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Tax Compliance Challenges Among Legal Practitioners in Nigeria

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Abstract

General Background: Taxation is a fundamental obligation for all income-generating individuals, including legal practitioners in Nigeria. Compliance with tax laws ensures national revenue generation and economic stability. **Specific Background:** Despite clear tax laws, debates persist on whether legal practitioners should be taxed as business entities, leading to compliance challenges. **Knowledge Gap:** Limited research exists on the specific tax liabilities of Nigerian lawyers and the implications of non-compliance. **Aims:** This study examines the tax framework for legal practitioners, identifies compliance challenges, and explores the consequences of tax evasion. **Results:** Lawyers are subject to multiple tax obligations, including Personal Income Tax, Value Added Tax, and Capital Gains Tax. Non-compliance leads to legal penalties and financial liabilities, while many legal practitioners remain unaware of tax reliefs and deductions. **Novelty:** This study provides a structured analysis of lawyers' taxation, highlighting gaps in compliance and awareness. **Implications:** Enhancing tax compliance through awareness campaigns and policy reforms can improve government revenue and foster fiscal responsibility among legal practitioners.

Highlights:

- Mandatory Taxation: Lawyers in Nigeria are legally required to pay various taxes, including Personal Income Tax and VAT.
- Compliance Challenges: Many legal practitioners struggle with tax compliance due to unclear regulations and lack of awareness of tax reliefs.
- Legal Consequences: Non-compliance leads to penalties, financial liabilities, and reputational risks within the legal profession.

Keywords: Taxation, Legal Practitioners, Compliance, Nigerian Tax Law, Fiscal Responsibility

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Introduction

Literally, every person residing in the country, Nigeria actively earning money (income) from sources within or outside the country is obliged to fulfill tax to his or her respective state of residence [1]. The Consitution [2] compels same obligation for each and every resident to state his income without lies to the supposed and rightful forces or agencies and pay his tax when due. In most cases Legal Practitioners normally work as either employees or the opposite [3] . Practicing Barristers are employed moreover as Sole proprietorship, Registered Firm or Partners. Legal specialists in employment and working, pay taxes under the supposed Scheme (PAYE). Beneath this framework the manager is, ordered to deduct the charge from the remittances of the worker month to month and transmit to the important tax authority. Each of the charges incorporates a specific rate. [4] The laws of tax require lawyers to pay taxes, including Personal Income Tax (PIT) [5], Capital gains Tax [6] Stamp Duties Tax (SDT), [7] Value Added Tax (VAT), [8] Stamp and numerous property taxes made by the Local Government bye-laws. [9] The Personal Income Tax Act [10] charges a tax every year on the total amount of money made from any trade, business, profession, or job. Every lawyer who practices law earns money from their job. [11] In a case (AL-Maseer law Firm v FIRS), [12] The Court of Appeal ruled that when a lawyer employed by a law firm offers legal services to clients and charges fees, they are obligated to pay taxes. Another good example is the stamp duty tax, which is added to certain legal documents listed in the law. [13] Stamp duties are fees paid for official documents.

Anything (instrument) done in Nigeria, or related to property or actions in Nigeria, cannot be used as evidence, except in criminal cases. Documents will be accepted if they have the required tax stamp according to the laws in Nigeria when they were first created.[14]

Method

This study adopts a doctrinal legal research approach, which involves a critical examination of legal rules, statutes, and case law related to the taxation of legal practitioners in Nigeria. The research primarily relies on primary legal sources, including tax legislation such as the Personal Income Tax Act (PITA), Value Added Tax Act (VAT), Capital Gains Tax Act, Companies Income Tax Act (CITA), and the Constitution of the Federal Republic of Nigeria. These statutory provisions provide the legal foundation for understanding the tax obligations imposed on lawyers. Additionally, case law analysis is conducted, with a focus on judicial decisions such as Al-Maseer Law Firm v FIRS, Williams v Local Tax Board, and Oando v FIRS, which offer insights into how courts have interpreted and applied tax laws to legal practitioners.

Beyond statutory and judicial sources, this study also incorporates comparative analysis, examining the taxation of lawyers in other jurisdictions to highlight best practices and potential areas for reform within the Nigerian tax system. The research further employs textual and contextual analysis of legal provisions to clarify ambiguities and inconsistencies, ensuring a thorough understanding of how tax laws impact legal professionals. Moreover, a normative evaluation is conducted to assess whether Nigeria's tax framework aligns with the principles of equity, fairness, and efficiency in taxation. This evaluation also considers the practical implications of tax compliance and enforcement on the legal profession.

