

A COMPARATIVE ANALYSIS OF LAND USE CHARGE LAWS IN ANAMBRA, EDO, LAGOS AND ENUGU STATES, NIGERIA

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Abstract

This study was undertaken to identify and compare the provisions of the Anambra, Edo, Lagos and Enugu States Property and Land Use Charge laws based on the provisions of Land and Property Tax: A policy Guide of the United Nations Human Settlements Programme (UN-HABITAT) 2011. The Chi Square test was employed to determine their differences and similarities. The study discovered that there is no significant difference between the provisions of the States' property tax laws. Again, some of the States did not provide the basis for assessment of the tax, this shows that the tax systems are not transparent. Also not provided are information on the skills and training of tax assessors and the cycle for updating taxable values, among others. The study recommended that, the provisions of the tax laws should be reviewed to indicate the basis of allocation of the tax burden to tax payers since a transparent tax assessment system enhances public acceptability of the tax. The tax laws should also recognize estate surveyors and valuers as expert tax assessors since they are the professionals involved in valuation for property taxation. They should also be included as members of the tax assessment appeal panel so as to create a transparent assessment system. They should also be involved in the making of property tax laws in Nigeria.

Keywords: Property and Land Use Charge, Property tax, Property Tax Policy Guide.

INTRODUCTION

Infrastructure is important for communities to function. The provision and maintenance of infrastructure especially in urban areas has always posed a great challenge to governments at all levels. Africa's 1.1 billion population was projected to be more than double by the year 2050, and more than 80% of the increase will occur in urban areas, especially slums. According to the United Nations Population Fund (UNFPA, 2011) reports, Nigeria is now the sixth most populated nation in the world with an estimated population of about 187 million in the year 2015 and the impact of the nation's population growth on public utilities is enormous. Most of the social amenities and services have been overused and are in dire need of up-date and repairs. Furthermore, a large portion of areas lack necessary amenities and needs to be attended to. Therefore, a huge as well as a diversified revenue base is required to undertake these. However, the responsibilities of the State and Local governments have grown over the years, and yet they depend on unpredictable revenue sources. These challenges have made it imperative for government to increase their revenue base through taxes. Taxes on property are the single most important source of locally raised revenue in most parts of the world and seen as reliable revenue for local governments (Dillinger, 1992). These challenges faced by the government at all levels in the provision and maintenance of infrastructure have given rise to bold reforms on property taxation by a number of State Governments to increase their revenue base. Lagos State took the lead in 2001 followed by

Anambra State in 2010, Oyo and Edo State in 2012, Ondo State and Abia State in 2014, Osun and Enugu States in 2016 (Egolum, 2016).

The success of any property tax system depends on the availability of a potent, dynamic and responsive legal structure which gives the tax the legality, legitimacy and the required backup for its successful administration (Adamu, 2008). Tax policy is the first step in achieving a simple and successful property tax system. The less complex the policy, the easier its implementation. Property tax policies in developing countries should be structured to have clearly articulated objectives which are integrated with other aspects of the tax system considering the complex economic and political environments. A comparison done between the land use charge laws of Enugu, Edo, Lagos and Anambra States to identify their provisions and establish any significant differences will expose tax inequities in the tax system which when addressed will bring a fair and equitable property tax system which will be beneficial to the tax payers and also provide a buoyant revenue to the government.

Research Objectives

1. To compare the provisions of the Anambra State Property and Land Use Charge Law 2010, Lagos State Land Use Charge 2018, Edo State Land Use Charge 2012, Enugu State Land Use Charge 2016 based on the UN-HABITAT's Policy Guide on Land Use and Property Tax.
2. To compare the provisions of Anambra State Property and Land Use Charge Law 2010, Lagos State Land Use Charge 2018, Edo State Land Use Charge 2012 and Enugu State Land Use Charge 2016.

