

Tax Implication on Online Business in Tanzania: Re-Assessment of the Income Tax Act Revised in 2019

Diana Damson

Tutorial Assistant, U Niversity Of Iringa

Abstract

The increased dependence on internet facilitated by the development in science and technology has affected contemporary global business which depends on the use of internet, where buying and selling of goods is easy and possible. The changes in technology have affected tax environments and compelled business firms to adopt different measures on how to pay taxes from their income, and institutions responsible for collecting tax have made an architecture of paying tax through an online tax return for registered business owners. Despite the drastic change in technology, the Income Tax Act [Revised Edition of 2019], has not effectively adopted the changing tax environments, causing a potential loss of revenue for online businesses that go unnoticed and without regulations. The current tax legal framework requires physical presence for the taxpayer for tax assessment, which is repugnant to digital economies. Most online businesses have no physical location or fingerprint and record huge sales at the expense of the government and revenue collections. This study exposes the weakness of the tax regime in collecting revenue from online businesses in Tanzania, and such tax mischief has cost the nation huge revenues loss that would have been used to finance development projects in the country.

This study featured a general discussion of tax implications in online business and how the government is coping with the changing of technology for tax assessment and revenue collection. Among the significant objectives of this study were to evaluate the practicable degrees of compatibility between the available tax legal framework in Tanzania and technology and to find a permanent solution for the government to recover the revenue from online businesses through a comprehensive and ultimate tax legal regime that features technology as its modus operandi.

Keywords: Tax, *Taxation, technology, online business, legal framework,*

1.0 Introduction

Online business, sometimes known as E-business, is the practice of purchasing and reselling goods and services over the internet.¹ Online business typically takes place when a firm or person contacts their clients, customers, or suppliers via email or a portal to facilitate the selling of goods or services online. Online Business is where business transactions take place via telecommunication networks like internet. In other words, it refers to conduct of business or financial transactions by electronic means.² In

¹ Kutz, M. "Introduction to E-commerce", Combining Business and information technology, the ebook company, 2016

² Hamed, Raed. "E Business: Concepts and Context with Illustrative Examples of e-business and e-commerce in Education", University of Mosul, 2019. Page 8

meanwhile, the term "tax" refers to an obligation for an individual to pay a sum of money to the government in order to cover costs incurred in the pursuit of the common good of everyone, regardless of any unique advantages received.³ For the support of a governmental or other common benefit, it is a required contribution or payment. Simple electronic taxation is known as e-taxation. To improve an efficient tax system, e-taxation involves the use of technology or electronic devices to compute taxes, pay taxes, and keep track of tax payer databases, among other things.

The new technology has created a sophisticated internet and enabled tremendous development in online business, which has changed business modus operandi around the globe.⁴ Notwithstanding the change in business environment now embraced through the use of the internet in transactions, it has created a new problem associated with the assessment of tax to transactions concluded through the use of cyberspace.⁵ Despite the vital role that e-commerce has played in the revolutionizing the way business is done, it has been blamed for facilitating tax loss and tax evasion.⁶ This situation has been exacerbated by difficulties like uncertainty and double taxation which make parties of e-commerce reluctant and affect development of e-commerce negatively.⁷ Online business further faces the challenges of deplorable infrastructural deficiency, obsolete legal and regulatory framework, and lax implementation of existing laws, coupled with widespread ignorance.⁸ This chapter established the basis of this study by providing the background of the problem, a statement of the problem, the objectives of the study, the research questions, a literature review, the significance of the study, the research methodology, the scope of the study, and delimitations.

2.0 An overview of Online business and taxation

Regulating taxes on online businesses have created a global challenge for governments and their business counterparts.⁹ That has been due to the development of science and technology, which has set the pace for the global community to abandon the traditional method of business transactions and embrace online business, or e-commerce, where the selling of goods and services is done over the internet.¹⁰ Currently, traders and business enterprises are forced to go digital to attract buyers within and beyond their geographical location.¹¹

The current online business transaction is mainly characterized by dematerialization and significantly discourages the possibility of the physical location of a business. Such radicalization is potentially supported by digital technologies that have altered business operations and modus operandi, creating borderless business transactions at the expense of tax collection.¹² In an era marked by growing demand

³ McLure, E.C. (2015). "Taxation". Britannica. Retrieved 3 March 2015.