By integrating these research methods, the study aims to provide a comprehensive legal analysis of the taxation of legal practitioners in Nigeria, identifying challenges and recommending solutions that enhance compliance and legal certainty within the profession.

Result and Discussion

A. What is Tax?

These charges (taxes) are imposed by the government on individuals, companies, or properties to generate funds for public services. In simple words, the term refers to all the rules and taxes that the government puts on people, their belongings, jobs, and activities. This includes all fees, taxes on goods, and other charges. [15] Tax is money that people or properties have to pay to help the government. This payment is necessary and requested by the government to sustain its functions and services. This applies to people, property, income, goods, and transactions. [16] In Matthews v Chiocry Marketing Board (v), [17] A tax was generally understood as a payment that people have to make, according to the rules in the constitution, A tax is an obligatory monetary contribution to the government that supports the funding of public services and various governmental functions. [18] It mostly shows or indicates an exaction for governments support. [19] Imperatively tax isn't an intentional gift or installment but upheld commitment demanded compatible to administrative authority [20].

B. Main Reason for Taxing Citizens

They include: - (i) To finance the government expenses; (ii) To impact overall economic activity, tax policy serves as

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a vital tool for shaping consumer demand and incentivizing production, investment, and savings. Consequently, it plays a crucial role in advancing the government's broader economic and social goals. Taxation stands as the most significant macroeconomic instrument at the disposal of governments, capable of fostering growth, encouraging investment through tax incentives, and ensuring economic stability. As the primary and sustainable source of funding for a nation's development, it is essential. Abdulrazaq [21] concise the functions and objectives of expenditure, Redistribution of wealth and Supervision of the economy. Author Adam Smith, in his Exposition, "Wealth of Nations" [22] set out the canons that are used as criteria for judging a decent tax coordination as:

1. Value:

This concept is isolated into two categories:

Even and vertical value. Even value stipulates that people with indistinguishable salary levels ought to contribute the same sum in charges, though vertical value states that people with shifting salary levels ought to be burdened in an unexpected way. It is broadly acknowledged that the foremost compelling assess frameworks cultivate reasonableness, guarantee ampleness, keep up straightforwardness, advance straightforwardness, and encourage authoritative effectiveness.

2. Certainty :

The charge commitments of an person ought to be clear and not subject to arbitrary changes. Citizens have to be be educated in progress with respect to the sum of charge owed, the timing of installment, and the strategy of installment to the government.

3. Nonpartisanship:

A tax framework is considered impartial in the event that it does not make advertise mutilations. It ought to treat all financial exercises similarly without favoring any specific division.

4. Authoritative Effectiveness:

Assess organization must be conducted viably by charge authorities. The costs related with organization ought to not surpass the income created from charges. The specialist to force charges is vested within the council, which speaks to the suitable department of government.

C. Who is a Barrister?

A Barrister (Legitimate Specialist) may be a citizen entitled to hone as a attorney and solicitor, whose title is one the roll [23]. The title should be on the roll as it were in case he has been called to the Bar and he produces a certificate of his call to Bar to the Enlistment center . [24] He is somebody who having been authorized to hone law is qualified to counsel individuals approximately Legitimate things, plan contracts and other lawful disobedient and in addition speak to individuals in Court. [25] A Lawful Specialist may be a individual, who since of his or her high moral guidelines and information picked up through instruction and encounter, meets the necessities of his or her high moral benchmarks and information picked up through instruction and encounter, meets the prerequisite of a state administrative body and receive a permit to hone law within the state. From the over description, Legal professionals lock in in virtually all areas of human endavour and thus earn income which can in turn draw in installment of charge. A Genuine legal Professional is in this manner a individual entitled in agreement with the arrangements of the Act [26] to be a lawyer, or attorney-advocate for general inquiries or cases. The fees for law firms, partnerships and individual lawyers are for a particular office or proceeding. The fees for law firms, partnerships and individual lawyers are regulated by law. [27] Services provided by lawyers to clients are subject to tax. The issue in Al-Maseer Law Firm v. FIRS [28] was whether the services provided in a legal practice are considered to be valuable services within the provisions of the Value Added Tax Law. Section [29] of the VAT Act provides that supply of services means any service provided for remuneration. Lawyers perform or provide services to clients for a fee and the clients, as recipients of those services, pay for the services. Lawyers have a duty to know whether the services they provide to the public are paid for or provided by their clients. Additionally, the Act mandates lawyers to maintain records of their services and related activities to determine the appropriate tax levy.