LITERATURE REVIEW

This section discussed the theoretical framework, the concept of property tax, the evolution of property tax in Nigeria, tax policy, the components of the UN-HABITAT provisions on Land and property tax policy guide and finally the review of empirical studies.

Theoretical Framework

Economists have categorised economic concepts that can be used to evaluate a tax system. They are founded on traditional Adam Smith's (1776) cannons of taxation in his book "*Wealth of Nations*. They are:-

- a) Equity- fairness with respect to the tax contributions of different individuals.
- b) Certainty- lack of uncertainty about tax liabilities.
- c) Convenience- timing and manner of payment should be convenient.
- d) Efficiency- A small cost of collection as a proportion of revenue raised, and the avoidance of distortionary effects on the behaviour of tax payers. The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept at a minimum. (The principle of neutrality).

Overtime, varying criteria for scrutinizing or evaluating a tax system emerged, property tax must be fair, equitable, set in simple language, be politically acceptable to the payers,

consistent with the goals of promoting a stable economy, and put into consideration the ability to pay based on income. (Igwe- Kalu, 1998 ; Emeni, 2000; James and Nobes, 2000; Nightingale, 2001 and Ogbuefi, 2004). Applying this to the study, property tax is known to be a politically sensitive tax due to its direct nature. The common experience is that property tax systems based on haphazardly formulated tax policies that are poorly implemented without regard to the canons or principles of taxation are known not to meet their expected tax returns. Such tax systems would rather provoke resentment, non-compliance and oppositions among tax payers. A property tax system that satisfies these criteria would ensure equity, encourage compliance and improved revenue yields.

The Concept of Property Tax

Landed property taxation involves those taxes imposed by law and payable by individuals, corporations, and other bodies in respect of interests or estates in real and immovable property. In its broadest sense, they include –petroleum tax, mining tax, mineral royalties, forest tax, severance tax, and others, Igwe- Kalu, (1998). According to Ogbuefi, (2004), the meaning of land may also include airspace over-flight rights, and rights to navigate through continental shelves. Cameron, (1999), views it as a tax levied on landed or real properties which is based on the value of the property itself. It is an annual tax on real property. Generally, a property tax is administered through the uniform tax rate imposed on the assessed value of the property subject to tax. This assessed value is determined by an estate surveyor and valuer using either the annual or capital value basis of assessment.

Evolution of Property Tax in Nigeria

Before the advent of the British in Nigeria there had been some form of taxes paid. The country was divided into four major territories- Northern Provinces, the Southwestern Provinces; the South-eastern Provinces and Lagos and Colony. There was an established system of direct taxation in Northern Nigeria even before the coming of the British. The North was favoured for this because it had a form of organized central administration under the Emirs unlike the south which except in few places in the west was not as organized. Furthermore, Islamic religion approved of taxation such as Zakka, Gada, Kindin, Kararat and Jangoli which were typical forms of taxes on agricultural products and livestock. In the early part of colonial rule before money economy became popular, the colonial administration employed the use of able bodied men and women could be considered as fair substitutes of rates, it was paid by direct labour. This primitive system later gave way in 1915 when the Assessment Ordinance was promulgated. This law was limited to the colony of Lagos in its application. In the year 1963, property rating extended to Eastern Nigeria. The more developed Southern States including Lagos State imposed rates on both land and improvements. The assessment was based on annual value. Other parts of the south embraced only land with buildings while Eastern and Mid- Western States taxed only buildings.

This was an illuminating case of the adaptation of the form of property tax to different economic and social conditions. Only the more developed southern states of Nigeria (including Lagos City Council) imposed rates on real property that were based on the value of "tenements". In Lagos, tenements were defined to include the value of land with or without buildings, while in other parts of the South they embraced only land with buildings, expressly excluding unimproved land. The tax in Lagos was based on the annual value of land and

buildings. Only buildings were taxed in the Eastern States and in Mid- Western States. In the former, value was based on cost of construction according to what is known as the "Contractor's Method"; that is, the cost of construction per cubic foot is calculated for different types of buildings, and multiplied by the cubic capacity of the building to arrive at the estimated total value. The base was taken at five (5) per cent of this presumptive value. The system in Mid- Western State, adopted in 1968, was the ultimate in simplicity. Urban land was divided into three categories depending on its location, and buildings were classified as concrete or mud:- Six adhoc specific rates were then applied to these six categories. Neither the Northern States nor the Western States had a tax on "tenements," the former because of the traditional "community tax," which is a lump sum tax apportioned to each family according to its wealth.

