study. Andreoni et al (1998), Chan et al (2000) and Schauer and Bajor (2007) used survey to evaluate tax compliance. Andreoni et al (1998, page 837) acknowledged that “surveys provide an alternative source of information about noncompliance. The main advantage of survey data is that they often include many socioeconomic, demographic, and attitudinal variables that are not available with tax return and audit data, allowing researchers to investigate a rich set of hypotheses about the factors associated with noncompliance”.

#### **3.5.6 Empirical research on tax related studies**

A summary of empirical research on tax compliance related studies is shown as Table 3-2 below.

**Table 3-2 Summary of tax compliance related studies/literature**

<b>Year</b>	<b>Researcher and title of study</b>	<b>Methodology</b>	<b>Theory</b>	<b>Other key issues</b>
1985	DWORIN AND KENNEDY. The taxation of international oil production.	Experiment	Equilibrium model	Replacement of the foreign tax credit by a deduction for foreign oil extraction payments will result in a significant decrease in US investment in foreign oil production
1985	WITTE AND WOODBURY. The effect of tax laws and tax administration on tax compliance: The case of the U.S. individual income tax	Experiment	Tax compliance model	IRS compliance activities, taxpayer opportunities for non-compliance and taxpayer attitudes all have significant effects on compliance
1987	MADEO, SCHEPANSKI AND UECKER. Modeling judgement of taxpayer compliance.	Laboratory experiment	Judgement model	Predicting the effect of proposed changes in tax policy on taxpayer compliance.
1988	Stroope, J.C. Income tax evasion and the effectiveness of tax compliance legislation, 1979 – 1982	Survey	Equity theory Deterrence Theory Prospect Theory	Overall voluntary compliance level increased from 1979 to 1982.
1988	HITE P.A. The effect of peer reporting behaviour on taxpayer compliance.	Experimental study	Tax reporting behaviour	Attitudes toward evading taxes and previous evasion were significant factors in reporting decision
1988	MILLIRON AND TOY. Tax compliance: An investigation of key features.	Survey	Choice simulation model deterrence theory	Changing tax structure, not increasing penalties, is the key to improving tax compliance.
1989	STRADER AND FOGLIASSO. An investigation of some factors affecting taxpayer non-compliance.	Mixed	Taxpayer non-compliance	How certain factors affect taxpayer non-compliance

1990	ALM, BAHL AND MURRAY. Tax structure and tax compliance.	Demand equations using a unique data set	Tax compliance behaviour	Tax base rises with higher benefits for payroll tax contributions and falls with higher marginal tax rates.
1991	ALM, J. A perspective on the experimental analysis of taxpayer reporting.	Experimental and Non-experimental research	Economics-of – crime approach; expected utility theory.	Uncertainty seems most likely to lower reporting.
1993	ANTENUCCI J. An investigation of the effects of complexity in Federal income tax laws on the compliance of non-resident students in Doctoral research in Taxation.	Field study	Complexity and non-compliance	Complex law may lead to non-compliance but not necessarily tax evasion.
1994	RECKERS SANDERS AND ROARK. The influence of ethical attitudes on taxpayer compliance.	Survey	Deterrence theory Prospect theory	Tax ethics are highly significant in tax evasion
1995	DAVIS, J.S. A perspective on experimental tax research.	Survey	Taxpayer behaviour	How and why tax practitioners or taxpayers might be expected to behave differently than predicted.
1996	CARNES AND CUCCIA. An analysis of the effect of tax complexity and its perceived justification on equity judgements.	Survey	Tax complexity	While perceived complexity generally has a negative effect on perceptions of equity, taxpayers have consistent beliefs regarding the necessity of tax complexity.
1996	WORSHAM R.G. The effect of tax authority behaviour on taxpayer compliance: A procedural justice approach.	Experiment	Procedure justice theory	Procedural injustice experienced indirectly through becoming aware of another's unfair treatment increased the level of noncompliance.
1998	ANDREONI, ERARD AND FEINSTEIN. Tax compliance	Experiment	Expected utility model	Greater knowledge of the tax laws reduces the perceived audit probability

2000	Chambers, V. Factors of CPA responses to IRS collection enforcement.	Survey	Theory of planned behaviour	Tax compliance, tax litigation, tax planning, and tax research discussed.
2000	CHAN, TROUTMAN AND O'BRYAN. An expanded model of taxpayer compliance: Empirical evidence from the United States and Hong Kong	Survey	Fischer et al (1992) expanded tax compliance model	Efforts to increase taxpayer compliance need to be tailored to the structure of the tax system and the predominant culture of the taxpayers.
2001	ALI, CECIL AND KNOBLETT. The effects of tax rates and enforcement policies on taxpayer compliance: A study of self-employed taxpayers	Econometric analysis	Taxpayer compliance (audit rate and penalty)	The effectiveness of these two policy instruments depends upon the individual's level of income.
2002	FELTHAM AND PAQUETTE. The interrelationship between estimated tax payments and taxpayer compliance.	Econometric analysis	Tax compliance behaviour (game-theoretic model)	High-type taxpayers who make low estimated tax payments are more likely to evade
2002	Okobi, P I. The relationship of wages and cost of living to the corruption in public service in Nigeria.	Survey	Theory of need hierarchy Eupsychian management	Bribery and corruption are perceived as widespread in Nigeria public service system.
2002	FOREST AND SHEFFRIN. Complexity and compliance: An empirical investigation.	Data from Taxpayer Opinion Survey	Deterrence	Simplifying the tax system may not be an effective deterrent to tax evasion
2003	KOCH D.W. The taxman cometh...and no one is home: The culture of "Personalismo" and its effect on tax compliance in Latin America.	Mathematical model	Inequity	Cultural influences on tax compliance would assist in improving compliance instead of relying solely on penalties.
2003	MCKERCHAR M. Understanding and predicting taxpayers' behavioural responses to actions by tax administrations.	Survey and personal interview	Taxpayer behaviour (unintentional non-compliance)	To cope with complexity, personal taxpayers had adopted strategies.

2003	SAKURAI AND BRAITHWAITE. Taxpayers' perceptions of practitioners: Finding one who is effective and does right things	Survey	Taxpayer judgements	Taxpayers interested in tax minimising were open to having a tax practitioner who knew both low and high risk strategies.
2004	Alalade, C. B.  The economic performance of international oil companies in Nigeria: The effect of fiscal taxation and the separation of ownership and control.	Survey	Shareholder and stakeholder theories	Descriptive statistics used
2005	SNOW AND WARREN. Ambiguity about audit probability, tax compliance and taxpayer welfare.	Experimental analysis	Nonexpected utility model of tax evasion	Uncertainty about the probability of a tax return being audited reduces welfare but increases compliance for taxpayers who are ambiguity averse.
2006	COX AND EGER. Procedural complexity of tax administration:	Path model; sampling of tax database	Procedural complexity	Procedural complexity of the tax system contributes to an increase in tax non-compliance.
2007	BRAITHWAITE, V. Responsive regulation and taxation: Introduction.	Compliance model	Tax behaviour	Taxpayers regulating themselves in a manner that is consistent with the law
2007	JOB, STOUT AND SMITH. Culture change in three taxation administrations: From command and control to responsive regulation.	Mixed	Responsive regulation	There is a determining step in the process of clarification, reconciliation, responsiveness and design of a tax system.
2007	PICCIOTTO. Constructing compliance: Game playing, tax law and the regulatory state.	Mixed approach	Compliance models	Improving tax compliance, in particular by reducing complexity, improving clarity and the use of broad principles.
2007	SCHAUER AND BAJOR. The impact detection risk has on tax compliance: An alternative view.	Survey	Detection risk	The detection of tax underreporting and the associated penalties do affect taxpayer compliance.

2007	WENZEL M. The multiplicity of taxpayer identities and their implications for tax ethics.	Survey	Taxpayer behaviour	The concept of identity is key to responsive regulation
2008	DAVIES, CARPENTER AND OLSON. Behavioural implications of US tax policy: Does tax law influence individual taxpayer behaviour?	Survey	Taxpayer behaviour	Taxpayers generally support the notion that the tax system can and should serve purposes other than revenue generation.
2009	KINGSWOOD G. A whole range of compliance.	Mixed	Compliance	Compliance covers whole range of activities to get people do the right thing
2010	JOHNSON, MASCLLET AND MONTMARQUETTE. The effect of perfect monitoring of matched income on sales tax compliance: An experimental investigation.	Experimental approach	Tax noncompliance	Once taxpayers have chosen their level of tax compliance, they will try to recover their losses following any policy changes.
2010	MASON J.D. The use of certainty threshold criteria for tax compliance enforcement in ambiguous tax scenarios.	Case study	Certainty threshold	Increased knowledge of the certainty threshold criteria resulted in more aggressive rather than less aggressive tax judgements.
2010	MATHIEU, PRICE AND ANTWI. The distribution of UK personal income tax compliance costs.	Survey	Compliance costs	The difficulty in dealing with tax affairs is a surrogate for the psychological costs of compliance.

### 3.6 The key problems of tax administration and compliance

Tax administration in Nigeria is faced with a number of problems ranging from complexity of tax laws, lack of improvement of the capacity of tax administration and its public relations, poor appeals system and problem of self-assessment. There is also the problem of enforcement. The

FIRS may not be able to perform its role effectively if existing conditions, laws and policies do not support good tax administration. Taxpayers are using highly sophisticated tools and latest technology to simulate and prepare their tax liabilities, possibly taking advantage of loopholes in the tax laws. The resistance to tax compliance is growing as taxpayers are becoming more aggressive by the day in tax planning. In the following sections, the researcher discusses general literature on each of the problems and sources specifically on Nigeria.

### **3.6.1 Complexity of tax laws**

#### **(a) General sources on this topic**

Fernald (1945, page 342) highlighted the difficulties in tax administration when he wrote as follows:

...under existing conditions, laws and policies we cannot expect good tax administration...in a wild scramble we enacted one revenue law after another; each defective and requiring retroactive amendments; each out of date before we got the revenues from it, or even before Treasury regulations under it were issued ...we face certain features of law and policy which have made, and will continue to make, good tax administration impossible (Fernald 1945, page 342).

Fernald further attributed the failure of recent tax laws of having “not been capable of good administration because they have been so largely incomprehensible; to those who must pay and those who must collect the tax; to taxpayers, to Bureau examiners, to tax counsel, the higher Treasury officials, and even to the courts”. He went further to say that “to have a well administered tax system, the tax law and its application should be reasonably intelligible to those who enact it, to those who are to administer it and to those who are to pay the taxes. In enacting tax laws, too little attention has been given to administrative aspects. We seem to have divorced policy making from the administrative wisdom which undoubtedly exists within the Bureau”. Strader and Fogliasso (1989, page 41) confirmed that in Netherlands, “the tax system contains a large number of complex deductions” and that “it is primarily this jungle of deductions and tax



preferences which makes the tax system so complicated and incomprehensible to the ordinary taxpayer”. Strader and Fogliasso (1989, page 44) also criticised the French tax system as being “extremely complex and difficult for the taxpayer to understand”. They further confirmed that “the tax system in the United States is perceived by the taxpayer to be highly complex (page 44). Braithwaite (2007, page 3) acknowledged that “most people do not have much understanding of what tax laws mean and why the tax system is structured and administered as it is”. Picciotto (2007, page 12) warned that “if there can be different understandings or interpretations of the rules to which its subjects are expected to adhere, it may mean, for example, that people who regard themselves as compliant, based on their understanding of the regulatory requirements, may from the regulator’s viewpoint be avoiders or game players”. He further posited that “compliance is best achieved by the formulating law in clear language and using precise or specific rules rather than most abstract general principles”. He advised that tax administration should “find ways to reduce the opportunities for avoidance, and in particular to end the cynical perspective on tax rules that is entailed in game playing” (page 23).

A complex tax regime may portend high costs for both tax administration and taxpayer. The costs of the tax system are usually expressed as a percentage of total tax revenue. It is considered that the lower the costs the better for the tax administration. Economic and social factors as well as the design of the tax system play a role in minimising administrative and compliance costs. Tanzi et al (1993, page 807) said that compliance costs “are likely to be extremely high when the tax laws are so complicated that the taxpayer has to rely on an expert’s advice or, in the case of enterprises, has to hire experts whose only functions is to comply with the tax obligations”. They noted that “even relatively small enterprises have sometimes had to establish sizeable tax departments simply to find their way through the jungle of fiscal laws and regulations. When this situation prevails, the tendency to evade taxes rises. There is a direct and positive relationship between the size of tax

evasion and the cost of compliance. It should also be noted that when firms create tax departments to comply with existing tax obligations, those same departments will be used to scrutinise the laws for any possible loopholes or for any ambiguity that might justify tax avoidance” (Tanzi et al 1993, page 807:5). Madeo et al (1987, page 324) opined that “experts in taxation, who are taxpayers as well as tax advisors and tax return preparers, have, by virtue of their training and experience, considerable knowledge and understanding not only of factors that influence taxpayer compliance but also how they interact to affect compliance”. Sakurai and Braithwaite (2003, page 376) indicated that “as tax systems grow in their complexity, taxpayers look to professionals conversant in tax for expert advice” and that “tax preparers are less compliant with tax authorities, it is because the taxpayers themselves are expecting and paying their preparer to minimise their tax”. Sakurai and Braithwaite (2003, page 385) further confirmed that “taxpayers interested in tax minimising were open to having a tax practitioner who knew both low and high risk strategies”. Schauer and Bajor (2007, page 17) reported that “the most significant finding of Erard, however, may be that taxpayers that used lawyers and certified public accountants had a higher level of non-compliance than those using other tax preparers”. Mason (2010, page 8) opined that “as tax law has become increasingly complex, more taxpayers rely on tax preparers for professional judgements on a plethora of tax issues”.

#### **(b) Sources on tax complexity specific to Nigeria**

Binniyat (2005, page 20) reported on an address by the then Minister of Solid Minerals, Dr. Oby Ezekwesili who revealed that “nearly all Nigerians have no idea how earnings from oil and gas are arrived at the end of the year. This is because of the seemingly complex matrix of taxes, technical terms and other jargons employed in the computation of the variables that sum up to final oil revenue”. Apart from Binniyat, there is very little literature on complexity of petroleum tax laws in Nigeria. As discussed in section 8.7.1, an interviewee acknowledged that “oil and gas business is a

very complex business, very complex with a lot of dynamics infused into it, a lot of technicalities involved, not too many people are versed in it, even if you are versed in the technical side of the business, it may still not be the same talking about the fiscal issues”. Another interviewee attributed tax non-compliance to “a very big gap in the appreciation of what the industry is all about” and “the application of the tax laws for the Inspector of Taxes” and “lack of clarity on some of the provisions” of the tax laws. Tax non-compliance was also attributed to “lack of appreciation of the importance of enacting a law that is unambiguous, a law that captures the intricacies of that sector. The lack of understanding in our legislators not appreciating how important it is to pass the legislation as reviewed and amended to date so that it can put a lot of inequalities and ambiguity in the right perspective”. For quite some time, taxpayers in Nigeria have, largely, been grappling with outdated tax laws. But with current tax reforms, things may be about to change.

### **3.6.2 Lack of enforcement of tax laws**

#### **(a) General sources on this topic**

Worsham (1996, page 22) affirmed that “failing to consistently enforce the tax laws across all taxpayers should result in diminished perceptions of fairness and possibly lower levels of tax compliance”. Andreoni et al (1998, page 818) acknowledged that “tax enforcement is also of course, a problem of law enforcement. Questions about the deterrent effects associated with penalties and probability of detection are central to both the tax compliance and law enforcement literatures”. They further questioned how “an authority – with imperfect ability to monitor – design a taxation, audit, and punishment scheme” can “meet its revenue objectives”. Andreoni et al (1998, page 826) opined that tax administration needs to “allocate audit resources in order to maximise social welfare”. “Governments continue to write tax laws which are not auditable” (Schauer and Bajor, 2007 page 17). Alm et al (1990, page 603) opined that “the methods by which individuals reduce their tax liabilities take a variety of legal and illegal forms, all of which are influenced at

least in part by incentives created by the tax structure”. As discussed in Section 3.3 above, Cords (2005, page 1524), argued that “an individual will likely comply with the requirements of the tax laws if the expected cost of tax compliance is less than the expected cost of non-compliance” and that “the expected cost of non-compliance depends on the likelihood of detection, the size of penalties available, and the nature of the penalties that may be imposed if non-compliance is discovered”. He cited the legal consequences of non-compliance as contributing to “taxpayers’ decisions to comply” and that “these factors include the likelihood of detection, the amount and nature of penalties (e.g. monetary or criminal), the likelihood that severe penalties will be imposed and the cost of compliance”. In the same section, Snow and Warren (2005, page 865) also confirmed that in order “to encourage voluntary compliance with the tax code, the US Internal Revenue (IRS) relies heavily on a policy of auditing tax returns and levying penalties when undeclared income is detected, with penalties linked to the amount of tax evasion discovered”. Tanzi et al (1993, page 807:3) advised that “for the penalties to be effective, they must be applied quickly”. Cords 2005 (page 1556) gave justifications for imposing penalties as “deterrence, punishment, and reimbursement or compensation for the costs imposed on or incurred by the government”. Snow and Warren (2005, page 865) also opined that “the relatively small penalties levied for detected evasion, combined with low probability of an audit, would seem to provide taxpayers with a strong incentive to engage in rational evasion behaviour”.

#### **(b) Sources on lack of enforcement of tax laws specific to Nigeria**

Under the existing tax laws in Nigeria, the penalties prescribed for non-compliance are rather low. A recent tax law, the Federal Inland Revenue Service (Establishment) Act 2007, grants enforcement powers to the FIRS and prescribes heavier penalties than the existing laws. Section 36 of the FIRS Act 2007 states the FIRS “may co-opt the assistance and co-operation of any of the law enforcement agencies in the discharge of its duties”. Certain penalties have been increased

substantially, for example, the Petroleum Profits Tax (Amendment) Bill 2005 proposes making of untrue tax declaration to attract on conviction, a fine of ₦1 million and 100% of the amount of tax unpaid or imprisonment for a term of three years or to both fine and imprisonment. Such an offence before now attracted, on conviction, a fine of one thousand Naira and treble the amount of tax or imprisonment for six months or to both such fine and imprisonment. As discussed in Section 8.7.1, an interviewee attributed the challenge of tax administration in Nigeria to problem of “completeness of information, integration of information, competence of the administration and cohesiveness of the administration itself”. In Section 8.7.3, a tax administrator attributed the problem to shortage of experienced and trained personnel, lack of collaboration with other governmental agencies, inconsistent legislation, corruption and transparency issues on the part of regulatory authorities and operators. Other reasons adduced are incompetence and inadequate knowledge of the operations of the industry. The tax administrator also acknowledged that the oil producing companies are well informed and are more knowledgeable in tax matters than the government tax officials. An interviewee blamed the leakages in tax revenue in Nigeria on “lack of enforcement by the FIRS”.

### **3.6.3 Improving the capacity of tax administration and its public relations**

#### **(a) General sources on the topic**

In the quest to achieve an efficient tax administration, Tanzi et al (1993, page 807:5) advised of the need to look at the public relations role of tax administration. They depicted public relations role as “connected with the way in which tax administrations are organised: the number of employees and their use, the level of their salaries, the quality of their working conditions, and the controls that the tax administration has on the behaviour of tax inspectors”. They regard the controls as “necessary to minimise or eliminate the possibility that these inspectors, or other tax administrators, will use their positions for their own benefit”. Sandford (1998, page 65) cited

Bowels who acknowledged that “corruption of official responsible for collecting taxes has been a problem for just as long as rulers and states have sought to collect funds” He referred to the “scale of the difference between tax liabilities and tax officials incomes is such that diverting only a small fraction of revenue into his own pocket may transform the financial position of an official”.

Persons (or corporate entities) obliged by law to pay taxes may stand to benefit individually from tax evasion, and may be quite happy to compound evasion offences which come to light by offering bribes. Poorly paid officials might perceive themselves to have little to lose from taking bribes, particularly since neither side will want the transaction to be brought to public notice. Provided they can be reasonably confident of avoiding detection, taxpayers and tax officials alike might regard corruption as an attractive option (Sandford 1998, pages 65 and 66).

Tanzi et al (1993, page 807:5) posited that “a tax administration that wants to improve taxpayer compliance and minimise tax evasion must be available to the taxpayer who needs information”, show courtesy toward the taxpayers, and “show punctuality in sending refunds to those who have overpaid since a taxpayer is likely to underpay if he or she might have to wait years for a refund” . Das-Gupta et al (2004, page 575) said that “low tax compliance is a matter of serious concern in many developing countries, limiting the capacity of their governments to raise revenues for developmental purposes”.

It is commonly acknowledged that many factors contribute to this weakness: corruption, a large informal sector, weak legal systems, ambiguity in tax laws, high marginal tax rates, paucity of adequate information and accounting systems, a culture of non-compliance and ineffective tax administration (Das-Gupta et al 2004, page 575).

The tax administration in a nation needs appropriate resources to be effective and efficient. In this regard there must be adequate allocation of resources for performance. Where the tax administration is starved of funds, there will be low tax compliance and high level of tax evasion. A well designed tax system should ordinarily work well. But the tax system may only work well if the government that puts the system in place allows the tax administration to function as designed. The choice of the nature of organisation to be adopted by a tax administration may be having one

tax official to oversee all the tax affairs of a particular taxpayer in relation to a particular tax, for example, income tax. The other choice may be split even further by making one official to be responsible for assessing income tax on business activities while another tax official is responsible for collecting the tax due. It has been suggested that the greater the degree of specialisation the more efficient and productive is the tax administration. In such situation, mistakes and corruption may be readily uncovered or minimised (M A Taxation 2006, page 8-2). A poor tax administration encourages tax evasion. Poor funding and poor allocation of resources culminate into poor tax administration. Tanzi et al (1993, page 807:4) posited that “the tax administration of a country plays an important role in the extent of which tax evasion prevails” and that “the allocation of resources within the tax administration is obviously important for determining this output”.

**(b) Sources on improving the capacity of tax administration and its public relations specific to Nigeria**

Ndekwa (1989, page 47) noted that “the capability of the taxation system to achieve its objectives depends on the administrative capacity of the authorities” and that “the amount of revenue collectable will be great or small depending on how efficient and effective is the administration of the tax”. Ndekwa further identified four principal issues demanding attention as quality of manpower and facilities made available to the tax authorities, problem of information generation and processing for the design of taxes, institutional basis of taxes has been found to be deficient, and “the harsh economic environment, such as high costs and inflation rates which reduce the real value of people’s income, makes tax administrative efficiency much more difficult to achieve” (Ndekwa 1989, page 47). Ndekwa posited that “the primary solution to tax revenue generation is an increased productivity of the tax administration” and that “the Nigerian tax system can be highly productive if provided with adequate manpower, facilities and good working conditions” (Ndekwa 1989, page 48). Ndekwa identified the “need to reform tax legislations, the

organisational structure and operations of the tax authorities as well as information system in the country's taxation. Tax information gathering and processing for efficient and effective tax administration should be given serious attention by government and improving the skills of tax administration and providing them with adequate information processing facilities"(Ndekwa 1989, page 49). The tax authorities need to ensure that tax officials have the requisite qualifications and experience for proper and efficient tax administration. The FIRS, as part of the current tax reform, has recently made a distinction between large taxpayer and integrated tax office operation. This is with a view to achieving increased focus on large taxpayers.

The Large Taxpayers Office (LTO) handles cases of companies with annual turnover figures of ₦1.0 billion and above as well as banks and those engaged in the upstream petroleum sector, while cases with turnover figure below ₦1.0 billion will have their files handled at the Integrated Tax Office level (FIRS 2006, page 52).

Okobi (2002, page 1) reported that "bribery and corruption are perceived as widespread in the country's public service system and that public servants work and accept a bribe if offered because of low salaries and late payment of salaries." The tax administration in Nigeria still lacks adequate manpower to effectively carry out its responsibilities. Under the current reform, the FIRS are being re-structured and attempts are being made to employ highly qualified staff; the remuneration package has also been enhanced. How the improved pay will affect tax compliance is a sort of a game, in that if the oil companies hire and retain the best educated people they will always find a way, around the law. There have been suggestions that there is leakage of tax revenues through tax officials such that some revenues never enter the Federal Treasury. Several reasons have been given which include poor remuneration, poor training and general economic problems and family commitments. The leakages have been attributed to IRS officials colluding with taxpayers e.g. Halliburton case where monies were given to IRS officials to evade tax, playing around with placed funds and playing around with withholding taxes. Business Guardian (2006, page 14) also



reported that the “FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert tax funds, which run into billions of Naira”

In evolving an efficient and effective tax administration, the organisation and management of the tax administration must be considered. There must be good coordination between the FIRS and other government agencies such as CBN, NNPC and DPR. Staffing and funding of the administrative function and IT skills and resources must also be considered. There is also the need to address the costs to the tax authorities principally the administrative costs which include official costs of administering and modification of tax code.

### **3.6.4 Poor appeals system**

#### **(a) General sources on the topic**

David B. Robinson, IRS National Director of Appeals in February 2006, acknowledged that “appeals make a pivotal contribution to ensuring our tax system is administered fairly. Appeals employees are very aware that our independence and impartiality are essential to our fulfilling our mandate” (Robinson 2006, page 94). “Basically, it means we exercise our independent judgment surrounding both the legal and factual disagreements in arriving at a particular settlement offer. We look at and consider the positions taken by the taxpayer and the Service during the examination. We evaluate the relative quality merits of the evidence presented and positions taken by all parties. But we also must consider all of the regulations, revenue rulings, procedures and other published IRS guidance. Appeals is not independent from the IRS, it is independent within the IRS...Taxpayers do indicate independence as one of their highest priorities for Appeals, so we must deliver it on every case we consider”. Robinson (2006, page 94) considers initiative settlement offer as “an opportunity for the taxpayer to resolve its tax dispute. It is an election, not a requirement.”

### **(b) Sources on poor appeals system specific to Nigeria.**

As can be seen in Section 8.7.3, an interviewee acknowledged “the problem of the appeal process where “government does not inaugurate the appeal body. The appeal procedure is there but they do not constitute the Body of Appeal Commissioners for a long time”. The PPT Act allows a person who is aggrieved by an assessment made upon him, and has failed to agree with the FIRS on the assessment, to appeal to the Appeal Commissioners, by giving 30 days notice, in writing, after the service upon him of notice of refusal of FIRS to amend the assessment (Section 41, PPTA). There is a right of appeal “to the Federal High Court upon giving notice in writing to the Board within thirty days after the date upon which such decision was given” (Section 42 (1) PPTA). The PPT Bill 2005 prescribes certain offences and penalties which include tax due and not paid within stipulated time, making untrue statements, failure to withhold or remit tax deducted and erring tax officials. Omoigui (2006, page 11) confirmed that there has been a reinvigoration of the Body of Appeal Commissioners to achieve “swifter dispensation of corporate tax matters”.

### **3.6.5 Self assessment**

#### **(a) General sources on the topic**

In encouraging tax compliance, Governments have used self assessment as a medium for revenue generation. Reckers et al (1994, page 825) posited that “the United States uses a self-assessment system that relies on voluntary compliance by taxpayers. Although most taxpayers still voluntarily comply with tax laws, intentional non-compliance is a serious pervasive problem”. Mathieu et al (2010, page 351) cited Chennells et al (2000) who confirmed that “in 1996, the UK introduced self-assessment (SA) for personal taxpayers joining US, Canada, Spain and Australia”. Sakurai and Braithwaite (2003, page 377) confirmed that a self-assessment system was introduced for those paying income tax in Australia in 1986. They reported that “most Australians have been exposed to ideas about how they can arrange their finances and make claims to reduce the amount of tax

that they have to pay”. Mumford (2002, page 37) criticised the self-assessment system adopted in the United States as operating “through more than mere enforced collection”. He noted that “taxpayers in some ways enforce the law themselves. They are asked to return money to the government; in systems which deduct at source, taxpayers never receive that money in the first place”. He referred “first, to the theory of “rough justice”, whereby the US Internal Revenue Service (IRS) and US Congress deliberately construct vague rules which permit a mild form of “cheating”, and whereby US taxpayers gladly participate in self-assessment in return for the opportunity to “cheat” (which is in fact construed as a form of payment and the taxpayer as a governmental agent). Second, the uses and abuses of the auditing process as the foundation of US enforcement of self-assessment”. Gammie (1996, pages 8 and 9) eulogised the self assessment system when he said that “in theory, there is no reason why the Revenue should not collect tax with courtesy and a smile. The taxpayer is under no obligation to return the gesture as he writes his cheque. Courtesy does not detract from efficiency/or from the use, in the final resort, of methods designed to compel payment of the right amount of tax due”. Gammie reiterated that “the efficiency of the audit process and the fear of selection are integral” part of self assessment method and that the obligations that the state places on individuals must be comprehensible. “Without that, people will lose respect for the system and it will cease to command their consent” (Mumford 2002, page 9).

#### **(b) Sources on self assessment specific to Nigeria**

With the recent introduction of self-assessment system, questions have been asked as to whether self-assessment will worsen the ability of FIRS to collect PPT revenues or improve it. As discussed in Section 8.7.2, an interviewee revealed that that “oil producing companies were allowed to do self assessment but DPR realised that was not a very effective way as the royalty revenue payment drive which DPR conducted” showed that, “a lot of companies were owing”.

Binniyat (2006, page 14) reported Harts finding on the extractive industry in Nigeria that the DPR “allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to Government thereby making underpayments”. The oil companies may engage in more sophisticated practices to avoid tax liability, whilst complying with the provisions of the law; they may exploit loopholes in the law. The FIRS officials, at present, may not be a match for the oil companies’ officials (i.e. the taxpayers) in terms of strategy, power, level of authority and specialisation. This may likely place the oil companies’ officials at an inherent advantage over the tax officials.

### **3.7 Tax reforms**

#### **3.7.1 Current challenges and tax reform in Nigeria**

Tax reforms are necessary to narrow the gap between national development needs and the required level of funding. Most economies use taxes as the major source of income for national development. In Nigeria, tax reforms became necessary to reduce the dependence of the economy on federally generated revenue especially on petroleum and to achieve other fiscal objectives as well as improved service delivery to the taxpayers. Government is currently carrying out an economic reform which is wide ranging and encompasses monetary, fiscal, trade, financial and reform of public institutions. The tax reform “cuts across the tax administrative machinery, tax policy and tax laws” (Omoigui 2006, page 12). The thrust of the reforms includes “improved efficiency of tax administration, stimulate the non-oil sector of the economy, reduce effective tax rates and simplify tax regime, reduce tax incentives (by eliminating those that are unnecessary), redistribute wealth and entrench a more equitable tax system as well as to develop a tax policy for Nigeria” (Omoigui 2006, page 10). Some tax reform bills are at present in the National Assembly and are yet to be passed into law. The current reform objectives are “to increase voluntary compliance through more equitable and efficient system, strengthen FIRS and the state internal

revenue service through effective funding and human resources. It also seeks to eliminate obsolete and non-realistic provisions/penalties in existing tax laws, increase tax yield to government and the stake of Nigerians in the development of Nigeria” (Omoigui 2006, page 10). Omoigui (2006b, page 43) identified the challenges facing tax administration in Nigeria as resistance to change (need for proper understanding of issues), communication and taxpayers’ education, competence (i.e. need to build competencies within FIRS), structure, (poor salary levels, untimely promotion and lack of requisite training), lack of trust, (i.e. need to build trust within FIRS, and that of taxpayers who possibly have their doubts about proper utilisation of taxes paid), and need to effect change within a short space of time. Omoigui (2006, page 10) further noted that “there are other challenges especially the ones that relate to over dependence on oil revenue with its attendant risks, the non-renewable nature of oil and gas resources, and volatility of the international market, the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption”. She confirmed, in respect of collection processes, that there are “problems of un-remitted funds, un-transferred funds and outright diversion of funds” and “that there is the need to reform collection processes especially in view of disagreements between Federal and State Governments on level of jurisdiction for sales tax (VAT, a tax on consumption currently administered by the Federal Government replaced sales tax in 1993)”. Omoigui added that “administrative reforms will provide an improved and more focused structure” and that “the administrative reforms will also result to increased capacity-building, ongoing operational reviews, improved funding – approvals for improved funding of Revenue Authority on the basis of cost of collection”.

Section 15(a) of the FIRS Bill 2005 recommended that “4 percent of all non-oil revenue collected by the FIRS in the preceding year may be appropriated by the National Assembly as administrative

charge or cost of collection” for the FIRS. However, the FIRS Act 2007 approved “a percentage as determined by the National Assembly of non-oil and gas revenue” (Section 15(a)), instead of 4%. This provides the FIRS with some autonomy and flexibility to manage its own budget to achieve its objectives without recourse to direct government funding. This also stimulates revenue generation. The autonomy enables the FIRS to be self accounting. Okwe (2007, page 1) reported that “officials of the FIRS will henceforth enjoy the financial autonomy” as “this has resulted in jumbo pay for the workers” and that the new salary structures are comparable with “some revenue generation agencies like the NNPC”. There are also changes to Automated Model in bank receipt and remittance system whereby the taxpayer effects payments through the FIRS portal and tax payment are swept automatically from collecting banks to the lead bank. This enables FIRS to generate online report on tax payment.

Earlier writers have examined reform of tax administration in other places. Devas et al (2001, page 211) said that “reform of tax administration involves a whole range of improvements: in taxpayer identification and records; assessment procedures, including separation of assessment from collection; payment and collection systems; enforcement action against defaulters; accounting and auditing system; legal instruments; application of informational technology; and so on”. Devas et al (2001, page 212) examined the Revenue authority model that had “its origins in the Executive Agency model which became popular in a number of developed countries in the 1980s” and which separated governmental functions into arm-length and autonomous agencies and which operate as a “business rather than a civil service department”. In relation to developing countries, Devas et al gave the following arguments for an executive agency which “relate primarily to effectiveness and efficiency”:

- as a single purpose agency, it can focus its efforts on a single task
- as an autonomous organisation it can manage its affairs in a businesslike way, free from political interference in day-to-day operations

- freed from the constraints of the civil service system, it can recruit, retain (or dismiss) and motivate staff to a higher level of performance (Devas et al 2001, page 212).

Devas et al (2001, page 214) further noted that “in most developing countries, particularly in Africa, civil service pay rates are extremely low compared to the private sector”. It is a “common perception (although not entirely borne out by the evidence) that poorly paid staff are more likely to be open to corruption” and that poor financial condition led to the establishment of earlier executive agencies (Devas et al 2001, page 213). They gave examples of countries that adopted the model as Zambia (1994), Kenya (1995), South Africa (1996), Tanzania (1996) and Rwanda (1998). Manasan (2003, page 182) gave examples of the impact of semi-autonomous Revenue Authority on tax efforts in Latin America and African countries. He reported that while tax efforts increased immediately after establishing the revenue authorities in some countries there were instances when the tax efforts dipped thereafter, as revealed on Figure 3.1 below. Picciotto (2007, page 13) confirmed that “in the absence of structural reform, the attention has shifted to improving tax administration, involving new managerial techniques and professionalization, with revenue authorities often being given greater autonomy from government, although within a defined limit”.

**Figure 3-1 showing the impact of semi-autonomous Revenue Authority (RA) on tax effort.**

<b>Country</b>	<b>Year established</b>	<b>Effect on tax effort</b>
<b>Latin America</b>		
Bolivia	1987-1988	Tax effort was 8 percent in 1987 and 7 percent in 1988; rose consistently to 15 percent in 1998 and dipped to 14 percent in 1999.
Argentina	1988	Tax effort dipped from 13 percent in 1987 to 8 percent in 1988; rose consistently to 14 percent in 1994; declining since then reaching 13 percent in 1998.
Peru	1988	Tax effort was 9 percent in 1987 and 1988; dipped to 7 percent in 1989; rose consistently to 15.4 percent in 1997; declining since then reaching 14 percent in 2000.
Colombia	1991	Tax effort rose from 10 percent in 1990 to 13 percent in 1993 then settled at 10 percent in 1994-1999.
Venezuela	1994	Tax effort dipped from 14 percent in 1993 to 3 percent in 1994; rose to 17 percent in 1997 before declining to 12 percent in 1998 and 13 percent in 1999.
Mexico	1997	Tax effort rose from 12.7 percent in 1996 to 13.0 percent in 1997, and then dropped to 11.7 percent in 1998.
<b>African counties</b>		
Ghana	1985	Tax effort rose from 7 percent in 1984 to 16 percent in 1996
Uganda	1991	Tax effort rose from 4 percent in 1990 to 11 percent in 1996
Zambia	1993	Tax effort dipped from 19 percent in 1992 to 15 percent in 1993 before increasing to 19 percent in 1994, before settling at 17-18 percent in 1995-1997.
Kenya	1995	Tax effort declined from 25 percent in 1994 to 20 percent in 1999 (with reduction in tax rates).
Tanzania	1996	Tax effort rose from 11 percent in 1995 to 12 percent in 1996 but declined since then reaching 10 percent in 1998
South Africa	1997	Tax effort rose from 24 percent in 1996 to 26 percent in 1999 (with reduction in tax rates).
Rwanda	1998	Tax effort rose from 9.8 percent in 1997 to 10.1 percent in 1998; dipped to 9.3 percent in 2000
<b>Southeast Asia</b>		
Malaysia	1994	Tax effort fairly stable at 17 percent since 1993.

Source: Manasan (2003, page 182); Table 3 Impact of the creation of semi-autonomous RA on tax effort.



### **3.7.2 Tax reforms aimed at making the revenue authority more effective**

The autonomy allows FIRS to re-organise the previous predominantly civil service structure into a more business oriented organisation but the management needs to grapple with changing the attitude and mindset of the workforce. With the enactment allowing the FIRS to hire and fire its own human resources and pay commensurate remuneration, nothing stops the FIRS from retaining the best hands. The relationship between Government and FIRS needs to be clearly defined to ensure good working relationship between the Ministry of Finance and FIRS Board and the Management of FIRS. This is necessary as the Ministry of Finance is responsible for the fiscal policy of Government and the FIRS is responsible for tax administration in Nigeria. The FIRS Board's role should be advisory to the Chairman of FIRS and should be devoid of the executive operations of the FIRS. The composition of the FIRS Board needs to be reconstituted to include private sector representatives as against predominantly civil servants. Other matters which will make the revenue authority to work include the retention of a truly independent Chairman, clearly defined lines of authority and responsibilities, maintenance and sustenance of an effective help desk, transparency and regular publication of revenue collection. An effective tax administration also needs to consider the following matters.

#### **(a) Learning tools**

Perk and Clarke (1990, page 21) said that “since 1979, when China embarked on its policy of cooperating with foreign companies to develop off-shore petroleum, Chinese officials have improved their understanding of international tax and business practices at a rate nothing short of miraculous”, giving two reasons as follows:

...the Chinese have been willing to listen, learn and make necessary changes, and foreign companies have been patient and willing to teach. The Chinese tax authorities have been quick to take advantage of a broad range of learning tools, including training of Chinese staff in international practices by legal and accounting firms, presentations by tax experts on draft legislation, and training stints overseas for Chinese tax and audit staff. Tax bureau

leaders have travelled extensively to exchange ideas and negotiate numerous treaties with tax authorities in other countries. All in all, the Chinese have made a tremendous effort to better understand the reasons other countries select certain tax regimes (Perk and Clarke 1990, page 22).