⁴ Wienclaw, R. A. "E-Commerce." Research Starters: Business, 2013

⁵ Jimenez, D; Valdes, S; Salinas, M. "Popularity Comparison between ECommerce and Traditional Retail Business", International Journal of Technology for Business (IJTB), ISSN 2644-5085, Springwish Publisher, Bratislava,(2019) Vol. 1, Iss.1, pp. 10- 16,<http://dx.doi.org/10.5281/zenodo.2591555>

⁶ World Trade Organization (WTO). "E-Commerce in Developing Countries": Opportunities and Challenges for SMEs, 2013

⁷ Supra, footnote No. 4

⁸ Global Business Coalition 'UNCTAD: New policy brief launched ahead of global eCommerce Week 2019', Available at <http://www.globalbusinesscoalition.org/global-governance-news/unctadnew-policy-brief-launched-ahead-of-global-e-commerce-week-2019>

⁹ Basu, S., "International Taxation of E-Commerce: Persistent Problems and Possible Developments", JILT 2008(1) <http://go.warwick.ac.uk/jilt/2008_1/basu>

¹⁰ CEPAL, "Digital technologies for a new future," Published by the digital agenda for Latin America and the Caribbean, 2022

¹¹ Pascucci, F., Savelli, E. & Gistri, G. How digital technologies reshape marketing: evidence from a qualitative investigation. Ital. J. Mark. 2023, 27–58 (2023)

¹² Pwc, "Can Tanzania tackle the tax challenges of a digitalised global economy? 2022. Available at <https://www.pwc.co.tz/press-room/digitalised-global-economy.html>

for e-markets that initially promote electronic transactions for goods and services, the tax administration face challenges of identifying taxpayers' information and their location for tax assessment. It took too long for Tanzania to legislate laws dedicated to electronic commerce,¹³ just like many other countries in the African continent. Currently, online businesses have taken over the traditional method of business transactions, and consequently, there is an established legal and regulatory framework to encounter electronic transactions while at the same time being silent about taxes on online goods. Such assertions are echoed by Article 7 of the UNCITRAL model law on electronic commerce¹⁴, which, inter alia provides the background of establishing proof of electronic signature and the use of password identification and usernames.¹⁵

Despite rampant practices for online businesses in Tanzania, the existing legal framework on taxes does not mention the mechanism for assessing taxes for online businesses (e-commerce). The Income Tax Act of 2019, Cap 332, are silent on taxes for goods sold online. The tax laws in Tanzania are paper based on physical assessment of tax and do not display the tremendous change in business practices where buyers and sellers of goods and services are linked by a virtual network rather than a physical location to conduct businesses.¹⁶

. The current mode of tax assessment is through two major types of taxes, which includes direct income tax earned and indirect taxes such as VAT on goods and services consumed. The two taxes mentioned touch every income generated and are crucial to the growth of the national economy. However, the trend of tax collection in Tanzania relies on the physical collection of taxes from businesses and leaves out online businesses. Such a legal gap in tax assessment and collection makes the government lose revenue that would have been due if tax laws were efficient enough to encompass taxes for online businesses. The amendment of the income tax, Cap 332 R.E. 2022, especially under Section 69(h), has indirectly addressed online tax assessment as well as Electronic Fiscal Device (EFD), which recognizes the link between every sale made by the taxpayers and Tanzania Revenue Authority (TRA) computers reflecting all such transactions made by the taxpayer for purposes of ascertaining the correct tax payable by the taxpayer at the end of the accounting period.¹⁷ However, despite having plenty of laws, as indicated above, none stipulate the assessment and collection of taxes for goods sold online .

3.0 Legal framework governing taxes on online businesses

Despite having tax laws like the Income Tax Act, Cap 332 R.E. 2022, the Customs (Management and Tariff) Act, Cap 403 R.E. 2018, the Value Added Tax (VAT) Act of 2019, and the Tax Administration Act of 2019, Cap 438 R.E. 2019, the government of Tanzania continues to lose revenue due to an inaccurate legal framework that has failed to tap taxes from online businesses. Such revenue losses from online business are due to the increased demand for online business (e-commerce) and the development

¹³ National Mirror. "Cybercrime threatens cashless project", 2014 page 18-19

¹⁴ Kennedy, J. "Digital Services Taxes: A Bad Idea Whose Time Should Never Come", International technology and innovation foundation, 2019. Page 6-15

¹⁵ Blythe, S.E "Digital Signature Law of the United Nations, European Union, United Kingdom and United States": Promotion of Growth in E-Commerce with Enhanced Security, 11 Rich. J.L. & Tech 6 (2005)

¹⁶ Shigella, E, E. "The Effect of E-commerce on Tax Laws: The Tanzanian Case Study of Income Tax and VAT Laws administered by Tanzania Revenue Authority". Published LLM IT &T Dissertation in Faculty of Law. Open University of Tanzania. 2013

¹⁷ Eilu, E. "Adoption of electronic fiscal devices (EFDs) for value-added tax (VAT) collection in Kenya and Tanzania: A systematic review." The African Journal of Information and Communication (AJIC), 22, 2018. Page 111-134. <https://doi.org/10.23962/10539/26169>

of science and technology unmatched by tax laws in Tanzania, which in turn cause tax evasion at the expense of the national economy. Although the government has deployed formidable initiatives in the collection of taxes from various business sources, such efforts are in vain due to the failure of tax laws to catch up with the development of science and technology.