Since every lawyer is engaged in the practice of law, the money they make from it is taxable [30] as per the Income Tax Act states [31]

This rate applies to federal, state and local government employees, as well as employees in the private sector. In accordance with the law, the minimum tax rate has been increased from 0.5 percent to 1 percent of gross income [32]. However, the Schedule provides that contributions to the National Housing Fund, contributions to the National Health Insurance Scheme, life insurance premiums, contributions to the National Pension Scheme and honorarium are exempt from tax. This rate applies to everyone and includes all income, salary, wages, fees, allowances or other fringe benefits or bonuses, fringe benefits or other benefits granted, conferred or awarded. Lawyers in private practice are subject to two main remunerations: professional fees and appearance fees.

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According to the law, lawyers are entitled to some relief or benefit and if a lawyer qualifies for tax relief, he/she will be exempt from paying tax or have some of the burden reduced. However, this relief is not automatically granted and must be applied for. In Williams v. Local Tax Board, the court held that in computing the appellant's taxable income, the amount of \$600 being the annual rent of an apartment used by the appellant solely for the purpose of earning income, is duly deductible as the appellant is entitled to: The meaning and connotation of the word "ongoing costs" corresponds to and is necessary for the performance of the profession. Lawyers also have ingenious ways of earning money such as appearance fees and travel expenses. According to Umenweke on claims regarding appearance/travel expenses, at this point one may ask whether appearance/travel expenses or petrol fees (whatever they are called) received by a lawyer from a client for court visits are taxable. In this case If the money represents a valid and accurate reimbursement for gasoline and hotel costs, the money is not taxable.

In fact, in most cases, this is not an accurate representation of gasoline and hotel costs. Lawyers using this fee system, whose offices are within 2-3 kilometres of the courtroom, can collect \$ 14,000.00 per case. Petrol costs for travel to and from the courtroom should not exceed \$ 1,500. Total costs, including wear and tear, should not exceed \$ 3,000.00. Lawyers collect \$ 9,000.00 for one case and \$ 50,000.00 for five cases. The balance of \$ 6,000.00 or \$ 31,000.00 as the case may be is taxable as per law. Some lawyers rely on these travel and appearance fees to recoup amounts that have been deducted from their lawyer's fees, which tends to result in the lawyer's fees being drastically, sometimes ridiculously, deducted.

D. Legal Basis for Taxation of Lawyers

It is generally accepted that taxation is not applicable to everyone and is not a discretionary matter. Taxes cannot be levied or collected from taxpayers unless the intention to charge them is clearly indicated by a resolution or act of Parliament. It is the duty of citizens to obey, submit and comply with the laws of the country. Moreover, paying tax is fundamental and closely linked to the duties of citizens, especially lawyers. Nigerian citizens are obliged to declare their income honestly to the relevant legal authorities and pay it within the time limit. This means that lawyers who are Nigerian citizens are obligated to pay tax under the Constitution. Taxes are paid to the state by citizens (including lawyers) who earn income from sources listed in the law. The Constitution provides that taxes are paid to three levels of government:

a. Federal taxes include items included in the statutory exclusive list. These include customs and import taxes, export taxes, standard customs duties, value-added taxes, taxes on corporate profits and income.

b. Government taxes include income taxes, stamp duties on documents and transactions, capital gains and those taxes paid by individual lawyers.

Local government taxes in the form of rent taxes and property taxes.