Job et al (2007, page 91) reported the change in New Zealand whereby the tax authority came up in 2001 with “a strategic document ‘The Way Forward’; and in 2002 with a training program for operative staff. ‘The Way Forward’ outlined four strategic strands: (a) streamline and simplify tax processes; (b) create an environment which promises compliance; (c) enhance staff capability; and (d) enhance the administration of social policy business”.

#### **(b) Staff training**

Bird and Oldman (1990, page 480) acknowledge that “the expenditures of the tax department include outlays for formal programs of staff training” and that such programmes should be “strengthened and expanded”. They posited that the concept of human capital which enhances “productive capacity resulting from education, training, experience and specialised training” improves tax administration. Bird and Jantscher (1992, page 4) admitted that an “ingredient for successful reform of tax administration is a strong commitment to reform at both the policymaking and managerial levels, as well as a certain degree of technical competence”. They warned that the best reform strategy applied to the most simplified system will fail if there is a lack of political will to implement it. They advised the retention of “core local expertise” to take advantage of assistance from foreign experts. They reiterate that “successful tax administration reforms thus have these three main ingredients in common – simplification, strategy, and commitment. Job et al (2007, page 91) reported that “in East Timor, the United Nations Transitional Administration East Timor (UNTAET) arranged comprehensive training package for new agency. Accounting and legal training was provided by international accounting firms and interactive response regulation training was provided by the ATO”.

### **3.8 Summary**

In this chapter, the researcher has reviewed literature on the complexity of fiscal regimes with the attendant uncertainty and ambiguity in the understanding of taxpayers and tax administrators of the tax laws. Literature on the economic justification for taxation pinpoints certain constructs pertaining to why governments must generate revenue through taxes to be able to meet their obligations to the citizenry has also been reviewed. The researcher draws leads from literature on tax compliance (and non-compliance) from countries, for example, United States, United Kingdom, Australia, Netherlands, France and Sweden. This is against the background (based on limited literature) of tax administration in Nigeria which has, for some time, faced a number of problems ranging from complexity of tax laws, poor public relations role, poor appeals system and problem of self-assessment. There is also the problem of enforcement. Literature on the problem of lack of enforcement points towards the challenges which the tax authority in Nigeria need to address. Tax theories and models help in understanding the behaviours of taxpayers and tax officials when it comes to tax compliance (and non-compliance). They also help in obtaining a systematic view of certain phenomena present in the theories and models and which help in setting a direction for the development of the hypotheses and the measurement of the perceptions of petroleum profits tax compliance in Nigeria. The chapter highlights the work of authors who suggest how the tax authority can make the tax administration to work.

## **CHAPTER 4 LITERATURE REVIEW II: TAX AVOIDANCE AND EVASION**

### **4.1 Introduction**

In Chapter 3, literature on theories on taxation, tax administration and compliance and tax reforms were discussed. The chapter revealed that tax administration in Nigeria seems to be contending with many problems and challenges which hinder good tax administration.

In this chapter, the author presents a summary of literature surrounding the meaning of tax avoidance and evasion and measure to combat tax avoidance and evasion and reported cases of how some oil companies appear to evade taxes in Nigeria. Tax evasion denies government of vital revenue which could ordinarily be used to meet the state's obligations to the citizenry.

### **4.2 Tax avoidance and evasion**

#### **4.2.1 Meaning of tax avoidance and tax evasion**

Koch (2003, page 53) cited Tanzi and Shome (1993, 807) who acknowledged that "tax evasion is an ancient and worldwide phenomenon. Plato's writings 2500 years ago mention it and the Venetian Doge's Palace had a hole where citizens could insert the names of alleged tax evaders". Andreoni et al (1998, page 836) affirmed that "tax evasion is difficult to measure primarily because individuals often undertake substantial efforts to conceal their evasion". Wenzel (2007, page 31) cited Braithwaite et al (2003a) who acknowledged that "tax evasion and avoidance are a burden for modern societies, a strain on government revenue, and a threat to social justice". Tax avoidance and tax evasion are two different things and the researcher is going to start by reviewing the literature on tax avoidance. Franzoni (1999, page 54) posits that "avoidance is encouraged by legislation granting favourable tax treatment to specific activities in contrast to general taxation principles and that from a legal standpoint, evasion differs from avoidance in being unlawful, and

hence punishable (at least in theory)". Tax avoidance may be regarded as the legal minimisation of tax liabilities achieved through deliberate tax planning and utilisation of loopholes in the tax code. Large firms use complex systems to avoid tax and there is the need for the tax authorities to be well armed to deal with the situation. Oil companies are known to engage top professionals (for example, accountants and lawyers) who assist in in-house interpretation of the provision of the law to the best advantage of the companies. Such experts may utilise the potential weakness in the law to legally minimise the company's tax liability. There is a fine line between tax avoidance and tax evasion which includes non-payment of appropriate taxes, understating income and overstating expenses. However, nothing stops an oil company in utilising the loopholes (tax avoidance) which may be in the laws to the best advantage of the company. In the developed world, when accountants charge a client a lot of fees on tax saved, the accountants must disclose the schemes used to the IRS else the IRS may clamp down on them. UK law requires that the schemes must be disclosed. Recent examples of the clamp down are on KPMG and Ernst and Young who were penalised in the United States for their roles in failed tax shelters. In Nigeria, oil companies use in-house tax experts for their PPT matters. Ironically, in-house tax experts are not mandated under Nigerian law to disclose schemes used.

On the other hand, tax evasion may be regarded as the illegal non-payment of tax by concealment, fraud or negligence (M A Taxation 2006, page 8-6). Bird and Oldman (1990, page 456) warned that "the line between tax avoidance, or the using of laws so as to minimise payment of taxes, and tax evasion, the breaking of laws, is difficult to define clearly". They argued that "taxpayers may seek to take the most favourable interpretation of existing law so as to take advantage of the use of money temporarily saved on taxes". Abdulrazaq (1993, page 27) cited Radeliffe Commission who described tax avoidance as "some act by which a person so arranges his affairs that he is able to pay less than he would have paid but for the arrangement. Thus the situation which he brings about

is one which is legally in the right". James and Nobes (1996, page 100) regard avoidance as an "individual's manipulation of his tax affairs within the law so as to reduce his tax liability. Evasion is illegal manipulation to reduce tax". Tax avoidance may be regarded as the careful reading of the law and interpreting the provision thereon to a company's advantage whereas tax evasion is disobeying the law rather than finding a way round the law. Avoidance may be complying with the law but not to the extent the law wants. It may be breaking the law but using the loopholes in the law. Accountants refer to avoidance as "tax planning" or "tax mitigation", which emphasises its legality. They claimed that "avoidance will be used to mean something which is contrary to the spirit of the law and which accomplishes the pre-tax objective" (James and Nobes 1996, page 100). The best example of a definition in UK law occurs in the case *IRC v Willoughby* (1997) reproduced as follows:

The hallmark of tax avoidance is that the taxpayer reduces his liability to tax without incurring the economic consequences that Parliament intended to be suffered by any taxpayer qualifying for such reduction in his tax liability. The hallmark of tax mitigation, on the other hand, is that the taxpayer takes advantage of a fiscally attractive option afforded to him by the tax legislation and genuinely suffers the economic consequences that Parliament intended to be suffered by those taking advantage of the option. Where the taxpayer's chosen course is seen upon examination to involve tax avoidance (as opposed to tax mitigation), it follows that tax avoidance must be at least one of the taxpayer's purposes in adopting that course, whether or not the taxpayer has formed the subjective motive of avoiding tax (Lee 2008, page 44).

Gammie (1996, page 13) said that "Revenue authorities may refuse to rule in cases where tax avoidance is suspected" as "failure to disclose the true reason for the transaction may obviously invalidate a clearance for lack of full disclosure" and that "at the same time, advance clearance of a tax avoidance transaction may give the Revenue advance notice of the misuse of the legislation".

"Tax evasion is a widespread practice; the black economy makes up 5% - 10% of the total gross national product of western style industrial economies" (Cowell 1985, page 165). Tanzi et al

(1993, page 807) posited that “tax evasion is a universal phenomenon. It takes place in all societies, social classes, all professions, all industries, and all economic systems”. “They also said that it “depends on the economic and tax structures, types of income and social attitudes”. They further stated that “the theory of tax evasion has limitations since it rests on attitudes toward risk, with full information regarding the tax administration’s behaviour”. Tanzi et al (1993, page 807) noted that “tax evasion is practiced in different forms” and that “tax evaders may not declare income; may underreport income, sales or wealth; may over-report deductible expenses; may smuggle goods or assets; or may undertake some other deception. The variety of tax evasion is truly remarkable, and taxpayers are always finding new ways to purposely reduce their tax burden”. They identified, in general, that “tax evasion is easier for independent contractors, professionals (such as doctors, lawyers, and architects) and those engaged in agricultural activities. There is increasing evidence that multinational enterprises can also reduce their tax burden through judicious transfer pricing”. They admitted that “tax evasion is also strictly connected with the structure of the tax system and is likely to vary with the use of different tax bases”. They warned that “tax evasion also affects the productivity of the tax system by reducing the amount of revenue that can be raised under the statutory system” (Tanzi et al 1993, page 807). Sandford (2000, page 142) said that “tax evasion is the failure, by an individual or organisation to pay tax legally due, or alternatively to claim a refund to which they are not legally entitled”. Evasion involves concealment or other dishonesty. Therefore, perhaps full disclosure of matters to the tax authority could be a mark distinguishing avoidance from evasion. Siripunyawit (2006, page 1) reported as follows:

Avoiding taxes is everyone’s right. Evading taxes is against the law. But where to draw the line?...What separates legitimate avoidance from illegitimate evasion, he says, is the “substance” of the taxpayer’s act...if a company makes up a fake transaction in order to avoid paying tax, it is evasion. However, if the company

wants to reduce its tax payment by giving the money to charity or setting up a foundation, then it is legal tax avoidance (Siripunyawit 2006, page 1).

#### **4.2.2 Measure to combat tax avoidance and evasion**

Franzoni (1999, page 52) considers tax evasion occurs “when individuals deliberately fail to comply with their tax obligations” and that “the resulting tax revenue loss may cause serious damage to the proper functioning of the public sector, threatening its capacity to finance its basic expenses”. Silvani (1992, page 288) argued that “a taxpayer guilty of evasion with fraud commits tax evasion through fraudulent actions such as forging or falsifying records” and that “such actions go beyond the scope of taxation and into the area of criminal offences”. He suggested that “fraud should be punished even where no harm is done to the treasury”. Silvani (1992, page 289) advocated that in order “to combat those who qualify only as tax evaders, because they have underreported their taxes without committing fraud in the process, the strategy should be different. “He suggested that the evader should be dissuaded from engaging in this behaviour again. Here the purpose is not to punish the tax evader in order to make an example of him to others but to prevent repeat offences. The evader will change his behaviour if he learns or if he believes, that tax evasion does not pay”. Tax evasion is, by its nature, fraudulent and should be viewed not only from large scale evasion but also from petty evasion. Detecting tax evaders is one thing and the likelihood that the penalty will, in fact, be enforced, is another. Enforcement of penalty may serve as a deterrent to tax evasion. Bird and Oldman (1990, page 457) noted that “it is in the area of wilfully evading tax laws that the issue of sanctions normally receives the most discussion” and that “before understanding tax evasion, it is necessary to know something about how much evasion there is and how it is executed”.

...it is clear that all tax avoidance can start with failure to file a return. Simply getting income earners registered as taxpayers in the first step in effective tax administration; therefore, using all possible sources to establish a taxpayer master list has to be the most important task of a developing country’s tax administration. (Bird and Oldman 1990, page 457).



They advised that relevant information may be obtained from local and regional governments and national departments and that the technique was used in Tanzania and Zimbabwe (Bird and Oldman 1990, page 457).

Silvani (1992, page 274) discussed “the experiences of several countries with regard to tax compliance and suggests certain general guidelines for improving it, particularly in countries where there is relatively high level of non compliance”. He noted that “the goal of tax administration is to foster voluntary tax compliance” and that “penalising tax evaders or going after delinquent taxpayers are not in themselves the object of tax administration”. He suggested that “voluntary compliance may be encouraged, however, if the administration is successful in establishing a strong prospect that non compliance will be detected and effectively punished”. He indicated that “a lower cost to taxpayers of complying with the system, its fairness, the simplicity of its laws and procedures, and the services that the tax administration provides to taxpayers are all important factors in expediting and stimulating voluntary compliance”.

Nevertheless, in countries with a very high degree of non compliance, the ability of the tax administration to impose effective penalties is perhaps the key to shaping the behaviour of taxpayers (Silvani 1992, page 275).

Silvani (1992, page 275) also identified the problem as that of making tax administration effective and that tax administration will be effective if it is able to deal with key shortfalls, for example, unregistered taxpayers, stop filing taxpayers, tax evaders and delinquent taxpayers. Silvani (1992, page 287) posited that “the audit function is of crucial importance to a tax administration; if it is not reasonably effective, tax administration will not be reasonably effective either”. He suggested that, “to narrow the gap between the tax reported by taxpayers and the potential tax defined by law, an adequate audit plan must be put into practice” and that the plan must have “broad coverage of the universe of taxpayers” and “special programs to prevent non-compliance”.

To implement such a plan, an adequate share of the tax administration's manpower must be allocated to this task, but the reality is that many countries devote to tax audit a small percentage of their tax administration personnel (Silvani 1992, page 287).

Silvani (1992, page 288) advised that “the effectiveness of the audit function should not be measured in terms of straight tax receipts derived from additional assessment” and that “what should be gauged is rather to what extent this function contributes to improving tax compliance”.

The audit function should preferably be evaluated in terms of the quantity and quality of audits carried out and the revenues “voluntarily” paid. It is advisable to encourage the filing of amended returns (corrections) in which the taxpayer acknowledges the mistakes or omissions made by him and detected through tax audit... Official assessments usually involve a legal dispute and it is often better to reach a reasonable compromise accepted by the taxpayer than to obtain a favourable judgment in a court of law (Silvani 1992, page 288).

#### **4.3 Reported cases of oil companies evading taxes**

There have been reported cases of how some oil companies seem to be evading taxes in Nigeria examples of which are discussed in the following sections:

##### **Case 1 - Chevron in a \$10.8 billion tax evasion scam**

Igbikiowubo (2005, pages 1-3) reported that Chevron is “embroiled in a \$10.8 billion tax evasion scam following queries raised against them by ABZ Integrated Limited, tax consultants to the EFCC”. He revealed that the case involved “over-bloated costs”, “unmerited cash calls” and diversion of tax revenue to dividends, unmerited capital allowances and tax credits. The allegations, though denied by Chevron, highlight the methods possibly used by some oil companies in Nigeria, to evade tax. Tax evasion denies government of vital revenue and should be eliminated. Chevron should be given fair hearing. The EFCC should ensure the matter is followed up to its logical conclusion and appropriate recovery made of any tax proved to have been evaded

and payment of the penalties prescribed by the law. Appropriate machinery should be put in place to ensure transparency in the reporting of activities of the oil companies.

### **Case 2: The scandal of a nation**

Akande (2005, page 1) reported that “Nigeria must have lost millions of dollars of revenue due from contractors lifting Nigeria’s crude oil, who are not being assessed for tax and so have been avoiding taxes due to the Federation Account”. He indicated that the FIRS “has been encountering difficulty in assessing crude lifting contractors for tax purposes due to problems of identifying who they are and the amount of freight income they receive to FIRS, to enable the assessment to be made”.

Crude oil lifting contractors in the oil sectors are those licensed by the Federal Government and given authority to transport and sell the crude on behalf of the NNPC in the open market. Normally they are given a selling price of up to \$9 - \$10 less than the market price to enable them make a profit (Akande 2005, page 1).

Akande further reported that though the CITA “requires companies operating within Nigeria territorial waters to pay tax on freight income they earn lifting Nigerian crude oil”, the auditors from Hart Group of the UK found out that “it has not been possible to assess these companies to Nigeria tax as a result of lack of information as to their name, address and amount of freight income received by them”. The auditors also lamented that “this is the case even though these contractors are licensed by the same government that oversees the FIRS which needs the information to assess their taxes”.

The establishment of a link between the source of licensing the contractors and the FIRS will provide a ready source of information on the identity of the contractors thereby making the assessment of taxes readily possible.

### **Case 3: Undue set-offs against PPT**

In the course of announcing 2000 Federal Budget, it was reported that President Obasanjo lamented “unduly subsidizing gas operations with taxpayers’ funds” and that a “situation where out of the sum of N140 billion projected as revenue from PPT in 1999, only N26.8 billion was realised at the end of September, 1999 due to set-offs against PPT, is unacceptable”. Government then promised to “review the issue of incentives and set-offs as they relate to the oil and gas sector’ and that a ‘new memorandum of understanding will come into use during the year” (Today Newspaper 1999).

### **Case 4: As Ezekwesili, NEITI plan to expose oil revenue theft**

Binniyat (2005, page 20) reported on a statement credited to the then Minister of Solid Minerals, Dr. Oby Ezekwesili that “nearly all Nigerians have no idea how earnings from oil and gas are arrived at the end of the year. This is because of the seemingly complex matrix of taxes, technical terms and other jargons employed in the computation of the variables that sum up to final oil revenue...But an average Nigerian just does not know terms like, PSC; PPT; bonuses and royalties and CIT taxed on gas among others’. She acknowledged that “there are provisions in the FIRS which protect taxes due from oil companies from the public”.

This very vital information is deliberately kept confidential from the public and only audited again, in secret, by the FIRS and NAPIMS. This mass naivety has allowed for mass corruption in the oil and gas industry, leading a few to fabulous wealth, and the larger chunk of society to unjust, mass poverty (Binniyat 2006, page 20).

### **Case 5: Oil Companies underpay FG by N71 Billion - NEITI**

In the course of the public presentation of NEITI interim report, Binniyat (2006, page 14) reported that some “oil companies may have underpaid the Government not less than ₦71 billion in petroleum royalty tax between 1999 and 2004”. She reported that “the DPR which is saddled with

the duty of computing oil royalties from oil companies, allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to government making underpayments of ₦71.4billion (\$509.7million) from 1999 to 2004”. She further reported that Shell and Mobil seemed to have overpaid royalty while other oil companies underpaid royalty for the period under review. The report revealed under-payments by Chevron \$44.7million, Amni \$24.7million, Texaco \$4.7million and Agip Energy \$98.3million” (Binniyat 2006, page 20).

#### **Case 6: 5 Oil Firms Defraud Nigeria**

Ibiyemi (2006, page 1) reported on “five oil companies that won explorative blocks during the first deepwater licensing round in 1990, 1993 and 2000 have fraudulently escaped the payment of signature bonus (licence fee) to the Federal Government”.

The amount involved in the signature bonus is excess of \$50 million (₦6.8 billion) and is supposed to be paid to the DPR...This payment is supposed to be made within 30 days of the oil firms signing the PSC preparatory to take-off of exploration, field development and production activities on leased acreages. However, these firms only made part payments for the signature bonus several years after acquiring the blocks (Ibiyemi 2006, page 1).

#### **Case 7: ₦30BN oil proceeds unaccounted for**

Akosile and Ezigbo (2006, page 1) reported that in the “final audit report of NEITI has revealed various sums ranging from ₦7.04 billion (\$55million) to a whopping ₦30.720 billion (\$240 million) as discrepancies in payment schedules of oil companies operating in the country to the CBN”.

According to the report, a major lapse was losses and unaccounted for proceeds of oil sales. For instance, it revealed that around ten million barrels of crude were lost between the flow stations and the loading terminals over the period of five years (1999 – 2004). The discrepancies were, however, more in the figures of payment being claimed by the oil companies and the CBN, which are completely different. In some cases, the CBN claimed to have received what the oil companies never paid (Akosile and Ezeigbo, 2006 page 1).

Among other lapses identified in the report were, “lack of volume reconciliation in some areas as the amount of crude from the flowstations significantly differed from what eventually gets to the crude terminals”. Others matters reported are weak accounting system and control, which creates an enabling environment for “losses and unaccounted for proceeds of oil sales”, “discrepancy between the COMD figures used for financial audit and the DPR figures.”, “use of different approaches to measure and report volumes of royalty and PPT calculation process”, “differences in data received from NNPC- NAPIMS and multinational oil firms”.

#### **Case 8: AKWA Ibom sues Mobil over N4bn tax evasion**

Mordi (2006, page 1) reported the Akwa Ibom State Government has charged five directors and officers of Mobil Producing and their company to court for allegedly evading ~~N~~4.1 billion taxes due to the state. The State Government “rejected the proposed template for the tax reconciliation” explaining that “the framework for reconciliation proposed by the oil company was unacceptable because it sought to start from an arbitrary date of 1998, whereas some of the allowance that were concealed for the purpose of evading tax were introduced in 1991”. It was further reported that “Mobil could not hide under the provision of limitation imposed by Section 54 of PITA within which all tax assessment issues already dealt with automatically lapse after six years, because the section applies to tax audit, and not tax investigation which unearthed the disputed unpaid taxes of ~~N~~4.1 billion”.

...But Mobil had argued in a letter of September 20, 2006 and another of October 12, 2006 to the state government that it did not owe unpaid taxes and that it even had clearance from the state government for taxes within the period complained of. The company said the tax arrears demanded by the state had lapsed given the provision of the six-year limitation under the personal income tax law, and proposes a framework for the reconciliation of its consolidation tax liabilities to the state (Mordi 2006, page 1).

### **Case 8: Illegal oil export**

Azaiki (2006, page 10) drew attention to “issues of illegal oil export, topping up oil practice – a deliberate arrangement of some of the oil companies and their Nigerian counterparts that deliberately undervalue the quantity of oil in a tanker in order to share excess income”. He also drew attention to “illegal oil sales and over pricing, or topping and that unrecorded oil sales came mainly from Saudi Arabia, Russia and increasingly from Nigeria and Angola and that more than one million barrels per day is illegally extracted and traded. He further noted that “Shell reckons Nigeria is losing 100,000 barrels per day from various forms of oil theft, known locally as illegal oil bunkering, where the stolen oil is often clandestinely loaded into tankers with forged documents, and then sold on the open market”. Azaiki revealed a practice in the oil industry whereby multinational companies encourage staff that is due to retire in say 3-5 years, to be deployed to Nigeria, so that gratuity and pensions will be paid by the Nigerian side” and that “it is ironic these measures help the multinationals to evade taxes” (Azaiki 2006, page 10).

### **4.4 Summary**

In this chapter, the researcher has reviewed literature on tax avoidance and evasion and reported cases of how some oil companies seem to be avoiding taxes in Nigeria. The researcher also considered the meaning of tax avoidance and evasion and measure to combat tax avoidance and evasion. In an economy which employs a complex fiscal regime and utilises tax officials who are poorly paid and poorly trained, there is the possibility that the taxpayers will take advantage and find a way to minimise their tax liabilities.

## **CHAPTER 5 RESEARCH METHODOLOGY**

### **5.1 Introduction**

This chapter describes the methodology that is employed in the study. “Research methodology” consists of procedures followed in designing, identifying, collecting and analysing data to answer research questions through scientific enquiry and interpretation. Bryman and Bell (2003, page 28) give some insights into how business research should be carried out. They suggest that “choice of research strategy, design or method have to be dovetailed with the specific research question being investigated”. They also indicated that “if we are interested in teasing out the relative importance of a number of different causes of a social phenomenon, a quantitative strategy may fit our needs”. They advise that “if we are interested in the world views of members of a certain group, a qualitative research strategy that is sensitive to how participants interpret their social world may be the direction to choose”. Bryman and Bell opine that “if a researcher is interested in a topic on which no or virtually no research has been done in the past, the quantitative strategy may be difficult to employ because there is little prior literature from which to draw leads. A more exploratory stance may be preferable and in this connection, qualitative research may serve the researcher’s needs better, since it is typically associated with the generation rather than the testing of theory and with a relatively unstructured approach to the research process” (Bryman and Bell 2003, page 28).

This chapter considers the background to qualitative and quantitative approaches and the justification of the approach adopted in this study. Due to the complex nature of PPT in Nigeria and the research questions which need to be answered, the use of qualitative and quantitative approaches in answering the research questions were considered. Qualitative research helps in developing theories and could lead to some hypotheses which may be tested quantitatively. On the



other hand, some hypotheses may be developed from existing theories and may be tested using qualitative and quantitative methods. This research has concepts that require both qualitative and quantitative approaches in its design, data collection and data analyses. The research philosophy is principally positivist deductive method. In selecting a mixed methodological approach, the use of purely quantitative approach by selecting a survey method and applying a statistical tool was considered but the researcher believes that this will not give the desired result. A strictly phenomenological approach was also considered but this approach denies the use of quantitative data which could still illuminate and enhance the study. Bryman and Bell (2003, page 482) opine that “confidence in the findings deriving from a study using a quantitative research strategy can be enhanced by using more than one way of measuring a concept”. They also cited Hammersley (1996) who acknowledge “the use of quantitative research to corroborate qualitative research findings or vice versa”. Consequently, a combination of quantitative and qualitative methods is adopted and gives the benefit of enriching this study with the following:

- The result of the literature review
- Face to face interviews with experienced oil experts
- Pilot test with experienced officials on oil tax matters
- Development of hypotheses from the extant literature
- Building the questionnaire
- Applying the questionnaire
- Using personal interviews to reinforce the survey result
- Analysing the results

The extensive literature reviews in Chapters 3-5 provide the necessary background information for this study. As oil is the theme of the research, the researcher reached out to the NNPC, FIRS, DPR, auditing firms, policymakers and independent tax advisers to investigate the perceptions of

experienced officials. On one hand, as the researcher is interested in the relative importance of compliance with the PPT law and the different causes of tax non-compliance, the use of quantitative strategy is relevant to the study. On the other hand, conducting face-to-face interviews with experienced regulatory, tax, petroleum companies' officials and tax practitioners provide the benefit of their in-depth knowledge of the oil industry in Nigeria, hence the need to consider the use of a qualitative strategy. The personal interviews are used to gain more insights and interview results are used as further evidence to reinforce the quantitative result. The background information and the prior hypotheses derived from the literature review are tested and used in designing the questionnaires which are applied to respondents. Interviews can be used in much the same way as questionnaires to test hypotheses but the researcher needs to ensure that the sample size is sufficiently large and unbiased and employ a structured interviewing methods. When these methods find evidence which support the hypotheses, they give a positivist deductive philosophy.

## **5.2 Research design**

The research philosophy adopted for this research is principally positivist deductive method, in which the researcher has some hypotheses which are tested from the data collected. Vogt (1993), cited in Collis and Hussey (2003, page 113), considers research design as “the science (and art) of planning procedures for conducting studies so as to get the most valid findings”. It is the procedural step involved in conducting the research. Research design provides the procedures to achieve the objectives that have been chosen. In determining the choice of research design, the following matters were considered:

### **(a) Survey design**

The events being investigated have already taken place; consequently the design is principally “**ex-post facto**” and encompasses survey design and secondary data analysis. By using a survey, the

researcher is able to assess the perceptions of a cross-section of stakeholders in the Nigerian oil industry about the level of compliance with the law and survey results are used in presenting and discussing the hypothesis tests of the questionnaire data. The survey method further considers stakeholders in the area examined so as to eliminate bias.

#### **(b) Evidence from secondary data analysis**

The researcher considers secondary data obtained from the financial statements of oil producing companies and statistics published by various government agencies. This is with a view to presenting comparisons of the expected and actual royalty and PPT payments as more evidence for Hypotheses H2 and H4 (see below). The researcher seeks to find out, using production and export data, whether the oil producing companies in Nigeria have been meeting their royalty and PPT obligations over a period of time. The researcher also seeks to show whether monthly royalty and PPT instalment payments have some relationship with monthly crude oil production or export data. It is believed that oil companies, at times, underpay or overpay royalty and PPT. In this regard, the researcher seeks to check whether in the long-run, the firms' overpayments and underpayments cancel out at zero, or whether there is a net underpayment (or overpayment) across all sampled firms over the nine years under review. In other words, the researcher seeks evidence suggesting that the oil producing companies, over the long-term, have been failing to meet their full tax obligations or that the oil producing companies have been paying more than their fair share of tax revenues. There is the probability that lack of compliance and understanding of the law has led to net under or overpayments of royalties and PPT. However, the researcher acknowledges the limitation of obtaining full company-specific data and recomputation of royalty and PPT based on incomplete data may lead to

inconclusive results, hence the need for personal interviews to reinforce the secondary data analysis and survey results.

### **(c) Qualitative study**

In order to gain an insight into the real world of oil experts in the upstream sector of the Nigerian oil industry, the researcher decided to use personal interviews as a further means of investigating tax compliance in the petroleum sector. A phenomenological approach is a way of investigating and understanding social phenomena, such as tax compliance. This is against the backdrop that “a questionnaire survey providing quantitative data could be accompanied by a few in depth interviews to provide qualitative insights and illuminations” (Collis and Hussey 2003, page 77). “Equally, qualitative methods may be used to provide important contextual information that supplements the findings from a larger quantitative study” (Bryman and Bell 2003, page 486). The researcher believes that conducting personal interviews with experienced oil experts provides the benefit of their in-depth knowledge of the oil industry in Nigeria and furnishes an understanding of their social world. DPR, NNPC, FIRS and CBN are government bodies which play vital roles in petroleum production and petroleum revenue generation in Nigeria. Hence some of the interviewees were picked from the aforementioned government bodies and interview results are used to reinforce the results of the quantitative study.

### **(d) Access to companies and individuals**

The researcher reached out to top officials of the regulatory, tax and petroleum companies and some individuals in the tax divisions of the petroleum companies as well as some tax practitioners with specialised knowledge of PPT in Nigeria. Some directors of the FIRS, CBN, the Deputy Director of DPR, and some senior officials of some oil majors supported

the project. Okobi (2002, page 89) cited Sudman and Bradburn's (1982) strategy of inducement varying from context to context. He deduces that because "actual need and relevance of each investigation varies" and that "investigators simply have to define their own special circumstances and try to make a case for it by appealing to the respondents' altruistic sentiments. This could mean appealing to the sentiments of the respondent". In this study, the above strategy was adopted and the researcher appealed to the respondents, emphasising that this study is of significance and that it will enhance the understanding of PPT in Nigeria. The researcher also assured the respondents, particularly to the questionnaire, will not be identified (i.e. no-name basis) and information provided will be used for academic purposes only considering the sensitivity of certain aspects of the study especially tax evasion. However, some participants in the personal interviews agreed to their names being disclosed while others opted that their names be protected.

**(e) Ethical, health and safety issues**

The researcher is mindful that, asking respondents in Nigeria about tax non-compliance, particularly tax evasion, could be potentially tricky and risky to the individual. In this regard, the researcher observed applicable ethical codes of conduct at all times throughout the course of the research. Confidentiality and privacy of respondents are observed, as are codes relating to data protection. Participants and companies are referred to on a no-name basis and descriptions such as "Company A in Joint Venture" are used for contextualization purposes. Participants in all interviews or questionnaires were asked for informed consent to conduct the interview and also informed of their rights to remain anonymous.

The researcher is aware of the health and safety risks involved in conducting a research of this nature and therefore took the utmost care and preparation both before and during the

conduct of the fieldwork. Though reports on Nigeria portray the country as not safe, a comparison of Nigeria with many other countries appears to show that the reports are exaggerated. Oil companies' officials fly in and out of Nigeria on daily basis. Nigeria is a relatively safe and harmonious environment, consequently the risks involved in this research were considered to be comparatively small. The researcher ensured that any sensitive issue was handled with all sense of maturity. In any case of uncertainty or if the researcher found out that there was a lot of tax evasion, in the course of the research, the University would be the first point of contact and no further action was to be taken without the consent of Bournemouth University. The researcher took all reasonable steps to ensure safety in the course of the research and was contactable by mobile phone and email and the University was provided with an emergency contact number in case the mobile number failed. The researcher also utilised the extensive network of connections with old colleagues, former students and alumni of various institutions with which the researcher has been associated for over three decades. In order to achieve the highest standards of health and safety, the researcher did not take undue risks in the course of the research and adhered to Bournemouth University guidelines on health and safety issues, at all times.

#### **(f) Analytical and descriptive research**

This study is primarily analytical in that it seeks to use quantitative data to assess the perceptions of respondents to the questionnaire survey; it is also descriptive research designed to give an account of the fiscal regimes and the level of compliance of oil producing companies with the PPT law in Nigeria. Data are, in the case of compliance with PPT law, obtained from existing records such as financial statements of oil producing companies, statistical bulletins of the NNPC, CBN and NEITI reports. This is done in conjunction with the survey questionnaire of respondents and the personal interviews of

experienced oil experts, which are designed to measure respondents' perceptions of compliance with PPT law, tax evasion and avoidance as variables. The researcher assumes that data published by the oil operators are accurate and those published by government departments can usually be regarded as reliable. This is without prejudice to the reservations expressed by the International Monetary Fund (IMF) on the reliability of government data in Nigeria. IMF (2005, page 10) cautioned that "there are serious deficiencies in data availability and coverage, in particular with regard to monthly economic indicators, including sectoral and external developments and the labour market". The researcher explored alternative data sources in selecting appropriate data for the study and believes that any data collected by means of a survey can be regarded as reliable so long as all precautions to avoid bias have been taken.

#### **(g) Tools of analysis**

The study embraces statistical tools and use of information technology. The quantitative data are analysed using SPSS while the personal interviews are digitally recorded and are transcribed immediately after the interviews and manually analysed.

### **5.3 Research questions**

Considering the research aims and combining literature review and personal experience, the investigation may be directed towards finding answers to the research questions set out in Section 1.4 of Chapter 1.

### **5.4 Population**

The population consists of all oil producing companies in Nigeria. The population can be divided into homogenous group for the purpose of sampling them. In Nigeria, companies that are yet to commence oil production may not have commenced payment of PPT and royalty. The PPT law

mandates an oil company to have its first accounting period only at a time it makes a first shipment of crude oil under a continuous programme of production. Consequently, the companies that are yet to commence production do not form part of the respondents for this study. Considering the foregoing there are 26 oil producing companies in Nigeria as follows:

**Table 5-1** Oil producing companies in Nigeria.

<b>Types of Oil Companies</b>	<b>Number</b>	<b>Estimated tax personnel</b>
Joint venture companies	6	30
Production sharing contracts companies	11	55
Risk service contract companies	1	5
Indigenous operators (sole risk)	8	40
	26	130

Most of the multinationals use tax specialists from their Head Offices. The Big four accounting firms (see Section 1.1) in Nigeria also act as advisers to the multinationals. There are few indigenous operators who use mostly indigenous accounting firms as tax advisers. Consequently, the population for the purpose of the research comprises tax personnel of oil companies, regulators, FIRS, professional accounting firms and other tax advisers. These add up to a population of 250 (Table 5-3).

## **5.5 Sampling technique**

The researcher, in order to ensure that every relevant respondent had an equal chance of being picked for the study, utilised probability sampling technique in preference to non-probability sampling technique. The population, however, consists of homogenous groups which are included in the study. For this reason, stratified sampling technique is used for respondents to questionnaire.



The oil companies in Nigeria comprise of joint venture (JV), PSC, risk service companies and indigenous operators. There are also the regulators, professional firms, tax authority and tax advisers. The population is stratified into various homogeneous groups, for example, JV companies, PSC companies, risk service companies, indigenous operators, regulators, professional accounting firms, FIRS and other advisers. Bryman and Bell (2003, page 98) gave the advantage of stratified sampling in a case like this as “it ensures that the resulting sample will be distributed in the same way as the population in terms of the stratifying criterion”. They also stated that “you can conduct stratified sampling sensibly only when it is relatively easy to identify and allocate units to strata”. The population is stratified into the groups (Table 5.2).

**Table 5-2 Oil companies, regulators, accounting firms, FIRS and tax advisers.**

<b>Oil Companies, Regulators, Accounting firms, Tax Advisers and FIRS</b>	<b>Number of Companies or institutions</b>	<b>Estimated tax personnel</b>
Oil companies	26	130
Regulators (DPR, CBN)	2	10
Professional accounting firms (Big 4; 8 offices)	8	40
FIRS (8 zonal offices)	8	40
Others (Other tax advisers etc)	6	30
	50	250

After stratifying the population into various homogenous groups, random sampling is used to pick respondents from each group, giving all the respondents equal chance of being included in the study. Three key resource persons are picked from each institution in each stratum identified in Table 5-2 making the total number of respondents 150. The sampling technique used for picking respondents to interview questions (interviewees) is judgmental sampling.

Judgmental sampling is chosen because experienced oil experts are in short supply in Nigeria and their in-depth knowledge will be beneficial to the study. The interviewees selected comprise of seven experienced oil experts namely, Deputy Director FIRS, Deputy Director DPR, Official of NNPC, former Regional Tax Leader Deloitte, Regional Energy and Resources Leader Deloitte, tax administrator and an oil company tax executive.

## **5.6 Sample size**

Sample size is dependent on the population. Usually, sample size should be large enough to represent the population adequately. If the members of the population are finite, it is easy to pick a sample which has to be analysed by statistical tool that is most appropriate. Considering the very limited number of oil operators, tax advisers, regulators and the FIRS, in Nigeria, the sample size for the research of 150 represents a high proportion of the population (approximately 60%).

## **5.7 Types of Data and the Source of Data**

The data analysed in the study are made up of:

- i) Primary data: These consist of data generated directly by the researcher using purposely designed instruments.
- ii) Secondary data: These consist of data generated from documents such as companies' published financial statements, government statistical bulletins and publications of CBN, FIRS and NEITI.

## **5.8 Instruments of Data Collection**

### **5.8.1 Interview schedule and questionnaire**

The instruments employed in generating primary data are questionnaire and personal interview.

The merit of using the personal interview schedule is that issues requiring immediate clarifications may be dealt with promptly during the interviews. Face-to-face interview will enable the

researcher to read body languages of respondents to the advantage of the study. The respondents to the questionnaire are picked randomly. Bryman and Bell (2003, page 98) described “stratified random sampling” as “stratifying the population by a criterion” and “selecting either a simple random sample or a systematic sample from each of the resulting data”. The respondents to interview questions (interviewees) are picked using judgemental sampling. This becomes necessary in view of the fact that those interviewees are prime information sources in the current study given their in-depth and practical experience of the issues involved. In answering the research question whether oil companies fully comply with the provisions of the PPT Act, the perceptions of the oil operators, regulators and tax practitioners needed to be measured, hence the choice of interview schedule and questionnaire.

The first part of the questionnaire elicits information about the respondents, particularly, occupation, organisation, professional qualifications, experience and level of education. The second part covers questions on the level of compliance of oil companies with tax and applicable laws, especially Petroleum Act, PPT Act and MOU. The third part focuses on the level of competence of tax officials, particularly their understanding of PPT law and MOU, training, technical knowledge, educational qualifications, educational opportunities, compensation and agreement of tax liabilities. The remaining parts of the questionnaire also cover PPT instalment payments, penalties and tax evasion. The nature of the questions are closed, opened or a combination of both. The interview schedule also covers questions on the perceptions of the interviewees on the critical components of the current study. In drawing the detailed questions which respondents are to answer, the researcher is mindful of the research questions and hypotheses as well as issues arising from literature review. These justify the nature of questions included in the interview schedule and questionnaire which are reproduced in the Appendix. Copies of the questionnaire and interview schedule were sent to respondents who are stakeholders

in the oil industry in Nigeria. Appropriate arrangement was made to follow up the collection of the completed questionnaires in Lagos, Abuja, Port Harcourt, Warri, Kaduna and Calabar. Follow-up of unreturned questionnaires was made as the situation demanded. Personal contacts helped in retrieving completed questionnaires.