The first major property rating assessment law enacted in the then Eastern Nigeria, of which Anambra State was a part, was known as the Assessment Law (Cap 11 Laws of Eastern Nigeria), 1963. There was also the East Central State Property Edict, 1972 which made every Local Government Area a Rating Area. In 1976, the nationwide local government reform based on the "Dasuki Report" brought about the Anambra State Local Government Edict, 1976 then made up of Anambra and Enugu States. Section 98 to 144 dealt with property tax. This law was operated with the Tenement Rating (Method of Assessment) Order 1979. This Order was made pursuant to Section 106 of the said Local Government Edict 1976. It later became the Anambra State of Nigeria Local Government Law 2000 and the rating law is contained in Part XI while the Method of Assessment Order made pursuant to Section 106 of the Local Government Edict, 1976 still applied. Annual rental value was the basis for the tax assessment and it was stated in the Edict.

Tax Policy

A tax policy is a design of a tax system that has the ability of financing public spending in the most efficient and equitable way (Tanzi & Zee, 2000). A tax policy is a framework within which the tax authority has to perform its responsibilities. The intended users (taxpayers) should also be consulted when drafting the policy. Attention should be given to the drafting style, language and volume to make it transparent and as simple as possible. The lack of legal simplicity of tax policies has been identified as the greatest problem facing taxpayers and tax administrators (Mckerchar & Chan, 2009). The tax policy choices affect the tax base definitions, exemptions, valuation standards, tax rates, collections and enforcement provisions.

Components of UN-HABITAT Land and Property Tax Policy Guide

The following are the components of a good property and land use charge law according to UN-HABITAT (2011) Land and Property Tax Policy Guide.

Effective date of property tax: The calendar date on which the land and property tax takes effect should be stated in the property tax law. This helps define the taxable property since valuation must take place at a specific date.

Heads of tax: The name of the land tax or taxes to be levied or consolidated should be stated.

Taxpayer: Who is irresponsible for paying the tax? Is it the property owner or occupier?

Level of government to administer the tax: What tier of government will collect the tax? Is it Federal, State or Local government?

Tax base: The property tax law should define what is taxable. Is it only land, improvements or land and improvements as a single unit?

Definition and identification of property types: The law should define and describe the classes of taxable properties for easy identification by the tax payers.

Interpretation of key concepts and terms: The law should interpret important concepts and terms used to make it easy to understand and reduce ambiguity.

Exemptions: The law must spell out what land and property to be fully or partially exempted from the property tax. It should also make clear what makes a property lose its exemption status.

Tax rates: The tax rates for the different classes of properties are stated

Definition and stipulation of standard of value: The law should state in fairly general terms the value of standard to be used in the assessment of the tax. Is the land and property taxed based in its capital market value, annual rental value or based on property attributes?

Skills and training of tax assessors: The tax assessors should be the registered estate surveyors and valuers and should be stated in the property tax law.

Definition of cycle for updating taxable values: Property values are not static. The law should define the period for revaluation or updating of taxable values. In general, period of a year to three years are recommended.

Agency responsible for generating and delivery of tax bills: Administrative functions are shared to make the administration of the tax easier. The law should stipulate which functions are assigned to which agencies.

When tax bills are to be sent out and when tax is due: This should also be stated to guide the taxpayer.

Stipulation of what constitutes notification of taxpayers: The law should be clear on what qualifies as notification so that claim of notice not given could be dealt with. It should state whether it is by Email or delivery of demand notice.