Income Tax is levied on all personal income, specifically on the following:

a. Profits or earnings from a trade, business, profession, or occupation

b. Remuneration (earnings, salaries, fees, allowances, profits or perks, etc.) arising from employment, except amounts paid to an employee.

i. In connection with the movement of employees and other persons into or out of Nigeria.

ii. Reimbursement of medical or dental expenses incurred by the employee;

iii. Reimbursement of expenses incurred in the performance of duties and for which the employee is not intended to derive any profit or benefit;

VAT is another tax paid by lawyers and other citizens. Act provides that tax must be collected and paid on supplies of goods and services not listed in the First Schedule to the Act. The VAT rate is 7.5%. This tax is split monthly between the governments at the rate of 15%, 50% to the states and 35% to the local authorities. Stamp duty is a tax levied on documents listed in the Schedule to the Act. Tax is paid as tax on the completion of the document. Capital gains tax is payable on all capital gains. h. A tax rate of 10% is levied on profits accruing to a person (including a lawyer) on the disposal of assets. The list of taxable assets comprises options, liabilities, intangible assets (in general), currency other than Nigerian currency, and any type of property that someone has created or intended to own without acquiring. It is payable on the disposal of assets (indeed land and buildings) and capital when profits are made. Self-employed lawyers carrying on a registered business pay corporation tax. The Act provides that corporation tax is levied on the income of all companies operating in Nigeria, except, inter alia, certain companies Nontaxable. A withholding tax of 30% of adjusted profits and on dividends paid to shareholders is imposed. Local governments are expected to adopt ordinances imposing rent and other fees, which must be consistent with the spirit, intent, and provisions of the Constitution, as required by law. Rent taxes are locally levied property taxes that must also be paid by local government attorneys. Jurisdiction.

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From the above, the liability of legal practitioners to pay statutory taxes cannot be overemphasized it behooves on the legal Therefore, lawyers should set a good example and comply with the law regarding timely payment of taxes.

E. Taxes, Exemptions and Allowable Deductions Paid by Lawyers.

The taxes lawfully and validly payable by lawyers are clearly enumerated in the Act. The explanation in paragraph 5 above is applicable and sufficient to this subtopic on income tax with the following addition:

(i) In relation to maintenance or upkeep or education of children. Where the provisions of this Act provide that everything received by an employee during the assessment year shall be given in the following year.

(ii) Of each rent, an amount equal to the amount expended by the employer in accordance with the Act for the year shall be treated as a receipt by the employee.

(iii) Any profit or benefit (including a premium) arising from a right to the use or occupation of property granted to another;

(iv) Any dividend, interest, or discount;

(v) Any insurance premium, fee, or annuity;

1. VAT

Value Added Tax (VAT) is payable by lawyers, other citizens and individuals. The tax is levied and payable on the supply of goods and services, except for exempt exempt goods and services which are taxed at 0%.54 The current Value Added Tax (VAT) rate is 7.5%. Al-Maseer Law Firm v FIRS. The issue of whether legal services should be considered as valuable services in the context of the VAT law was addressed. The facts of the case were that sometime in May 2016, the firm received a letter from the defendant (FIRS) entitled "Request for the appellant to charge 5% VAT as fees to its clients due to failure to file VAT returns and to pay the same to the defendant" which was received. The complainant also stated that the respondent served him with another letter demanding payment of ¥ 100,000.00 as VAT assessment under the VAT Act.The complainant, however, argued that he had never registered with the respondent and that the lawyer or law firm was not a taxable person under the VAT Act. The Court of Appeal made the correct decision. The VAT is not limited to the supply of goods but extends the liability to collect and pay VAT to those who provide services. A sole proprietorship lawyer or law firm is undoubtedly providing legal services to the public for remuneration and is therefore subject to this provision and is liable to charge and remit VAT to the defendant on the fees it charges its clients. A taxpayer must register for the service for tax purposes at the commencement of its business activities. If a taxpayer fails or refuses to register for the service within the period specified in section 1, he is liable to pay the following amounts as penalty: (a) ¥ 50,000 for the first month in which the default occurs; (b) ₩ 25,000 for each additional month in which the default continues.

There are other offences punishable by various penalties such as failure to keep proper accounting records, failure to collect tax and failure to file tax returns . Under the new system , Taxpayers who Come up short to yield returns to the benefit is obligated to a fine of \$ 50,000.00 within the month of default and \$ 25,000 for each month in which the default proceeds.

2. Stamp Obligations

The stamp obligations are charged upon the several rebellious indicated within the plan to the Act. The Fund Act gave the meaning of stamped to be with reference to instrument and fabric to cruel instrument and fabric inspired with stamp by implies of an engraved or connected piece kick the bucket, cement stamps attached thereto as well as instrument and fabric carefully labeled with electronic stamp or notional stamp on an electronic receipt.