#### **(a) Design of questionnaire**

The questionnaire for this study consists of questions designed to obtain opinions and attitudes covering a wide range of information including personal, type of oil producing arrangement, for example, joint venture or production sharing contracts, as set out in the appendix. The questionnaire is designed such that a set of questions relating to a particular hypothesis are put together under each section of the questionnaire. The first six questions are structured to elicit information regarding the respondents' background in terms of educational level and length of service. The remaining questions, 7-72, are principally based on a 5-point Likert-type scale of option questions. The Likert scale is "an approach to attitude measurement" (Bryman Bell 2007, page 127). The respondents are asked to show their degree of agreement or disagreement with each of the statements concerning oil companies and compliance with the PPT law, from holistic standpoint. The respondents need to express their opinion by circling a number from 1 (strongly disagree) to 5 (strongly agree). The grading scale utilises whole number only, hence it provides no allowances for numbers falling in between actual numbers on the scale (i.e. this scale comprises discrete variables where decimals and fractions do not apply in this particular case). Some of the questions are open-ended questions which are designed to elicit information on development in the oil industry that are known to the respondents.

In designing the questionnaire, the researcher considered using the "randomized response technique" (RRT) in the data gathering. This technique works by making it impossible for anyone

to tell whether an individual respondent is answering a sensitive question (e.g. about tax evasion) or an innocuous question (e.g. about a telephone number). Buchman and Tracy (1982, page 264) reported that the technique “provides the respondent a true guarantee of anonymity, one that the respondent actually controls. The RRT allows a yes answer to be either the response to the sensitive question or the response to an alternative innocuous question (or an instruction). Every respondent first performs a simple randomizing process, such as flipping a coin. Depending on the outcome, the respondent either answers the sensitive question or answers the innocuous question (or follows the instruction)”. The researcher considered the technique unsuitable for data gathering in this study as the questions require more than yes or no answers, and the need for clarity is the essence.

#### **(b) Analysis of questionnaire**

The questionnaire consists of 72 questions, 64 of which are Likert-type scales, while others require respondents to fill in the blanks or write answers. This enables the types of analysis to be used to depend on the type of question asked. The answers provided to the open-ended questions are summarised and paraphrased.

#### **(c) Advantages of survey questionnaire**

Okobi (2002, page 87) gave the advantages of survey questionnaire as low cost, low biasing error, very clear anonymity and well thought out answers from respondents and wider breadth of respondents at much lower cost. The survey method is used in this study because the survey involves a large geographical area. Nigeria occupies an area of 923,768 sq km. This method facilitates easy access at reduced costs. The anonymity in this survey makes the results more valid as some aspects of the study deal with such sensitive and tricky issues such as tax evasion.

Respondents are more likely to be honest as the questionnaires are filled out in the absence of the researcher.

#### **(d) Limitations**

Every measuring instrument or process has its own limitations and the methodology used in this study is no exception. Respondents to the survey questionnaire have the latitude in completing the questionnaires in the absence of the researcher. The responses provided are acceptable as the researcher, due to cost constraints, does not deem it fit to raise follow-up questions. The researcher is mindful of usually low response to survey questionnaires. Okobi (2002, page 98) cited Sudman and Braburn (1982) on the issues of other limitations of the survey questionnaire “concerning the accurate representation of the breath of population under study”. Okobi further noted that “safety assurance protocol is provided to encourage the subjects to respond at a high rate”. In the course of this research, concerted effort, within the rule of research integrity was made to “offset this critical disadvantage that is inherent with survey questionnaire method” (Okobi 2002, page 88), to achieve a high response rate of about 80%.

This study is at a particular point in time as the financial statements of some companies for a period were considered in this research. However, the effect of government tax reform on the tax administration in Nigeria is outside the scope of this study.

#### **5.8.2 Validation of research instrument**

The research instrument was validated. This is to ensure that the items in the instruments (questionnaire and interview schedule) actually measure what they are supposed to measure. This was done by testing the validity and reliability of the research instrument. This is to ensure that whatever answer that is got at the end of the day, enables the result to be generalised. Tests that can make generalisation possible are as follows:

#### **a) Expert test (“contents validity”)**

This was done to ensure that the content of the research instrument measures the attributes the researcher is investigating. This was done by the draft questionnaire and the interview schedule being given to PPT specialists to ensure that their interpretation of the instruments and the variables are in accordance with the intended meaning. Their comments were noted and utilised in preparing a second draft which was subjected to scrutiny and independent critique of various experienced practitioners in taxation. Their criticism of some aspects of the instruments was considered and necessary corrections were effected on the instrument.

#### **b) Reliability of research instrument**

In order to maximise the consistency of scores obtainable through the instrument, it was pilot-tested with experienced practitioners in taxation. Getting some experts to do some of the tests enhances the reliability of the research instrument. Five copies of the research instrument were subjected to pilot test. The instrument was further discussed, in draft form, with an academic statistician who advised on the formatting of the questions and the coding for easy processing in order to obtain the required statistical data.

#### **5.8.3 Collection of qualitative data**

Qualitative data may be collected from various sources, for example by observation or interview. It may also be collected by recording and transcribing. Interview scripts and observation transcripts are component parts of qualitative data collection. Qualitative data enables the researcher to gain an understanding of the respondents’ real world, in their natural settings; the participatory experience gained in obtaining data by observation or interview enables the researcher to have a vivid image and mental picture of events around the data thereby providing valuable insight and illumination into the respondents’ real world. Interviews may be structured, unstructured or semi-structured. Structured interviews utilise questions which cannot be diverted from and emphasises

fixed response categories; unstructured interviews provide an opportunity to discuss views on a particular topic, while semi-structured interviews give topics and questions to be asked prior to the actual interview and allow issues to be discussed. Interviews may be time consuming and there may be a problem of gaining access to the subjects; there is also the problem of respondents not readily understanding the questions being asked and inadvertently misleading the interviewer. The researcher conducted face to face interviews, using semi structured questions intended to explore the variety and complexity of PPT administration and practice in Nigeria. This is with the view to using the interview results to reinforce the quantitative result. These interviews enable past and current developments on petroleum taxation in Nigeria to be explored. The interviews were digitally recorded using an Olympus VN-2100PC digital voice recorder and promptly transcribed and saved on computer disks (CDs).

## **5.9 Actual field work**

The field work covered Lagos, Abuja, Port Harcourt, Warri, Kaduna and Calabar. These are the principal cities where the oil companies operate in Nigeria.

## **5.10 Statistical tools/analytical procedure**

In determining the statistical tool and analytical procedure, the researcher considers whether the sample size is large or small. Where the sample size is large, the use of parametric statistics is relevant. Parametric statistics are tools that must satisfy four basic conditions as follows:-

- the scale of measurement must be interval or ratio,
- the data must be normally distributed,
- the data must have been sampled independently,
- there must be homogeneity of variance.



If the sample size is not large i.e. less than 30 items, the researcher could use non-parametric statistical tool of analysis. In cases where the sample size is more than 30 and the scales are principally ordinal, the use of non-parametric tool of analysis may be employed. The researcher is mindful that whatever parametric or non-parametric statistical tools that are used, descriptive statistics such as mean, percentages and pictorial representation of the data are useful and were considered in the data analysis and data presentation. The statistical techniques and methods considered and the choice of an appropriate statistical technique or method for data analysis in this study are as follows:

#### **5.10.1 Parametric and non-parametric statistics**

Parametric statistics are powerful tools which “compare sample statistics with population parameters but can only be used on data which has a normal distribution” (Collis and Hussey 2003, page 196). Where the sample size is large, the use of parametric statistics is relevant. In cases where there are proper quantitative data, parametric tests may be based on normal distribution. “Non-parametric techniques are more general and can be used on skewed data; that is, data which is not normally distributed. They can also be used on ordinal data” (Collis and Hussey 2003, page 196). The entire questionnaire is measured in an ordinal scale, so nonparametric statistics are used.

#### **5.10.2 Test of statistical significance**

Researchers are always concerned about the generalisation of samples to the population from which the sample was drawn. They worry about how confident they can be that the outcome can be generalised to the population from which the sample was drawn. “A test of statistical significance allows the analyst to estimate how confident he or she can be that the results deriving from a study based on randomly selected sample are generalisable to the population from which the sample was drawn” (Bryman and Bell 2003, page 251). In cases where the researcher seeks to

test for statistical significance when considering the relationship between two variables, there is the problem of concluding that there is a relationship between the two variables in the population when actually there is none. A statistically significant finding “does not mean that finding is intrinsically significant or important” (Bryman and Bell 2003, page 251). In determining the statistical significance of the data obtained from responses to self-completion questionnaire, the researcher considered a number of non-parametric statistical techniques: Mann-Whitney test, Kruskal Wallis test and Chi-square test. These are described below:

#### **5.10.3 Mann-Whitney Tests**

Mann-Whitney test is a non-parametric test which is used to compare data. It may be used as a significance test for categorical data which were obtained from responses to the questionnaire. It is used to compare responses of one group with another. Mann-Whitney test compares medians of the two groups where scores are converted to ranks. The test of significance helps to know whether the ranks of the two groups differ significantly.

#### **5.10.4 Kruskal-Wallis Test**

Kruskal-Wallis test is a non-nonparametric test used to compare more than two groups. The mean rank is obtained for each group after the scores have been converted to ranks. Kruskal-Wallis test helps to know the difference between one group and the others but does not tell which of the groups is resulting in the significance. Hence the use of frequency tests to further identify the group contributing to the significance.

#### **5.10.5 Chi-Square Test**

Chi-square test is a non-parametric test of independence which is conducted where responses to one question may be linked to another question. Chi-square test looks at one variable against the other. But the responses may have to be recoded to enable Chi-square test to be conducted. Chi-

square tests may be regarded as a substitution for correlation tests when the data being analysed are categorical data.

#### **5.10.6 Choice of statistical techniques/methods**

In choosing the statistical techniques and methods for analysing data obtained from responses to the questionnaire used in this study, various statistical methods were considered. These were basically parametric and non-parametric statistics. The researcher considered the use of correlation, regression analyses and T-tests but considered them as not being appropriate for this study as the scales used in this study are principally ordinal. Consequently, non-parametric statistics were chosen in preference to parametric statistics. Hence the choice of Mann-Whitney tests, Kruskal-Wallis tests and Chi-square tests.

### **5.11 Summary**

In this chapter, the researcher considered the combination of quantitative and qualitative methods appropriate for this study. With a carefully considered research design and procedures to identify, collect and analyse data to answer research questions, this study sets out to obtain survey perception of respondents in the oil industry in Nigeria with the tests of the various hypotheses developed from literature. The personal interview is used to reinforce the survey results and obtain an understanding the behaviour of taxpayers and tax officials in the upstream petroleum sector in Nigeria.

## **CHAPTER 6    HYPOTHESES DEVELOPMENT**

### **6.1    Introduction**

In Chapter 5, research methodology was covered. The chapter discussed the procedures followed in collecting, documenting and analysing data to answer research questions using statistical techniques and methods. It discussed the choice of a combination of quantitative and qualitative methods, for this study. It also discussed the use of self-completion questionnaires (quantitative) and the conduct of personal interviews with experienced oil and gas industry experts (qualitative). The chapter covered the positivist deductive philosophy adopted for this study.

In this chapter, the researcher sets out the hypotheses which are tested in this study in order to answer the research questions. The hypotheses are derived partly from previous literature as described in the literature review and partly from the researcher's experience of the Nigerian oil industry, then tested using the survey results and backed up by the interviews. Tests conducted to support the hypotheses are principally looking at the responses to survey questions. The researcher also uses interview results as further evidence to reinforce the result of the quantitative study.

### **6.2    Link between research hypotheses and related literature**

The researcher sets out below Table 6-1 showing the link between research hypotheses and the related literature prior to discussing the evidence and justification of the hypotheses.

**Table 6-1 Linking research hypotheses to related literature**

	Concept	Relevant Literature	Hypotheses
(1)	<b>Tax non-compliance</b>	<p>Tanzi et al (1993, page 807:2) posited that “tax evaders may not declare income, may under report income, sales or wealth, may over report deductible expenses”.</p> <p>King and Sheffrin (2002, page 512) opined that “when taxpayers believe that the tax system to be unfair, they can evade tax”.</p> <p>Das-Gupta et al (2004, page 575) indicated that “low tax compliance is a matter of serious concern in many developing countries”.</p>	<p>H1</p> <p>H1</p> <p>H2</p>
(2)	<b>Royalty underpayment</b>	<p>Binniyat (2006, page 14) reported that DPR “allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to Government making underpayments”.</p>	H3
(3)	<b>Insufficient knowledge of tax law</b>	<p>Perk and Clarke (1990, page 21) noted that “Chinese officials have improved their understanding of international tax and business practices. The Chinese tax authorities have been quick to take advantage of a broad range of learning tools, including training of Chinese staff in international practices by legal and accounting firms, presentations by tax experts on draft legislation and training stints overseas for Chinese tax and audit staff.”</p> <p>Bird and Oldman (1990, page 480) opined that “... the expenditures of tax department include outlays for formal</p>	H3

		programs of staff training”.	
(4)	<b>Tax minimisation</b>	<p>Swenson (1989, page 53) posited that “...testing theories of how people behave, individually and collectively, when it comes to taxation”, we are able to know “the taxpayer and Internal Revenue Service as playing a sequential period adversarial game until compliance/auditing strategy equilibrium occurs”</p> <p>Wadhawan and Gray (1998, page 5) see “...tax compliance as a game between tax authority and taxpayers. Tax evaders justify their cheating by the belief that everyone else does the same thing...”</p> <p>Petroleum Profits Tax (Amendment) Bill 2005 proposes to “impose interest at prevailing London Inter-Bank Offer Rate plus spread to be determined by the Minister on any underpayment or delayed payment of both estimated tax and any other PPT liability.</p>	<p>H4</p> <p>H4</p> <p>H4</p>
(5)	<b>Ineffective tax administration</b>	<p>Lederman and Mazza (2005, page 1423) warned that we should not portray the “Internal Revenue Service (IRS) as an agency peopled by corrupt out of control bureaucrats who take pleasure in seeing innocent taxpayers suffer” and suggested we should put “blame for the current state of tax enforcement to judges who ignore financial reality in favour of textualist constructions...”</p> <p>Ndekwe (1989, page 47) opined that “the capability of the taxation system to achieve its objective depends on the administrative capacity of the authorities... The amount of revenue</p>	<p>H4</p>

		collectible will be great or small depending on how efficient and effective is the administration of the tax ... the Nigerian tax system can be highly productive if provided with adequate manpower, facilities and good working conditions”.	H5
		<p>Tanzi et al (1993, page 807:4) stressed that “the allocation of resources within the tax administration is obviously important for determining its output”.</p> <p>Tanzi et al (1993, page 807:4) acknowledged the “existence of administrative corruption. If the individual who gets caught can bribe some tax officials and if the bribe is less than the penalty...” tax evasion is compounded.</p> <p>Sandford (1998, page 65) reported that “corruption of official responsible for collecting taxes has been a problem for just as long as rulers and states have sought to collect funds... tax systems lend themselves particularly well to creating temptation for officials to abuse their position for private gain... incomes of tax officials, by contrast may account for only a very small part of national income tax officials “incomes are such that diverting only a small traction of revenue into his own pocket, may transform the financial position of an official.”</p> <p>Devas et al (2001, page 214) opined that “in most developing countries, particularly in Africa, civil service pay rates are extremely low compared to the private sector. It is therefore difficult for tax departments within the civil service to recruit and retain</p>	<p>H5</p> <p>H5</p> <p>H5</p> <p>H5</p>

		<p>qualified staff, particularly key skills such as accounting and IT”.</p> <p>Omoigui (2006, page 10) confirmed that “there are other challenges ... the weak and incapacitated tax administration tax administration with high level of tax evasion and avoidance and systemic corruption”. There are “problems of unremitted funds, untransformed funds, and outright diversion of funds”.</p>	H5
		<p>Business Guardian (2006, page 14) reported that “FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert tax funds, which runs into “billions of Naira”.</p>	H5

The researcher discusses the evidence and justification as well as the parameters for measuring compliance with PPTA as follows:

### 6.3 Hypothesis 1

The first hypothesis focused on perceptions of compliance of the oil companies with the tax law. The PPT law provides for filing of return and timely payment of estimated tax as well as filing of return and timely payment of final tax. One thing is for the law to state what should be done; another thing is for the oil companies to comply. In Chapter 2 of this study, the fiscal regimes which regulate companies engaged in petroleum operation in Nigeria were discussed. The principal legislations are the PPT Act (PPTA), the Petroleum Act (PA) and the MOU. Chapter 2 also exposed the rather complex nature of the MOU and its array of formulae, which on cursory look, presents an incomprehensible basis of computing PPT. This puts to test the ability of the taxpayer and tax administration to readily comprehend the law. Strader and Fogliasso (1989, page 40) posited that complex laws can cause



mistakes for either taxpayer or government. Antenucci (1995, page 121) warned that “complexity negatively affects compliance”. Schauer and Bajor (2007, page 17) cited Krause (2000) who posited that “complex and ambiguous laws cause compliance to suffer”. Carnes and Cuccia (1996, page 40) cited Carroll (1987) and Cialdini (1989) who confirmed that “complexity frustrates taxpayers” and that “complexity also increases taxpayers’ uncertainty about the tax law”. Alm (1991, page 585) posited that “taxpayer uncertainty arises because of impression and complexity in the tax code, lack of uniform training and abilities among government auditors, taxpayer ignorance of penalties”. Andreoni et al (1998, page 846) confirmed that “many taxpayers are bewildered by the complexity of the tax laws and the uncertainty of enforcement”. Sakurai and Braithwaite (2003, page 375) opined that “increased ambiguity in tax law has allowed individuals and companies to make decisions about how much risk they wish to take in interpreting the law to suit their purposes”. Davies et al (2008, page 3) acknowledged that “it is widely recognised that complexity has a number of associated costs that negatively impact society”. Carnes and Cuccia (1996, page 40) cited Stout (1990, A1) who acknowledged that “tax laws have become so intricate that even accountants, attorneys, and the Internal Revenue Service (IRS) have difficulty interpreting many of the laws’ provisions”. Braithwaite (2007, page 3) acknowledged that “most people do not have much understanding of what tax laws mean and why the tax system is structured and administered as it is”. Piccioto (2007, page 12) warned that “if there can be different understandings or interpretations of the rules to which its subjects are expected to adhere, it may mean, for example, that people who regard themselves as compliant, based on their understanding of the regulatory requirements, may from the regulator’s viewpoint be avoiders or game players”. The World Bank Group and PricewaterhouseCoopers opined that “complex tax systems cut tax revenues for government and make it very hard to assess the true tax burden on businesses” (Alli 2006, page 31). It has been suggested that the oil companies deliberately overstate their expenses thereby reducing their tax liabilities. Considering that a significant number of questionnaire

respondents rated oil companies' transparency and information disclosure as "no more than fair", there is the possibility that the oil companies may not be rendering appropriate computation of their tax liability. Tanzi et al (1993, page 807:2) warned that "tax evaders may not declare income; may under-report income, sales, or wealth; may over-report deductible expenses; may smuggle goods or assets; or may undertake some other deception". Bird and Oldman (1990, page 456) warned that "the line between tax avoidance, or the using of laws so as to minimise payment of taxes, and tax evasion, the breaking of laws, is difficult to define clearly". They argued that "taxpayers may seek to take the most favourable interpretation of existing law so as to take advantage of the use of money temporarily saved on taxes". King and Sheffrin (2002, page 512) opined that "when taxpayers believe that the tax system to be unfair, they can evade tax" and Das-Gupta et al (2004, page 575) indicated that "low tax compliance is a matter of serious concern in many developing countries".

Given the above facts, it is envisaged that the oil companies may not be fully complying with the PPT Act particularly the payments of PPT and the following hypothesis is aimed at investigating that:

**H1: There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the PPT Act in relation to the payments of PPT.**

#### **6.4 Hypothesis 2**

The second hypothesis covers perceptions of the payment of royalties by companies engaged in petroleum operations in Nigeria. Companies engaged in petroleum exploration and production in Nigeria, are mandated to comply with the Petroleum Act. The law governs the issuance of oil exploration licence (OEL), oil prospecting licence (OPL) and oil mining lease (OML). The law regulates the assessment to royalty in the concession area. Royalties are paid on petroleum won in a concession area. The Petroleum (Drilling and Production) Regulations, annexed to the Petroleum Act covers royalties. It provides for the payment of royalties on crude oil produced at

the field of production. It states that royalties must be paid “not more than one month after the end of every quarter”. It prescribes royalty rates for onshore and offshore production. The Petroleum Act mandates oil companies to compute “chargeable value of crude oil and casinghead petroleum spirit” by “ascertaining the quantity of crude oil produced from each field of production in the areas” (and after reducing such quantity by quantities certified by DPR of usages, returns to formation, reasonable losses and evaporation) and multiplying the posted price of the reduced quantity, to arrive at the royalty payable (Chapter 2, Section 2.6). The DPR is statutorily empowered to collect royalty payments.

There have been suggestions that oil producing companies in Nigeria may not be fully complying with the Petroleum Act. The law states that royalty must be based on production but some oil companies are believed to be basing their royalty computation on shipments. The researcher believes that companies basing their royalty payments on shipments as confirmed by respondents to the questionnaire survey instead of crude oil production may not be fully complying with the Petroleum Act. Binniyat (2006, page 14) reported Harts finding on the extractive industry in Nigeria that the DPR “allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to Government thereby making underpayments”. NEITI also reported that “a major lapse were losses and unaccounted for proceeds of oil sales” and that “around ten million barrels of crude oil were lost between flowstations and the loading terminals over the period of five years (1999 – 2004)” (Akosile and Ezeigbo 2006, page 1) (Chapter 4, Section 4.3 case 7).

Given the above facts, it is envisaged that the oil companies may not be complying with the Petroleum Act and the following hypothesis is aimed at investigating that:

**H2: There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the Petroleum Act in relation to the payment of royalties.**

### **6.5 Hypothesis 3**

The third hypothesis concerns perceptions of the competence of the tax officials. Chapters 2 discussed the complex fiscal regimes particularly the PPT law and the MOU. The FIRS is charged with the administration of PPT Act in Nigeria and is responsible for assessing oil producing companies on PPT. The complexity of the PPT law and the MOU puts to test the ability of both taxpayers and tax administrators to readily comprehend and apply the provisions of the law as intended by the law. The oil companies have rigorous recruitment policies and performances are strictly monitored. As the respondents to the questionnaire scored the rating of tax officials' understanding of PPT law as "no more than fair" and taxpayers have a lower assessment of tax officials' PPT knowledge than the tax officials credit themselves, it is believed that the oil companies' officials have superior knowledge of the tax laws and MOU. The oil companies also spend a lot of money on staff training and development, cross-posting and provision of up-to-date materials from their foreign headquarters to improve their knowledge base on regular basis. On the other hand, government tax officials are predominantly civil servants some of whom may not necessarily be well grounded on tax matters as civil servants may be moved from one ministry to another, in the course of their carrier with government. Alm (1991, page 585) posited that taxpayer uncertainty arises because of lack of uniform training and abilities among government auditors. The tax administration primarily depends on government budget for the running of the tax office. Training and development are lacking as insufficient funds are allocated, and after allocation, funds come in trickles thereby hampering exposure and knowledge of government tax officials. The respondents to the questionnaire confirmed that some tax officials do not have sufficient training and understanding of the PPT law and its provisions. If this is the case, the researcher believes that such officials may not be able to perform effectively and tax administration in the upstream sector of the oil industry in Nigeria is affected. Where tax officials' knowledge of tax law is poor, such tax officials may not be able to ask the right questions or match the knowledge

base of oil company officials and this may impact on taxpayers not fully complying with the PPT law.

Perk and Clarke (1990, page 22) revealed that “Chinese officials have improved their understanding of international tax and business practices. The Chinese tax authorities have been quick to take advantage of a broad range of learning tools, including training of Chinese staff in international practices by legal and accounting firms, presentations by tax experts on draft legislation and training stints overseas for Chinese tax and audit staff.” Bird and Oldman (1990, page 480) stressed the need for adequate budget for formal programmes of staff training when they said “... the expenditures of tax department including outlays for staff training”, should be adequate. With questionnaire results showing poor rating of tax officials on knowledge of PPT law and poor training due to insufficient training budget there is the possibility that tax officials may not necessarily be challenging the tax returns of the oil companies. Omoigui (2006b, page 43) identified resistance to change, communication, trust and inability to build competencies within FIRS as some of the challenges facing the tax authority. The tax administration may not be able to perform effectively if tax officials have limited knowledge and understanding of the fiscal regimes and if tax administration lacks quality personnel and appropriate training. Fernald (1945, page 342) warned that “under existing conditions laws and policies, we cannot expect good tax administration”. He went further to say that “to have a well administered tax system, the tax law and its application should be reasonably intelligible to those who enact it, to those who are to administer it and to those who are to pay the taxes”.

Considering the foregoing, it is envisaged that the oil companies may be over-claiming certain deductions and tax officials lack the competencies to challenge the accuracy and legitimacy of such claims. In this regard, the following hypothesis is aimed at investigating the adequacy of the competence of tax officials of the regulatory body i.e. the FIRS:

**H3: There is a perception that a significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions, which is responsible for ineffective tax administration in the upstream sector of the petroleum industry in Nigeria.**

#### **6.6 Hypothesis 4**

The fourth hypothesis focuses on perceptions of the behaviour of the oil companies in the payment of monthly instalment of PPT. Swenson (1989, page 53) reported that “using psychological and sociological theories on why people indulge in antisocial or criminal’s behaviour, researchers have developed theories about why people cheat on their taxes”. Swenson (1989, page 54) portrayed “the taxpayer and Revenue Canada as playing a sequential adversarial game until compliance/auditing strategy equilibrium occurs”. Tanzi et al (1993, page 807:3) cited “the writing of Allingham and Sadmo (1972) in their classic theoretical paper on tax evasion, about the problem of tax evasion, as seen from the taxpayer’s point of view, and which they discussed as a kind of game theory”. They depicted “the decision about whether to pay the tax becomes similar to playing a lottery, in that one is free to either to buy or not to buy a lottery ticket”. The game theory is relevant in considering taxation of the upstream petroleum sector of the Nigerian economy. The survey perception showed that oil companies minimise their instalment payments of PPT due to difficulty in obtaining tax refunds.

Section 45 of the PPTA states that “the tax for any accounting period shall be payable in twelve equal monthly instalment together with a final instalment”. While it is appreciated that petroleum production may vary according to prevailing circumstances, the prices of crude oil may vary in response to rapidly changing market conditions. While a company engaged in petroleum operations is required “to submit to the FIRS a return of its estimated tax for such an accounting period not later than two months after the commencement of each accounting period”, the company “may submit a revised estimated tax if the initial return submitted requires revision” (Section 33 PPTA). Oil companies have been known to deliberately minimise their instalment payment by making low monthly payments in the first twelve

months and paying high final instalment after submitting their annual accounts. Feltham and Paquette (2002, page 27) acknowledged that “taxpayers are rational economic agents who seek to minimise their expected tax liability by choosing their optimal estimated tax payment at the beginning of the year, taking into account their eventual reporting decision at the filing date”. They opined that “high-type taxpayers who make low estimated tax payments are more likely to evade” (page 39) and that “taxpayers who overpay at the estimated tax payment date will incur an opportunity loss as overpayments constitute interest-free loans to the revenue authority” (page 30). The tax authority appears to be handicapped in ensuring proper computation of the instalments due to low “quality of manpower and facilities made available to the tax authorities” (Ndekwe 1989, page 47) and problem of competencies of the tax officials (Omoigui 2006b, page 42).

Considering the foregoing facts, it is envisaged that the oil companies may possibly use their superior strategy, power and specialisation to take advantage of government tax officials. Hence the following hypothesis is aimed at investigating that:

**H4: There is a perception that the oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of H3 above.**

## **6.7 Hypothesis 5**

The fifth hypothesis covers perceptions of the disparity in the remuneration and incentives between government tax officials and their counterparts in the petroleum industry in Nigeria. The oil companies are known to engage highly qualified, highly motivated and highly remunerated officials to deal with their tax matters with the tax authorities. The FIRS utilises principally its own employees who are mainly civil servants to deal with the tax matters of oil companies. Civil servants are known to be poorly paid when compared with oil company officials. It has been

suggested that government tax officials lack adequate exposure and training on petroleum tax related matters due to inadequate budgetary allocation. There have also been discussions on the quality of technical knowledge, educational qualifications and educational opportunities of government tax officials. The problems of leakages in the tax system have also been discussed. Perceptions of bribery and illicit deals adorn the horizon. Sandford (1998, page 65) cited Bowels who acknowledged that “corruption of officials responsible for collecting taxes has been a problem for just about as long as rulers and states have sought to collect funds”. Sandford further asserted that “tax systems lend themselves well to creating temptation for officials to abuse their position for private gain. In most economies, a substantial proportion of GDP creates tax liabilities and a significant proportion of citizens may be paying large amounts of tax. Incomes of tax officials, by contrast, may account for only a very small part of national income”. He went further to say that “the scale of difference between tax liabilities and tax officials’ income is such that diverting only a small fraction of revenue into his own pocket may transform the financial position of an official.” Sandford also claimed that “persons (or corporate entities) obliged by law to pay taxes may stand to benefit individually from tax evasion, and may be quite happy to compound evasion offences which come to light by offering bribes”. He stressed that “poorly paid officials might perceive themselves to have little to lose from taking bribes, particularly since neither side will want the transaction to be brought to public notice.” Okobi (2002, page 1) reported that “bribery and corruption are perceived as widespread in the country’s public service system and that public servants work and accept a bribe if offered because of low salaries and late payment of salaries.” There has been suggestion that there is a leakage of tax revenues via tax officials such that some revenues never enter the Federal treasury. EIU Views Wire (2004, page 2) reported that “Halliburton admitted in 2003 that its Kellogg, Brown and Root subsidiary has paid a Nigerian tax official a lot of \$2.4 million to secure favourable treatment worth up to \$5 million to the company.”



There have been questions before now as to the level of corruption in the tax office. People have wondered whether there may be collusion between the oil companies' officials and tax officials. Business Guardian (2006, page 14) reported that the "FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert tax funds, which runs into billions of Naira". Omoigui (2006b, page 42) has expressed concerns on possible leakages in the tax system. Omoigui (2006, page 10) has also acknowledged "the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption". Stroope (1988, page 23) warned that the "use of surveys, especially when asking subjects to admit having practiced criminal behaviour (tax evasion), may yield results of questionable reliability. The surveys must be carefully worded and include assurances of anonymity and be phrased to minimise any implications of immorality," which the researcher considered in the questionnaire used for this study. Considering the foregoing, the following hypothesis is aimed at investigating the concerns, beliefs, attitudes, behaviour, norms and overall perception of tax officials in relation to quality, remuneration and incentives and that:

**H5: There is a perception that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remunerations and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions.**

## **6.8 Summary**

In this chapter, the researcher sets out the five hypotheses which are tested in this study in order to answer the research questions. The hypotheses are derived partly from previous literature as described in the literature review and partly from the researcher's experience of the Nigerian oil industry, then tested using the survey results and backed up by the interviews as reported in Chapters 7 and 8 respectively.

# **CHAPTER 7 ANALYSIS AND INTERPRETATION OF SURVEY RESULTS**

## **7.1 Introduction**

In Chapter 6, the researcher sets out the hypotheses which are tested in this study in order to answer the research questions. The hypotheses are derived partly from previous literature as described in the literature review and partly from the researcher's experience of the Nigerian oil industry, then tested using the survey results and backed up by the interviews. Tests conducted to support the hypotheses are principally looking at the responses to survey questions. The researcher also uses interview results as further evidence to reinforce the result of the quantitative study.

In this chapter, the author presents an analysis of the research data collected from the survey and conducts a series of hypothesis tests. The chapter contains commentary (illustrated with selected tables) using frequency tests and other statistical analysis conducted using SPSS software. It covers the tests of hypotheses, evidence obtained from the questionnaire, support (or otherwise) for the hypotheses and interpretation.

## **7.2 Interpretation of the categories in the questionnaire**

The researcher used self-completion questionnaires for gathering data in this study. In interpreting the categories in the questionnaire, the researcher used, in some cases, the terms “very good”, “good”, “fair”, “poor” and “very poor”, while in other cases the term “average” is used in a similar way to “fair”. For example, with respect to Hypothesis 1 (H1), in Q22 (which asks respondents to rate the level of understanding of taxpayers of PPT law), the researcher believes that ratings like “very poor”, “poor” and “fair” or “very poor”, “poor” and “average” imply a “no better than fair”, rather than quite good, understanding of the PPT law. “Fair” may ordinarily be meant to be 50% or average performance. In such cases, having only a “fair” or “average” understanding of PPT law is

regarded as not good enough to ensure compliance with the tax law. Consequently, no better than “fair” or “average” understanding of the PPT law is considered inadequate to achieve full compliance with the tax law. The researcher is mindful of the possibility of “fair” or “average” performance being classified as “good”, but has chosen to draw attention to “no better than fair” to ensure that matters falling within this category are properly addressed.

### **7.3 About the respondents**

#### **7.3.1 The respondents**

A total of 123 (82%) out of a selected sample of 150 responded to the self-completion questionnaire. The remaining 27 (18%) failed to respond to the questionnaire because they were either not available or had relocated from their last known addresses. Some of them just did not answer follow-up calls and the researcher stopped calling them to save cost. The respondents comprise tax administrators (25.2%) and oil companies’ tax executives, advisers and consultants (74.8%).

**Table 7-1 showing professional qualifications of respondents**

	Frequency	Percent
ACA	67	54.5
ACTI	12	9.8
LLB	6	4.9
ACCA	2	1.6
CIMA	1	8.0
FCA	17	13.8
CAN	2	1.6
FCTI	2	1.6
NOQUAL	14	11.4
Total	123	100.0

The respondents work for joint venture companies (JV), companies in PSC, consulting firms, tax administration, national oil companies and independent advisers. In general, the respondents are very well educated, with 43.9% possessing first degrees/diplomas and 56.1% having postgraduate degrees/diplomas.

As shown in Table 7.1, they also largely possess professional qualifications (88.6%) - for example, membership of professional bodies such as the Institute of Chartered Accountants of Nigeria (ICAN), Association of Chartered Certified Accountants (ACCA) and Chartered Institute of Taxation of Nigeria (CITN). About 11.4% of the respondents did not indicate possession of professional qualifications. 87% of the respondents have tax experience below 20 years; while 13% have tax experience over 20 years. The respondents indicated that they have good understanding of the fiscal regimes (PPT Act 99.2% and MOU 91.9%), and 49.6% of respondents indicated their agreement with the view that the present effective tax rate is high.

### **7.3.2 Fiscal regimes and respondents' view of compliance with the laws.**

55.4% of respondents expressed the view that the PPT Act is easy to understand as against 52% who believe that the MOU is difficult to understand. 45.6% believe that the Petroleum Act is difficult to understand. Over 85% of respondents believe that successive governments delayed the updates of the fiscal regimes. 64.3% of respondents agreed that the climate for bringing in MOU no longer exists and 47.1% expressed the view that MOU should be scrapped. 98.4% of respondents noted that legislators and policy makers should introduce laws which are capable of being properly administered in the manner envisaged.

## **7.4 Hypothesis tests**

In this section, the five hypotheses developed in Chapter 6 are subjected to a series of significance tests, using the data obtained from the questionnaire survey. For the responses to each question

(considered relevant for each of the five hypotheses), the researcher presents and discusses frequency tables, and conducts the following significance tests:

- Mann-Whitney tests, to check whether there is a significant difference between the responses of the tax administrators and the taxpayers/advisors.
- Kruskal-Wallis tests, to check whether there is a significant difference between the joint venture/production sharing companies, sole risk companies, consulting firms and tax administrators.

#### **7.4.1 Hypothesis 1**

**H1: There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the PPT Act in relation to the payments of PPT.**

In addressing the hypothesis, the researcher considered the answers obtained from the respondents to Questions 22-23, 25-27 and 34-37 in the questionnaire. The questions elicited respondents' perceived ratings of the level of taxpayers' understanding of PPT law, transparency of oil companies to FIRS, taxpayers' certainty of the fiscal regime under which they are to be taxed for PPT purposes, filing of returns and timely payment of estimated tax, filing returns and timely payment of final tax, adequacy of information disclosure in the tax returns of oil companies and response of oil companies to tax queries. The answers to these questions, when subjected to statistical analysis and interpretation, help to decide whether there is support or otherwise for the hypothesis.

#### **Q22 - How do you rate the level of understanding of taxpayers of PPT law?**

Ordinarily, the researcher believes that taxpayers should have a good level of understanding of the PPT law. Respondents rating of the level of taxpayers' understanding of the tax law may assist in measuring the perception on whether taxpayers in the oil industry in Nigeria comply or do not

comply with the PPT Act. Where the taxpayers' understanding of the PPT law "is no more than fair", such taxpayers may not be complying with the tax law, as there is the likelihood that they may not fully understand what needs to be done. It is widely believed that oil tax executives should ordinarily have deep knowledge of the PPT law as oil companies engage experienced and well motivated specialists to deal with their tax matters. It is also believed that oil companies utilise modern-day technology to simulate and prepare their PPT liability, for the purpose of tax planning. But where a taxpayer's understanding of PPT law is not good, the company may not be doing things right, and the level of compliance with the tax law may not be as required by the law. If the respondents believe that the taxpayers do not understand the PPT law, it gives credence to taxpayers not complying with PPT law. In this regard, if H1 is correct, the researcher expects to confirm the perception that some taxpayers in the oil industry in Nigeria do not have a good understanding of the PPT law and this may impact on compliance with the PPT law.

### **Evidence from questionnaire**

As can be seen from Table 7.2, 40.6% of all respondents rated taxpayers' understanding of the PPT law between "very poor" and "fair". Although this represents less than half of the sample, it is considered a high percentage. Considering that the taxpayers are presumably international oil companies, this is a most surprising result in that oil companies are known to hire and retain highly educated and well-remunerated tax executives who regularly attend both in-house and foreign training courses on tax related matters. It is also clear from Table 7.2 that an even higher percentage (59.2%) of tax consultants rated taxpayers' understanding of PPT law as no better than fair, while the percentage of taxpayers was 32% and tax administrators was only 22.2%.