Agency responsible for collection of tax payments: How tax payments can be conveniently made by the taxpayers should be stated in the law.

Assessment appeals and assessment appeals process: The law should establish the administrative process through which taxpayers can appeal if they feel an error has occurred.

Condition of appeal: The law should establish what will be appealed. Is it the actual tax bill or the errors in assessment? It should also state the period during which the appeal can be made.

Sanctions and penalties: These should be fixed and spelt out in the law in the event of non - payment of property tax.

Sharing pattern of revenue: The sharing pattern of revenue for the different tiers of government should be stated.

Review of Empirical Studies

Almy, (2014) stated that the extent to which valuation methods and rules are entrenched in tax laws vary from country to country. In Canada, Denmark, Netherlands, United Kingdom and United states, the tax laws merely establish standards and valuers are left to decide which methods and valuation models to employ. While in countries like Brazil and Germany, valuation models are adopted by the government with the help of the valuers and incorporated in the regulation.

Adamu, (2008) examined the efficacy of the legal framework for property tax administration in Nigeria. He emphasized that the property tax is an appropriate tax for the local governments but the success largely depends on the existence of a potent, responsive and dynamic legal structure which will give the tax legality and legitimacy and the backup it needs to function effectively. The work brought to the fore the absence of a principal legislation for property taxation in Nigeria. The Nigerian tax law is constituted by patchwork of statutes passed by states and local government authorities. The paper concludes that there is need for a substantive property tax law which will clearly define the governing principles of property tax administration and will likely consolidate the nominal statutes into a single statute for easy implementation and to avoid double taxation. That was what the different States' Property and Land Use Charge Laws (LUC) came into existence to address.

Oni (2009) carried out a research on An Estate Valuers' Assessment of the Lagos State Land Use Charge Law 2001. The study assessed the provisions of the tax law in Lagos State and determined its effects on stakeholders (citizens, Estate surveyors and valuers, Government). Using the Bartlett model, a sample size of one hundred and fifty firms were selected from a population of three hundred and twenty five registered firms of Estate Surveyors and valuers in Lagos. Questionnaires were administered on an Estate surveyors and valuer from each firm and also on tenants and landlords. The study revealed that Estate surveyors and valuers see the capital value basis of calculating land use charge as inappropriate and that makes the tax assessment unfair and inequitable. The existing provision for penalty for delayed tax payment is inconsiderate since default or delayed rent payments by tenants was not considered by the law. The study also revealed the plight of the Estate surveyors and valuers as property managers. It concluded that for property tax to be a success, Estate surveyors and valuers must be appointed to determine the appropriate annual values on net annual basis of valuation and also collect and remit land use charge.

Similarly, Babawale and Nubi (2013) in "Property tax reform: an evaluation of Lagos State Land Use Charge" examined the performance of the Land Use Charge in its first nine years. In the absence of authentic information from the government and its agents, the respondents were drawn from Estate Surveyors given their familiarity with the provisions of the enabling Act. They are in a position to provide a representative opinion on the performance of the property tax. Data were gathered through interview and questionnaires. One hundred and thirty five (135) questionnaires were collected. Respondents' assessment of the (LUC) law, the policy and administration was measured on a five- point Likert scale from "strongly agree" to "strongly disagree". Data were analysed with the use of simple frequency

distribution, percentages and ranking based on mean item score. According to the study findings, the law has enjoyed limited acceptability and achieved limited success in spite of all the coercion, threat, muscle-flexing and substantial concessions by the government in almost ten years of its existence. The protests get louder while stakeholders, organized private sector (OPS) and professionals like the Nigerian Institution of Estate Surveyors and Valuers (NIESV), Nigerian Bar Association (NBA), and Chartered Institute of Taxation of Nigeria (CITN) either condemn the policy or drag the government to court. The study concluded that the right professionals should be consulted in the drafting of the tax policy considering the local peculiarities and the tax system should be perceived to be equitable and fair to achieve desired results.