Legitimate Specialists are included in either the generation or confirmation of disobedient promptly for stamping. The law conceives that certificates of inhabitance, arrangement, bank ensures, warrants of lawyer, receipts, deeds, stock and share certificates, bequest, promissory notes, occupancy, understanding, contract, charges and leases there from, vows, affirmations, and other like records ought to be suitably idealized by stamping them.

3. Capital Pick Up Assess

This stipulates that picks up collecting to any individual (counting attorneys) on or after the 1st day of April 1967 on transfer of assets. The rate of the assess is 10%. It is charged on the total amount of chargeable picks up gathering to any individual within the year of appraisal after making such conclusions as may be permitted beneath the Act. The list of chargeable resources incorporates; (i) Alternatives, obligations and in corporal property by and large; (ii) Any cash other at that point Nigeria money and (iii) Any shape of property made by the individual arranging of it, something else coming possessed without being obtained. The properties in expansion to the over

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incorporate property which is an resource in regard of which qualifying consumption has been caused beneath the plan to the Companies Salary Assess Act or the Petroleum Benefits Assess Act. The Act exempts certain individual or bodies and picks up from the tax. It is anticipated that legal counselors are to pay capital picks up assess at whatever point they arrange of resources (arrive and buildings) and get any capital whole where pick up gathers. The Law gives that each individual having arranged a chargeable resource might, not afterward than 30 June and 31 December of that year, compute the capital picks up charge, record self evaluation return and pay the assess computer in regard of the chargeable resources arranged within the periods

4. Companies Wage Tax Act

Assess is forced beneath this Act on the going before year premise on:

a) Wage Tax at 30% of balanced benefit from anything such benefits are conveyed to the shareholders or not.

b) When profits are payable, charge has got to be deducted (by and by at the rate of 10% of the sum of profits) from the net sum some time recently the net is paid over to shareholders. This can be the withholding assess on profits.

c) It is required upon benefit of any company collecting in, determined from, brought into or gotten in Nigeria.

There's in any case, the country speculation allowance to energize venture in provincial regions at the taking after rates;

(a) No offices at all 100D44 (b) No Power 50D44 (c) No water 30D44 (d) No hesitated Street 15D

44 Legitimate Professionals who are self utilized ought to continuously keep in mind to claim capital stipend for their capital resources utilized in winning wage. Companies Salary assess is right now 30% of benefits as balanced by income specialists. In Williams v Territorial Tax Board, the Territorial Tax Board denied the claims of the Appealing party in regard of the whole of \$ 600 which he said ought to be deducted from his chargeable salary some time recently evaluation and in regard of \$ 186 which he said was charged to him by ethicalness of the arrangements of the Income Tax and Advancement Commitment Arrange, 1962. On request against the choice of the Board, the claim of the Appealing party who was a lawful Professional carrying on his profession in an loft in his possess house as lease for the loft which he utilized within the said house only for earning his chargeable income was permitted. The thinking of the court held that to arrive at the profit balance, one must deduct all expenses necessary to generate the income, and thus it is impossible to determine whether there is any such thing as profit.

5. Customs and Export Control

The Customs and Export Act requires the levy of import and export duties on imported and exported goods. Customs duties are duties or taxes on the import and export of goods. There are usually duties on which customs duties are levied. These are listed in the Customs, Export Duties etc. and Remuneration Act . A total of 21 taxes are listed under the provisions of the Taxes and Duties (Authorised List for Collection) Act. The taxes that lawyers are legally required to pay are clearly defined. Lawyers must also pay all other taxes mentioned above, including many levies imposed by local authorities. Since the payment of lawyer taxes has apparently become a normal practice, payment of taxes by lawyers should not only be optional but should also be timely.