**Table 7-2 showing the perceived level of understanding of taxpayers of the PPT law**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC companies		Sole risk companies		Taxpayers							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
V Poor							2	4.1			2	1.6
Poor	2	5.9			2	4.3	10	20.4	2	<b>7.4</b>	14	11.4
Fair	7	20.6	6	46.2	13	27.7	17	34.7	4	14.8	34	27.6
Good	17	50.0	7	53.8	24	51.0	18	36.7	15	55.6	57	46.4
V Good	8	23.5			8	17.0	2	4.1	6	22.2	16	13.0
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	74.13		58.0				47.36		75.22			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 75.22 and 58.28 respectively. Mann-Whitney U 939.0, Wilcoxon W 5595.0, Z = 2.331 and Asymp. Sig. (2-tailed). 02											
Kruskal Wallis	Chi-Square 18.363, Difference 3 and Asymp. Sig. .000											

The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators, is statistically significant at the 5% level: the z approximation test value is -2.33 with a significance level of 0.02.

Considering the organisations, it is clear that there is a greater tendency for respondents from consulting firms to rate taxpayers' understanding of PPT law as no more than fair. 59.2% from consulting firms ticked the "very poor", 'poor' or "fair" categories, compared with 46.2% from sole risk companies, 26.5% from joint venture and PSC and just 22.2% from tax administration. This is not unexpected as consulting firms are hardly going to admit that their clients already have sufficient knowledge. This may be with a view to utilising possible loopholes in the law for tax planning purpose. Table 7.2 also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-

squared test value is 18.36 with a significance level of 0.00. The views of the respondents from consulting firms, who may be regarded as well-informed, independent observers, are of particular interest.

In conclusion, the researcher has found that a high percentage of respondents believe that taxpayers have no more than a “fair” understanding of PPT law, particularly among the taxpayers themselves and tax consultants. Interestingly, the tax administrators think that the taxpayers have a good understanding of PPT law. On the argument that lack of understanding is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

### **Q23 -How do you rate the level of transparency of oil companies to FIRS?**

Operators in the oil industry in Nigeria are expected to be transparent not only in their dealings with the regulators but with the FIRS. Respondents rating of the transparency level of oil companies to the FIRS may assist in measuring the transparency perception level with the FIRS; ACCA (2006, page 60) describes transparency as “the extent to which the tax system is designed to be easily understood and accessed”. A company with high transparency level will provide full and adequate information on its tax matters. But a company with poor transparency level may supply incomplete and inadequate information to FIRS. Consequently, incomplete and inadequate information may lead to taxpayers not fully complying with the PPT law. In this regard, if H1 is correct, it would be expected to confirm the perception that some taxpayers are less than transparent and this may impact on compliance with the PPT law.

### **Evidence from questionnaire**

Table 7.3 shows that 64.3% of all respondents rated the level of transparency of oil companies to the FIRS between “not transparent” and “fair”. This represents a surprisingly high percentage.



**Table 7-3 showing the perceived level of transparency of oil companies to FIRS.**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC companies		Sole risk companies		Taxpayers							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Not transparent							6	12.2	1	3.7	7	5.7
Partly transparent	1	2.9	5	38.4	6	12.8	14	28.6	7	25.9	27	22.0
Fair	12	35.3	4	30.8	16	34.0	16	32.7	13	48.1	45	36.6
Transparent	16	47.1	4	30.8	20	42.6	12	24.5	6	22.3	38	30.9
Very transparent	5	14.7			5	10.6	1	2.0			6	4.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	84.81		55.92				51.68		54.93			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 54.93 and 63.99 respectively. Mann-Whitney U 1105.0, Wilcox W 1483.0, Z – 1.223 and Asymp. Sig. (2-tailed). 221											
Kruskal Wallis	Chi-Square 21.368, Difference 3 and Asymp. Sig. .000											

Table 7.3 also shows that 77.7% of tax administrators rated the level of transparency of oil companies to the FIRS as no better than fair, while the percentage of tax consultants was 73.5% and taxpayers was only 46.8%. The researcher expects the taxpayers to insist that they are fully transparent in their dealings with the FIRS. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax

administrators is not statistically significant at the 5% level: the z approximation test value is -1.22 with a significance level of 0.22.

Respondents from tax administration tend to largely rate the level of transparency of oil companies to FIRS as no more than fair. 77.7% from tax administration ticked the “not transparent”, “partly transparent” or “fair” categories, compared with 73.5% of tax consultants, 69.2% from sole risk companies and another 38.2% from joint venture and PSC companies. Table 7.3 also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 21.37 with a significance level of 0.00.

In conclusion, it is found that a surprisingly high percentage of respondents believe that the level of transparency of oil companies in Nigeria to FIRS is no more than “fair”, particularly among the tax administrators, tax consultants and even taxpayers. On the argument that lack of transparency is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

**Q25 - In your view, are taxpayers sure of the fiscal regime under which they are to be taxed for PPT purposes?**

Operators in the oil industry are expected to be sure of the fiscal regime under which they are to be taxed for PPT purposes. Respondents rating of the level of certainty of oil companies of the fiscal regime, under which they are to be taxed, may assist in measuring the perception on whether taxpayers in the oil industry in Nigeria are sure of the fiscal regime under which they are to be taxed for PPT purposes. Where the level of taxpayers’ certainty is no more than average, such taxpayers may not be complying with the PPT law. A company that is not sure of the fiscal regime under which it is to be taxed for PPT purposes may not render appropriate computation of its taxes and may likely understate its liability, hence not fully complying with the PPT law. In this regard,

if H1 is correct, it would be expected to confirm the perception that some taxpayers in the oil industry in Nigeria are less than certain about the fiscal regime under which they are to be taxed for PPT purposes and this may impact on compliance with the PPT law.

### **Evidence from questionnaire**

Table 7.4 shows that 33.4% of all respondents rated the level of certainty of oil companies of the fiscal regime under which they are to be taxed for PPT purposes between “not sure” and “average”. This represents one third of respondents. Table 7.4 also shows that 42.9% of tax consultants rated the level of certainty of oil companies as no better than average, while the percentage of taxpayers was 34% and tax administrators was only 14.8%. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators are statistically significant at the 5% level: the z approximation test value is -2.115 with a significance level of 0.034.

Respondents from consulting firms and sole risk companies seem to rate the level of certainty of oil companies of the fiscal regime under which they are to be taxed for PPT purposes as no more than average. 42.9% from consulting firms ticked the “not sure”, “fairly sure” or “average” categories, compared with 38.5% from sole risk companies, 32.3% from joint venture and PSC companies and just 14.8% from tax administration.

Table 7.4 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 9.21 with a significance level of 0.03.

**Table 7-4 showing the perceived level of certainty of oil companies of the fiscal regime**

	Taxpayers						Tax		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants					
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Not sure							5	10.2			5	4.1
Fairly sure	3	8.8	1	7.7	4	8.5	7	14.3	1	3.7	12	9.8
Average	8	23.5	4	30.8	12	25.5	9	18.4	3	11.1	24	19.5
Sure	15	44.1	8	61.5	23	48.9	25	51.0	19	70.4	67	54.5
Very Sure	8	23.6			8	17.1	3	6.1	4	14.8	15	12.1
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	68.34		56.12				52.73		73.67			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 73.67 and 58.72 respectively. Mann-Whitney U 981.0, Wilcox W 5637.0, Z – 2.115 and Asymp. Sig. (2-tailed). 034											
Kruskal Wallis test	Chi-Square 9.213, Difference 3 and Asymp. Sig. .027											

In conclusion, it is found that a large number of respondents believe that the level of certainty of oil companies of the fiscal regime under which they are to be taxed for PPT purposes is no more than “average”, particularly among tax consultants and taxpayers. On the argument that lack of certainty of fiscal regime is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

**Q26 – In your view, how do oil companies comply with the filing of estimated tax?**

**Q27 -How would you rate the timely payments of estimated tax of oil companies?**

The PPT law requires oil companies to file a return of their estimated tax to the FIRS not later than two months after the commencement of each accounting period. The law also requires operators in the oil industry in Nigeria to make prompt payments of the estimated tax to FIRS. Where the taxpayers do not render prompt returns of their estimated tax, such taxpayers may be circumventing the PPT law. A company may deliberately delay the filing of a return of its estimated tax thereby delaying the instalment payment of its taxes, possibly to help its cash flow situation. Respondents rating of the timely payments of estimated tax to the FIRS may assist in measuring the perception on whether taxpayers in the oil industry are prompt in their filings and payments of estimated tax. As the PPT law specifically states when a return of estimated tax and payment should be made by oil producing company, delay in filing return and making payment may constitute non-compliance. In this regard, if H1 is correct, it would be expected to confirm the perception that some taxpayers in the oil industry in Nigeria do not render prompt return of their estimated tax and delay in payment to the FIRS and this may impact on compliance with the PPT law.

**Evidence from questionnaire**

As can be seen from Part A of Table 7.5, 51.2% of all respondents rated oil companies' compliance with the filing of a return of estimated tax no more than average. This represents more than half of the sample. It is also clear from Table 7.5 that an even higher percentage (74.1%) of tax administrators rated oil companies compliance with the filing of return of estimated tax no more than average, while the percentage of tax consultants was 61.2% and taxpayers was only 27.7%.

**Table 7-5 showing perceived level of compliance of oil companies with the filing and timely payment of estimated tax.**

Part A	Taxpayers						Tax		Tax		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants		administrators			
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Done late			2	15.4	2	4.3	3	6.1	2	7.4	7	5.7
Average	4	11.8	7	53.8	11	23.4	27	55.1	18	66.7	56	45.5
Prompt	30	88.2	4	30.8	34	72.4	19	38.8	7	25.9	60	48.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rk	86.68		48.50				56.06		48.20			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 48.20 and 65.88 respectively. Mann-Whitney U 929.5, Wilcoxon W 1301.5, Z – 2.562 and Asymp. Sig. (2-tailed). 010											
Kruskal	Chi-Square 29.84, Difference 3 and Asymp. Sig. .000											
Part B	Taxpayers						Tax		Tax		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants		administrators			
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Poor	1	2.9	1	7.7	2	4.3	3	6.1			5	4.1
Fair	1	2.9	8	61.5	9	19.1	20	40.8	10	37.0	39	31.7
Good	11	32.4	4	30.8	15	31.9	25	51.0	14	51.9	54	43.9
V Good	21	61.8			21	44.7	1	2.1	3	11.1	25	20.3
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rnk	92.51		37.62				49.13		58.67			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 58.67 and 62.94 respectively. Mann-Whitney U 1206.0, Wilcoxon W 1584.0, Z – .588 and Asymp. Sig. (2-tailed). .557											
Kruskal	Chi-Square 42.978, Difference 3 and Asymp. Sig. .000											

Part B of Table 7.5 shows that 35.8% of all respondents rated the level of timely payment of estimated tax of oil companies between “poor” and “fair”. The table also shows that 46.9% of tax consultants rated the timely payments of estimated tax of oil companies as no more than fair, while the percentage of tax administrators was 37% and taxpayers was only 23.4%.

With reference to the filing of estimated tax, Part A of Table 7.5 presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators are statistically significant at the 5% level: the z approximation test value is -2.56 with a significance level of 0.01. Respondents from tax administration and consulting firms tend to rate compliance of oil companies with the filing of return of estimated tax as no more than average. 74.1% from tax administration ticked the “done late”, or “average” categories, compared with 69.2% from sole risk companies, 61.2% from consulting firms and just 11.8% from joint venture and PSC companies. However, regarding timely payment of estimated tax, Part B of Table 7.5 shows Mann-Whitney test which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators are not statistically significant at the 5% level: the z approximation test value is -0.59 with a significance level of 0.56. There is a greater tendency for respondents from sole risk companies to rate the timely payment of estimated tax of oil companies as no more than fair. 69.2% from sole risk companies ticked the “poor” or “fair” categories, compared with 46.9% of tax consultants, 37% from tax administration and only 5.8% from joint venture and PSC companies.

With regard to the filing of estimated tax, Part A of Table 7.5 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 29.84 with a significance level of 0.00. Regarding timely payment of estimated tax, Part B of the table shows Kruskal-Wallis test which confirms that there

is a statistically significant difference between the responses of the four groups: the chi-squared test value is 42.98 with a significance level of 0.000.

In conclusion, the researcher has found that a significant number of respondents believe that the level of perceived compliance of oil companies with the filing returns and payment of estimated tax to the FIRS is no more than “average” or “fair”, particularly among the sole risk operators, taxpayers themselves, tax administrators and tax consultants. Also, over one third from tax administration scored the timely payment of estimated tax of oil companies, as no more than fair. On the argument that no more than average compliance with the filing of return and making payment of estimated tax is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

**Q34 – In your view, how do oil companies comply with the filing of final tax returns?**

**Q36 - How do you rate the timely payment of final tax of oil companies?**

Ordinarily the researcher believes that taxpayers should promptly comply with the filing of final tax returns and payment of final tax. The PPT Act requires an oil company in Nigeria to deliver to the FIRS, within five months after the end of its accounting period, a copy of its accounts (bearing an auditors certificate) and actual tax returns containing a declaration. Respondents rating of the level of the compliance of oil companies with the filing of final tax returns and payment of final tax may assist in measuring the perception on whether taxpayers in the oil industry in Nigeria comply or do not comply with the PPT Act. Where taxpayers do not promptly file their final returns and make timely payment under the PPT law, they may not be complying with the tax law. Where the rating of perceived taxpayers’ compliance with filing of final tax returns and timely payment is “no more than average” or “fair”, such taxpayers may not be complying with the PPT law and may not be paying appropriate tax to help its cash flow situation. Poor filing of final tax



returns and payment may be regarded as a form of non-compliance. In this regard, if H1 is correct, it would be expected to confirm the perception that some taxpayers in the oil industry in Nigeria do not promptly file their final returns or make timely payment and this may impact on compliance with the PPT law.

### **Evidence from questionnaire**

As can be seen from Part A of Table 7.6, 51.2% of all respondents rated the compliance of oil companies with the filing of final tax returns between “done late” and “average”. This represents more than half of the sample. It is also clear from Table 7.6 that an even higher percentage (63.3%) of tax consultants rated the compliance of oil companies with the filing of final tax returns as no more than average, while the percentage of tax administrators was 59.3% and taxpayers themselves was only 34.0%. Part B of Table 7.6 shows 30.9% of all respondents rated taxpayers’ timely payment of final tax between “poor” and “fair”. This represents less than one-third of the sample. The table also shows that an even higher percentage (42.9%) of tax consultants rated taxpayers’ timely payment of final tax as no better than fair, while the percentage of taxpayers was 25.5% and tax administrators was only 22.2%.

With regard to the filing of final tax returns, Part A of Table 7.6 presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -.59 with a significance level of 0.56. Regarding timely payment of final tax, Part B of the Table shows Mann-Whitney test which confirms that the difference between the responses of the taxpayers/advisers and the tax administrators, is also not statistically significant at the 5% level: the z approximation test value is -.05 with a significance level of 0.96.

**Table 7-6 showing the perceived level of compliance of oil companies with the filing of final returns and timely payment of final tax.**

<b>Part A</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Done late			1	7.7	1	2.1	5	10.2			6	4.9
Average	6	17.6	9	69.2	15	31.9	26	53.1	16	<b>59.3</b>	57	46.3
Prompt	28	82.4	3	23.1	31	66.0	18	36.7	11	40.7	60	48.8
<b>TOTAL</b>	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	83.18		46.08				53.28		58.83			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 58.83 and 62.89 respectively. Mann-Whitney U 1210.5, Wilcoxon W 1588.5, Z -.590 and Asymp. Sig. (2-tailed). 56											
Kruskal W	Chi-Square 22.614, Difference 3 and Asymp. Sig. .000											
<b>Part B</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Poor	1	2.9			1	2.1	2	4.1	1	<b>3.7</b>	4	3.3
Fair	4	11.8	6	46.2	11	23.4	19	38.8	5	18.5	34	27.6
Good	9	26.5	6	46.2	15	31.9	23	46.9	17	63.0	55	44.7
V Good	20	58.8	1	7.6	20	42.6	5	10.2	4	14.8	30	24.4
<b>TOTAL</b>	34	100%	13	100%	47	100%	49		27	100%	123	100%
Mean Rank	83.90		48.73				50.49		61.70			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 61.70 and 62.08 respectively. Mann-Whitney U 1288.0, Wilcoxon W 1666.0, Z -.052 and Asymp. Sig. (2-tailed). 958											
Kruskal W	Chi-Square 22.557, Difference 3 and Asymp. Sig. .000											

Respondents from sole risk companies and tax appear to rate the compliance of oil companies with the filing and timely payment of final tax returns as no more than fair. Regarding filing of final return, 76.9% from sole risk companies ticked the “done late”, or “average” categories, compared with 63.3% of tax consultants, 59.3% from tax administration and just 17.6% from joint venture and PSC companies. With regard to timely payment of final tax, Part B of the table shows 46.2% from sole risk companies ticked the “poor” or “fair” categories, compared with 42.9% from consulting firms, 22.2% from tax administration and just 14.7% from joint venture and PSC companies.

Regarding filing of final return, Part A of Table 7.6 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 22.61 with a significance level of 0.00. With regard to timely payment of final tax, Part B of Table 7.6 also reports Kruskal-Wallis test, which confirms that there is also a statistically significant difference between the responses of the four groups: the chi-squared test value is 22.56 with a significance level of 0.00.

In conclusion, it is found that a significant percentage of respondents believe that the level of compliance of oil companies with the filing of final returns and timely payment as no more than “average” or “fair”, particularly among respondents from sole risk companies, tax consultants and tax administrators. On the argument that less than prompt filing of final tax returns and making timely payment is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

**Q35 -How do you rate the adequacy of the information disclosure in the tax returns of oil companies?**

Operators in the oil industry are expected to ensure adequate information disclosure in their tax returns. Respondents rating of the adequacy of information disclosure of oil companies may assist in measuring the perception on whether taxpayers in the oil industry in Nigeria ensure adequate information disclosure in their tax returns. The researcher believes that people who do not ensure adequate disclosure in their tax returns may not be complying with the tax law. Where the rating of the level of information disclosure is “no more than average”, such taxpayers may not be complying with the PPT law. A company that is poor in information disclosure in its tax returns may not be disclosing adequate and full information, thereby hiding some essential information which the company may use to reduce its tax liability. This may be regarded as a form of non-compliance. In this regard, if H1 is correct, it would be expected to confirm the perception that some taxpayers in the oil industry in Nigeria are less than average in the information disclosure in their tax returns and this may impact on compliance with the PPT law.

**Evidence from questionnaire**

Table 7.7 shows that 49.6% of all respondents rated the level of adequacy of the information disclosure in the tax returns of oil companies between “inadequate” and “average”. As this is about half of the sample, it represents a high percentage. Table 7.7 also shows that 70.3% of tax administrators rated the level of adequacy of the information disclosure in the tax returns of oil companies as no better than “average”, while the percentage of tax consultants was 61.2% and taxpayers was only 25.5%.

**Table 7-7 showing the perceived level of adequacy of the information disclosure in the tax returns**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Inadequate							3	6.1	1	3.7	4	3.3
Fair	3	8.8	1	7.7	4	8.5	7	14.3	7	25.9	18	14.6
Average	4	11.8	4	30.8	8	17.0	20	40.8	11	40.7	39	31.7
Adequate	18	52.9	7	53.8	25	53.2	18	36.7	8	29.7	51	41.5
Comprehensive	9	26.5	1	7.7	10	21.3	1	2.1			11	8.9
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	83.43		69.88				53.59		46.48			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 46.48 and 66.36 respectively. Mann-Whitney U 877.0, Wilcoxon W 1255.0, Z – 2.709 and Asymp. Sig. (2-tailed). 007											
Kruskal Wallis	Chi-Square 23.245, Difference 3 and Asymp. Sig. .000											

The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators, is statistically significant at the 5% level: the z approximation test value is -2.71 with a significance level of 0.007.

Respondents from tax administration tend to rate the level of adequacy of the information disclosure in the tax returns of oil companies as no more than average. 70.3% from tax administration ticked the “inadequate”, “fair” or “average” categories, compared with 61.2% of tax consultants, 38.5% from sole risk companies and just 20.6% from joint venture and PSC companies.

Table 7.7 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 23.25 with a significance level of 0.000.

In conclusion, the researcher has found that a high percentage of respondents believe that the level of adequacy of information disclosure in the tax returns of oil companies is no more than “average” particularly among the tax administrators and tax consultants. On the argument that less than adequate information disclosure in taxpayers’ tax returns is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

### **Q37 -How do you rate the level of response of oil companies to tax queries?**

Operators in the oil industry are expected to respond promptly to tax queries raised by the FIRS. Respondents rating of the level of response of oil companies to tax queries raised by the FIRS may assist in measuring the perception on whether taxpayers in the oil industry in Nigeria respond promptly to tax queries. Where the level of taxpayers’ response to tax queries is “no more than fair”, such taxpayers may not be complying with the PPT law. A company that is poor in its response to tax queries may not be supplying full and complete information to the FIRS. The company may be doing so to delay the agreement of its tax liability for the purpose of pushing forward the payment of its tax liability, thereby using available cash for other purposes. This may be regarded as a form of non-compliance. In this regard, if H1 is correct, the researcher expects to confirm the perception that some taxpayers in the oil industry in Nigeria are less than good in responding to tax queries raised by the FIRS and this may impact on compliance with the PPT law.

### **Evidence from questionnaire**

Table 7.8 shows that 39.8% of all respondents rated the level of response of oil companies to tax queries raised by the FIRS between “poor” and “fair”.

**Table 7-8 showing the perceived level of response of oil companies to queries to FIRS.**

	Taxpayers						Tax		Tax		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants		administrators			
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Poor	1	2.9			1	2.1	5	10.2	1	3.7	7	5.7
Fair	8	23.5	4	30.8	12	25.5	21	42.9	9	33.3	42	34.1
Good	16	47.1	9	69.2	25	53.3	18	36.7	14	51.9	57	46.3
V Good	9	26.5			9	19.1	5	10.2	3	11.1	17	13.9
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean	73.97		62.77				53.01		62.87			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 62.87 and 61.76 respectively. Mann-Whitney U 1272.5, Wilcox W 5928.5, Z – .155 and Asymp. Sig. (2-tailed). 877											
Kruskal	Chi-Square 8.126, Difference 3 and Asymp. Sig. .043											

Table 7.8 also shows that 53.1% of tax consultants rated the level of response of oil companies to tax queries raised by the FIRS as no better than fair, while the percentage of tax administrators was 37% and taxpayers was only 27.6%. The table shows the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -.16 with a significance level of 0.88.

Respondents from consulting firms tend to rate the level of response of oil companies to tax queries raised by FIRS as no more than fair. 53.1% from consulting firms ticked the “poor” or “fair” categories, compared with 37% of tax administrators, 30.8% from sole risk companies and another 26.4% from joint venture and PSC companies.

Table 7.8 also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 8.13 with a significance level of 0.043.

In conclusion, it is found that a high percentage of respondents believe that the level of response of oil companies to tax queries raised by the FIRS is no more than “fair”, particularly among the tax administrators, tax consultants and even taxpayers. On the argument that poor response to tax queries is liable to lead to non-compliance, this finding lends some support to Hypothesis H1.

### **Summary of tests conducted on Hypothesis 1**

Table 7-9 below summarises the results of the statistical analyses conducted in deciding whether there is support or otherwise for Hypothesis 1 on answers obtained from the respondents to Questions 22-23, 25-27 and 34-37 in the questionnaire.

**Table 7-9 Summary of Hypothesis 1**

<b>Q</b>	<b>Description</b>	<b>Support or otherwise</b>
22	How do you rate the level of understanding of taxpayers of PPT law?	Supported
23	How do you rate the level of transparency of oil companies to FIRS?	Supported
25	In your view, are taxpayers sure of the fiscal regime under which they are to be taxed for PPT purposes?	Supported
26	How do oil companies comply with the filing of estimated tax?	Supported
27	How would you rate the timely payments of estimated tax of oil companies?	Supported
34	In your view, how do oil companies comply with the filing of final tax returns?	Supported
35	How do you rate the adequacy of the information disclosure in the tax returns of oil companies	Supported
36	How do you rate the timely payment of final tax of oil companies?	Supported
37	How do you rate the level of response of oil companies to tax queries?	Supported



The analyses addressed the perceptions of taxpayers' understanding of PPT law, transparency of oil companies to FIRS, taxpayers' certainty of the fiscal regime under which they are to be taxed for PPT purposes, filing of returns and timely payment of estimated tax, filing returns and timely payment of final tax, adequacy of information disclosure in the tax returns of oil companies and response of oil companies to tax queries. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support Hypothesis 1 – **There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the PPT Act in relation to the payments of PPT**, in view of the result of the statistical analyses conducted.

#### **7.4.2 Hypothesis 2**

**H2: There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the Petroleum Act in relation to the payments of royalties.**

In addressing the hypothesis, the researcher considered the answers obtained from the respondents to Questions 33 in the questionnaire. Q33 tests whether royalty provision is based on “crude oil shipment” rather than “crude oil produced”. The question elicited respondents' views of what basis an oil company pays royalties. The answers to the question, when subjected to statistical analysis and interpretation, help to decide whether there is support or otherwise for the hypothesis.

#### **Q33 –On what basis does an oil company pay royalties?**

Operators in the oil industry in Nigeria are expected to pay royalty on crude oil production. Respondents rating of the basis of payment of royalties may assist in measuring the perception on whether oil companies base their royalty payments on production. Where the taxpayer does not base the royalty payment on crude oil produced, such taxpayer may not be complying with the Petroleum Act. It is believed that some oil producing companies base their royalty payments on

fiscalised crude i.e. measured and dry crude ready for export. It is likely that in the long term, such companies may be paying appropriate royalty but may not all be doing so in the period such royalties relate to. It is also believed that computation of royalty by reference to shipment or export has an effect on the tax revenue. It is further believed that basing royalty calculation on shipment has effect on cash flow than if based on production. It is not unlikely that the oil companies may not be complying with the petroleum law as the law may be unnecessarily strict and may require changing, i.e. paying on shipment rather than production. A company that bases its royalty payment other than on crude oil produced is at conflict with the provisions of the Petroleum Act and may deliberately be doing so to underpay its royalty and this may be regarded as a form of non-compliance with the Petroleum Act. In this regard, if H2 is correct, the researcher expects to confirm the perception that some companies in the oil industry in Nigeria base their royalty payment on shipment and this may impact on compliance with the Petroleum Act.

### **Evidence from questionnaire**

Table 7.10 shows that 53.7% of all respondents rated the basis of payment of royalties on shipment. This represents an alarmingly high percentage given that the oil producing companies are supposed to pay royalty on production and this evidence suggests that payment of royalty on shipment is deliberately condoned. Table 7.10 also shows that 59.6% of taxpayers rated payment of royalties on shipment, while the percentage of tax consultants was 59.2% and tax administrators was only 33.3%. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -2.39 with a significance level of .02.

**Table 7-10 showing the perceived level of basis of payment of royalties.**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Production	15	44.1	4	30.8	19	40.4	20	40.8	18	66.7	57	46.3
Shipment	19	55.9	9	69.2	28	59.6	29	59.2	9	33.3	66	53.7
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	63.37		71.58				65.40		49.50			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 49.50 and 65.52 respectively. Mann-Whitney U 958.5, Wilcox W 1336.5, Z – 2.388 and Asymp. Sig. (2-tailed). 017											
Kruskal Wallis test	Chi-Square 6.370, Difference 3 and Asymp. Sig. .095											

Respondents from sole risk companies, consulting firms and joint venture and PSC companies tend to rate the payment of royalties on shipment. 69.2% from sole risk companies ticked the “shipment”, category, compared with 59.2% of tax consultants, 55.9% from joint venture and PSC companies and another 33.3% of respondents from tax administration. Table 7.10 also reports the result of a Kruskal-Wallis test, which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 6.37 with a significance level of 0.10.

In conclusion, it is found that a high percentage of respondents believe that the basis of payment of royalties by oil companies is on shipment, particularly among tax consultants and taxpayers. On the argument that basing royalty payment on shipment is liable to lead to non-compliance, this finding lends some support to Hypothesis H2.

### **7.4.3 Hypothesis 3**

**H3: There is a perception that a significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions, which is responsible for ineffective tax administration in the upstream sector of the petroleum industry.**

In addressing the hypothesis, the researcher considered the answers obtained from the respondents to Questions 41-43 and 50-52 in the questionnaire. The questions drew forth respondents' rating of tax officials' understanding of PPT law and MOU, level of training which tax officials receive when compared with oil companies tax personnel, frequency of attending petroleum tax related training, how long it takes to agree an oil company's tax liability for an accounting period and readiness to point out mistakes made by tax officials in their review of oil companies tax returns. The answers to these questions, when subjected to statistical analysis and interpretation, help to decide whether there is support or otherwise for the hypothesis.

**Q41 - How would you rate the level of understanding of tax officials of PPT law?**

**Q42 - How do you rate the level of understanding of tax officials of the Memorandum of Understanding (MOU)?**

Ordinarily, the researcher believes that tax officials should have a good understanding of the PPT law and the MOU. Respondents rating of the level of tax officials' understanding of the tax law and the MOU may assist in measuring the perception on whether tax officials in the petroleum sector possess sufficient knowledge of the PPT law and its provisions and MOU. Where the level of tax officials' understanding of the tax law and the MOU is "no more than fair", such tax officials may not be asking the right questions and this may impact on taxpayers not complying with the PPT law. The PPT law and the MOU are regarded as rather complex and not readily comprehensible. The oil companies are known to have adequate and up-to-date knowledge of the

PPT law. The oil companies are also known to utilise modern day software in simulating and preparing their PPT estimate, for the purpose of tax planning. On the other hand, tax officials may not necessarily have access to such facilities due to limited budgetary allocation and this may impact on effective tax administration in Nigeria. In this regard, if H3 is correct, it would be expected to confirm the perception that some tax officials in the petroleum sector in Nigeria do not have a good understanding of the PPT law and the MOU and this may impact on effective tax administration in the upstream sector of the petroleum industry.

### **Evidence from questionnaire**

As can be seen from Part A of Table 7.11, 56.9% of all respondents rated tax officials' understanding of the PPT law between "poor" and "fair". As this represents more than half of the sample, it is considered a high percentage. It is also clear from Table 7.11 that an even higher percentage (81.6%) of tax consultants rated tax officials' understanding of PPT law as no better than fair, while the percentage of taxpayers was 53.2% and tax administrators themselves was only 18.5%. It is not unlikely that the tax officials simply do not understand that their knowledge of the tax law is limited or they do not know what they do not know. Part B of Table 7.11, 73.2% of all respondents rated tax officials' understanding of the MOU between "very poor" and "fair". This is surprisingly an important percentage. The table shows that an even higher percentage (91.9%) of tax consultants rated tax officials' understanding of MOU as no better than fair, while the percentage of taxpayers was 72.3% and tax administrators was only 40.7%.

With regard to the PPT law, Part A of the table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -4.75 with a significance level of 0.00.

**Table 7-11 showing the level of understanding of tax officials of the PPT law and the MOU**

<b>Part A</b>	<b>Taxpayers</b>						<b>Tax Consultants</b>		<b>Tax administrators</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>						
Poor			2	15.4	2	4.3	11	22.4			13	10.6
Fair	15	44.1	8	61.5	23	48.9	29	59.2	5	18.5	57	46.3
Good	15	44.1	3	23.1	18	38.3	9	18.4	16	59.3	43	35.0
V Good	4	11.8			4	8.5			6	22.2	10	8.1
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	73.06		48.15				43.33		88.63			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 88.63 and 54.51 respectively. Mann-Whitney U 577.0, Wilcoxon 5233.0, Z – 4.748 and Asymp. Sig. (2-tailed). .000											
Kruskal W	Chi-Square 39.411, Difference 3 and Asymp. Sig. .000											
<b>Part B</b>	<b>Taxpayers</b>						<b>Tax Consultants</b>		<b>Tax administrators</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>						
V Poor							2	4.1			2	1.6
Poor	1	2.9	4	30.8	5	10.6	16	32.7	1	3.7	22	17.9
Fair	22	64.7	7	53.8	29	61.7	27	55.1	10	37.0	66	53.7
Good	8	23.5	2	15.4	10	21.3	4	8.1	13	48.1	27	22.0
V Good	3	8.9			3	6.4			3	11.2	6	4.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rnk	72.71		51.12				44.64		85.26			
Mann	The mean ranks for tax administrators and taxpayers/advisers are 85.26 and 55.46 respectively. Mann-Whitney U 668.0, Wilcoxon											

Whitney	W 5324.0, Z – 4.214 and Asymp. Sig. (2-tailed). 00
Kruskal	Chi-Square 33.028, Difference 3 and Asymp. Sig.000

Respondents from consulting firms tend to rate tax officials' understanding of PPT law as no more than fair. 81.6% from consulting firms ticked the "poor" or "fair" categories, compared with 76.9% from sole risk companies, 44.1% from joint venture and PSC companies and just 18.5% from tax administration. Regarding the MOU, Part B of the table shows Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -4.21 with a significance level of 0.00. The researcher wonders that if most people in the oil industry in Nigeria do not understand the MOU properly, there is the possibility that the MOU may not be serving the purpose for which it was introduced. 91.9% of respondents from consulting firms ticked the "very poor", "poor" or "fair" categories, compared with 84.6% from sole risk companies, 67.6% from joint venture and PSC companies and just 40.7% from tax administration.

With respect to PPT law, Part A of Table 7.11 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 39.41 with a significance level of 0.00. Taxpayers have a lower assessment of tax officials' PPT knowledge than the tax officials credit themselves. Regarding the MOU, Part B of the table also shows Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 33.03 with a significance level of 0.00.

In conclusion, it is found that a surprisingly high percentage of respondents believe that tax officials have no more than a “fair” understanding of PPT law and the MOU, particularly among the taxpayers and tax consultants. A sizeable percentage of tax officials themselves confirmed their understanding of MOU as no more than fair. On the argument that lack of understanding is liable to lead to ineffective tax administration, this finding lends some support to Hypothesis H3.

**Q43 –Comparing the training which your own company’s tax personnel receive on PPT, how do you rate the training which FIRS staff receive?**

**Q50 – How frequently do you attend petroleum tax related training?**

Tax officials in the petroleum sector should ordinarily receive regular training on PPT for effective tax administration. Respondents rating of the level of training which taxpayers personnel receive and the frequency, when compared with training received by FIRS officials may assist in measuring the perception on whether tax officials receive adequate training on PPT. Tax officials, who neither attend training nor get exposed to the rudiments of PPT law and its provisions, may not be able to ask appropriate questions and may readily accept whatever tax computation which taxpayers may submit. Budget allocation for training of tax officials is considered low and this may prevent tax officials from attending appropriate training courses and seminars. Oil tax executives, on the other hand, are known to have access to high quality and up to date training and reference materials. They also have access to regular updates and advice from their headquarters. This may put the taxpayers in a position to have undue advantage over the tax officials and may affect effective tax administration. In this regard, if H3 is correct, the researcher expects to confirm the perception that some tax officials receive low training on PPT and this may impact on effective tax administration in the upstream sector of the petroleum industry in Nigeria.



## **Evidence from questionnaire**

Part A of Table 7.12 shows that 77.3% of all respondents rated the level of training which FIRS staff receives on PPT between “very poor” and “low”. The table also shows that 89.7% of tax consultants rated the level of training of FIRS staff on PPT as no better than fair, while the percentage of tax administrators themselves was 74% and taxpayers was 66%. Part B of Table 7.12 shows that 82.1% of all respondents rated taxpayers’ attendance at petroleum tax related training between “never” and “once a year”. The table also shows that an even higher percentage (88.9%) of tax administrators rated attendance at PPT training as no better than “once a year”, while the percentage of taxpayers was 83% and tax consultants was 77.6%.

With regard to the training which FIRS staff receive, Part A of the table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators, is not statistically significant at the 5% level: the z approximation test value is -.44 with a significance level of 0.66. Respondents from consulting firms tend to rate the level of training of FIRS staff on PPT as no more than low. 89.7% from tax consulting firms ticked the “very poor”, “very low” or “low” categories, compared with 74% of tax administrators themselves, 67.7% from joint venture and PSC companies and another 61.5% from sole risk companies. Regarding the frequency of PPT training, Part B of the table shows Mann-Whitney test which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -.62 with a significance level of 0.54. Respondents from sole risk companies tend to rate attendance at petroleum related training no better than “once a year”. 100% from sole risk companies ticked the “never”, “once a while” or “once a year” categories, compared with 88.9% from tax administrators, 77.6% from consulting firms and another 76.5% from joint venture and PSC companies.

**Table 7-12 showing the perceived level of training of FIRS staff on PPT and frequency.**

Part A	Taxpayers						Tax		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants					
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
V Poor			1	7.7	1	2.1	6	12.2	2	7.4	9	7.3
Very low	2	5.9			2	4.3	5	10.2	5	18.5	12	9.8
Low	21	61.8	7	53.8	28	59.6	33	67.3	13	48.1	74	60.2
High	11	32.3	5	38.5	16	34.0	4	8.2	7	26.0	27	22.0
Very High							1	2.1			1	0.7
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	72.31		73.81				53.00		59.67			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 59.67 and 62.66 respectively. Mann-Whitney U 1233.0, Wilcox W 1611.0, Z – .439 and Asymp. Sig. (2-tailed). 661											
Kruskal W	Chi-Square 9.745, Difference 3 and Asymp. Sig. .021											
Part B	Taxpayers						Tax		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers		Consultants					
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Never	3	8.8	1	7.7	4	8.5	4	8.2			8	6.5
Once a yr	16	47.1	9	69.2	25	53.2	30	61.2	21	77.8	76	61.8
Once a year	7	20.6	3	23.1	10	21.3	4	8.2	3	11.1	17	13.8
> once a yr	2	5.9			2	4.3	6	12.2	2	7.4	10	8.1
> 2ce a yr	6	17.6			6	12.7	5	10.2	1	3.7	12	9.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	68.43		54.00				61.46		58.74			

Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 58.74 and 62.92 respectively. Mann-Whitney U 1208.0, Wilcoxon W 1586.0, Z = .617 and Asymp. Sig. (2-tailed). 537
Kruskal W	Chi-Square 2.628, Difference 3 and Asymp. Sig. .453.

With regard to PPT training which FIRS staff receives, Part A of Table 7.12 also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 9.75 with a significance level of 0.02. Regarding the frequency of PPT training, Part B of the table shows Kruskal-Wallis test which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 2.63 with a significance level of 0.45.

In conclusion, it is found that a very high percentage of respondents believe that the level of perceived training which FIRS staff receive on PPT is no more than “low” or “once a year”, particularly among tax consultants, tax administrators themselves and even taxpayers. On the argument that lack of training on PPT is liable to lead to ineffective tax administration, this finding lends some support to Hypothesis H3.

#### **Q51 –How long does it take to agree an oil company’s tax liability for an accounting period?**

An oil company’s tax liability ought to be promptly agreed with the FIRS. Respondents’ rating of the time it takes to agree taxpayers’ tax liability may assist in measuring the perception on effective tax administration in the upstream sector of the petroleum industry in Nigeria. When it takes a considerable length of time to agree an oil company’s tax liability, there is the possibility that revenue due to Government may not be getting into the coffers in time. The oil companies may be using monies which ought to be used to fund government projects to improve their own cash flow situation. In this situation, undue delay gives room for unnecessary negotiation between

tax officials and oil company officials. Consequently, effective tax administration is affected. In this regard, if H3 is correct, it would be expected to confirm the perception that delay in agreeing oil companies tax liability in Nigeria may impact on effective tax administration.