As Kelly, (1999) also suggested, each country must provide its own answers to such questions as; what is to be taxed? Who is liable? Is the tax basis and method of valuation appropriate? What is the tax rate and structure? What is supposed to be the responsibilities of local, state and federal governments in policy and administration? The first step in any property tax reform is to carry out analysis of the existing property tax system to find out the major limitations or constraints for necessary amendments. Slack (2013), emphasized that a look should be taken at the tax policy (tax base and tax rate) and tax administration (identification, valuation, billing, collection and enforcement) if the reform is for increased revenue. The exemptions should be minimal and government properties should make payments in lieu of tax so that the tax base will not be narrow. The tax rates should be differentiated according to the property class. Most times, single family properties and agricultural properties are favoured. Tax administration has a great impact on revenue, efficiency and tax equity. The elements of Administration (property identification, description of the property and the amount of assessment, issuing tax bills, collection of taxes and dealing with tax arrears) must be linked together since their performance determines the success of the tax system.

METHODOLOGY

The descriptive research design was adopted. This is a research design that involves the observation and the explanation of the characteristics of a population or phenomenon being studied (Asika, 2005). Secondary data were used for this study. The components of a good property tax law were adapted from "The Land and Property Tax: A policy Guide by United Nations' Human Settlements Programme (UN-HABITAT) (2011). The provisions of the Land Use Charge Laws of Anambra, Enugu, Edo and Lagos States were also used. The provisions of the states' property tax laws were compared with that of UN-HABITAT. The data obtained were analysed using frequencies, percentages and the Chi square test. The Chi Square test is a statistical test applied to sets of categorical data to evaluate how likely it is that any observed difference between the sets arose by chance. A comparison is done to determine the differences between the states' property tax laws.

RESULTS AND DISCUSSION

A comparison guided by the property tax law provisions of UN-HABITAT was done between the Land Use Charge Laws of Enugu, Edo, Lagos and Anambra States to expose their similarities and differences. They are shown on Table 1.

Table 1: Comparison of the Provisions of the Property Tax Laws of Anambra, Enugu and Edo and Lagos States based on Components of UN-Habitat's Tax Policy Guide

S/N	UN-HABITAT Provisions	Anambra	Enugu	Edo	Lagos
1.	Effective date of property tax	1	1	1	1
2.	Heads of tax	1	0	0	1
3.	Level of government to administer the tax	1	1	1	1
4.	Tax base	1	1	1	1
5.	Property types identification and definition	0	0	0	1
6.	Interpretation of key concepts and terms	1	1	1	1
7.	Exemptions	1	1	1	1
8.	Tax payer	1	1	1	1
9.	Stating of tax rates	0	0	1	0
10.	Definition and stipulation of value of standard	0	1	0	1
11.	Skills and training of tax assessors	0	0	1	0
12.	Definition of cycle for updating taxable values	0	0	0	1
13.	Agency responsible for generating and delivery of tax bills	1	1	1	1
14.	When tax bills are to be sent out and when tax is due	1	1	1	1
15.	Stipulation of what constitutes notification of taxpayers	1	1	1	1
16.	Agency responsible for collection of tax payments	1	1	1	1
17.	Agency responsible for responding to taxpayers questions and concerns	0	0	0	0
18.	Profession and qualification of members of appeal panel	0	0	0	1
19.	Description of process of assessment appeals	1	1	1	1
20.	Conditions of appeal	1	1	1	1
21.	Sanctions and penalties for non-payment of tax	1	1	1	1
22.	Sharing pattern of revenue	1	1	1	1
	Total	15	16	16	19

Key: 1 = Component Included; 0 = Component not included

Source: (Fieldwork, 2018)

The property tax laws are similar in almost all respects except the following:

- 1) **Heads of Tax:** Only Anambra and Lagos States identified and named the land based taxes the laws seek to consolidate.
- 2) **Tax Rates:** In section 6(2) under schedule, only the Edo State Land Use Charge Law stated the tax rates which will be applied to the assessed values to get the tax payable on taxable properties.