F. Right of Objection and Appeal of Lawyer

A lawyer may, if he has reason to believe that he has been unfairly taxed, object to the tax assessment made against him to the competent tax authority. The lawyer must submit a written notice to the competent tax authority requesting a review or modification of the tax assessment. The application must be made within 30 days after the service of the tax assessment notice and must indicate the reasons for the objection. Once the objection is accepted, the competent tax authority may require the person who has filed the objection to provide details and to submit an accounting statement. Books and other documents that the competent tax authority considers necessary. The tax authority may summon anyone who can provide information essential for the decision on the objection. If the taxpayer who has objected to the tax assessment agrees with the relevant tax authority on the correct amount of tax to be paid, the relevant may be dismissed, but if the person is unable to agree with the relevant tax authority on the amount of tax to be paid, the relevant tax authority will issue a rejection notice correcting the amount of tax due. It can determine tax assessments and revise tax assessments at its discretion. However, in Oando v. FIRS the Court held:

...and the law does not require a Notice of Refusal to Amend (NORA) from the Inland Revenue. Therefore, NORA is not a mandatory pre-procedure for appeal of tax assessment. Moreover, delay in issuing NORA by the tax authority may also be considered as issuance of NORA.

Thus, the situation is that whether NORA has been issued or not, the appellant may challenge the tax assessment or revised tax assessment within 30 days after its issuance. In Williams v Adelaja & Anor, the court ruled against the challenge. The tax authority observed that the appellant failed to take legal action as he was not given a reasonable

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opportunity to unilaterally increase his taxable income without his permission. The legal practitioner should bear in mind that appeals can be made to the Court of Appeal and the Supreme Court as well as to the State and Federal Courts as the case may be.

Conclusion

Lawyers are generally regarded by society as knowledgeable about the law. They are not expected to be among the violators. The aim is that they are not among those who are involved or implicated in the tax evasion and avoidance problems that have plagued the Nigerian tax system. Attorneys must receive specialized training in following the procedure of lawfully adhering to taxes. The requirement for 100% compliance by legal practitioners is one of the provisions of the Constitution. Legal practitioners have a much better chance of requesting or seeking deferral, adjudication and relief as provided in law. Laws like Williams v. Local Tax Commissioner. Williams v. Adelaja , an attorney, used his legal knowledge to voluntarily comply with the regulations by claiming a full tax deduction.

Rephrase

He succeeded in convincing the court that an amount of \$ 600 must be deducted from the expenses of his law firm's apartment in his private residence before the profit and loss balance could be determined. In this case too, the court, at his request, set aside the additional tax of \$ 186 as illegal, unconstitutional and excessive.

At the same time as paying taxes in full, lawyers should also ensure that tax revenues are used in a manner that the country finds commendable. Making tax payment an acceptable norm or way of life in Nigeria will ensure that taxpayers' money is used effectively for the benefit of society. This recognition will see lawyers participating in joint tax councils to ensure that our society is a better place to live for all. For example, lawyers would ensure that the provisions of Law make the presentation and certification of tax returns by public officials mandatory upon appointment or election to public office in Nigeria. This means that if an aspiring politician fails to pay his taxes properly and on time, lawyers should declare him morally unfit to hold political office and insist on determining the expenditure of taxes owed to law-abiding citizens. This will encourage people to pay taxes and society will be better off. This will enable the country to achieve maximum or complete tax compliance.

Furthermore, if the people's lawyers are going to pay their taxes, all illegal tax collection practices must cease. In the 2005 case of Attorney General of Cross River State and Anor v. Matthew Ojua , a lawyer and landlord in Ikom, Cross River State, Nigeria, was assessed for payment of urban development tax, property tax, sanitation tax, household tax and waste collection charges for his property in Ikom. He challenged the imposition of double taxation.

In order to encourage all citizens to cultivate a culture of voluntary tax compliance, the legal profession will also be involved in educating and clarifying what must be done in a mandatory manner. Legal professionals who make their tax payments on time will set an example for voluntary tax compliance, which will improve the nation's governance and benefit all Nigerians. Attorneys are required to pay their taxes on time, just like any other citizen of the nation. Attorneys can only assert their rights and benefits, including deductions, allowances, and tax law relief, when they abide by the tax laws' provisions. Attorneys must consistently keep records, accounts of their income, and timely file tax returns with the appropriate tax authority in order to pay the correct amount of taxes. Only after timely filing of his tax return can a lawyer contest an assessment made by the appropriate tax authority. When a lawyer fails to file his tax return on time, the appropriate tax authority has the chance to evaluate him using his best judgment. When a lawyer who is knowledgeable about tax laws is wrongfully assessed, they should take action to contest the assessment. Legal professionals' adherence to pertinent tax laws contributes to the development of a compliance culture in Nigeria. Attorneys are better off when they pay their taxes on time.

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