### **Evidence from questionnaire**

Table 7.13 shows that 60.2% of all respondents rated the length of time it takes to agree an oil company's tax liability for an accounting period between "two years" and "four or more years". This represents a large proportion of respondents. Table 7.13 also shows that 73.5% of tax consultants rated the timing as between "two years" and "four or more years", while the percentage of taxpayers was 57.4% and tax administrators was 40.7%. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators, is not statistically significant at the 5% level: the z approximation test value is -1.40 with a significance level of 0.16.

Respondents from consulting firms appear to rate the length of time it takes to agree an oil company's tax liability with FIRS between "two years" and "four or more years". 73.5% from consulting firms ticked the "two years", "three years" or "four or more years" categories, compared with 58.9% of joint venture and PSC companies, 53.8% from sole risk companies and 40.7% of respondents from tax administration. Table 7.13 also reports the result of a Kruskal-Wallis test, which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 3.99 with a significance level of 0.26.

**Table 7-13 showing the perception of how long it takes to agree an oil company's tax liability with FIRS.**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers		No.	%	No.	%	No.	%
	No.	%	No.	%	No.	%						
Never	1	2.9	1	7.7	2	4.3			1	3.7	3	2.4
One year	13	38.2	5	38.5	18	38.3	13	26.5	15	55.6	46	37.4
Two years	5	14.7	2	15.4	7	14.9	9	18.4	1	3.7	17	13.8
Three years	2	5.9	1	7.7	3	6.4	7	14.3			10	8.1
Four or more years	13	38.3	4	30.7	17	36.1	20	40.8	10	37.0	47	38.3
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	61.66		55.54				68.71		53.98			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 53.98 and 64.26 respectively. Mann-Whitney U 1079.5, Wilcoxon W 1457.5, Z – 1.403 and Asymp. Sig. (2-tailed). 161											
Kruskal Wallis	Chi-Square 3.994, Difference 3 and Asymp. Sig. .262											

In conclusion, the researcher has found that a large proportion of respondents believes that the length of time it takes to agree an oil company's tax liability for an accounting period with the FIRS, is between "two years" and "four or more years" particularly among the tax consultants and taxpayers. A large proportion of respondents in tax administration also acknowledged the delay in agreeing an oil company's tax liability. On the argument that delay in agreeing an oil company's tax liability impacts on effective tax administration, this finding lends some support to Hypothesis H3.

**Q52 – Would you readily point out mistakes made by FIRS staff in their review of your company’s tax returns?**

Ordinarily, the researcher believes that tax officials should readily pinpoint errors or mistakes in the review of an oil company’s tax returns. But where the taxpayers are now the ones identifying possible errors or mistakes made by FIRS officials in the review of their tax returns, this gives room for doubt about the effectiveness of tax administration in the upstream sector of the petroleum industry in Nigeria. Respondents rating of the willingness to point out mistakes made by FIRS officials in the review of oil company tax returns may assist in assessing the effectiveness of tax administration. In this regard, if H3 is correct, it would be expected to confirm the perception that some respondents willingness to readily point out mistakes of tax officials may impact on the effectiveness of tax administration.

**Evidence from questionnaire**

As can be seen from Table 7.14, 74% of all respondents scored readiness to point out mistakes made by FIRS in the review of their company’s tax returns between “agreed” and “strongly agreed”. This is a very high percentage. It is also clear from Table 7.14 that an even higher percentage (97.1%) of taxpayers indicated that they will readily point out mistakes made by FIRS by ticking “agreed” or “strongly agreed”, while the percentage of tax consultants was 83.7% and tax administrators was only 37.1%. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -4.31 with a significance level of .000.

**Table 7-14 showing perceived readiness to point out mistakes made by tax officials**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Strongly Disagree									2	7.4	2	1.6
Disagree			1	7.7	1	2.1	3	6.1	6	22.2	10	8.1
Neither	1	2.9	5	38.5	6	12.8	5	10.2	9	33.3	20	16.3
Agreed	15	44.1	4	30.8	19	40.4	25	51.0	6	22.2	50	40.7
Strongly agreed	18	53.0	3	23.0	21	44.7	16	32.7	4	14.9	41	33.3
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	80.56		50.69				65.72		37.31			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 37.31 and 68.94 respectively. Mann-Whitney U 629.5, Wilcox W 1007.5, Z – 4.314 and Asymp. Sig. (2-tailed). 000											
Kruskal Wallis test	Chi-Square 26.937, Difference 3 and Asymp. Sig. .000											

Respondents from joint venture and PSC companies seem to readily agree or strongly agree to point out mistakes made by FIRS officials in the review of their company's tax returns. 97.1% from joint venture and PSC companies ticked the "agreed" or "strongly agreed" categories, compared with 83.7% from tax consultants, 53.8% from sole risk companies and just 37.1% from tax administration. Table 7.14 also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 26.94 with a significance level of 0.00. The views of the respondents from joint venture and PSC companies, who are the major taxpayers in the oil industry in Nigeria, are of particular interest. The researcher doubts whether the taxpayer's readiness to point out the

mistakes of tax officials is borne out of genuine intention to assist the FIRS, and whether it may be carried out in real life situation.

In conclusion, it is found that a very high percentage of respondents particularly the taxpayers indicated their readiness to point out mistakes made by FIRS officials in the review of their companies' tax returns. On the argument that tax officials making mistakes which taxpayers point out is liable to lead to ineffective tax administration, this finding lends some support to Hypothesis H3.

### **Summary of tests conducted on Hypothesis 3**

Table 7-15 below summarises the results of the statistical analyses conducted in deciding whether there is support or otherwise for Hypothesis 3 on answers obtained from the respondents to Questions 41-43 and 50-52 in the questionnaire.

The questions drew forth respondents' perceived rating of tax officials' understanding of PPT law and MOU, level of training which tax officials receive when compared with oil companies tax personnel, frequency of attending petroleum tax related training, how long it takes to agree an oil company's tax liability for an accounting period and readiness to point out mistakes made by tax officials in their review of oil companies tax returns. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support Hypothesis 3 – **There is a perception that a significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions which are responsible for ineffective tax administration in the upstream sector of the petroleum industry**, in view of the result of the statistical analyses conducted.



**Table 7-15 Summary of Hypothesis 3**

<b>Q</b>	<b>Description</b>	<b>Support or otherwise</b>
41	How would you rate the understanding of tax officials of PPT law?	Supported
42	How do you rate the level of understanding of tax officials of the MOU?	Supported
43	Comparing the training which your own company's tax personnel receive on PPT, how do you rate the training which FIRS staff receive?	Supported
50	How frequently do you attend petroleum tax related training?	Supported
51	How long does it take to agree an oil company's tax liability for an accounting period?	Supported
52	Would you readily point out mistakes made by FIRS staff in their review of your company's tax returns?	Supported

#### **7.4.4 Hypothesis 4**

**H4: There is a perception that oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of H3 above.**

In addressing the hypothesis, the researcher considered the answers obtained from the respondents to Questions 59 and 60 in the questionnaire. The questions elicited respondents' views on difficulty in obtaining a tax refund from government encouraging taxpayers to minimise PPT estimate to improve their cash flow situation. The researcher, in drawing the questions to be asked, was mindful that oil producing companies may not readily admit that they deliberately minimise or underestimate their monthly instalment payment of PPT. Hence the questions were drawn in such a way as to enable respondents answer the questions considering certain circumstances prevailing in the upstream sector of the oil industry in Nigeria, and which may ordinarily cause such companies to minimise their monthly PPT instalment payments. The

answers to these questions, when subjected to statistical analysis and interpretation, help to decide whether there is support or otherwise for the hypothesis.

**Q59 – Difficulty in obtaining a tax refund from government encourages minimising PPT estimate for an accounting period?**

**Q60 – Minimising PPT estimate for an accounting period helps cash flow**

The PPT law requires an oil company to pay its tax for an accounting period in twelve equal monthly instalments together with a final instalment. The law provides for submission of estimated tax which may be revised if the initial return submitted requires revision. Oil companies pay monthly PPT instalments but such monthly instalments are minimised due to difficulty experienced by taxpayers in obtaining refund from government and to improve their cash flow situation. Respondents rating of the level of taxpayers' minimising monthly instalment payments of PPT may assist in measuring the perception that taxpayers in the oil industry in Nigeria do so because of the difficulty in obtaining a tax refund from government and to improve their cash flow situation. The process of obtaining tax refund through approval and appropriation by the National Assembly takes rather too long a time and companies' operations may be affected by undue delay in obtaining tax refunds. It appears the FIRS does not apply sanctions for payment of low PPT instalment in the early months of an accounting period. This is in spite of available sanctions prescribed by the PPT law. The researcher is aware that underpayment of tax attracts interest at commercial rate of interest in the United Kingdom. The researcher wonders why there is blatant flouting of the rule in Nigeria and why the oil producing companies are getting off it. It is suggested that FIRS staff do not follow up on the value of money due possibly to their attitude and lack of adequate manpower and logistical support. Consequently, oil companies may resort to minimising their monthly PPT instalment, partly to avert the difficulty of obtaining timely refund

and partly because sanctions are not applied for low instalment payments of PPT. In this regard, if H4 is correct, the researcher expects to confirm the perception that some taxpayers in the oil industry in Nigeria minimise their monthly instalment payments of PPT to improve their cash flow situation and this may impact on effective tax administration in Nigeria.

### **Evidence from questionnaire**

As can be seen from Part A of Table 7.16, 78% of all respondents confirmed their perception that oil companies in Nigeria deliberately minimise their monthly instalment payments of PPT by scoring “agree” and “strongly agree”. This is considered a very high percentage. Even a higher percentage (93.9%) of tax consultants rated oil companies minimising PPT monthly instalment payments between “agree” and “strongly agree”, while the percentage of taxpayers was 72.4% and tax administrators was 59.3%. Part B of Table 7.16 shows that 74% of all respondents confirmed the perception that oil companies in Nigeria minimise their PPT estimate to improve their cash flow, by scoring “agree” and “strongly agree”. 85.7% of tax consultants rated oil companies minimising PPT monthly instalment payments between “agree” and “strongly agree”, while the percentage of tax administrators was 70.3% and taxpayers was 63.8%.

Regarding the difficulty in obtaining tax refund, Part A of the table presents the results of a Mann-Whitney test, which confirms that the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -3.30 with a significance level of 0.001. Respondents from consulting firms tend to readily agree that taxpayers minimise their monthly instalment payments because of difficulty in obtaining tax refunds. 93.9% from consulting firms ticked the “agree”, or “strongly agree” categories, compared with 84.6% from sole risk companies, 67.7% from joint venture and PSC companies and 59.3% from tax administration.

**Table 7-16 showing the perceived level of difficulty in obtaining a tax refund from government encourages minimising PPT estimate and helps cash flow situation**

<b>Part A</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Strongly d	1	2.9			1	2.1	1	2.0	2	7.4	4	3.3
Disagree	3	8.8			3	6.4			6	22.2	9	7.3
Neither	7	20.6	2	15.4	9	19.1	2	4.1	3	11.1	14	11.4
Agree	9	26.5	6	46.2	15	31.9	25	51.0	12	44.4	52	42.2
Strongly ag	14	41.2	5	38.4	19	40.5	21	42.9	4	14.9	44	35.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	61.04		66.88				71.68		43.28			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 43.28 and 67.27 respectively. Mann-Whitney U 790.5, Wilcoxon W 1168.5, Z – 3.299 and Asymp. Sig. (2-tailed). 001											
Kruskal W	Chi-Square 12.922, Difference 3 and Asymp. Sig. .005											
<b>Part B</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Strongly D									1	3.7	1	0.8
Disagree	1	2.9	1	7.7	2	4.3	3	6.1	3	11.2	8	6.5
Neither	13	38.2	2	15.4	15	31.9	4	8.2	4	14.8	23	18.7
Agree	11	32.4	4	30.8	15	31.9	25	51.0	12	44.4	52	42.3
Strongly ag	9	26.5	6	46.1	15	31.9	17	34.7	7	25.9	39	31.7
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rk	54.65		69.65				67.98		56.72			

Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 56.72 and 63.48 respectively. Mann-Whitney U 1153.5, Wilcoxon W 1531.5, Z = -.925 and Asymp. Sig. (2-tailed). 355
Kruskal	Chi-Square 4.533, Difference 3 and Asymp. Sig. .209

With regard to cash flow situation, Part B of the table shows Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -.93 with a significance level of 0.36. Respondents from consulting firms tend to readily agree that taxpayers minimise their PPT estimate to help cash flow. 85.7% from consulting firms ticked the “agree”, or “strongly agree” categories, compared with 76.9% from sole risk companies, 70.3% from tax administrators and 58.9% from joint venture and PSC companies.

Regarding difficulty in obtaining tax refund, Part A of the table reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 12.92 with a significance level of 0.005. With regard to cash flow situation, Part B of Table 7.16 also reports the result of a Kruskal-Wallis test, which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 4.5 with a significance level of 0.21.

In conclusion, it is found that a very high percentage of respondents readily confirmed that oil companies minimise their monthly PPT instalment payments and this helps in improving their cash flow situation, particularly among the taxpayers themselves and tax consultants. On the argument that minimising monthly PPT instalment payment due to difficulty in obtaining tax refund from government to improve cash flow situation, impacts on effective tax administration, this finding lends some support to Hypothesis H4.

### Summary of tests conducted on Hypothesis 4

Table 7-17 below summarises the results of the statistical analyses conducted to enable the researcher decide whether there is support or otherwise for Hypothesis 4 on answers obtained from the respondents to Questions 59 and 60 in the questionnaire. The questions elicited respondents' views on the difficulty of obtaining a tax refund from government encouraging taxpayers to minimise PPT estimate to improve their cash flow situation. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support Hypothesis 4 – **The perception that oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of H3 above,** in view of the result of the statistical analyses conducted.

**Table 7-17 Summary of Hypothesis 4**

<b>Q</b>	<b>Description</b>	<b>Support or otherwise</b>
59	Difficulty in obtaining a tax refund from government encourages minimising PPT estimate for an accounting period?	Supported
60	Minimising PPT estimate for an accounting period helps cash flow situation	Supported

#### **7.4.5 Hypothesis 5**

**H5: There is a perception that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remunerations and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions.**

In addressing the hypothesis, the researcher considered the answers obtained from the respondents to Questions 44 to 49 in the questionnaire. The questions drew forth respondents' perceptions of tax officials' technical knowledge, educational qualifications, educational opportunities, staff quality and experience at the Large Tax Office (LTO) and staff compensation, when compared with oil companies' tax executives. The answers to these questions, when subjected to statistical analysis and interpretation, help to decide whether there is support or otherwise for the hypothesis.

**Q44 – When you compare with your own company's tax personnel, how do you rate the FIRS staff in respect of technical knowledge?**

**Q45 –When you compare with your own company's tax personnel, how do you rate FIRS staff in respect of educational qualifications?**

**Q46 –When you compare with your own company's tax personnel, how do you rate FIRS staff in respect of educational opportunities?**

It is widely believed in Nigeria that oil companies' tax executives have better technical knowledge on tax matters, educational qualifications and opportunities than their counterparts in the FIRS. Respondents rating of the level of tax officials' technical knowledge on PPT matters, educational qualifications and opportunities may assist in measuring the perception on the competence of tax officials in Nigeria. Where tax officials have poor technical knowledge on PPT matters, poor educational qualifications and opportunities, there is the likelihood that they may not perform their

official duties effectively. The oil companies are known to depend largely on technical materials and expertise from their foreign principals. The quality of technical explanatory materials and reference materials available on day to day basis may vary considerably. Oil companies' tax executives are known to receive daily updates and to have access to high quality and up to date training and reference materials. They also have ready access to expert advice at their headquarters. Oil companies are known to have rigid recruitment process and are known to send their employees on cross-postings to take advantage of improving their educational level. Technical and reference materials are known to be in short supply to government tax officials due to limited budgetary allocation and recruitment process in civil service may not be as stringent as and there may be political consideration in its recruitment of tax officials. These may put the oil companies' officials at an advantage over the government tax officials, and as such the oversight functions of government tax officials may be affected by their inability to match the technical knowledge, educational qualifications and opportunities of oil companies' tax executives. In this regard, if H5 is correct, the researchers expect to confirm the perception that some tax officials in the upstream sector of the oil industry in Nigeria have poor technical knowledge of PPT matters, educational qualifications and opportunities and this may impair their oversight functions.

### **Evidence from questionnaire**

As can be seen from Table 7.18, 66.7%, 48% and 65.8% of all respondents rated the level of tax officials' technical knowledge, educational qualifications and opportunities, respectively, between "very poor" and "low". These represent a high percentage. It is also clear from Part A of Table 7.18 that an even higher percentage (85.7%) of tax consultants rated tax officials' technical knowledge as no better than "low", while the percentage of taxpayers was 61.7% and tax administrators was only 40.7%.



**Table 7-18 showing the perceived level of technical knowledge, educational qualifications and opportunities of FIRS staff, when compared with oil companies' tax personnel.**

<b>Part A</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
V Poor							4	8.2	1	3.7	5	4.1
Poor	2	5.9	1	7.7	3	6.4	5	10.2	1	3.7	9	7.3
Fair	19	55.9	7	53.8	26	55.3	33	67.3	9	33.3	68	55.3
Good	13	38.2	5	38.5	18	38.3	7	14.3	13	48.1	38	30.9
V Good									3	11.2	3	2.4
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	66.5		65.92				48.43		79.07			
Mann Whitney t	The mean ranks for tax administrators and taxpayers/advisers are 79.07 and 57.20 respectively. Mann-Whitney U 835.0, Wilcox W 5491.0, Z – 3.147 and Asymp. Sig. (2-tailed). 002											
Kruskal W	Chi-Square 17.466, Difference 3 and Asymp. Sig. .001											
<b>Part B</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
V Poor									1	3.7	1	0.8
Very low			1	7.7	1	2.1	5	10.2			6	4.9
Low	10	29.4	5	38.5	15	31.9	34	69.4	3	11.1	52	42.3
High	21	61.8	7	53.8	28	59.6	10	20.4	18	66.7	56	45.5
Very High	3	8.8			3	6.4			5	18.5	8	6.5
TOTAL	34	100	13	100	47	100%	49	100%	27	100%	123	100%
Mean Rank	74.40		60.35				41.56		84.22			
Mann Whitney	The mean ranks for tax administrators and taxpayers/advisers are 84.22 and 55.75 respectively. Mann-Whitney U 696.0, Wilcox W 5352.0, Z – 4.025 and Asymp. Sig. (2-tailed). 000											

Kruskal Wallis	Chi-Square 37.077, Difference 3 and Asymp. Sig. .000											
<b>Part C</b>	<b>Taxpayers</b>						<b>Tax</b>		<b>Tax</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
V Poor									2	7.4	2	1.6
Very low							8	16.3	1	3.7	9	7.3
Low	23	67.6	9	69.2	32	68.0	27	55.1	11	40.7	70	56.9
High	9	26.5	3	23.1	12	25.6	14	28.6	12	44.4	38	30.9
Very High	2	5.9	1	7.7	3	6.4			1	3.8	4	3.3
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	65.21		64.73				55.48		68.48			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 68.48 and 60.18 respectively. Mann-Whitney U 1121.0, Wilcox W 5777.0, Z – 1.206 and Asymp. Sig. (2-tailed). 228											
Kruskal Wallis	Chi-Square 3.668, Difference 3 and Asymp. Sig. .300											

Part B of Table 7.18 also shows that 79.6% of tax consultants rated the educational qualifications of FIRS staff as no better than “low”, while the percentage of taxpayers was 34% and tax administrators themselves was only 14.8%. Part C of Table 7.18 further shows that 71.4% of tax consultants rated the educational opportunities of FIRS staff as no better than “low”, while the percentage of taxpayers was 68% and tax administrators was 51.8%.

With regard to the technical knowledge of tax officials, Part A of Table 7.18 also presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is statistically significant at the 5% level: the z approximation test value is -3.15 with a significance level of 0.002. Respondents from consulting firms tend to rate the tax officials’ technical knowledge as no more than “low”. 85.7% from consulting firms ticked the “very poor”, “very low” or “low” categories, compared with 61.8%

from joint venture and PSC companies, 61.5% from sole risk companies and 40.7% from tax administration. Regarding the educational qualifications, Part B of the table also shows Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators, is statistically significant at the 5% level: the z approximation test value is -4.03 with a significance level of 0.000. Respondents from tax consultants seem to rate the educational qualifications of FIRS staff as no more than “low”. 79.6% from consulting firms ticked the “very poor”, “very low” or “low” categories, compared with 46.2% of sole risk operators, 29.4% from joint venture and PSC companies and just 14.8% from tax administration. With regard to the educational opportunities of tax officials, Part C of the table presents shows Mann-Whitney test, which confirms that the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -1.21 with a significance level of 0.23. Respondents from consulting firms tend to rate the educational opportunities of FIRS staff as no more than “low”. 71.4% from consulting firms ticked the “very poor”, “very low” or “low” categories, compared with 69.2% of sole risk operators, 67.6% from joint venture and PSC companies and another 51.8% from tax administration.

With regard to the technical knowledge of tax officials, Part A of Table 7.18 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 17.47 with a significance level of 0.001. The views of tax consultants and taxpayers are of particular interest. A significant proportion of tax officials themselves acknowledge their low technical knowledge. Tax consultants and taxpayers have a lower assessment of tax officials’ technical knowledge than tax administrators credit themselves. With regard to the educational qualifications of tax officials, Part B of Table 7.18 shows Kruskal-Wallis test, which confirms that there is a statistically significant difference

between the responses of the four groups: the chi-squared test value is 37.08 with a significance level of 0.000. Regarding the educational opportunities of tax officials, Part C of Table 7.18 also reports the result of a Kruskal-Wallis test, which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 3.67 with a significance level of 0.30.

In conclusion, it is found that a high percentage of respondents believe that tax officials have no more than a “low” rating on technical knowledge, educational qualifications and opportunities, particularly among the tax consultants and taxpayers. On the argument that low technical knowledge, educational qualifications and opportunities is liable to impair tax officials’ oversight functions, this finding lends some support to Hypothesis H5.

**Q47 - How do you rate the Large Tax Office (LTO) of the FIRS on staff quality?**

**Q48 -How do you rate the Large Tax Office LTO) of the FIRS on staff experience?**

Ordinarily, the researcher believes that the LTO of the FIRS, which houses tax officials handling the upstream sector of the oil industry in Nigeria, should be manned by high quality and experienced staff, as oil is the principal revenue of government. Respondents’ rating of the LTO in respect of the quality and experience of staff may assist in measuring the perception on how well equipped the FIRS is in handling the upstream taxpayers’ tax matters. Where the LTO is manned by poor quality and inexperienced staff, there is the likelihood that such tax officials may not fully understand what needs to be done. Oil companies are known to spend considerable sum of money to train, develop and encourage their employees. They are known to parade experienced and well motivated tax executives. Government, on the other hand, utilises civil servants who may not necessarily possess the same level of qualification and exposure as the oil companies’ tax

executives. Budget allocation for staff development in the civil service is regarded as low and this may prevent tax officials from attending appropriate development courses and seminars. In a situation like this, oil companies' tax executives may bring their superior quality and experience to bear on the tax officials. Where the LTO does not utilise comparative quality and experienced staff, the tax officials' oversight function may be affected. In this regard, if H5 is correct, it would be expected to confirm that the LTO has some poor quality and inexperienced staff and this may impair their oversight functions.

### **Evidence from questionnaire**

As can be seen from Table 7.19, 49.6% and 51.3% of all respondents rated the LTO in respect of the quality and experience of staff, respectively, between "very poor" and "average". These represent a high percentage of the sample. It is also clear from Part A of Table 7.19 that an even higher percentage (61.2%) of tax consultants rated LTO's quality of staff as no better than "average", while the percentage of taxpayers was 53.2% and tax administrators themselves was 22.2%. Part B of Table 7.19 also shows that 65.2% of tax consultants rated the LTO's experience of staff as no better than "average", while the percentage of taxpayers was 51% and tax administrators was only 25.9%.

With regard to the quality of staff, Part A of the table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators are statistically significant at the 5% level: the z approximation test value is -3.62 with a significance level of 0.00. Respondents from sole risk operators appear to rate LTO quality of staff as no more than "average". 69.2% from sole risk companies ticked the "very poor", "below average" or "average" categories, compared with 61.2% from consulting firms, 47% from joint venture and PSC companies and just 22.2% from tax administration.

**Table 7-19 showing the perceived LTO of the FIRS on the quality and experience of staff.**

<b>Part A</b>	<b>Taxpayers</b>						<b>Tax Consultants</b>		<b>Tax administrators</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No</b>	<b>%</b>						
V Poor	1	2.9			1	2.1			1	3.7	2	1.6
Below average							5	10.2			5	4.1
Average	15	44.1	9	69.2	24	51.1	25	51.0	5	18.5	54	43.9
Good	16	47.1	3	23.1	19	40.4	18	36.7	14	51.9	51	41.5
V Good	2	5.9	1	7.7	3	6.4	1	2.1	7	25.9	11	8.9
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	63.15		53.04				52.48		82.15			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 82.15 and 56.33 respectively. Mann-Whitney U 752.0, Wilcoxon W 5408.0, Z – 3.620 and Asymp. Sig. (2-tailed). 000.											
Kruskal Wallis test	Chi-Square 15.384, Difference 3 and Asymp. Sig. .002											
<b>Part B</b>	<b>Taxpayers</b>						<b>Tax Consultants</b>		<b>Tax administrators</b>		<b>TOTAL</b>	
	<b>JV and PSC</b>		<b>Sole risk</b>		<b>Taxpayers</b>		<b>Consultants</b>		<b>administrators</b>			
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No</b>	<b>%</b>						
V Poor							1	2.0			1	0.8
Below av	1	2.9			1	2.1	8	16.3	1	3.7	10	8.1
Average	15	44.1	8	61.5	23	48.9	23	46.9	6	22.2	52	42.4
Good	16	47.1	4	30.8	20	42.6	16	32.7	13	48.1	49	39.8
V Good	2	5.9	1	7.7	3	6.4	1	2.1	7	26.0	11	8.9
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	65.09		59.23				49.83		81.54			
Mann Whitney t	The mean ranks for tax administrators and taxpayers/advisers are 81.54 and 56.51 respectively. Mann-Whitney U 768.5, Wilcoxon W 5454.5, Z – 3.476 and Asymp. Sig. (2-tailed). 001.											
Kruskal W	Chi-Square 16.459, Difference 3 and Asymp. Sig. .001.											

Regarding the experience of staff, Part B of the table shows Mann-Whitney test, which confirms that the difference between the responses of the taxpayers/advisers and the tax administrators is

statistically significant at the 5% level: the z approximation test value is -3.48 with a significance level of 0.001. Respondents from consulting firms tend to rate the LTO's experience of staff as no more than "average". 65.2% from consulting firms ticked the "very poor", "below average" or "average" categories, compared with 61.5% of sole risk operators, 47% from joint venture and PSC companies and another 25.9% from tax administration.

Regarding the quality of staff, Part A of Table 7.19 reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 15.38 with a significance level of .002. With regard to the experience of staff, Part B of the table also reports the result of a Kruskal-Wallis test, which confirms that there is a statistically significant difference between the responses of the four groups: the chi-squared test value is 16.46 with a significance level of .001.

In conclusion, the researcher has found that a large number of respondents believe that the LTO quality and experience of staff is no more than average particularly among the taxpayers and tax consultants. About 25 percent of tax officials also scored the experience of their staff as no more than "average". On the argument that lack of quality and experienced staff is liable to lead to impairment of oversight functions, this finding lends some support to Hypothesis H5.

#### **Q49 –How do you compare oil companies’ staff compensation with that of FIRS?**

It is widely believed that employees of oil companies are highly remunerated and that their staff compensation package is better than that of the FIRS. Respondents rating of oil companies’ staff compensation when compared with FIRS may assist in measuring the perception of the remuneration package of FIRS. Where tax officials are poorly paid, there is the likelihood that such officials may not give their full commitment to the FIRS. Oil companies are known to pay top of the range remuneration in Nigeria. On the other hand, the civil service has its own salary structure which is very much lower than the oil companies’ salary structure. Oil company officials who are better remunerated and motivated may feel superior to the tax officials, and this may affect the oversight functions of the tax officials. In this regard, if H5 is correct, the researcher expects to confirm the perception that tax officials’ compensation package is poor and this may impair their oversight functions.

#### **Evidence from questionnaire**

Table 7.20 shows that 98.4% of all respondents rated the staff compensation package of oil companies higher than that of the FIRS. This represents a very high percentage. Table 7.20 also shows that 100% of tax administrators and taxpayers acknowledged that oil companies pay higher than the FIRS, while tax consultants was 96%. The table presents the results of a Mann-Whitney test, which confirms that, the difference between the responses of the taxpayers/advisers and the tax administrators is not statistically significant at the 5% level: the z approximation test value is -.75 with a significance level of 0.45. Respondents from tax administration and oil companies seem to acknowledge that oil companies pay higher than the FIRS. 100% from joint venture and PSC companies, sole risk companies and tax administration ticked the “oil companies pay higher than the FIRS”, compared with 96% of tax consultants.



**Table 7-20 showing the comparison of the perceived level of oil companies' staff compensation with FIRS**

	Taxpayers						Tax Consultants		Tax administrators		TOTAL	
	JV and PSC		Sole risk		Taxpayers		No.	%	No.	%	No.	%
	No.	%	No.	%	No.	%						
Oil companies pay higher than FIRS	34	100	13	100	47	100	47	96.0	27	100	121	98.4
Comparable							1	2.0			1	0.8
Oil companies pay lower							1	2.0			1	0.8
TOTAL	34	100%	13	100%	47	100%	49	100%	27	100%	123	100%
Mean Rank	61.00		61.00				63.51		61.00			
Mann Whitney test	The mean ranks for tax administrators and taxpayers/advisers are 61.00 and 62.28 respectively. Mann-Whitney U 1269.0, Wilcoxon W 1647.0, Z – .753 and Asymp. Sig. (2-tailed). 451											
Kruskal Wallis	Chi-Square 3.045, Difference 3 and Asymp. Sig. .385											

Table 7.20 also reports the result of a Kruskal-Wallis test, which confirms that there is no statistically significant difference between the responses of the four groups: the chi-squared test value is 3.05 with a significance level of 0.39.

In conclusion, it is found that a very high percentage of respondents acknowledged that the oil companies pay higher than the FIRS, particularly among the tax administrators, taxpayers and tax consultants. On the argument that low compensation package is liable to lead to impairment of oversight functions this finding lends some support to Hypothesis H5.

## Summary of tests conducted on Hypothesis 5

Table 7-21 below summarises the results of the statistical analyses conducted in deciding whether there is support or otherwise for Hypothesis 5 on answers obtained from the respondents to Questions 44 to 49 in the questionnaire. The questions drew forth respondents' perceptions of tax officials' technical knowledge, educational qualifications, educational opportunities, staff quality and experience at the Large Tax Office (LTO) and staff compensation, when compared with oil companies' tax executives. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables.

**Table 7-21 Summary of Hypothesis 5**

Q	Description	Support or otherwise
44	When you compare with your own company's tax personnel, how do you rate the FIRS staff in respect of technical knowledge?	Supported
45	When you compare with your own company's tax personnel, how do you rate FIRS staff in respect of educational qualifications?	Supported
46	How do you rate the LTO of the FIRS on the quality of staff?	Supported
47	How do you rate the LTO of the FIRS in respect the quality of staff?	Supported
48	How do you rate the FIRS LTO in respect of experience of staff?	Supported
49	How do you compare oil companies' staff compensation with FIRS?	Supported

The body of evidence seems to support Hypothesis 5 – **There is a perception that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remunerations and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions**, in view of the result of the statistical analyses conducted.

## **7.5 Link between the questionnaire perceptions of “no more than fair” and “no more than average” and non-compliance hypothesis**

The researcher, at this juncture, sees the need to strengthen the link between the questionnaire perceptions of “no more than fair” and “no more than average” and non-compliance hypothesis. When a statistically significant number of respondents confirm that PPT taxpayers' understanding of PPT law is “no more than fair”, and the transparency of oil companies to FIRS is “no more than fair” and information disclosure in oil companies' tax returns is “no more than average”, these questionnaire perceptions, on their own, tend to give an indication of less than full compliance with the PPT law. But the researcher needs to combine the survey perceptions with evidence from the interview results in seeking acceptable and convincing support for the non-compliance hypothesis. For this reason, the researcher turns attention to Chapter 8 which summarises the results of the interviews conducted with oil industry taxation experts.

## **CHAPTER 8    ANALYSIS AND INTERPRETATION OF DATA - QUALITATIVE**

### **8.1    Introduction**

In Chapter 7, the author presents an analysis of the research data collected from the survey and conduct a series of hypothesis tests. The chapter contains commentary (illustrated with selected tables) using frequency tests and other statistical analysis conducted using SPSS software. It covers the tests of hypotheses, evidence obtained from the questionnaire, support (or otherwise) for the hypotheses and interpretation.

In this chapter, the researcher covers the qualitative aspect which provides valuable insight and illumination into PPT administration and practice in Nigeria. Due to the exploratory nature of this study, conducting face to face interviews with experienced regulatory, tax and government officials provide the benefit of their in-depth knowledge of the petroleum industry and furnishes additional information on the fiscal and operational aspect of the upstream petroleum sector in Nigeria. The researcher uses personal interviews to gain further insights and to corroborate some of the findings of the quantitative research which were covered in Chapter 7. A schematic diagram of the approach adopted for the gathering of the qualitative data is set out in Figure 8-1.

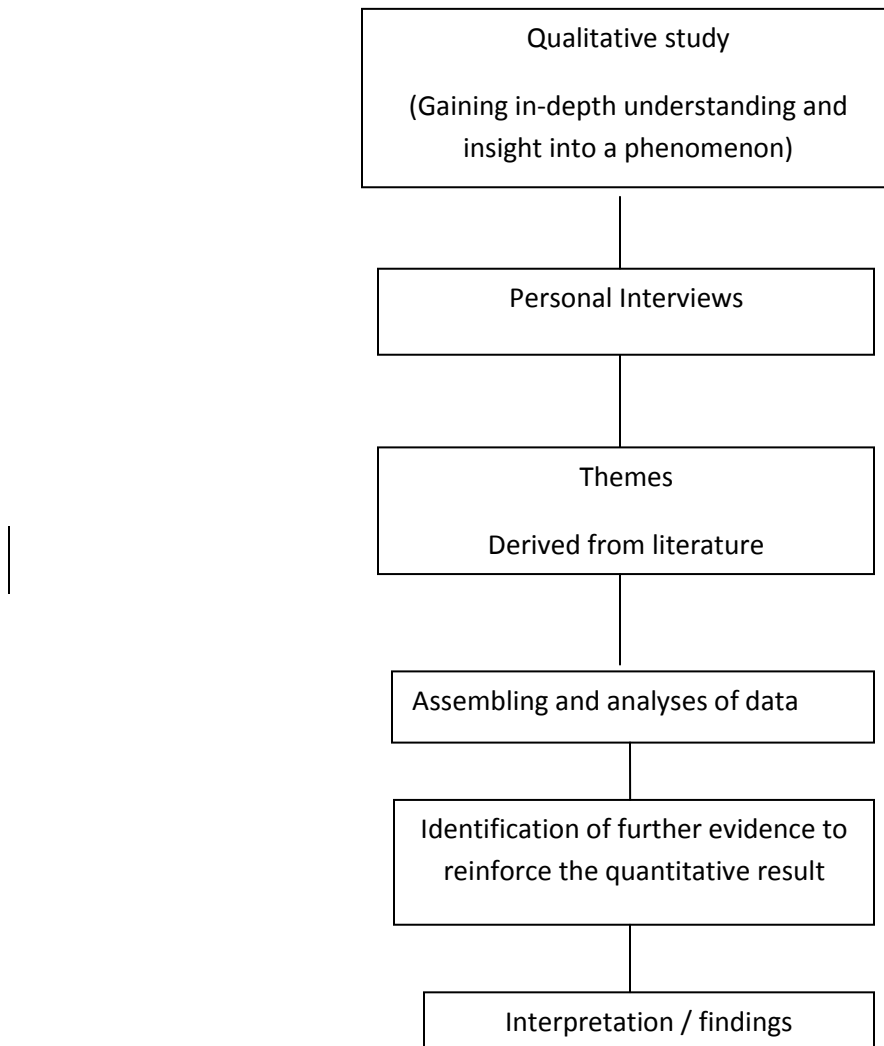
The data analysis and interpretation in this chapter, together with the results obtained in Chapter 7, provide the bases for policy recommendations and conclusions which are discussed in Chapter 9.

### **8.2    Personal interviews**

The researcher conducted face to face interviews, using semi structured questions intended to explore the variety and complexity of PPT administration and practice in Nigeria. This is with the view to using the interview results to reinforce the findings of the quantitative study, while at the same time drawing more insightful information from the interviewees. These interviews enable past and current developments on petroleum taxation in Nigeria to be explored. The interviews

were digitally recorded using an Olympus VN-2100PC digital voice recorder and promptly transcribed and saved on computer disks (CDs).

## QUALITATIVE RESEARCH APPROACH



**Figure 8-1:** Schematic approach to the qualitative data

### **8.3 Themes used for the interviews**

The researcher developed an interview guide to ensure proper coverage of the themes of the interview and on which a list of interview questions were based. The themes, which are summarised in Figure 8-2 of this chapter, have been derived from the literature and the quantitative study. Both the interview guide and interview questions were tested before the main interview; the researcher conducted test interviews with two tax consultants who have extensive knowledge of the petroleum tax regime in Nigeria. The two consultants offered suggestions for improving the questions and created time to further review the questions prior to the researcher exposing the questions to real life situations. This helped in achieving reliability of the interview questions.

### **8.4 Data analysis**

The researcher digitally recorded the interviews which were transcribed immediately after the interviews. The researcher gave careful thought to organising and interpreting the different data obtained during the interview. This calls for searching for further evidence to support the result of the quantitative study. The researcher adopted a rigorous approach to the data analysis by ensuring that common trends in the data were readily identified, thereby making collation of interview results on each theme possible. This was with a view to reducing the variability of responses and increasing comparability.

### **8.5 Selecting the interviewees**

The researcher adopted judgmental sampling in selecting the subjects for the interviews because of the scarcity of petroleum tax experts within the oil and gas industry in Nigeria. The researcher had to reach out to tax administrators, oil companies' tax executives, tax consultants and advisers and regulatory officials, to ensure a wide coverage of experts. One thing is identifying the experts and another thing is getting an appointment with an interviewee. A further problem is the inability of some of the interviewees to be available at the appointed time, as some of the appointments had to

be rescheduled a number of times at the instance of some of the interviewees due to pressure of work. Some of the interviewees travel extensively in and out of Nigeria. The researcher had prior concurrence of the participants to record the interviews digitally. Confidentiality was assured and that the interviews were only for purpose of this research. A total of seven interviews were conducted.

## **8.6 The Interviewees**

The researcher interviewed the following officials.