- 3) **Definition and Stipulation of Standard of Value:** The Lagos and Enugu States Property Tax Laws, Sections 5 and 7 respectively provided statutory formulae for the assessment of the property tax while Anambra and Edo States Tax Laws did not provide the basis of assessment of the property tax.
- 4) **Skills and Training of Tax Assessors:** Only Edo State property tax law provided for the skills and training of tax assessors. Section 5(1&2) specified that the Estate Surveyors and Valuers who are the professionals in property tax assessment should undertake the assessment of chargeable properties. Anambra and Lagos States property tax laws left tax assessment in the hands of the Commissioner of Finance to appoint "professional valuers" as he deems fit Section 5(2) while Enugu State tax law left it with the Commissioner for Lands and Urban Development.

In terms of quality, the Edo State Land Use Charge Law can be said to be the best of the four property tax laws, it named estate surveyors and valuers as the expert tax assessors. In section 9, it exempted owner-occupier residential properties measuring 100 ft by 100 ft maximum in non-choice area of urban area and rural areas, owner-occupiers of over- sixty (60) years and family compounds. This means that the rural people are exempted and this gesture is more in line with the principle of equity.

A cross tabulation analysis of the Property Tax Laws with UN-HABITAT is shown on Table 2 below.

Table 2: Cross Tabulation of the Comparison of the Provisions of the States Property Tax Laws.

States		Comparison of Provisions of Property Tax laws with UN-HABITAT		Total
		Components Not Included	Components Included	
Anambra	Frequency (%)	7(31.8)	15(68.2)	22(100)
Edo	Frequency (%)	6(27.3)	16(72.7)	22(100)
Enugu	Frequency (%)	6(27.3)	16(72.7)	22(100)
Lagos	Frequency (%)	3(13.6)	19(86.4)	22(100)
Total	Frequency (%)	22(25)	66(75)	88(100)

Source: Fieldwork, 2018

Table 2 shows that Anambra State Property and Land Use Charge has a number of 15(68.2%) of the components included in the law while 7 items (31.8%) were not included. Edo State Land Use Charge Law included 16(72.7%) while 6(27.3%) were left out. Enugu State Property Tax Law has 16 (72.7%) components included and 6(27.3%) not included; and lastly, Lagos State included 19 (75%) and excluded 3(25%). This shows that the property tax laws of Edo, Enugu and Lagos States and Anambra State have similar features. Lagos state adhered most to the provisions while Anambra State adhered least to the provisions, but they all fall short of the UN-HABITAT provisions. The Chi-square test presented on table 3 shows that the four states do not differ significantly in their adherence to UN-Habitat's policy guide.

Table 3: Chi-Square Test of significant difference among Anambra, Edo, Enugu and Lagos compliance to UN-Habitat's Policy Guide

	Value	Df	P-value
Chi- Square	2.182	3	.536

Source: Fieldwork, 2018

In table 3, there is a chi-square (X^2) of 2.182, with a degree of freedom of 3 obtained at a level of significance (P-value) of .536 which is greater than 0.05. It is concluded that there is no significant difference between the provisions of Anambra, Edo, Enugu and Lagos States. The provisions of the property tax laws of the four states are similar and all are not consistent with international standard. This makes the administration of property tax inefficient, increases non-compliance and non-acceptability of the property tax and adversely affects the property tax revenue.

CONCLUSION AND RECOMMENDATIONS

The study shows a non-adherence of the States' property and land use charge laws to the provisions of UN-HABITAT Land and Property tax policy guide. The States also show no significant difference in the provisions of the tax laws. They are similar in almost all aspects. It is therefore recommended that

- i. The property tax laws should be reviewed to include the necessary features that make a good property tax system.
- ii. Estate surveyors and valuers should be consulted in the making of property tax laws in Nigeria.

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