- Deputy Director, FIRS
- Deputy Director, DPR
- Official of the NNPC
- Former Regional Tax Leader, Deloitte West and Central Africa
- Regional Energy and Resources Leader, Deloitte West and Central Africa
- Tax Administrator (name protected)
- Oil Company Tax Executive (name protected)

The interviews covered matters affecting PPT administration, fiscal regimes, petroleum production, royalty, petroleum revenue, areas of differences amongst regulatory agencies and how the regulators can work together to improve petroleum revenue in Nigeria. The interviews provide valuable insight and illumination into PPT administration and practice in Nigeria. The interviewees were chosen because of their deep knowledge of the upstream petroleum sector in Nigeria so also their involvement in the development of fiscal policies as well as administration and practice of PPT in Nigeria. The interviewees are as follows:

Dr. I.O. Walker is a Deputy Director of DPR, the regulatory body responsible for the management of oil and gas exploration and production in Nigeria. The DPR is statutorily empowered to collect

royalties, concession rentals and gas flare penalties on behalf the Government of Nigeria. Dr. Walker has been with the DPR since 1981 when the Department was known as Petroleum Inspectorate, an arm of the NNPC. He left for the OPEC in Vienna, Austria in 1988 and came back to the DPR eight years later and has since remained with DPR. He is presently the Head of Project Economics and Value. He sees to it that all projects in the petroleum industry, for it to be done, must add value to the people of Nigeria.

Mr. M.A.C Dike is a Deputy Director and Acting Head of the Large Taxpayers Office (Oil and Gas Unit) of FIRS. He has been in tax administration for the last twenty years and has headed the Oil and Gas Unit since 2003. He has been involved in tax reforms in Nigeria at the formal level since 1991 when Prof Emmanuel Edozie headed the Study Group and was the Assistant Secretary (Technical) in the Group. He was also the Secretary to Prof. Dotun Philips latest efforts in tax reforms in Nigeria.

An official of the NNPC who asked that his name be protected volunteered information on petroleum exploration and production as well as the fiscal aspects of the upstream petroleum sector in Nigeria. He opted for his name to be protected as he is still a serving officer and requires the government's consent which was not forthcoming. He is known to be highly knowledgeable of the oil and gas industry in Nigeria. The interview was documented by the researcher making copious notes of the interview as it lasted.

Mrs. Adebimpe Balogun is the former Regional Tax Leader of Deloitte West and Central Africa. She has some 27 years work experience with tax administration and professional practice. She worked with the former Federal Board of Inland Revenue for seven years before joining professional practice. She thereafter worked with Ernst and Young for four years and PriceWaterhouseCoopers for fourteen years before joining Deloitte. She was a former President of



the Chartered Institute of Taxation of Nigeria (CITN). She now practices under the name Saffron Professional Services.

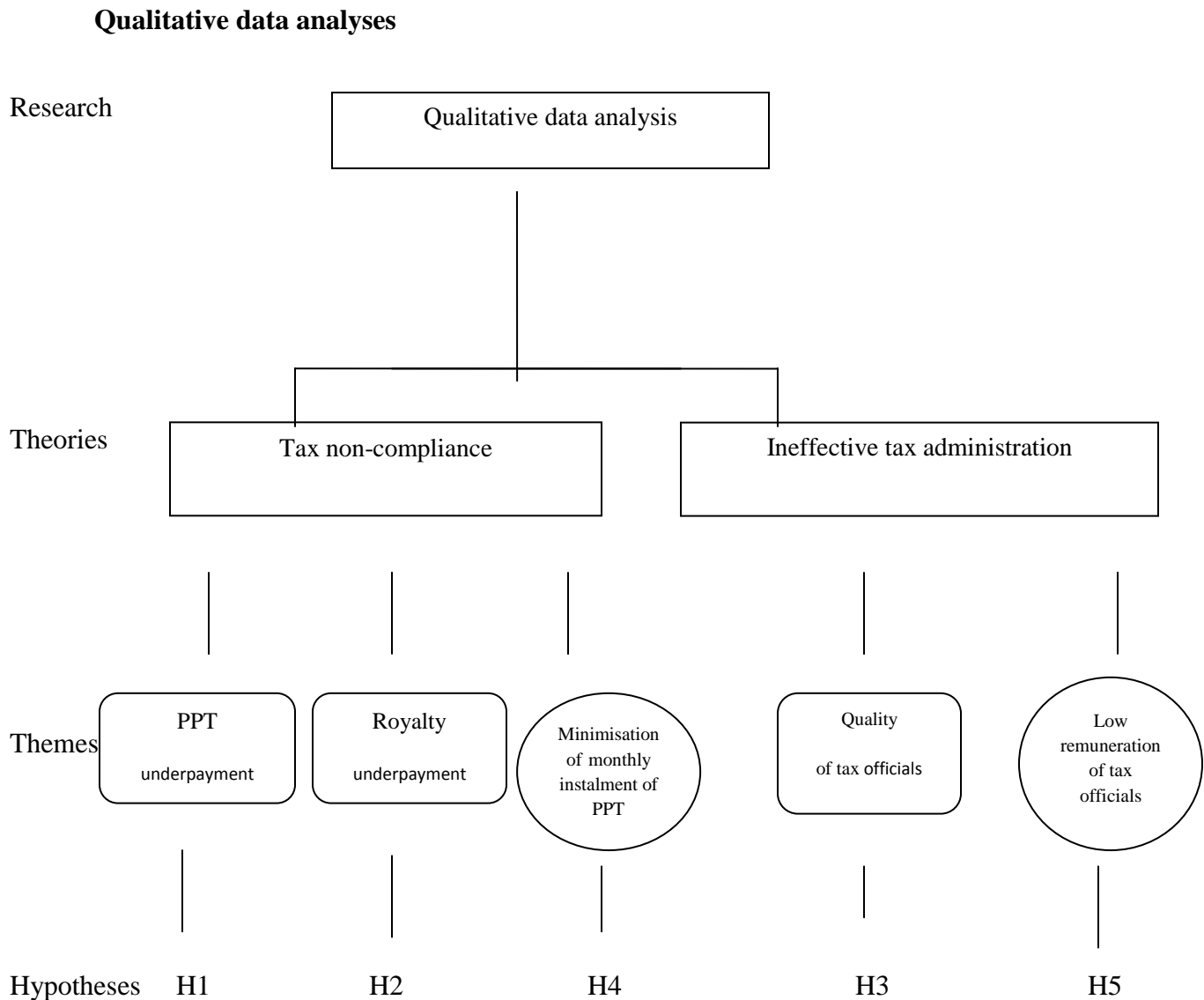
Femi Abegunde is the Regional Energy and Resources Leader of Deloitte West and Central Africa. He has some 20 years experience of oil industry accounting and taxation, eleven of which was spent on oil and gas taxation. He was a Partner of Arthur Andersen before joining Deloitte.

A tax administrator (name protected) provided specific answers to the interview questions. The officer opted for the name to be protected as a serving officer and requires government consent which was not forthcoming. The experience on oil and gas taxation transcends two decades.

A tax executive of a major oil producing company in Nigeria agreed to be interviewed but asked that his name be protected. He is known to be highly skilled and has deep knowledge of the oil and gas industry in Nigeria. He interacts regularly with government tax officials.

A director of the CBN who has initially accepted to be interviewed could not be reached after several follow-ups. Hence the researcher opted to drop him from the interview list as some of the questions he was to express his views on have been answered by other interviewees in the course of conducting the personal interviews.

Figure 8-2 shows the approach used in qualitative data analyses. It also shows particularly the mapping of qualitative data on tax non-compliance and ineffective tax administration from the themes and how they relate to the hypotheses.



**Figure 8-2** Mapping of qualitative data on tax non-compliance and ineffective tax administration

### 8.7 Evidence from the interviews

In the following sections, the researcher uses theories extracted from the literature review, quotations from the interviewees and researcher's participatory experience gained in being immersed in the interview, to seek further insights and to corroborate some of the findings of the quantitative research. The theories are used to explain the phenomena that the researcher is investigating. Attempts are also made to match extracts from the interviews to theories.

### **8.7.1 Tax non-compliance (Re Hypotheses 1)**

**H1- There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the PPT Act in relation to the payments of PPT.**

Companies engaged in petroleum operations in Nigeria are mandated to comply with the PPT Act. The law has provisions for deriving income from crude oil exported, allowable expenses, disallowed expenses, adjusted profits, assessable profits, chargeable profits and chargeable tax. There is also the MOU, signed by both Government and individual oil companies, and which guarantees a minimum margin per barrel of crude oil. But the complexity of the MOU makes the basis of computing PPT readily incomprehensible. This puts to test the ability of the taxpayers and the tax administration to readily comprehend the law. There have been suggestions that the oil producing companies in Nigeria may not be fully complying with the PPT law because oil companies minimise their tax liability and may be paying some taxes within the law but not to the extent intended by the law. Bird and Oldman (1990, page 456) warned that “the line between tax avoidance, or the using of laws so as to minimise payment of taxes, and tax evasion, the breaking of laws, is difficult to define clearly”. They argued that “taxpayers may seek to take the most favourable interpretation of existing law so as to take advantage of the use of money temporarily saved on taxes”. The perception of respondents to the questionnaire particularly their “no more than fair or average” rating of the level of transparency, filing of estimated and final taxes of oil producing companies in Nigeria, prompted the researcher to use personal interviews to reinforce the result of the quantitative study. In this regard, if H1 is correct, it would be expected to confirm that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of PPT law in relation to the payment of PPT.

Some respondents to the questionnaire survey confirmed that the oil producing companies may be paying PPT but that they may be paying less in monthly instalments than envisaged by the law, for

cash flow advantage. The researcher believes that non-compliance may be seen from delay in payment of PPT and reduction in amount paid. It is believed that tax authorities, before now, were not well equipped in enforcing tax compliance as there have been complaints about low budget, inadequate exposure and little or no training, inadequate resources and lack of logistical support for tax administration. The rather handicapped and incapacitated tax administration did not appear to be properly prepared to match the well paid and well motivated oil company officials. It is believed that the oil producing companies have better strategy, power and level of authority than the incapacitated tax administration; consequently, oil company officials will always find the best way round the law and tilt issues to their advantage. Tanzi et al (1993, page 807:2) opined that “tax evaders may not declare income, may under report income, sales or wealth, may over report deductible expenses”. King and Sheffrin (2002, page 507) reported that “when taxpayers believe that the tax system to be unfair, they can evade tax”. Das-Gupta et al (2004, page 575) acknowledged that “low tax compliance is a matter of serious concern in many developing countries”.

As can be seen from the transcripts of the interviews conducted, Dike acknowledged that “to the extent that you do not have adequate database then you are up to an uphill task”. He also acknowledged that “... oil and gas business is a very complex business, very complex with a lot of dynamics infused into it, a lot of technicalities involved, not too many people are versed in it, even if you are versed in the technical side of the business, it may still not be the same talking about the fiscal issues. For us in Nigeria, I’m not sure that we have always been blessed with having too many people who are versed in the fiscal side of it”. He further asked that “but for tax, you pay money especially direct tax and you are not getting any direct benefit in return and therefore it kind of dissuades people and they would use the word ‘qui bono’ for what am I paying for?”. He also said that the PPT administration faces certain challenges particularly non-cooperation of “the

various government agencies that have role to play in the oil and gas industry”. On the MOU, he opined that “Government thought that the MOU was no longer good given the high oil price” and that “we could as well minimise the incentives and have the rates lower and still make more revenues for government than the deceptive 85% rate with a depressed tax base therefore we are not getting enough”. This view seems to support the theory that there is an optimum maximum for tax rates, beyond which the total amount of revenue collected starts to decrease rather than increase, otherwise known as Laffer Curve analysis (Laffer 2004, page 2). Dike submitted that “some amendments proposed” of the tax laws “have been tucked away at the National Assembly”. He acknowledged tax leakage being caused by “attitude of both who are supposed to pay tax, attitude of even government itself and of course, by extension, to those who are tax administrators, and that “until we purge ourselves as a nation and our people of that attitude, then of course, we would still continue to have tax leakages in tax system”. He further opined that lack of accurate statistics leads to underpayments.

Balogun attributed the challenges faced by FIRS to lack of understanding of the industry and “there is still a very big gap in the appreciation of what the industry is all about. The intricacies of the accounting principles, even the application of the tax laws for the Inspector of Taxes, there has been dearth of knowledge in the FIRS and therefore it has created some challenges. What you find out is whatever the oil companies come with, it is difficult to challenge when you do not understand what they are saying as an Inspector of Taxes”. Balogun also attributed tax non-compliance to “lack of appreciation of the importance of enacting a law that is unambiguous, a law that captures the intricacies of that sector. The lack of understanding in our legislators not appreciating how important it is to pass the legislation as reviewed and amended to date so that it can put a lot of inequalities and ambiguity in the right perspective” which she attributed to lack of political will. She further opined that as the major oil producing companies “have recouped their

capital over the years, there is a need to revisit the MOU and take an assessment whether it is still relevant in oil operations of the day or not”. She attributed tax leakage to greed and wondered why government tax officials should “cooperate with taxpayers to evade taxes”. She admitted that where the “collection process is not adequately monitored and controlled; we find a situation where the leakages also occur there”. Abegunde attributed the challenge of tax administration in Nigeria to problem of “completeness of information, integration of information, competence of the administration and cohesiveness of the administration itself”. He noted that the “MOU is outdated and needs to be reviewed” and that the government has come out to say that the MOU no longer exists but they have not given legal backing to the statement, consequently, the oil producing companies still file tax returns under the MOU. He attributed leakages in tax revenue to incompetence or lack of adequate knowledge in computing and evaluating tax returns and “intentional wilful misconduct on the part of certain tax officials as already proven in time”.

Tax administrator (name protected) blamed the slow amendment of the PPT law on overwhelming influence of the oil producing companies, lack of will on the part of government, lack of capacity building, incompetence and inadequate knowledge of the petroleum industry of government tax officials. The tax administrator also blamed tax leakages on corruption and social insecurity, government’s insincerity on the use of taxpayers’ monies and weak enforcement strategy. Other reasons adduced for tax non-compliance include lack of required data and information and uncooperative attitude of oil producing companies and their tax consultants.

An oil company tax executive (name protected) attributed the challenges faced by FIRS to cash problem, “ambiguity and lack of clarity on some of the provisions that take long to rectify’, manpower problem and ‘political interference in the activities of FIRS”.

With all the foregoing, the question may be asked whether “**oil and gas (exploration and production) companies in Nigeria comply fully with the provisions of the PPT Act in relation to the payments of PPT**”? (Hypothesis 1).

Considering the responses of the experts particularly tax administrators, the acknowledgement of lack of “adequate database” as the tax authority keeps requesting for repeated information from taxpayers, “non-cooperation of various government agencies that have role to play in the oil and gas industry”, lack of experts “versed in fiscal side”, complexity of the MOU and delay in enacting amendments to the PPT Act, tax leakage caused by attitude of government and tax administrators, there is the probability that assessments are settled by negotiation and this may not necessarily be in the spirit of the law. Settlement of tax liability by negotiation may possibly leave room for some corrupt practices by taxpayers and tax officials. The researcher is aware that negotiation is a common means of settling tax liabilities but it is not possible to offer any hard evidence. The perceived superiority of oil company officials over government tax officials may also leave room for the oil company to take inherent advantage of the government tax officials. Consequently, the oil producing companies may not be fully complying with the PPT law. On the argument that “no more than fair or average compliance with the PPT law may lead to non-compliance, the interview evidence lends some support to our quantitative findings concerning Hypothesis 1.

### **8.7.2 Royalty underpayment (Hypothesis 2)**

**H2 – There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the Petroleum Act in relation to the payments of royalties.**

Companies engaged in petroleum exploration and production in Nigeria, are mandated to comply with the Petroleum Act. The law governs the issuance of oil exploration licence (OEL), oil prospecting licence (OPL) and oil mining lease (OML). The law regulates the assessment to royalty in the concession area. Royalties are paid on petroleum won in a concession area. The

Petroleum (Drilling and Production) Regulations, annexed to the Petroleum Act covers royalties. It provides for the payment of royalties on crude oil produced at the field of production. It states that royalties must be paid “not more than one month after the end of every quarter”. It prescribes royalty rates for onshore and offshore production. The DPR is statutorily empowered to collect royalty payments. There have been suggestions that oil producing companies in Nigeria may not be fully complying with the Petroleum Act. The law states that royalty must be based on production but some oil companies are believed to be basing their royalty computation on shipments. The researcher believes that companies basing their royalty payments on shipments as confirmed by respondents to the questionnaire survey instead of crude oil production may not be fully complying with the Petroleum Act. In this regard, if H2 is correct, it would be expected to confirm that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the Petroleum Act in relation to the payments of royalty.

Binniyat (2006, page 14) reported Harts finding on the extractive industry in Nigeria that the DPR “allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to Government thereby making underpayments”. An interviewee, Walker confirmed that “the daily production figures would not actually give us an accurate recording of what the dry crude should be. But at the end of the month, we do a proper reconciliation to get what we call fiscalised crude or exportable crude or in general terms, the dry crude”. Walker also confirmed that the DPR is facing many challenges; one is bureaucracy which makes it difficult for the DPR “to operate as the oil industry issues demand”. He cited another problem that “the DPR in the past years has been handicapped with regards to finances since it has to go through the budgetary procedure” which takes a long time to complete. Walker confirmed that the DPR finds it difficult to do its supervisory work as it should be, for instance, going to terminals (i.e. offshore terminals) is hindered as DPR does not have its own facilities particularly helicopters and speedboats and that



the DPR depends on the oil companies in order to inspect oil companies facilities, “so, on-the-spot checks and surprise checks are now not easy to come by”. Walker further noted that “for quite a long time, employment was not done, so the workforce here is an issue i.e. ageing workforce”. Yet another problem faced by DPR is inadequate resources. Walker noted that “resources are just not adequate” and that required vehicles are “coming in trickles”. Walker further advised that NNPC should “know its role and play its role without interfering with DPR’s work” and that “a lot of other agencies interfere with the work of DPR”, namely Ministry of Environment, Standards Organisation of Nigeria, the Ministry of Trade and Industry. Walker revealed that oil producing companies were allowed to do self assessment but DPR realised that was not a very effective way as the royalty revenue payment drive which DPR conducted showed that, “a lot of companies were owing”. He finally confirmed that NNPC continues to collect royalty even though the DPR is statutorily empowered to do so, because of “issues of competence and manpower”

**With all the foregoing, the question may be asked whether the oil and gas (exploration and production) companies in Nigeria comply fully with the provisions of the Petroleum Act in relation to the payments of royalty? (Hypothesis 2).**

Considering the responses of the experts, particularly oil exploration and production regulators and independent consultants, the use of parameters that suited upstream companies to pay what they deem fit as royalty, inaccurate recording of daily production figures, basing royalty payment on shipments, problem of bureaucracy, inadequate finance, lack of own logistical support to do supervisory work, ageing workforce, interference from other government agencies, misuse of self assessment and issue of competence and manpower, all tend towards the possibility that the oil producing companies may be “having a field day” and may not be fully complying with the Petroleum Act in relation to the payment of royalty. On the argument that DPR lacks adequate resources, manpower and logistical support to do its supervisory work, and these may lead to non-

compliance with the Petroleum Act; the interview evidence lends support to our findings on Hypothesis 2.

### **8.7.3 Insufficient knowledge of tax law (Re Hypothesis 3)**

**H3 – There is a perception that significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions, which is responsible for ineffective tax administration in the upstream sector of the petroleum industry.**

The FIRS is charged with the administration of PPT Act in Nigeria and is responsible for assessing oil producing companies on PPT. The complexity of the PPT law and the MOU puts to test the ability of both taxpayers and tax administrators to readily comprehend and apply the provisions of the law as intended by the law. The oil companies have rigorous recruitment policies and performances are strictly monitored. As the respondents to the questionnaire scored the rating of tax officials' understanding of PPT law as "no more than fair" and taxpayers have a lower assessment of tax officials' PPT knowledge than the tax officials credit themselves, it is believed that the oil companies' officials have superior knowledge of the tax laws and MOU. The oil companies also spend a lot of money on staff training and development, cross-posting and provision of up-to-date materials from their foreign headquarters to improve their knowledge base on regular basis. On the other hand, government tax officials are predominantly civil servants some of whom may not necessarily be well grounded on tax matters as civil servants may be moved from one ministry to another, in the course of their career with government. The tax administration primarily depends on government budget for the running of the tax office. Training and development are lacking as insufficient funds are allocated, and after allocation, funds come in trickles thereby hampering exposure and knowledge of government tax officials. In this regard, if H3 is correct, it would be expected to confirm that a significant number of tax officials in the

petroleum sector lack sufficient knowledge of PPT law and this may be responsible for ineffective tax administration in the upstream sector.

The respondents to the questionnaire confirmed that some tax officials do not have sufficient training and understanding of the PPT law and its provisions. If this is the case, the researcher believes that such officials may not be able to perform effectively and tax administration in the upstream sector of the oil industry in Nigeria is affected. Where tax officials' knowledge of tax law is poor, such tax officials may not be able to ask the right questions or match the knowledge base of oil company officials and this may impact on taxpayers not fully complying with the PPT law. The researcher wonders why the oil producing companies may be paying less than required PPT and able to get away without complying with the law. This may be attributed to a number of reasons, including:

- Tax officials may not be a match for the oil company officials in knowledge and the interpretation of the tax law;
- Tax officials may be perfectly honest but are hampered by lack of tools to work with;
- Tax officials may not know the questions to ask or may not be asking the right questions.

The researcher believes that if there is no legal dishonesty on the part of the oil companies and if they are not breaking the law, and if the government tax officials are honest, the oil producing companies may still be paying low tax. In this regard, the researcher attempts to identify the possible causes of the problem and why the situation has remained like that and why the government has allowed the situation to remain like that for so long. It is not unlikely that the tax administration is helpless to look at the calibre of its staff as it does not possess the required funds for training and lacks the tools for government tax officials to work with. There is a lesson to be learnt from the Chinese tax administration in this respect.

Perk and Clarke (1990, page 22) revealed that “Chinese officials have improved their understanding of international tax and business practices. The Chinese tax authorities have been quick to take advantage of a broad range of learning tools, including training of Chinese staff in international practices by legal and accounting firms, presentations by tax experts on draft legislation and training stints overseas for Chinese tax and audit staff.” Bird and Oldman (1990, page 480) stressed the need for adequate budget for formal programmes of staff training when they said “... the expenditures of tax department including outlays for staff training”, should be adequate.

As can be seen from the transcript of the interviews conducted, Dike acknowledged the dearth of experts in the fiscal issues when he said “oil and gas business is a very complex business, very complex with a lot of dynamics infused into it, a lot of technicalities involved, not too many people are versed in it, even if you are versed in the technical side of the business, it may still not be the same talking about the fiscal issues. For us in Nigeria, I’m not sure but we have always been blessed with having too many people who are versed in the fiscal side of it and even if there are, it’s not something that you do everyday like you do for the non-oil business”. Dike also acknowledged that tax administration has some knowledge gap as the oil and gas business is highly specialised and complex and “it is not something that you just jump into suddenly. You need a lot of experience, a lot of training, exposure, a lot familiar with the intricacies in the business to be able to make the right result and impact”. He recognised the need for proper training of tax officials when he said “we must have structured training to prepare for the next level and not just general training”, else tax officials may be “promoted to a state of irrelevance because of inadequate training for a particular responsibility”. He opined that “in situation where you post people not like roller coaster” just after one year, “you don’t deepen knowledge”. He also

lamented the poor attitude of tax officials when he said that “they must have the right attitude towards taxation”.

Balogun attributed the challenges faced by FIRS to lack of understanding of the industry and a “very wide gap in the appreciation of what the industry is all about” and lack of understanding of “the accounting principles, even the application of the tax laws for the Inspector of taxes” and also “there has been dearth of knowledge in the FIRS and therefore it has created some challenges”. There has also been the problem of the appeal process where ‘government does not inaugurate the appeal body. The appeal procedure is there but they do not constitute the Body of Appeal Commissioners for a long time’. Abegunde blamed “competence of the tax administrators and lack of cohesiveness of the administration itself” for the poor tax administration in Nigeria. He also attributed “leakages in tax revenue to incompetence or lack of adequate knowledge in computing and evaluating tax returns, intentional wilful misconduct on the part of certain tax officials as already proven in time past”. Tax administrator (name protected) attributed some of the challenges which tax administration face in Nigeria to shortage of experienced and trained personnel, lack of collaboration with other governmental agencies, inconsistent legislation, corruption and transparency issues on the part of regulatory authorities and operators. Other reasons adduced are incompetence and inadequate knowledge of the operations of the industry. The tax administrator also acknowledged that the oil producing companies are well informed and are more knowledgeable in tax matters than the government tax officials. An oil company tax executive (name protected) opined that “lack of integration between FIRS and the Ministry of Finance’ particularly on Federal Budget has impact on effective tax administration. He blamed the leakages in tax revenue in Nigeria on “lack of enforcement by the FIRS” and “corruption”. He attributed the long time it takes to agree company’s taxes to “inadequate hands in the FIRS” and slow pace of the judicial process.

With all the foregoing, the question may be asked whether **“a significant number of tax officials in the petroleum section lack sufficient knowledge of the PPT law and its provision which is responsible for ineffective tax administration in the upstream sector? (Hypothesis 3).**

Considering the responses of the experts, particularly tax administrators, the acknowledgment of the dearth of experts in the fiscal side of the upstream petroleum sector in Nigeria, existence of knowledge gap in the highly specialised oil and gas business, inadequate training of tax officials, poor attitude of tax officials, poor budget and poor training on fiscal matters, there is the possibility that tax officials in the upstream sector of the petroleum industry in Nigeria may not necessarily be in a position to have sufficient knowledge of the PPT law and its provisions. Consequently, tax administration may be adversely affected. Bird and Jantscher (1992, page 4) admitted that an “ingredient for successful reform of tax administration is a strong commitment to reform at both policy making and managerial levels, as well as a certain degree of technical competence...The best reform strategy applied to the most simplified system will fail if there is a lack of political will to implement it...Successful tax administration reforms thus have these three main ingredients in common – simplification, strategy and commitment”. On the argument that the lack of sufficient knowledge of PPT law and its provisions amongst tax officials, may lead to ineffective tax administration in the upstream sector of the petroleum industry in Nigeria, the interview results do tend to corroborate our findings with regard to Hypothesis 3.

#### **8.7.4 Tax minimisation (Re Hypothesis 4)**

**H4 – There is a perception that oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of H3 above.**

The PPT law in Nigeria requires an oil producing company to pay its tax for an accounting period in twelve equal monthly instalments together with a final instalment. The law provides for

submission of estimated tax which may be revised if the initial estimate submitted requires revision. There have been suggestions that oil producing companies pay monthly PPT instalments but that such monthly instalments are minimised. The perception of respondents to the questionnaire showed that oil producing companies in Nigeria minimise their monthly PPT instalments due to difficulty in obtaining tax refunds, and to improve their cash flow situation. It is believed that the oil producing companies deliberately pay low monthly instalments for the best part of the accounting year only to pay high instalments in the final months. One reason adduced for minimisation of monthly instalments is difficulty in obtaining refunds of overpaid taxes from government as tax refunds may have to go through government budgetary process which must be approved by the National Assembly. A surprisingly high percentage of the respondents to the questionnaire confirmed that the oil producing companies deliberately minimise their monthly instalment payments of PPT due to difficulty in obtaining a tax refund from government. An interviewee, Balogun, blamed low monthly tax instalment on lack of system for tax refunds and that the government does not refund money that easily. Another interviewee, Tax Administrator (name protected), attributed it to "Government's inability to meet its cash call obligation". The oil producing companies are known to watch their cash flows regularly and may utilise cash available to some other pressing needs. The survey perception shows that oil producing companies in Nigeria minimise their monthly instalment payments of PPT. In this regard, if H4 is correct, it would be expected to confirm that oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment of PPT to improve their cash flow situation as a consequence of ineffective tax administration.

Swenson (1989, page 53) acknowledged the need for use of theories in knowing the behaviour of taxpayers when he said "...testing theories of how people behave, individually and collectively, when it comes to taxation" you may likely predict the behaviour of the taxpayer and portrayed "the

taxpayer and Revenue Canada as playing a sequential period adversarial, game until compliance/auditing strategy equilibrium occurs”. Wadhawan and Gray (1998, page 9) regard “...tax compliance as a game between tax authority and taxpayers. Tax evaders justify their cheating by the belief that everyone else does the same thing...” PPT (Amendment) Bill 2005 prescribes the imposition of “interest at prevailing London Inter-Bank Offer Rate plus spread to be determined by the Minister on any underpayment or delayed payment of both estimated tax and any other PPT liability”. Lederman and Mazza (2005, page 1423) warned that readers should not portray “Internal Revenue Service (IRS) as an agency peopled by corrupt out of control bureaucrats who take pleasure in seeing innocent taxpayers suffer” but that readers should assign “blame for the current state of tax enforcement to judges who ignore financial reality in favour of textualist constructions...”

As can be seen from the transcripts of the interviews conducted, Dike candidly put the issue in context when he said “the issue there is like they say everybody wants to hedge, nobody wants to pay tax as it were; they want to minimise like the famous dictum in one decided case that “no man is under any obligation to open his storehouse so as to allow the revenue authority to dip in its big shovel and scoop out all his wealth”, that everyman is expected to protect himself; very well so”. Dike went on to say that: “The way PPT payments work in Nigeria, unlike for non-oil whereby people ordinarily pay their tax in arrears, it is after you have earned your money then at the end of the year, you file your returns and pay your tax with the exception of withholding tax or value added tax but if you talk about direct taxation, yes...But for PPT, the structure is that the companies pay instalmentally and they don’t do their profit and loss given the nature of the business on a monthly basis, even if they try to do so, the best you can get is to have estimates. The reason is that for some expenditure, talking about timeframe, the benefits for a particular expenditure are not derived in just one month whether it is even operating or it is capital even more



so far capital, it benefits a long turn out for the entire year and so if you now want to make them to pay on a monthly basis, they will only be paying on estimates. Therefore, the tendency for them, because they don't know what the future would look like 10 months, 12 months ahead they try to minimise their tax burden early in the day and then close the gap as the year matures and the actual results will unfold. I think speaking honestly and sincerely, that is at the bottom. It is my duty or our duty as tax people to try and checkmate such but then it becomes a battle of wits; data, statistics if you can get them, more precise and accurate statistics, and then you can win the battle. To the extent that you can't, you have some underpayments". Dike lamented the dearth of decided cases on the taxation of oil producing companies in Nigeria, which he attributed to lack of "relative experience and knowledge generally". He indicated that there is the problem of "ability to pick out issues and hold firmly to such issues. Unfortunately in our experience, when we pick up some issues and companies would want to defend their position and they would be pushing and at a point in time, pushing and pushing and then, no one wants to go to court..."

Balogun blamed low monthly tax instalments on lack of system for tax refunds and that "the government does not refund money that easily. It is better to spread out your instalment monthly payment based on your best estimate and do a catch up at the end of the period". Abegunde attributed low monthly instalments by oil producing companies to what he called "rational thinking on their part and the absence of proper monitoring by the authority". He interpreted "rational thinking in the sense that if you have the ability not to release cash up front and take advantage of time value of money with the cash flow you have, why won't you do that if you were a businessman like they are? Secondly, lack of monitoring. I would have presumed that we have specialists in FIRS who would be able to evaluate the submission by these people to get what their trend analysis should be of production, for pricing and returns so we won't have a situation where certain companies are paying very low in a month only for them to wait till May in another year to

balance up and invariably they have gained the advantage of time value of money and government has lost that advantage. Abegunde hinges the problem of agreeing taxes taking a long time on “too many controversial issues in the interpretation of our law where the operators have taken a position in the interpretation and the Revenue has taken a different position”. He blamed the situation on companies being too shy to go to court to resolve issues and that judicial pronouncement takes too long a time as in the case of Shell “where Shell had taken government to court on a particular case and it took fifteen years for judgement to come out and so in this kind of case there is discouragement on both parts to even go to court”. Tax administrator (name protected) blamed minimisation of taxes on government’s inability to meet its cash call obligations and government’s insincerity on the use of taxpayers’ monies and excessive tax incentives.

With all the foregoing, one may ask whether **“oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payment of PPT to improve their cash flow situation as a consequence of ineffective tax administration”?** (Hypothesis 4).

Considering the responses of the experts, particularly tax administrators, the acknowledgement that “no man is under any obligation to open his storehouse so as to allow the revenue authority to dip in its big shovel and scoop out all his wealth”, basing monthly instalments on estimates, uncertainty about the future and trying to minimise tax burden early in the day and closing the gap as the year matures when actual results unfold, lack of accurate statistics and dearth of decided cases on the taxation of oil producing companies in Nigeria, all point to the possibility of minimising monthly instalments and underpaying of PPT by oil producing companies in Nigeria. Consequently, oil producing companies in Nigeria may be deliberately minimising their monthly instalment payment of PPT to improve their cash flow as a consequence of ineffective tax administration. On the argument that minimising monthly instalment of PPT may not be the

intention of the PPT law, the interview evidence lends some support to our findings on Hypothesis 4.

#### **8.7.5 Ineffective tax administration (Re Hypothesis 5)**

**H5 – There is a perception that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remunerations and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions.**

It is widely believed in Nigeria that oil companies' tax executives are versed in technical knowledge, have superior educational qualifications and better educational opportunities on tax matters, than their counterparts in the FIRS. The oil tax executives are also believed to be more highly remunerated than FIRS tax officials. The researcher believes that government tax officials, some of whom may have poor technical knowledge of the PPT laws, low educational qualifications and opportunities may not be able to perform their statutory duties effectively. It is also believed that tax officials with poor pay may not be able to perform effectively and that tax administration may be adversely affected. In this regard, if H5 is correct, it would be expected to confirm that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies in Nigeria is sub-optimal given the disparity in the remuneration and incentives between government tax officials and their counterparts in the petroleum industry.

Fernald (1945, page 342) lamented that “under existing conditions, laws and policies we cannot expect good tax administration”. Ndekwe (1989, page 48) opined that “the capability of the taxation system to achieve its objective depends on the administrative capacity of the authorities... The amount of revenue collectible will be great or small depending on how efficient and effective is the administration of the tax ... the Nigerian tax system can be highly productive if provided with adequate manpower, facilities and good working conditions”. Tanzi et al (1993, page 807:4)

advised that “the allocation of resources within the tax administration is obviously important for determining its output”. They also acknowledged the “existence of administrative corruption. If the individual who gets caught can bribe some tax officials, and if the bribe is less than the penalty”, the taxpayer would ordinarily believe that he has made some gains. Sandford (1998, page 65) confirmed that “corruption of official responsible for collecting taxes has been a problem for just as long as rulers and states have sought to collect funds... tax systems lend themselves particularly well to creating temptation for officials to abuse their position for private gain. .. incomes of tax officials, by contrast may account for only a very small part of national income, tax officials incomes are such that diverting only a small fraction of revenue into his own pocket, may transform the financial position of an official.” Devas et al (2001, page 214) indicated that “in most developing countries, particularly in Africa, civil service pay rates are extremely low compared to the private sector. It is therefore difficult for tax departments within the civil service to recruit and retain qualified staff, particularly key skills such as accounting and IT”. Omoigui (2006, page 10) warned that “there are other challenges ... the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption. There are “problems of unremitted funds, untransferred funds, and outright diversion of funds”. Business Guardian (2006, page 14) reported that “FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert tax funds, which runs into “billions of Naira”. Okobi (2002, page 1) acknowledged that civil servants in Nigerian are poorly paid and that they may “accept a bribe if offered because of low salaries and late payment of salaries in light of high rate of inflation and high cost of living”. Okauru (2008, page 16) confirmed that “some taxpayers were conniving with corrupt officials in the service to evade and pay the right tax,”, and that “without the connivance of taxpayers, corrupt officers would not be able to carry out their fraudulent activities”. She said further that “despite the FIRS zero tolerance for corruption, there were still some corrupt officials operating within the system”. Dike expressed concern about poor

training of tax officials when he said “we must have structured training to prepare for the next level and not just general training that somebody just eventually rise into a particular level”. He further said that tax administration needs “a lot of experience, a lot of training, exposure and a lot familiar with the intricacies in the business to be able to make the right result...” He opined that “let there be a sustained and durable posting of people so that people would gain the experience” and that “there should not be any knowledge gap”. He further advocated for common knowledge sharing, training programmes, information sharing and exchange and staff exchange”.

Balogun attributed poor tax administration to “lack of understanding of the whole system; not enough understanding and knowledge by tax officials” and that “oil producing companies have so much power within the system that they tend to get their way”. She claimed that “tax officials have limited knowledge to deal with the issues that are coming up”. Balogun admitted that though the “tax reform has introduced a lot of recruitment of professionally qualified staff into the system because the FIRS is now able to pay some commensurate salaries, it may not be as much as what the industry pays”. Abegunde blamed poor tax administration on “inadequate resources to harness all the issues arising from the law itself” and “the systemic slow paced situation that the Nigerian government agencies find themselves”. He acknowledged some administrative constraints in FIRS “being autonomous itself because it is when it is autonomous that it can attract the better brain in the environment and pay structure can be reworked so that it will be attractive to people who are actually very bright and articulate in the tax area”. Abegunde also acknowledged “the challenge of competencies development in the FIRS”. He warned that “where the monitoring is weak”, we should not “expect absolute compliance”. While Abegunde blamed poor tax administration on the problem of “completeness of information, integration of information, competence of the administrators and cohesiveness of the administration”, Balogun recognised that even though FIRS has statistics on companies, “whether the statistics are readily accessible or not is the problem”.

She went on to say that “it is not likely that they are able to just go into the database and bring out the information for their own use which is why you find out that when they are doing their audit they keep asking you to bring the same information every time because they do not have a filing system that is robust enough” and that “they do not have an automated system for capturing relevant information from data supplied”. Tax administrator (name protected) acknowledged the poor remuneration of government tax officials, inefficient use and poor allocation of tax revenue by government, non-retention of trained and skilled staff in oil and gas unit for a long duration of time, as factors affecting effective tax administration.

With all the foregoing, one may ask whether **“the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remuneration and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions (Hypothesis 5).**

As can be seen from literature and the interviews conducted, the rather trying situation in Nigeria, “weak and incapacitated tax administration” with inadequate manpower, facilities and poor working conditions, poor remuneration, lack of adequate resources, possibility of the “existence of administrative corruption”, all tend towards ineffective tax administration. Consequently, the level of realisable (payable) PPT by international oil and gas companies operating in Nigeria may be sub-optimal. On the argument that poor remuneration and poor incentives of tax officials may hinder effective tax administration, the interview evidence also lends some support to our findings on Hypothesis 5.

## **Summary**

In this chapter, the researcher covered the qualitative aspect which provides valuable insight and illumination into PPT administration and practice in Nigeria. The face-to-face interviews with experienced regulatory, tax and government officials provided first hand information on the fiscal and operational aspect of the upstream petroleum sector in Nigeria. The researcher used personal interviews to corroborate some of the findings of the quantitative research which were covered in the previous chapter.

## **CHAPTER 9 CONCLUSIONS AND RECOMMENDATIONS**

### **9.1 Introduction**

In Chapters 7 and 8, the researcher presented the empirical evidence and the results of the quantitative and qualitative data analysis conducted in this research. The researcher used: survey results in presenting and discussing the hypothesis tests of the questionnaire data and personal interviews to gain further insights and corroborate some of the findings of the quantitative research.

In this chapter, the research conclusions are discussed and these are linked to the hypotheses and related literature as well as the empirical evidence. This chapter covers the findings relating to the research objectives, implications on related literature, limitations of the research, areas of further research and policy recommendations. The research, though exploratory, descriptive and deductive in nature, benefited from previous research work. The conclusions presented are based primarily on the outcome of the research conducted.

### **9.2 Research conclusions**

In this section, the researcher relates the hypotheses to the literature and empirical evidence in drawing conclusions.

**H1- There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the PPT Act in relation to the payments of PPT.**

The first hypothesis focused on the measurement of compliance of the oil companies with the tax law. The PPT law provides for filing of return and timely payment of estimated tax as well as filing of return and timely payment of final tax. One thing is for the law to state what should be done; another thing is for the oil companies to comply. In Chapter 2 of this study, the fiscal regimes which regulate



companies engaged in petroleum operations in Nigeria were discussed. The principal legislations are the PPT Act (PPTA), the Petroleum Act (PA) and the MOU. Chapter 2 also exposed the rather complex nature of the MOU and its array of formulae, which on cursory look, presents an incomprehensible basis of computing PPT. This puts to test the ability of the taxpayer and tax administration to readily comprehend the law. The World Bank Group and PricewaterhouseCoopers opined that “complex tax systems cut tax revenues for government and make it very hard to assess the true tax burden on businesses” (Alli 2006, page 31). It has been suggested that the oil companies deliberately overstate their expenses thereby reducing their tax liabilities. Considering that a significant number of questionnaire respondents rated the level of perception of oil companies’ transparency and information disclosure as “no more than fair”, there is the possibility that the oil companies may not be rendering appropriate computation of their tax liability. Tanzi et al (1993, page 807:2) warned that “tax evaders may not declare income; may under-report income, sales, or wealth; may over-report deductible expenses; may smuggle goods or assets; or may undertake some other deception”. Bird and Oldman (1990, page 456) warned that “the line between tax avoidance, or the using of laws so as to minimise payment of taxes, and tax evasion, the breaking of laws, is difficult to define clearly”. They argued that “taxpayers may seek to take the most favourable interpretation of existing law so as to take advantage of the use of money temporarily saved on taxes”. King and Sheffrin (2002, page 512) opined that “when taxpayers believe that the tax system to be unfair, they can evade tax” and Das-Gupta et al (2004, page 575) indicated that “low tax compliance is a matter of serious concern in many developing countries”.

Given the above facts, it is envisaged that the oil companies may not be fully complying with the PPT Act particularly the payments of PPT hence the investigation of **H1**.

In order to test **Hypothesis 1**, the researcher in Chapter 7, obtained the results of the analyses of the level of perception of taxpayers’ understanding of PPT law, transparency of oil companies to

FIRS, taxpayers' certainty of the fiscal regime under which they are to be taxed for PPT purposes, filing of returns and timely payment of estimated tax, filing returns and timely payment of final tax, adequacy of information disclosure in the tax returns of oil companies and response of oil companies to tax queries. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support **Hypothesis 1**, in view of the result of the statistical analyses conducted. Personal interviews corroborated the quantitative finding in that an interviewee acknowledged that "whatever the oil companies come with, it is difficult to challenge when you do not understand what they are saying as an Inspector of Taxes". Another interviewee opined reasons adduced for tax non-compliance to include lack of required data and information and uncooperative attitude of oil producing companies and their tax consultants.

In conclusion, although the oil producing companies pay some PPT, the perception of respondents comprising of oil companies tax executives, tax administrators and tax consultants tend to support the view that oil producing companies do not fully comply with the provisions of the PPT Act particularly on filing and payment of estimated and final tax, transparency, information disclosure in tax returns and response to tax queries.

**H2 – There is a perception that oil and gas (exploration and production) companies in Nigeria do not fully comply with the provisions of the Petroleum Act in relation to the payments of royalties.**

The second hypothesis covers the payment of royalties by companies engaged in petroleum operations in Nigeria. Companies engaged in petroleum exploration and production in Nigeria, are mandated to comply with the Petroleum Act. The law governs the issuance of oil exploration licence (OEL), oil prospecting licence (OPL) and oil mining lease (OML). The law regulates the assessment to royalty in the concession area. Royalties are paid on petroleum won in a concession area. The

Petroleum (Drilling and Production) Regulations, annexed to the Petroleum Act covers royalties. It provides for the payment of royalties on crude oil produced at the field of production. It states that royalties must be paid “not more than one month after the end of every quarter”. It prescribes royalty rates for onshore and offshore production. The Petroleum Act mandates oil companies to compute “chargeable value of crude oil and casinghead petroleum spirit” by “ascertaining the quantity of crude oil produced from each field of production in the areas” (and after reducing such quantity by quantities certified by DPR of usages, returns to formation, reasonable losses and evaporation) and multiplying the posted price of the reduced quantity, to arrive at the royalty payable (Chapter 2, Section 2.6). The DPR is statutorily empowered to collect royalty payments.

There have been suggestions that oil producing companies in Nigeria may not be fully complying with the Petroleum Act. The law states that royalty must be based on production but some oil companies are believed to be basing their royalty computation on shipments. The researcher believes that companies basing their royalty payments on shipments as confirmed by respondents to the questionnaire survey instead of crude oil production may not be fully complying with the Petroleum Act. Binniyat (2006, page 14) reported Harts finding on the extractive industry in Nigeria that the DPR “allowed these upstream companies to use parameters that suited them to pay what they deemed fit as royalty to Government thereby making underpayments”. NEITI also reported that “a major lapse were losses and unaccounted for proceeds of oil sales” and that “around ten million barrels of crude oil were lost between flowstations and the loading terminals over the period of five years (1999 – 2004)” (Akosile and Ezeigbo 2006, page 1) (Chapter 4, Section 4.3 case 7).

Given the above facts, it is envisaged that the oil companies may not be complying with the Petroleum Act, hence the investigation of **H2**.

In order to test **Hypothesis 2**, the researcher in Chapter 7, obtained the results of the analyses of the level of perception of whether royalty provision is based on “crude oil shipment” rather than “crude oil produced”. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variable. The body of evidence seems to support **Hypothesis 2**, in view of the result of the statistical analyses conducted. Personal interview tends to corroborate the quantitative finding in that an interviewee confirmed that “the daily production figures would not actually give us an accurate recording of what the dry crude should be. But at the end of the month, we do a proper reconciliation to get what we call fiscalised crude or exportable crude or in general terms, the dry crude”. He also confirmed that the DPR is facing many challenges; one is bureaucracy which makes it difficult for the DPR “to operate as the oil industry issues demand”. He cited another problem that “the DPR in the past years has been handicapped with regards to finances since it has to go through the budgetary procedure” which takes a long time to complete and that the DPR finds it difficult to do its supervisory work as it should be, for instance, going to terminals (i.e. offshore terminals) is hindered as DPR does not have its own facilities particularly helicopters and speedboats and that the DPR depends on the oil companies in order to inspect oil companies facilities, “so, on-the-spot checks and surprise checks are now not easy to come by”.

In conclusion, this study seems to show that some oil producing companies pay royalty on shipment instead of production as prescribed by the law and DPR (regulator of oil exploration and production in Nigeria) as ill-equipped and ill-funded and lacks logistical support to independently, monitor oil production and shipment in Nigeria.

**H3 – There is a perception that a significant number of tax officials in the petroleum sector lack sufficient knowledge of the PPT law and its provisions, which is responsible for ineffective tax administration in the upstream sector of the petroleum industry.**

The third hypothesis concerns the competence of the tax officials. In Chapters 2, the researcher discussed the complex fiscal regimes particularly the PPT law and the MOU. The FIRS is charged with the administration of PPT Act in Nigeria and is responsible for assessing oil producing companies on PPT. The complexity of the PPT law and the MOU puts to test the ability of both taxpayers and tax administrators to readily comprehend and apply the provisions of the law as intended by the law. The oil companies have rigorous recruitment policies and performances are strictly monitored. As the respondents to the questionnaire rated the level of perception of tax officials' understanding of PPT law as "no more than fair" and taxpayers have a lower assessment of tax officials' PPT knowledge than the tax officials credit themselves, it is believed that the oil companies' officials have superior knowledge of the tax laws and MOU. The oil companies also spend a lot of money on staff training and development, cross-posting and provision of up-to-date materials from their foreign headquarters to improve their knowledge base on regular basis. On the other hand, government tax officials are predominantly civil servants some of whom may not necessarily be well grounded on tax matters as civil servants may be moved from one ministry to another, in the course of their career with government. The tax administration primarily depends on government budget for the running of the tax office. Training and development are lacking as insufficient funds are allocated, and after allocation, funds come in trickles thereby hampering exposure and knowledge of government tax officials. The respondents to the questionnaire confirmed that some tax officials do not have sufficient training and understanding of the PPT law and its provisions. If this is the case, the researcher believes that such officials may not be able to perform effectively and tax administration in the upstream sector of the oil industry in Nigeria is affected. Where tax officials' knowledge of tax law is poor, such tax officials may not be able to

ask the right questions or match the knowledge base of oil company officials and this may impact on taxpayers not fully complying with the PPT law.

Perk and Clarke (1990, page 22) revealed that “Chinese officials have improved their understanding of international tax and business practices. The Chinese tax authorities have been quick to take advantage of a broad range of learning tools, including training of Chinese staff in international practices by legal and accounting firms, presentations by tax experts on draft legislation and training stints overseas for Chinese tax and audit staff.” Bird and Oldman (1990, page 480) stressed the need for adequate budget for formal programmes of staff training when they said “... the expenditures of tax department including outlays for staff training”, should be adequate. With questionnaire results showing poor rating of tax officials on knowledge of PPT law and poor training due to insufficient training budget there is the possibility that tax officials may not necessarily be challenging the tax returns of the oil companies. Omoigui (2006b, page 43) identified resistance to change, communication, trust and inability to build competencies within FIRS as some of the challenges facing the tax authority. The tax administration may not be able to perform effectively if tax officials have limited knowledge and understanding of the fiscal regimes and if tax administration lacks quality personnel and appropriate training. Fernald (1945, page 342) warned that “under existing conditions laws and policies, we cannot expect good tax administration”. He went further to say that “to have a well administered tax system, the tax law and its application should be reasonably intelligible to those who enact it, to those who are to administer it and to those who are to pay the taxes”.

Considering the foregoing, it is envisaged that the oil companies may be over-claiming certain deductions and tax officials lack the competencies to challenge the accuracy and legitimacy of such claims. In this regard, **Hypothesis 3** was aimed at investigating the adequacy of the competence of tax officials of the regulatory body i.e. the FIRS

In order to test **Hypothesis 3**, the researcher in Chapter 7, obtained the results of the analyses of the level of perception of tax officials' understanding of PPT law and MOU, level of training which tax officials receive when compared with oil companies tax personnel, frequency of attending petroleum tax related training, how long it takes to agree an oil company's tax liability for an accounting period and readiness to point out mistakes made by tax officials in their review of oil companies tax returns. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support **Hypothesis 3**, in view of the result of the statistical analyses conducted. Personal interviews tend to corroborate the quantitative finding in that an interviewee acknowledged the dearth of experts in the fiscal issues and that tax administration has some knowledge gap as the oil and gas business is highly specialised and complex. Another interviewee confirmed the challenges faced by FIRS to lack of understanding of the industry and a "very wide gap in the appreciation of what the industry is all about" and lack of understanding of "the accounting principles, even the application of the tax laws for the Inspector of taxes". Another interviewee attributed the challenges to shortage of experienced and trained personnel, lack of collaboration with other governmental agencies, inconsistent legislation, corruption and transparency issues on the part of regulatory authorities and operators.

In conclusion, this research seems to expose the rather weak and incapacitated tax administration in Nigeria. The perception of respondents to the questionnaire and personal interviews tend to support the view that Nigeria has ill-equipped and ill-trained government tax officials whose understanding of the PPT law and MOU do not match those of the oil producing companies, thereby placing oil company's tax executives at an advantage over government tax officials.

**H4 – There is a perception that oil and gas (exploration and production) companies in Nigeria deliberately minimise their monthly instalment payments of PPT to improve their cash flow situation as a consequence of H3 above.**

The PPT law in Nigeria requires an oil producing company to pay its tax for an accounting period in twelve equal monthly instalments together with a final instalment. The law provides for submission of estimated tax which may be revised if the initial estimate submitted requires revision. There have been suggestions that oil producing companies pay monthly PPT instalments but that such monthly instalments are minimised. The perception of respondents to the questionnaire showed that oil producing companies in Nigeria minimise their monthly PPT instalments due to difficulty in obtaining tax refunds, and to improve their cash flow situation. It is believed that the oil producing companies deliberately pay low monthly instalments for the best part of the accounting year only to pay high instalments in the final months. One reason adduced for minimisation of monthly instalments is difficulty in obtaining refunds of overpaid taxes from government as tax refunds may have to go through government budgetary process which must be approved by the National Assembly. A surprisingly high percentage of the respondents to the questionnaire confirmed that the oil producing companies deliberately minimise their monthly instalment payments of PPT due to difficulty in obtaining a tax refund from government. An interviewee blamed low monthly tax instalment on lack of system for tax refunds and that the government does not refund money that easily. Another interviewee attributed it to “Government’s inability to meet its cash call obligation”. The oil producing companies are known to watch their cash flows regularly and may utilise cash available to some other pressing needs. The survey perception shows that oil producing companies in Nigeria minimise their monthly instalment payments of PPT.



Swenson (1989, page 53) acknowledged the need for use of theories in knowing the behaviour of taxpayers when he said "...testing theories of how people behave, individually and collectively, when it comes to taxation" you may likely predict the behaviour of the taxpayer and portrayed "the taxpayer and Revenue Canada as playing a sequential period adversarial, game until compliance/auditing strategy equilibrium occurs". Wadhawan and Gray (1998, page 9) regard "...tax compliance as a game between tax authority and taxpayers. Tax evaders justify their cheating by the belief that everyone else does the same thing..." PPT (Amendment) Bill 2005 prescribes the imposition of "interest at prevailing London Inter-Bank Offer Rate plus spread to be determined by the Minister on any underpayment or delayed payment of both estimated tax and any other PPT liability". Lederman and Mazza (2005, page 1423) warned that readers should not portray "Internal Revenue Service (IRS) as an agency peopled by corrupt out of control bureaucrats who take pleasure in seeing innocent taxpayers suffer" but that readers should assign "blame for the current state of tax enforcement to judges who ignore financial reality in favour of textualist constructions..." The tax authority appears to be handicapped in ensuring proper computation of the instalments due to low "quality of manpower and facilities made available to the tax authorities" (Ndekwa 1989, page 47) and problem of competencies of the tax officials (Omoigui 2006b, page 42). (Binniyat 2006, page 14) that the DPR "allowed upstream companies to use parameters that suited them to pay what they deemed fit as royalty to government making underpayments".

Considering the foregoing facts, it is envisaged that the oil companies may possibly use their superior strategy, power and specialisation to take advantage of government tax officials hence the investigation of **Hypothesis 4**.

In order to test **Hypothesis 4**, the researcher in Chapter 7, obtained the results of the analyses of the level of perception of the difficulty in obtaining a tax refund from government encouraging

taxpayers to minimise PPT estimate to improve their cash flow situation. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support **Hypothesis 4**, in view of the result of the statistical analyses conducted. Personal interviews tend to corroborate the quantitative finding in that an interviewee attributed minimisation of taxes to lack of “relative experience and knowledge generally” and “lack of system for tax refunds” and that “the government does not refund money that easily”. Another interviewee attributed low monthly instalments by oil producing companies to what he called “rational thinking on their part and the absence of proper monitoring by the authority”. Another tax administrator (name protected) blamed minimisation of taxes on government’s inability to meet its cash call obligations.

In conclusion, this study tends to show that some oil producing companies minimise their PPT payments possibly due to lack of system for tax refunds and low monthly instalments being made in earlier months and large monthly payments being made towards the end of the accounting year.

**H5 - : There is a perception that the level of realisable (payable) PPT by international oil and gas (exploration and production) companies operating in Nigeria is sub-optimal given the disparity in the remunerations and incentives between government tax officials and their counterparts in the petroleum industry, as this tends to impair their oversight functions.**

The fifth hypothesis covers the disparity in the remuneration and incentives between government tax officials and their counterparts in the petroleum industry in Nigeria. The oil companies are known to engage highly qualified, highly motivated and highly remunerated officials to deal with their tax matters with the tax authorities. The FIRS utilises principally its own employees who are mainly civil servants to deal with the tax matters of oil companies. Civil servants are known to be poorly paid when compared with oil company officials. It has been suggested that government tax

officials lack adequate exposure and training on petroleum tax related matters due to inadequate budgetary allocation. There have also been discussions on the quality of technical knowledge, educational qualifications and educational opportunities of government tax officials. Perceptions of bribery and illicit deals adorn the horizon. Sandford (1998, page 65) cited Bowels who acknowledged that “corruption of officials responsible for collecting taxes has been a problem for just about as long as rulers and states have sought to collect funds”. Sandford further asserted that “tax systems lend themselves well to creating temptation for officials to abuse their position for private gain. In most economies, a substantial proportion of GDP creates tax liabilities and a significant proportion of citizens may be paying large amounts of tax. Incomes of tax officials, by contrast, may account for only a very small part of national income”. He went further to say that “the scale of difference between tax liabilities and tax officials’ income is such that diverting only a small fraction of revenue into his own pocket may transform the financial position of an official.” Sandford also claimed that “persons (or corporate entities) obliged by law to pay taxes may stand to benefit individually from tax evasion, and may be quite happy to compound evasion offences which come to light by offering bribes”. He stressed that “poorly paid officials might perceive themselves to have little to lose from taking bribes, particularly since neither side will want the transaction to be brought to public notice”. Okobi (2002, page 1) acknowledged that civil servants in Nigerian are poorly paid and that they may “accept a bribe if offered because of low salaries and late payment of salaries in light of high rate of inflation and high cost of living”. There has been suggestion that there is a leakage of tax revenues via tax officials such that some revenues never enter the Federal treasury. EIU ViewsWire (2004, page 2) reported that “Halliburton admitted in 2003 that its Kellogg, Brown and Root subsidiary has paid a Nigerian tax official a lot of \$2.4 million to secure favourable treatment worth up to \$5 million to the company.”

There have been questions before now as to the level of corruption in the tax office. People have wondered whether there may be collusion between the oil companies' officials and tax officials. Business Guardian (2006, page 14) reported that the "FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert tax funds, which runs into billions of Naira". Omoigui (2006b, page 42) expressed concerns on possible leakages in the tax system and Omoigui (2006, page 10) also acknowledged "the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption". Fernald (1945, page 342) lamented that "under existing conditions, laws and policies we cannot expect good tax administration". Ndekwe (1989, page 48) opined that "the capability of the taxation system to achieve its objective depends on the administrative capacity of the authorities... The amount of revenue collectible will be great or small depending on how efficient and effective is the administration of the tax ... the Nigerian tax system can be highly productive if provided with adequate manpower, facilities and good working conditions". Tanzi et al (1993, page 807:4) advised that "the allocation of resources within the tax administration is obviously important for determining its output". They also acknowledged the "existence of administrative corruption. If the individual who gets caught can bribe some tax officials, and if the bribe is less than the penalty", the taxpayer would ordinarily believe that he has made some gains. Devas et al (2001, page 214) indicated that "in most developing countries, particularly in Africa, civil service pay rates are extremely low compared to the private sector. It is therefore difficult for tax departments within the civil service to recruit and retain qualified staff, particularly key skills such as accounting and IT". There are "problems of unremitted funds, untransferred funds, and outright diversion of funds". Okauru (2008, page 16) confirmed that "some taxpayers were conniving with corrupt officials in the service to evade and pay the right tax,".

Considering the foregoing, **Hypothesis 5** was aimed at investigating the concerns, beliefs, attitudes, behaviour, norms and overall perception of tax officials in relation to quality, remuneration and incentives.

In order to test **Hypothesis 5**, the researcher in Chapter 7, obtained the results of the analyses of the level of perception of tax officials' technical knowledge, educational qualifications, educational opportunities, staff quality and experience at the Large Tax Office (LTO) and staff compensation, when compared with oil companies' tax executives. Non-parametric statistical techniques comprising Mann-Whitney test and Kruskal Wallis test were used in significance tests of the variables. The body of evidence seems to support **Hypothesis 5**, in view of the result of the statistical analyses conducted. Personal interviews tend to corroborate the quantitative finding in that an interviewee expressed concern about poor training of tax officials and that "there should not be any knowledge gap". Another interviewee attributed poor tax administration to "lack of understanding of the whole system; not enough understanding and knowledge by tax officials" and that "oil producing companies have so much power within the system that they tend to get their way". An interviewee blamed poor tax administration on "inadequate resources to harness all the issues arising from the law itself" and "the systemic slow paced situation that the Nigerian government agencies find themselves" and that "where the monitoring is weak", we should not "expect absolute compliance". A tax administrator acknowledged the poor remuneration of government tax officials, inefficient use and poor allocation of tax revenue by government, non-retention of trained and skilled staff in oil and gas unit for a long duration of time, as factors affecting effective tax administration.

In conclusion, this study tends to confirm a perception that government tax officials are no match for the oil companies tax executives in terms of training and remuneration, hence oil companies tax executives appear to be at an advantage over government tax officials. The researcher

acknowledges an on-going government tax reform and there is a possibility that things may change, but the effect of the tax reform is outside the scope of this study.

The above conclusions deducible from this research provide direction for future research.

### **9.3 Findings relating to the research objectives**

In this section, the researcher cross-checks the research objectives shown in Chapter 1 against the empirical evidence (contained in Chapters 7 and 8) and shows how the results and conclusions provide answers to the research objectives. Table 9.1 links the conclusions to the research objectives.

This research has provided the historical and legislative background to the fiscal regimes regulating PPT in Nigeria, particularly PPT Act and MOU. Amendments made to the PPTA and proposed changes to the law were discussed in Chapter 2. Essential provisions of the PPT law and royalty liabilities were discussed in the chapter. The legislative background to Petroleum Act regulating petroleum exploration and production in Nigeria were further discussed. The chapter also discussed the legislative background to the Federal Inland Revenue Service Act, PPT administration and tax reforms bills proposed by Government.

Empirical evidence tends to suggest that the oil and gas (exploration and production) companies in Nigeria may not be fully complying with the law because they may be paying some taxes within the law but not to the extent intended by the law. The oil producing companies are believed to be using loopholes within the law and their superior knowledge of the tax laws to minimise their tax liabilities. The DPR seems to be hampered by lack of logistical support and adequate resources to fully monitor crude oil production in Nigeria. The research also provides relevant literature on tax administration, tax compliance, tax non-compliance, for example, tax evasion. There seems to be

evidence that lack of sufficient knowledge of the PPT law and poor remuneration of government tax officials affect tax administration in the upstream sector of the petroleum industry in Nigeria.

An up-to-date literature on the hitherto complex fiscal regimes, provide users, tax administrators, regulators and tax practitioners' easy access to improve their understanding of PPT and royalty computations. Policy recommendations provide Government with grey areas on which attention should be directed for improved tax revenue in Nigeria.

**Table 9-1 Linking conclusions to research objectives.**

<b>Research Objectives</b>	<b>Conclusions</b>	<b>Thesis Reference</b>
<b>A Descriptive</b>		
<ul style="list-style-type: none"> <li>To provide the historical and legislative background to the fiscal regimes regulating PPT in Nigeria, particularly PPT Act and Memorandum of Understanding (MOU).</li> </ul>	This study provides a ready source of fiscal regimes on PPT and MOU.	<b>9.2</b>
<ul style="list-style-type: none"> <li>To provide legislative background to petroleum exploration and production in Nigeria, particularly Petroleum Act;</li> </ul>	This study provides a ready source of information on Petroleum Act.	<b>9.2</b>
<ul style="list-style-type: none"> <li>To provide legislative background to tax administration in Nigeria, particularly Federal Inland Revenue Service Act and proposed bills affecting PPT administration in Nigeria.</li> </ul>	<p>This study provides ready source of information on FIRS Act and proposed bills affecting PPT administration in Nigeria.</p> <p>This study tends to confirm a perception that some oil producing companies do not fully comply with the PPTA on filing and payment of estimated and final tax; transparency, information disclosure in tax returns and response to tax queries are rated "no more than fair".</p>	<b>9.2</b>
<b>B Analytical</b>		
To determine the extent of compliance of oil and gas (exploration and production) companies, with the PPT Act in relation to the payment of PPT		<b>9.2</b>
<ul style="list-style-type: none"> <li>To determine the extent of compliance of oil and gas (exploration and production) companies with the Petroleum Act in relation to the payment of</li> </ul>	This study seems to show that some oil producing companies do not fully comply with the Petroleum Act as they base their royalty payment on shipment instead of production prescribed by the law.	<b>9.2</b>

royalty;	The DPR appears to be ill-equipped and ill-financial and lacks logistical support and adequate resources to, independently, monitor crude oil production.	<b>9.2</b>
<ul style="list-style-type: none"> <li>To confirm that lack of sufficient knowledge of the PPT law and poor remuneration and incentives of government tax officials affect tax administration in the upstream sector of the petroleum industry in Nigeria;</li> </ul>	This research tends to show the rather weak and incapacitated tax administration in Nigeria. There seems to be a perception that government tax officials are no match of the oil tax executives in terms of knowledge of PPT law and MOU and remuneration, hence oil companies may be taking advantage of tax officials.	<b>9.2</b>
<b>C Theoretical</b>		
<ul style="list-style-type: none"> <li>To discuss relevant literature on tax administration and tax compliance including tax theories for example, game theory, equity theory, deterrence theory and prospect theory;</li> </ul>	This study provides literature on tax administration, tax compliance and tax theories in Nigeria and other lands.	<b>9.2</b>
<ul style="list-style-type: none"> <li>To discuss relevant literature highlight tax non-compliance, particularly tax avoidance and evasion;</li> </ul>	This research provides literature on tax avoidance and evasion.	<b>9.2</b>
<ul style="list-style-type: none"> <li>To highlight the policy implications of the research findings; and</li> </ul>	This study provides some research implications	<b>9.4</b>
<ul style="list-style-type: none"> <li>Proffer recommendations for the improvement of compliance with the PPT law in Nigeria.</li> </ul>	This study provides policy recommendations deriving from the conclusions.	<b>9.8</b>

#### 9.4 Research implications

As this research has concentrated on investigating the taxation of petroleum profits in the upstream sector of the petroleum industry in Nigeria, the main areas that have been enriched by this research are literature on the fiscal regimes, (particularly Petroleum Profits Tax Act, Petroleum Act,



Memorandum of Understanding, Federal Inland Revenue Service Act, tax reforms bills and regulations on royalty), literature of tax theories, perception of respondents on compliance of oil companies with the petroleum tax law in Nigeria and deep insight and illumination of PPT compliance and tax administration in Nigeria.

- **Implications for petroleum fiscal regimes literature**

This research has provided ready source of reference to various laws regulating PPT in Nigeria. The rather complex MOU is also discussed. The exposition of the legislative requirements, coupled with discussion of essential provisions required for computing royalty and PPT using principal laws (as amended) and discussing changes to be brought about in proposed legislative amendments, provide easy reference and gateway for the otherwise complex and not readily comprehensible PPT regime in Nigeria. The various incentives available to oil producing companies are discussed. The ability of users to have ready access to an exposition of laws regulating petroleum exploration and petroleum as well as PPT and MOU, is considered a contribution to literature on PPT compliance and tax administration in Nigeria.

- **Implications for tax theories literature**

This study highlights certain theories on taxation from previous research on tax administration and tax reforms on the oil industry in Nigeria and other countries. Discussions on economics of taxation, theories such as game theory, equity theory, deterrence theory and prospect theory and the challenges of tax administration, key features of tax reforms in Nigeria, enrich related tax literature.

- **Implications for tax compliance literature**

This research enriches current literature on the perception of respondents on the compliance of oil producing companies with the PPT law and petroleum law regulating

petroleum exploration and production in Nigeria. It also provides information on tax avoidance and evasion. Apart from using various statistical techniques and methods to seek support (or otherwise) for the hypotheses, this study provides answers to the perceived nature of tax behaviours of oil producing companies in Nigeria. It also provides reported examples of how some oil producing companies seem to evade tax in Nigeria. The personal interviews conducted provide deep insight and illumination into PPT compliance and tax administration in Nigeria. The interviews help in corroborating the results of the quantitative research.

- **Implication for tax administrators, regulators, companies tax executives and tax consultants**

This study may be regarded as of great importance for tax administrators, regulators (e.g. DPR), oil companies' tax executives and tax consultants. First, the users can use the easy-to-follow content of this study as one-stop shop to develop and update themselves rather than seeking some information from so many disjointed sources. This is helpful in that tax administrators, for example, have been known to have some information on taxpayers but lack of adequate database and automated filing system precludes ready access to required information as requests are made to taxpayers for provision of same information, time and time again. Tax consultants' knowledge will be enhanced by this study. This pioneer study answers the lingering question on the perceived tax behaviour of oil producing companies in Nigeria and whether the oil companies have been complying with the PPT law. The results reported by this study are of interest to those who work on the economic development of resource-rich countries, for the inability of such governments to collect their rightful taxes is one of the many constraints on their development.

## **9.5 Research contribution**

This research is a pioneering effort which serves as a ready source for gaining an improved understanding of the taxation of petroleum profits thereby facilitating regular compliance with the PPT law in Nigeria. In general, there are three contributions attributable to this study. The first is that it exposes the rather complex petroleum fiscal regimes and provides easy-to-follow information about the computation of royalty and PPT. This is demonstrated by the provision of the legislative background to PPT law and the law regulating petroleum exploration and production in Nigeria. This provides users with a one-stop shop for upstream petroleum legislation rather than searching various sources for the same information. Second, while literature on tax theories emanating from Nigeria is very scarce, the researcher used theories from previous writers in other parts of the world and the limited theories sourced locally, to demonstrate the importance of theories in tax research. The discussion on the challenges of tax administration and key features of tax reforms in Nigeria assist users in understanding the present Nigerian situation in relation to PPT revenue, PPT compliance and tax administration. Discussions on tax avoidance and evasion assist users in understanding the need to close the tax gap. Finally, this research reveals the behaviour of the oil producing companies when it comes to tax compliance. This is demonstrated by the perception of respondents on various tax behaviours which is further enriched and illuminated by personal interviews of experienced oil companies' tax executives, tax consultants, regulatory officials and tax administrators. The empirical evidence obtained from the results of the survey and personal interviews serve as ready support for the oil companies tax behaviours and easy reference for gaining an improved understanding of the fiscal regimes on upstream petroleum sector in Nigeria. This study has finally answered the question whether the extent of tax compliance by the oil producing companies in Nigeria is determined by the knowledge, remuneration and incentives of government tax officials. The researcher believes that this study provides an input to the frontier of knowledge.

## **9.6 Limitations of the research**

Researches on a particular topic may be approached from different perspectives and similar results may be achieved at the end of the day. There seems to be no research without its limitations and this study is not an exception. Some of the limitations encountered in the course of this research are as follows:

- The dearth of literature on PPT in Nigeria initially restricted available information on the Nigerian environment and the researcher had to do extensive travels within and outside Nigeria to seek relevant information.
- Information on the oil producing companies in Nigeria was very difficult to obtain and the tax authority, hiding under some archaic legislation, did not consider it appropriate to provide the researcher with information on tax matters of the oil companies. This was considered confidential and no tax official was ready to risk jail term and fines for providing the researcher with relevant information. This research seems to expose the lack of knowledge and regular training of government tax officials. The researcher wonders why government, before now, was satisfied with just collecting what the oil producing companies offered without regular development and provision of logistical support and expertise for the revenue authority and the regulatory body charged with monitoring petroleum exploration and production in Nigeria.
- With the foregoing limitations, caution should be exercised in interpreting the result of this research. While this research achieved a combination of the use of both quantitative and qualitative approaches in this study (qualitative research having been used to gain more insights and corroborate quantitative research findings), provision of full information by the oil producing companies may lead to some other results.

## 9.7 Areas for further research

It is believed that this study provides direction for additional areas of investigation in order to strengthen the outcome of the current research. These include the following areas:

- (1) There has been suggestion that there is leakage of tax revenues via tax officials such that some revenues never enter the Federal Treasury. Okobi (2002, page 1) acknowledged “bribery and corruption are perceived as widespread in the country’s “public service system and that public servants work and accept a bribe if offered because of low salaries and late payment of salaries in light of high rate of inflation and high cost of living”. Sandford (1998, page 65) reported that “corruption of official responsible for collecting taxes has been a problem for just as long as rulers and states have sought to collect funds...tax systems lend themselves particularly well to creating temptation for officials to abuse their position for private gain”. Business Guardian (2006, page 14) reported “that the FIRS had in April 2006 dismissed four of its top officials for allegedly colluding with some officials of a bank to divert funds which run into billions of Naira”. Omoigui (2006, page 10) acknowledged “the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption”. Tanzania has been referred to as a country where tax officials are poorly paid hence there is the possibility of corruption going on in such a country. Evidence of corruption within tax administration in Nigeria is not readily available; hence there is difficulty in making informed judgement on the extent of corruption in tax administration in Nigeria. Without an evidence of corruption amongst tax officials in Nigeria, poor remuneration of tax officials is an issue currently being addressed by FIRS, but the risk of corruption amongst tax officials cannot be overlooked. This is a grey area awaiting further research.

(2) This study discussed tax evasion. Cowell (1985, page 165.1) reported that “tax evasion is a widespread practice; the black economy makes up 5% - 10% of the total gross national product of western style industrial economics”. Tanzi et al (1993, page 807:1) posited that “tax evasion is a universal phenomenon. It takes place in all societies, social classes, all professions. It depends on the economic and tax structures, types of income and social attitudes”. In Nigeria, recent reports have claimed that there is the possibility of tax evasion in the upstream petroleum sector of the Nigerian economy. Igbikiowubo (2005, page 1) reported that Chevron and its subsidiaries are embroiled in a \$10.8 billion tax evasion scam following queries raised against them by a tax consultant to the EFCC. Akande (2005, page 1) reported that Nigeria must have lost millions of Dollars of revenue due from contractors lifting Nigeria’s crude oil, who are not being assessed for tax and so have been avoiding taxes due to the public treasury. NEITI reported that oil producing companies in Nigeria may have substantially underpaid government in PPT and royalty between 1999 and 2004 (Binniyat 2006, page 14). Salisu (2000, page 11) confirmed that “underground activities exist in every country but its size varies across countries”. The researcher is mindful that most literature on black economy assume that the revenues in the black economy will be spent in the same country whereas it is possible that amounts of revenue are lost into the Nigerian economy but then immediately sent abroad. The researcher is also mindful that most approaches to measuring black economy assume that there is a manufacturing or service industry basis which evidence itself in the demand for cash (currency approach) or the electrical approach (demand for power). There have been suggestions of tax evasion and existence of large black economy in Nigeria and this is a grey area waiting for further research.

(3) As discussed in Section 2.5 of Chapter 2, a new bill, The Petroleum Industry Bill 2008 seeks to give effect to the proposed structural and fiscal changes in the Nigerian oil and gas industry. It proposes a single and comprehensive legislation to replace the various petroleum and fiscal laws. Some new institutions are to be established, for example, Nigerian Petroleum Directorate, National Petroleum Assets Management Agency, Nigerian National Petroleum Company, Petroleum Products Regulatory Agency and Nigerian Petroleum Research Centre. It seeks to give effect to the restructuring of the present NNPC. The fiscal provisions under the Bill cover incorporated joint venture companies, national oil company, PSC, upstream gas operations, marginal field operators and indigenous oil companies. In computing the profits of a company for an accounting period, the Bill provides for the deduction of “all benchmarked, verified and approved expenditure” within Nigeria. However, only 80% of all such expenditure incurred outside Nigeria may be allowed as tax deductible. The Bill imposes an obligation for the provision of FIRS with certain data. The Bill is a subject of controversy between the international oil companies and Federal Government. As the Bill may substantially change the way the oil sector in Nigeria may be administered and taxed, this is another grey area waiting for further research.

(4) As discussed in Chapter 3, there is an ongoing tax reform in Nigeria. The legislative and administrative reform is meant “to provide an improved and more focused structure”. Omoigui (2006b, page 43) identified the challenges facing tax administration in Nigeria as resistance to change (need for proper understanding of issues), communication and taxpayers’ education, competence (i.e. need to build competencies within FIRS), structure, (poor salary levels, untimely promotion and lack of requisite training), lack of trust, (i.e. need to build trust within FIRS, and that of

taxpayers who possibly have their doubts about proper utilisation of taxes paid), and need to effect change within a short space of time. Omoigui (2006, page 10) acknowledged “the weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic corruption” and “problems of un-remitted funds, un-transferred funds and outright diversion of funds”. The reform has led to changes to Automated Model in bank receipt and remittance system whereby the taxpayer effects payments through the FIRS portal and tax payment are swept automatically from collecting banks to the lead bank. This enables FIRS to generate online report on tax payment. Tax reform seems to be another area of focus for further research.

## 9.8 Policy recommendations

In this section, the researcher combines literature with the tests on hypotheses and personal interviews and the conclusions thereon in proffering policy recommendations. The researcher believes that if Government, tax administrators, tax executives of oil producing companies and tax consultants have the will to implement the recommendations, there is the likelihood of an improvement in PPT revenue generation in Nigeria. Table 9.2 shows the link between conclusions and the recommendations.

**Table 9-2 Link between conclusions and recommendations**

<b>Hypotheses</b>	<b>Conclusions</b>	<b>Recommendations</b>
<b>H1</b>	There is a perception that some oil producing companies do not fully comply with the provisions of the PPT Act particularly on filing and payment of estimated and final tax, transparency, information disclosure in tax returns and response to tax queries.	<p>Prompt update of the PPT Act in that delay in passing amendment bills by the National Assembly allows the oil producing companies to continue to operate under the old regime thereby defeating the purpose for which the amendments are made.</p> <p>Create awareness amongst legislators, oil producing companies, tax authority and the public at large about understanding the</p>



<p><b>H2 &amp; H4</b></p>	<p>DPR (regulator of oil exploration and production in Nigeria) appears to be ill-equipped and lacks logistical support to independently, monitor oil production and shipment in Nigeria.</p> <p>Some oil producing companies seem to pay royalty on shipment instead of production as prescribed by the law.</p> <p>Some oil producing companies appear to minimise royalty and PPT payments as monthly instalment payments are not proportionate to monthly production or shipment of crude oil; low monthly instalments being made in earlier months and large monthly payments being made towards</p>	<p>intricacies of the operations of the upstream sector of the petroleum industry and passing laws that will readily be understood by those falling within the law and plugging as much as practicable, loopholes in the law.</p> <p>Government should consider a strategic approach to the enforcement of tax regime on oil producing companies by adopting a system where the oil companies are assigned a low or high risk rate.</p> <p>Create a “Fiscal Regime Monitoring and Compliance Committee” (a special watchdog) to monitor regular compliance with royalty and PPT regime in the upstream sector of the oil industry in Nigeria.</p> <p>As MOU signed in 2000 expired in 2003 and has not been renewed since then, the appropriate legislative process to see to its cessation should be commenced, else the oil producing companies may continue to use the same old arrangement in the absence of a new MOU.</p> <p>Government needs to consider a single and simplified tax law that can be handled and enforced by its tax officials.</p> <p>Equip the DPR for improved performance. The researcher suggests the setting up of “DPR LAW Logistics” i.e. DPR Land, Air and Water Logistics, to provide logistics support with motor vehicles, helicopters, motor boats and highly qualified and well remunerated workforce for the DPR.</p> <p>Government may consider giving oil producing companies an option of using either production or shipment as basis of royalty payments in view of the difficulty of DPR in effectively monitoring field production.</p> <p>Government should consider, and if need be, impose sanctions on companies paying low monthly instalments of royalty and PPT in that such a situation creates a cash flow advantage to the oil producing companies and a cash flow disadvantage to Government.</p>
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<p><b>H3 &amp; H5</b></p>	<p>the end of the accounting year.</p> <p>Tax administration in Nigeria appears to be rather weak and incapacitated. The perception of respondents to the questionnaire and personal interviews tend to support an ill-equipped and ill-trained government tax officials whose understanding of the PPT law and MOU, remuneration and incentives do not match those of the oil producing companies, thereby placing oil companies tax executives at an advantage over government tax officials.</p>	<p>Government may consider a special audit of the royalty and PPT payments of the oil producing companies for the last 10 years. Overpaid taxes should attract interest and tax refund process should be further simplified.</p> <p>Training of government tax officials should be stepped up. Informal training, for example, secondment of government tax officials to oil producing companies may be considered. Recruitment into FIRS from oil company staff is recommended.</p> <p>The tax authority needs to consider the employment of petroleum technical experts in its workforce. Such experts will readily be in a position to evaluate the submission of the oil producing companies and provide required support.</p> <p>There is the need for the cooperation of government agencies involved in the upstream petroleum sector in Nigeria. The agencies need to improve the network amongst them for improved revenue.</p> <p>There is also the need for extensive computerisation within FIRS, DPR and other government agencies, for improved performance.</p> <p>Government should improve tax dispute resolution by setting up an extra judicial body comprising tax experts, retired appeal or Supreme Court judges and tax administrators.</p> <p>Government needs to consider using its resources to improve tax administration. The large tax base needs to be explored for increased revenue. Government needs to invest money in autonomous tax administration.</p>
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### **9.8.1 Enforcement of full compliance with PPT law**

Payment of PPT in Nigeria is very interesting; the law requires an oil producing company to pay equal monthly instalments with a final tax at the end of its accounting period. The law also allows such a company to base the monthly instalment payment on an estimate which may be amended as the need arises. The researcher obtained empirical evidence using survey and personal interview of experienced oil experts. The analysis of the questionnaire data allowed the researcher to know the perception of respondents about the level of understanding of taxpayers of PPT law, transparency of oil companies to FIRS, level of filing and payment of estimated tax and final tax, which were rated as “no more than fair”. The analysis also showed perceived inadequate information in the tax returns of some oil producing companies and poor response to tax queries. The personal interviews seem to corroborate the quantitative results as they confirm lack of adequate database, dearth of experts on the fiscal side, lack of benefit for taxes paid, non-cooperation of various government agencies involved in the petroleum sector, overwhelming influence of oil producing companies and inadequate knowledge of the operations of the petroleum industry amongst government tax officials. There is also the possibility that the oil companies lack the confidence that they will get their money back if they overpay.

The foregoing findings tend to support the possibility of the oil producing companies not fully complying with the provisions of the Petroleum Profits Tax Act. In this regard, the researcher makes the following recommendations:

- (i) Government needs to ensure prompt update of the Petroleum Profits Tax Act in that delay in passing amendment bills by the National Assembly allows the oil producing companies to continue to operate under the old regime thereby defeating the purpose for which the amendments are made.

- (ii) The complexity of the PPT law and the MOU has raised the question as to who formulates the law. It has also put to question whether the legislators and policymakers introduce laws which are capable of being properly administered, in the manner in which the legislators or those who drafted the law envisaged or by the FIRS staff. Government needs to create awareness amongst legislators, oil producing companies, tax authority and the public at large about understanding the intricacies of the operations of the upstream sector of the petroleum industry and passing laws that will readily be understood by those falling within the law and plugging as much as practicable, loopholes in the law.
- (iii) Government should consider a strategic approach to the enforcement of tax regime on oil producing companies by adopting a system where the oil companies are assigned a risk rate. In line with the current practice in the UK, where some companies do everything possible to minimise their tax liabilities within the law, the risk may be rated high and the revenue authority may audit such companies regularly. Where an oil company is considered not to have fancy for complicated tax planning, such a company may be assigned a low risk rate and audited once in a while. Government needs to work closely with the oil producing companies who must be made aware, as part of their general risk management, the risk of unexpected tax penalty and tax risk policy of government. This will enable the oil companies to manage their tax risks effectively and government objectives on tax risk policy achieved. It is not unlikely that some oil companies may adopt a lukewarm attitude to their tax risks as they may ordinarily take it that they can always pay penalties (which are at present considered very low), thereby considering tax risk management a low priority.

- (iv) Government should create a “Fiscal Regime Monitoring and Compliance Committee” to monitor regular compliance with royalty and PPT regime in the upstream sector of the oil industry in Nigeria. The Committee, which will comprise of oil experts, will see to it that possible loopholes utilised by the oil producing companies are reduced to minimum, thereby increasing government revenue from the upstream petroleum sector. The Committee, which will serve as special watchdog, will work principally with the DPR and FIRS, will also recommend on regular basis, erring oil producing companies who will need to comply with appropriate sanctions thereby improving compliance with the laws. The Committee will also keep abreast of fiscal regimes in other lands and advise government on investment of petrodollar for the benefit of the people of Nigeria. The Committee should have a Chairman and Secretary and accomplished oil experts (technical and business), tax administrators as well as legal luminaries.

#### **9.8.2 Need to consider the use of either production or shipment as basis for royalty payment**

The Petroleum Act requires an oil producing company to pay royalty on crude oil produced. Paragraph 61, of the Petroleum (Drilling and Production) Regulations, annexed to the Petroleum Act, mandates a licensee or leased to pay royalty at specified rates “not more than one month after the end of every quarter” during an accounting period. This in practice allows an oil producing company to pay royalty by monthly instalments. The law also allows such a company to base the monthly instalment payment on an estimate which may be amended as the need arises. The researcher obtained empirical evidence using survey and personal interview of experienced oil experts. The analysis of the questionnaire data allowed him to know the perception of respondents on the bases on which the oil producing companies in Nigeria make royalty payments and which

were confirmed principally as “shipment”. The personal interviews seem to corroborate the quantitative results as they confirm lack of logistical support, manpower shortage, bureaucracy, inadequate funding, ageing workforce, and non-cooperation of various government agencies involved in the petroleum sector and overwhelming influence of oil producing companies.

The use of shipment in computing royalty payment appears widespread practice in Nigeria. If the DPR does not have resources to monitor production, Government needs to consider crude oil shipment as a better option which could be explored as basis for royalty payment. It may be a waste of time using production. The effect on the flow of royalty revenue needs to be evaluated to see if there is merit in amending the law in this regard. In the long term, the oil producing companies may be paying appropriate royalty/PPT but may not all be in the period they relate to. There are rules that oil producing companies should pay royalty/PPT; in doing this, one should consider if they are complying with the rules. If they are not complying, it is not unlikely that the rules are too strict and may require changing i.e. paying on shipment rather than production. There is also the problem of monitoring production hence may invariably rely on shipment. The current world oil market crisis is a case in point as oil may not be selling; hence royalty may possibly be paid on shipment. Considering production, the researcher is aware that there are meters installed, but the element of surprise is not there due to shortage of manpower and more so DPR relies on logistical support provided by the oil producing companies. It is considered also that production as a basis of royalty payment, may not be working hence the need to consider granting the oil producing companies an option to use either production or shipment for royalty computation. Government needs to consider the cash-flow effect, particularly as oil may be stockpiled prior to shipment and the lag between production and shipment.

Government should also consider equipping the DPR for improved performance. The researcher suggests the setting up of “DPR LAW Logistics” i.e. DPR Land, Air and Water Logistics, to

provide logistics support with motor vehicles, helicopters, motor boats and highly qualified and well remunerated workforce for the DPR. The unit will be fully equipped and function within DPR and be independent of the oil producing companies who will cease to provide logistical support for DPR officials, and be in a position to do effective monitoring of oil companies activities.

### **9.8.3 Address the mismatch between government tax officials and oil companies' tax executives**

Tax administration seemed to have operated before now with low budget and preponderance of civil servants who were remunerated under the civil service pay structure. There are also problems of poor quality of manpower and facilities, lack of database and tax avoidance and evasion. Omoigui (2006, page 10) lamented the state of tax administration when she said that one of the challenges faced by the tax administration in Nigeria is the “weak and incapacitated tax administration with high level of tax evasion and avoidance and systemic fraud”. She also acknowledged the poor training received by government tax officials. Empirical evidence seems to support the problem of the superiority of the oil companies' tax executives over the government tax officials. They seem to have better educational qualifications, educational opportunities, training, remuneration and status. The government tax officials seem not to be a match for the oil tax executives in knowledge of PPT law, MOU and remuneration, thereby creating a possibility of overwhelming the government tax officials. Where there is a mismatch, as in the case of the upstream sector of the oil industry in Nigeria, one may infer that tax revenue may be lost if the government tax officials do not have the wherewithal to check and question the tax computation of the oil producing companies. There may be the tendency for government tax officials to accept whatever the oil companies present. Lowly-paid tax officials may be susceptible to graft. There is the issue of the complexity of the MOU. The researcher believes that the MOU is rather complex

and is not readily comprehensible. It may ordinarily task government tax officials, due to the low level of training on such matters. It is considered that government tax officials who do not understand the MOU cannot implement what they do not understand. The researcher wonders whether the MOU was not made to create confusion and deliberate loopholes for the oil companies to take advantage in their tax returns. There is the possibility that the oil companies had an input into the wording of the MOU and may have deliberately insisted upon over-complex provisions which are capable of misinterpretation. The researcher also wonders who devised the rules or provisions of the MOU and whether the Revenue authorities were part of the initiation of the MOU in the first instance. This is borne out of evidence obtained in analysing the questionnaire data. The researcher believes that the use of foreign experts, while it has its merits, needs to be carefully weighed, as there is the tendency for such experts to leave the country with law and arrangements that may be unworkable. This puts to test the ability of the taxpayers and the tax administration to readily comprehend and implement the law.

The foregoing calls for a re-evaluation of the calibre of government tax officials and the quality of training they receive. Government should look at the education (i.e. general level of education), training and qualifications of government tax officials. There is the need to revisit the type of school and the recruitment level of tax officials. There is the possibility that oil companies tax officials have college degrees and higher qualifications, which all government tax officials may not necessarily have. Where there is a mismatch in the general level of education, the oil companies may have inherent advantage over government tax officials.

Government should look at the entry criteria for tax officials and how they get the job. There is the need to look at how the oil companies do their recruitment selection, a process that may be considered rigorous. There is the possibility that the Revenue authority may not be following such



strict recruitment criteria as the oil producing companies. Government needs to stick to appropriate level of education, training, development and recruitment criteria. Government should also have performance criteria with which government tax officials should be measured. There is the need to look at how bad an official should be before being sent out of the job, oil companies set strict performance criteria in promoting their tax executives. The revenue authority needs to look at its human resource, education, recruitment criteria, promotion criteria and performance criteria, moving forward. The researcher acknowledges the possibility of some improvements being made by the revenue authority, in the current tax reform but the effect of the changes has not been evaluated by the researcher. There is the need to maintain the improvement (if any) achieved under the current tax reform. The researcher noted that Tanzania did not maintain the outcome of its tax reform such that the gains of the tax reforms appeared to be gradually eroded over time (Fjeldstad 2003, page 165). The tax authority may consider having a deliberate policy of paying substantially higher salaries to elite FIRS staff so that working for FIRS is seen as a viable alternative to working for the oil companies. Reason for paying higher salaries may include easier to insist on and to attract high quality applicants and more competition for the jobs. Pay could be partly performance-related. Higher pay would also address the matter of status. Tax officials should have reason to be confident that they are the equals of their counterparts in the oil companies in the matter of education, training, salary, status and social standing.

Tax administration may be effective if provided with appropriate support and funds, but the researcher has a doubt whether the oil producing companies may want an efficient and effective revenue authority. It is believed that they may not be interested in government tax officials having the same qualification and training as oil companies' tax executives as this may minimise their taking advantage of government tax officials. The tax authority should not worry about offending

the oil companies by improving its standards. The situation may also change with adequate funding of tax administration.

Where you have highly complex tax regime and poorly maintained tax officials and highly motivated oil companies tax executives and government gets all the revenue it wants under an ineffective penalty regime, these may lead to the possibility of lower tax revenues than those which the law and the MOU ought to produce and to the oil producing companies taking advantage of the government tax officials.

There have been incidences before now, of disputes between the tax authorities and the taxpayers in the upstream sector of the oil industry in Nigeria. The researcher is not aware of a clear process of dispute resolution between the FIRS and the taxpayers. The researcher is aware that there is provision for Body of Appeal Commissioners within our tax laws, but the inauguration of such bodies and appointment of members are normally delayed. There appears to be a constraint on the ability of the tax administration to function properly as though there is an appeal system, lack of use (as there are limited cases determined by the process) leaves room for doubt as to the usefulness of the system.

Considering the foregoing, Government may wish to consider the following recommendations:

- (i) Training of government tax officials should be stepped up. Informal training, for example, secondment of government tax officials to oil producing companies may be considered.
- (ii) The tax authority needs to consider the employment of petroleum technical experts in its workforce. Such experts will readily be in a position to evaluate the submission of the oil producing companies and provide required support.

- (iii) There is the need for the cooperation of government agencies involved in the upstream petroleum sector in Nigeria. The agencies need to cooperate and improve the network amongst them for improved revenue.
- (iv) There is also the need for extensive computerisation within FIRS, DPR and other government agencies, for improved performance particularly more sophisticated machines, better networks, better access to reference materials, links between those assessing and those collecting taxes.
- (v) Government should improve tax dispute resolution by setting up an extra judicial body comprising tax experts, retired appeal or Supreme Court judges and tax administrators. The body will help to achieve faster resolution of tax disputes. This is without prejudice to the current appeal process under the tax law. It is recommended that tax officials below a certain grade should not have discretion as to how they apply the law, but that there should be mechanisms for referring disputes/uncertainties to higher level officials or to the new extra-judicial body.
- (vi) The advent of the MOU needs to be reviewed and appropriate legislative process utilised to see to its cessation else the oil producing companies may continue to use the same old arrangement in the absence of a new MOU.
- (vii) Government needs to consider a single and simplified tax law that can be handled and enforced by its tax officials.
- (viii) Government needs to consider using its resources to improve tax administration. The large tax base needs to be explored for increased revenue. Government needs to invest money in autonomous tax administration. The researcher acknowledges the enormous tax base and few taxpayers (i.e. the oil producing companies) and the reluctance of successive governments in Nigeria to invest in tax administration.

#### **9.8.4 Address low instalment payment of PPT**

The researcher believes that taxpayers may not be complying with the tax law for several reasons. They may minimise their tax liability within the law and may be complying with the law but not as intended by the law. There is also the possibility that the oil producing companies may be bending the rules to suit their purpose. There may be the amount of tax they should pay and the time they should pay it, but the oil companies may not pay on time or may be manipulating the system. They may be paying less in monthly instalment and may be having cash flow advantage. They may also not be paying wrong amounts but paying rather late. If they pay too little, is it because they found ways to minimise the liability, utilising loopholes in the tax law, this may not be what the law intended. The researcher wonders why the tax administration is assisting the oil companies in paying too little. This may be attributed to government tax officials not understanding the law to the extent to which such a law is understood by oil companies' tax executives. Government tax officials may be perfectly honest but not equal in knowledge and knowhow as oil companies tax executives. The government tax officials may also not know the questions to ask or are not asking the right questions. If the right questions are not asked, then not much tax will be realised. The researcher also wonders why the oil companies may be able to get away without complying for a long time. If there is no legal dishonesty and they are not breaking the law and tax officials are not taking bribes (as the researcher did not see any evidence of conviction of any tax official), and yet the oil companies are paying low tax.

Government should consider, and if need be, apply sanctions on companies paying low monthly instalment in that such a situation creates a cash flow advantage to the oil producing companies and a cash flow disadvantage to Government, as cash which should be in government coffers and which could be used to improve the welfare of the people, are put to alternative use by the oil producing companies. Government may consider paying interest on overpaid taxes to achieve

increased tax revenue. Tax refund process also needs to be reviewed. Two things here – perhaps they could adopt the system used in the UK where interest is charged on underpayments at a commercial (but not penal) rate, and the interest is deductible corporation tax purposes. Interest is also paid by the tax authority on overpayments but at a lower rate than that charged on underpayments. There is no stigma attached to these payments/repayments, they are considered purely commercial restitution. Secondly, there is the likelihood that the behaviour of the oil companies may be explained partly by the fact they are not confident of receiving refunds of overpayments.

## **9.9 Summary**

This study discussed the fiscal regimes regulating royalty and PPT in Nigeria. An exposition of the essential provisions of the PPT law for the computation of royalty and PPT, under the various regimes, provides readers with a ready source of information on royalty and PPT. Theories on tax research both in Nigeria and other lands provide users with ready literature and a basis for further research. This study seems to provide answers on the tax behaviour of oil producing companies in Nigeria

Before now, successive governments in Nigeria seemed to be happy to receive what the oil producing companies were paying and not what they ought to pay; they seemed pre-occupied with appropriating and expending petro-dollars without strategically developing the relevant government agencies responsible for monitoring crude oil exploration and production (fiscal and operational). The bountiful revenue seemed to have supported the level of complacency in tax enforcement. Frequent changes in government as in the case of the military era did not create a stable tax regime. For example, the DPR appears to lack the necessary resources to effectively monitor crude oil exploration and production in Nigeria as it relies principally on the oil producing companies for logistical support to perform its statutory role. On the other hand, the FIRS seems

to lack sufficient quality resources and information to effectively monitor appropriate PPT payments. The situation may be changing with the current tax reforms being implemented by government.

The researcher believes that where a country operates a complex tax system and lacks enforceable penalties, there is high scope of agreeing taxes by negotiation. If tax is settled by negotiation, it gives the oil companies room for bribing government tax officials, though this is not borne out by empirical evidence. The researcher also believes that where there is a low level of compliance with the tax regime, where the tax authority lacks enabling software and there is a dearth of qualified and experienced tax officials in the revenue authority, and there is a lack of qualified manpower to monitor crude oil production and shipment, the tax administration may not necessarily achieve high tax revenues and this situation may give room for corruption because of the practice of tax negotiation. The researcher is hopeful that tax administration, given the necessary backing and support, coupled with the political will to allow the autonomy of FIRS to work, will definitely improve royalty and PPT revenues in Nigeria. A situation where the GDP per capita is \$409 (Akande 2008, page 1) does not augur well for a nation which ought to be a major oil producing country. An improvement in the GDP per capita may stem the current brain drain of Nigerians in Diaspora and also improve the life of the common man. It is hoped that the ready to use data on royalty and PPT contained in this study and the supporting legislation and literature, will provide oil companies' tax executives, tax administrators, tax consultants, regulators and other users with empirical evidence for their daily use.

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## **Legislation**

Deep Offshore and Inland Basin Production Sharing Contracts Decree No 9 of 1999.

Federal Inland Revenue Service (Establishment) Act 2007

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Federal Inland Revenue Service (Establishment) Act 2007

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Petroleum Profits Tax (Amendment) Act (No. 55) of 1977

Petroleum Profits Tax (Amendment) Act (No. 24) 1979

Petroleum Profits Tax (Amendment) No. 3) Act (No. 95) 1979

Petroleum Profits Tax (Amendment) Bill 2005

## **APPENDIX**

### **BOURNEMOUTH UNIVERSITY**

#### **PETROLEUM PROFITS TAX (PPT) ADMINISTRATION AND PRACTICE STUDY QUESTIONNAIRE**

##### **Introduction**

My name is Babatunde Oremade. I am a doctoral research student at Bournemouth University. I am investigating the practice of taxation in Nigeria with respect to Petroleum Profits Tax (PPT) administration. The purpose for which this information is being collected is to understand and measure people's perceptions with respect to compliance of oil companies with the provisions of the Petroleum Profits Tax Act particularly the payments of PPT and the impressions of taxpayers about tax officials. As your views and opinions are considered paramount in understanding PPT administration and practice in Nigeria, I have prepared this questionnaire which I would like you to complete. The questionnaire would take a few minutes to complete as it only requires you to express your views and opinions. I would appreciate it if you could complete all sections of this questionnaire fully as leaving out some items will affect the final result. Please refer to list of abbreviations at the end of the questionnaire, for ease of reference.

The results of this research will be aggregated to understand people's perceptions of oil companies' compliance with fiscal regimes in Nigeria and their perceptions of tax officials. In order to protect your anonymity, you may opt not to disclose your name. In effect, no single individual's response will be published; hence the respondents will be completely anonymous. The final results of this research will be made accessible to those who respond to the questionnaire upon request. The research is important in that it will lead to improvement in PPT administration in Nigeria.

I thank you in advance for helping with this valuable research project.

##### **Data Protection**

Bournemouth University is a registered Data Controller. Any information supplied by respondents to this questionnaire will be held anonymously and securely in accordance with the Data Protection Act 1998 and will only be used for the purposes of this survey. Your personal details, as supplied in this questionnaire, will not be made available outside the University.

Any queries regarding Data Protection should be addressed to the Information Officer, Bournemouth University at [information@bournemouth.ac.uk](mailto:information@bournemouth.ac.uk)

### About the respondent

1. Name

(OPTIONAL PLEASE)

2. Your occupation (e.g. Tax Executive, Tax Administrator, Tax Adviser etc).

3. Nature of organisation. *Please circle only one letter (A,B,C,D) from the following:*

A Joint Venture

B Production Sharing Contract (PSC)

C. Consulting firm

D. Other (*please specify*)

4. Your professional qualification (e.g. ACA, ACCA, CIMA, ACTI, etc.)

5. Your number of years on tax matters. *Please circle only one letter (A,B,C,D) from the following:*

A 0 – 10

B 11 – 20

C. 21 – 30

D. 31 and over

6. Your highest level of education

A. Primary

B. Secondary

C. Degree

D. Postgraduate



### Choosing the answers

*Unless otherwise indicated, please show your degree of agreement or disagreement with each statement below, taking a holistic view of the PPT administration and practice in Nigeria. Circle only ONE number, using the scale provided below.*

#### THE SCALE

- 1 = Strongly Disagree
- 2 = Disagree
- 3 = Neither Agree nor Disagree
- 4 = Agree
- 5 = Strongly Agree

#### Level of compliance of oil companies with tax laws (PA, PPTA, PSC and MOU)

7. The Petroleum Profits Tax Act (PPTA) regulating PPT is a piece of legislation that is easy to understand.

1      2      3      4      5

8. It seems that the Government takes too long a time to amend the Petroleum Profits Tax Act.

1      2      3      4      5

9. The Petroleum Act (PA) regulating petroleum exploration and production is a piece of legislation that is easy to understand.

1      2      3      4      5

10. It seems that Government takes too long a time to amend the Petroleum Act.

1      2      3      4      5

11. The Memorandum of Understanding (MOU) is a piece of agreement that is difficult to understand.

1      2      3      4      5

12. It seems that Government takes too long a time to amend the MOU.

1      2      3      4      5

13. The climate responsible for creating the MOU no longer exists.

1      2      3      4      5

14. The MOU should be scrapped.

1      2      3      4      5

15. Legislators/policymakers should introduce laws which are capable of being properly administered in the manner envisaged.

1      2      3      4      5

16. The present effective tax rate is too high.

1      2      3      4      5

17. How would you grade your level of understanding of the Petroleum Profits Tax?

Act? *(Please tick one answer).*

☐ Very Poor    ☐ Poor    ☐ Fair    ☐ Good.    ☐ Very Good

18. How would you grade your level of understanding of the Memorandum of Understanding (MOU)? *(Please tick one answer).*

☐ Very Poor    ☐ Poor    ☐ Fair    ☐ Good    ☐ Very Good.

19. Please state the issues which tax officials have disputed in an oil producing company's tax return. *(You may tick more than one answer).*
- ☐ Reserves Addition Bonus. ☐ Value Added Tax. ☐ Head Office charges
- ☐ Exchange difference. ☐ Other (please specify) -----
20. How do you resolve disputes with the Federal Inland Revenue Service (FIRS)? *(Please tick one answer)*
- ☐ Negotiation ☐ Litigation. ☐ Payment without challenging the FIRS.
- ☐ Superior technical presentation
- ☐ Other (please specify) -----  
-----
21. If you encounter difficulties in dealing with the FIRS, what forms do these take? *(You may tick more than one answer).*
- ☐ Multiplicity of taxes ☐ Limited skills ☐ Slow response
- ☐ Ineffective appeal system ☐ Other (please specify)  
-----
22. How do you rate the level of understanding of taxpayers of PPT law? *(Please tick one answer)*
- ☐ Very poor. ☐ Poor. ☐ Fair. ☐ Good. ☐ Very good.
23. How do you rate the level of transparency of oil companies to FIRS? *(Please tick one answer)*
- ☐ Not transparent. ☐ Partly transparent. ☐ Fair ☐ Transparent.
- ☐ Very transparent
24. How can petroleum profits tax (PPT) be settled in a transparent manner? *(You may tick more than one answer).*
- ☐ Publish what you pay ☐ Appropriate liaison between FIRS and CBN
- ☐ Publish appropriate statistics ☐ Other (please specify)  
-----

25. In your view, are taxpayers sure of the fiscal regime under which they are to be taxed for PPT purposes? *(Please tick one answer)*
- ☐ Not sure.   ☐ Fairly sure.   ☐ Average.   ☐ Sure.   ☐ Very sure.
26. In your view, how do oil companies comply with the filing of estimated tax? *(Please tick one answer)*
- ☐ Not done at all.   ☐ Done lately   ☐ Averagely   ☐ Promptly.
- ☐ Other (please specify). -----  
-----
27. How would you rate the timely payments of estimated tax of oil companies? *(Please tick one answer).*
- ☐ Very poor.   ☐ Poor.   ☐ Fair.   ☐ Good.   ☐ Very good.
28. How is PPT provision arrived at in an oil company's annual financial statements? *(Please tick one answer).*
- ☐ Based on estimate of crude oil exported. ☐ Based on actual crude oil production.
- ☐ Based on actual crude oil liftings.   ☐ Based on actual crude oil liftings and local sales.
- ☐ Other (please specify). -----  
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29. What price do oil companies use in arriving at the PPT provision in their annual financial statements? *(Please tick one answer).*
- ☐ Based on posted price.   ☐ Based on estimated price.   ☐ Based on actual price.
- ☐ Based on realisable price.   ☐ Based on higher of realisable price and actual price.
30. What constitutes the difference between tax provision and tax payment in an oil company's annual financial statements? *(Please tick one answer).*
- ☐ Outstanding tax liability based on estimated crude oil exported.

- ☐ Outstanding tax liability based on actual crude oil production.
- ☐ Outstanding tax liability based on actual crude oil liftings.
- ☐ Outstanding tax liability based on actual crude oil liftings and local sales.
- ☐ Other (*please specify*). -----  
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31. How is royalty provision arrived at in an oil company's annual financial statements? (*Please tick one answer*).

- ☐ Based on estimate of crude oil exported    ☐ Based on actual crude oil liftings
- ☐ Based on actual crude oil crude oil liftings and local sales
- ☐ Based on actual crude oil produced
- ☐ Other (*please specify*) -----  
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32. What constitutes the difference between royalty provision and royalty payment in an oil company's annual financial statements? (*Please tick one answer*).

- ☐ Outstanding royalty liability based on estimated crude oil exported.
- ☐ Outstanding royalty liability based on actual crude oil liftings.
- ☐ Outstanding royalty liability based on actual crude oil production and local sales.
- ☐ Outstanding royalty based on actual crude oil production.
- ☐ Other (*please specify*). -----  
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33. On what basis does an oil company pay royalties? (*Please tick one answer*).
- ☐ On production at 'well head'   ☐ On fiscalised quantities re-adjusted to production  
☐ Other (please specify) -----  
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34. In your view, how do oil companies comply with the filing of final tax returns? (Please tick one answer).
- ☐ Not done at all.   ☐ Done lately.   ☐ Averagely.   ☐ Promptly.  
☐ Other (please specify). -----  
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35. How do you rate the adequacy of the information disclosure in the tax returns of oil companies? (*Please tick one answer*).
- ☐ Inadequate.   ☐ Fair.   ☐ Average.   ☐ Adequate.  
☐ Comprehensive.
36. How would you rate the timely payments of final tax of oil companies? (*Please tick one answer*).
- ☐ Very poor   ☐ Poor.   ☐ Fair.   ☐ Good.   ☐ Very good
37. How would you rate the level of response of oil companies to tax queries? (*Please tick one answer*).
- ☐ Very poor   ☐ Poor   ☐ Fair   ☐ Good   ☐ Very good.
38. State the difficulties which oil companies encounter in complying with the PPTA. (*You may tick more than one answer*).
- ☐ Inadequacy of the tax law   ☐ Ambiguity in the tax law   ☐ Non availability of taxpayers' education.   ☐ Delay in dispute resolution.  
☐ Other (please specify) -----  
-----  
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39 Incentives aid tax compliance. (Please tick one answer).

☐ Strongly disagree. ☐ Disagree. ☐ Neutral ☐ Agree. ☐ Strongly agree

40. In which ways can compliance with PPTA be improved? (*You may tick more than one answer*).

☐ Taxpayers' education ☐ Frequent releases from FIRS.

☐ Awareness campaign ☐ Designing of comprehensive tax assessment forms

☐ Other (please specify) -----

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#### **Level of competence of tax officials**

41. How would you rate the level of understanding of tax officials of the Petroleum Profits Tax Law? (*Please tick one answer*).

☐ Very Poor ☐ Poor ☐ Fair. ☐ Good ☐ Very Good

42. How would you rate the level of understanding of tax officials of the MOU? (*Please tick one answer*).

☐ Very Poor ☐ Poor ☐ Fair ☐ Good ☐ Very Good

43. Comparing the training which your own company's tax personnel receive on PPT, how do you rate the training which FIRS staff receive? (*Please tick one answer*).

☐ Very High ☐ High ☐ Low ☐ Very Low ☐ Very Poor

44. When you compare with your own company's tax personnel, how do you rate the FIRS staff in respect of technical knowledge? (*Please tick one answer*).

☐ Very High ☐ High ☐ Low ☐ Very Low ☐ Very Poor.

45. When you compare with your own company's tax personnel, how do you rate the FIRS staff in respect of educational qualifications? (*Please tick one answer*).

☐ Very High ☐ High ☐ Low ☐ Very Low ☐ Very Poor

46. When you compare with your own company's tax personnel, how do you rate the FIRS staff in respect of educational opportunities? *(Please tick one answer).*
- ☐ Very High   ☐ High   ☐ Low   ☐ Very Low   ☐ Very Poor
47. How do you rate the Large Tax Office (LTO) of the FIRS in respect of quality of staff? *(Please tick one answer).*
- ☐ Very good.   ☐ Good.   ☐ Average.   ☐ Below average.   ☐ Very Poor.
48. How do you rate the Large Tax Office (LTO) of the FIRS in respect of experience of staff? *(Please tick one answer).*
- ☐ Very good.   ☐ Good.   ☐ Average.   ☐ Below average.   ☐ Very Poor.
49. How do you compare oil companies staff compensation with that of the FIRS? *(Please tick one answer).*
- ☐ Oil companies pay higher than the FIRS.   ☐ Comparable
- ☐ Oil companies pay lower than the FIRS.
50. How frequently do you attend petroleum tax related training? *(Please tick one answer which comes closest to the number of times you attend petroleum tax related training).*
- ☐ Never.   ☐ Once a while   ☐ Once a year.   ☐ Twice a year.   ☐ More than twice a year.
51. How long does it take to agree an oil company's tax liability for an accounting year with the FIRS? *(Please tick one answer).*
- ☐ Never   ☐ One year   ☐ Two years   ☐ Three years.   ☐ Four Years.
- ☐ Others *(please specify)*

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*Unless otherwise stated, please indicate your level of agreement or disagreement with each statement below. Circle only ONE answer using (1) Strongly Disagree, (2) Disagree, (3) Neither Agree nor Disagree, (4) Agree, or (5) Strongly Agree.*

52. You would readily point out mistakes made by FIRS staff in their review of your company's tax returns.

1      2      3      4      5

53. FIRS requires adequate resources to monitor adherence to the PPTA.

1      2      3      4      5

54. Inadequate funding of the FIRS impacts on the performance of tax administration.

1      2      3      4      5

55. Technology plays a strong role in the performance of tax officials.

1      2      3      4      5

56. FIRS autonomy will aid the performance of tax officials.

1      2      3      4      5

57. How can the gap, if any, between the taxpayers and the tax officials be bridged?

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58. Which of the following actions of the FIRS aid tax compliance? (*Please tick one answer*).

☐ Monitoring.    ☐ Desk examination    ☐ Tax audit      ☐ Tax investigation.

☐ Other (*please specify*) -----  
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### Minimising PPT instalment payments

59. Difficulty in obtaining a tax refund from government encourages minimizing PPT estimate for an accounting period.

1      2      3      4      5

60. Minimizing the PPT estimate for an accounting period helps cash flow.

1      2      3      4      5

### Penalties

61. Penalties aid tax compliance.

1      2      3      4      5

62. Increase in enforcement procedures will improve compliance.

1      2      3      4      5

63. The fashion for increased attention paid to corporate social responsibility in companies annual reports is translating into real changes in attitudes to tax planning.

1      2      3      4      5

64. The fashion for increased attention paid to corporate social responsibility in companies annual reports is translating into real changes in attitudes to the incurring of penalties.

1      2      3      4      5

### Corruption and tax administration

65. In your view, what forms do leakages in tax revenue take? (*You may tick more than one answer*).

☐ Poor administration. ☐ Poorly drafted legislation. ☐ Playing around with withholding taxes (WHT). ☐ Leakage through corruption. ☐ Tax officials' limited knowledge of the law.

☐ Other (Please specify)

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66. How can Government stem the leakages? (You may tick more than one answer).

☐ Improve resources in tax administration. ☐ Maintain zero tolerance for corruption.  
☐ Others (Please specify)

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*Unless otherwise stated, please indicate your agreement or disagreement with each statement below. Circle only ONE number using (1) Strongly Disagree, (2) Disagree, (3) Neither Agree nor Disagree, (4) Agree, or (5) Strongly Agree.*

### **Tax evasion and black economy (informal sector)**

67. The black economy is prevalent in Nigeria.

1            2            3            4            5

68. What can be done to reduce the incidence of the black economy? (You may tick more than one answer).

☐ Create national identification record. ☐ Educate taxpayers. ☐ Reduce cash usage. ☐ Train tax officers' skills. ☐ Create effective management information system.

☐ Other (please specify) -----

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69. Government officials ranking above the tax officials routinely grant tax concessions to oil producing companies.

1      2      3      4      5

70.      Within the law, companies devise methods to reduce their tax liabilities.

1      2      3      4      5

71.      It is acceptable for a company to evade tax.

1      2      3      4      5

72.      Tax evasion is prevalent in the oil industry in Nigeria.

1      2      3      4      5

### **Abbreviations.**

PPT – Petroleum Profits Tax

PSC – Production Sharing Contracts

PPTA – Petroleum Profits Tax Act

PA – Petroleum Act

MOU – Memorandum of Understanding

FIRS – Federal Inland Revenue Service

LTO – Large Tax Office

## **INTERVIEW QUESTIONS (FIRS)**

- (1) What is your view of the fiscal policies affecting oil producing companies in Nigeria?
- (2) What challenges does PPT administration face in Nigeria?
- (3) What is your view of the Memorandum of Understanding (MOU)?
- (4) What is responsible for the slow amendment of the PPTA over the years?
- (5) What does Nigeria stand to gain by the current tax reform?
- (6) How can competencies in FIRS be improved upon?
- (7) What is responsible for leakages in tax revenue in Nigeria?
- (8) How can tax leakages be stemmed?
- (9) What is responsible for low monthly installments of PPT paid by oil producing companies in Nigeria?
- (10) Why does the process of agreeing oil producing companies taxes take too long a time?
- (11) What is responsible for the variance between tax paid by oil producing companies and tax reported by the CBN?
- (12) What is your view about the black economy in Nigeria?
- (13) What can be done to reduce the incidence of the black economy in Nigeria?
- (14) Why do we have a dearth of decided cases affecting the taxation of oil producing companies in Nigeria?
- (15) How can dispute resolution be improved upon?
- (16) What is your view of tax non-compliance by oil producing companies in Nigeria?
- (17) How can the regulators work together to improve PPT administration in Nigeria?
- (18) Which tax model do you deem appropriate for oil producing activities in Nigeria?
- (19) Do the different PPT regimes give scope to reduce tax?
- (20) What is your view on allowing the different PPT regimes to remain or be consolidated?

## **INTERVIEW QUESTIONS (DPR)**

1. What is your view of the fiscal policies affecting oil producing companies in Nigeria?
2. What challenges does the Department of Petroleum Resources (DPR) face in Nigeria?
3. What is your view of the Memorandum of Understanding (MOU)?
4. What is responsible for the slow amendment of the Petroleum Act (PA) over the years?
5. How can competencies in DPR be improved upon?
6. What is responsible for leakages in petroleum production in Nigeria?
7. How can the leakages be stemmed?
8. What is responsible for low quarterly installments of royalties paid by oil producing companies in Nigeria?
9. What is your view of the level of resources available within DPR?
10. What is responsible for the variance between DPR production figures and production figures reported by oil producing companies?
11. What is your view about the black economy in Nigeria?
12. What can be done to reduce the incidence of the black economy in Nigeria?
13. How can the regulators work together to improve petroleum revenue in Nigeria?
14. Which royalty model do you deem appropriate for oil production activities in Nigeria?
15. What is your view on the NNPC continuing to collect royalty oil on behalf of the DPR?

## **INTERVIEW QUESTIONS (NNPC)**

1. What is your view of the fiscal policies affecting oil producing companies in Nigeria?
2. What challenges does the Nigerian National Petroleum Corporation (NNPC) face in connection with obtaining reliable statistics of petroleum production in Nigeria?
3. What is your view of the Memorandum of Understanding (MOU)?
4. What is responsible for leakages in petroleum revenue in Nigeria?
5. How can the leakages be stemmed?
6. What is your view about the black economy in Nigeria?
7. What can be done to reduce the incidence of the black economy in Nigeria?
8. How can the regulators work together to improve petroleum revenue in Nigeria?
9. Which fiscal model do you deem appropriate for oil producing activities in Nigeria?
10. What is your view on NNPC collecting tax oil and royalty oil in PSC companies on behalf of the FIRS and DPR?