Notwithstanding the application of the Income Tax Act, Cap 332 R.E. 2019, on tax assessment and collection, the country's revenue base is at risk of being lost due to unrealistic tax laws that do not address or cover selling of online good for tax collection. This mischief causes havoc for the government when collecting revenue to finance development projects. The unmatched tax laws to the global practice of conducting business (online businesses) and the reluctance of lawmakers to switch policy and tax legal framework to embrace the digital economy make the effort of revenue collection worthless, and causing the country to suffer more revenue loss at the hands of tax evaders who use virtual links as their business domain.

3.1 The constitution of the United Republic of Tanzania, 1977

Despite the development of science and technology, the constitution of the United Republic of Tanzania has remained static, embracing the traditional method of tax collection. Article 138(1) of the same Constitution of the United Republics of Tanzania¹⁸ recognizes taxes and vests powers in the parliament to enact tax laws. Such practices were borrowed from the United Kingdom through the Westminster model constitution. The English constitution has made parliament the supreme organ by which citizens' consent is thought of and expressed. Such an assumption is not correct and is wrong in Tanzania's context. Article 62 of the constitution of the United Republic of Tanzania has made parliament democratic and has created two constitutive parts of the parliament, including the National Assembly and the president, whereby the National Assembly is subject to presidential fiat. Based on the constitution of the United Republic of Tanzania, the president may refuse any law enacted by parliament, and when the National Assembly faults any government instructions on the enactment of laws, the president may dissolve it.¹⁹

The Constitution has the power to declare any law, and, in the event, any other law conflicts, including tax laws, with the provisions contained in this Constitution, the Constitution shall prevail, and that other law, to the extent of the inconsistency with the Constitution, shall be void as provided under Article 64(5) of The Constitution of the United Republic of Tanzania, 1977²⁰ This means the provisions of the Constitution prevail over any provisions in other legislation. The Constitution, under Article 138, provides the conditions of taxation that:

“No tax of any kind shall be imposed save following a law enacted by Parliament or according to a procedure lawfully prescribed and having the force of law under a law enacted by Parliament”.

This provision entails that any person including the government itself or its agency shall not impose any kind of tax without having legislation establishing or giving effect to such kind of taxation. In the event of a convention or a treaty, the same after being signed by a country/state and deposited the respective instruments to the seat of the convention /treaty shall be domesticated to local laws.

Despite the development of science and technology, the constitution of the United Republic of Tanzania has remained static, embracing the traditional method of tax collection. Article 138(1) of the same

¹⁸ The constitution of the URT, 1977

¹⁹ Article 97(4) of the constitution of the United Republic of Tanzania, 1977

²⁰ Constitution of the URT, cap 2 of 1977

Constitution of the United Republics of Tanzania²¹ recognizes taxes and vests powers in the parliament to enact tax laws. Such practices were borrowed from the United Kingdom through the Westminster model constitution. The English constitution has made parliament the supreme organ by which citizens' consent is thought of and expressed. Such an assumption is not correct and is wrong in Tanzania's context. Article 62 of the constitution of the United Republic of Tanzania has made parliament democratic and has created two constitutive parts of the parliament, including the National Assembly and the president, whereby the National Assembly is subject to presidential fiat. Based on the constitution of the United Republic of Tanzania, the president may refuse any law enacted by parliament, and when the National Assembly faults any government instructions on the enactment of laws, the president may dissolve it.²²

3.2 The Income Tax Act

This is the principal statute governing income taxation in Tanzania. Section 4 of the Income Tax Act²³ is the main charging section but not the only one. The charge to tax under section 4 is limited to a person “Who has total income for the year of income or is a corporation which has a perpetual unrelieved loss determined under section 19 for the year of income and the previous two consecutive years of income; who has a domestic permanent establishment that has repatriated income for the year of income; or who receives a final withholding payment during the year of income”. Therefore, for a person (including a company or corporation) to be taxable, the income must arise from a business or investment or payment having a source in the United Republic of Tanzania. From the interpretation of the section, we get the following rules for the imposition of income taxes in the United Republic of Tanzania.

Residence and Source rules

The residence is defined in sections 6 and 66 of the Income Tax Act²⁴. The residence is defined as individuals, corporations and a body of persons, Residence is determined concerning a year of income. A person may therefore be resident in one year of income and not be present in another year. However, he may for personal relief be deemed to be a resident for part only of a year of income. Therefore, according to the Income Tax Act.²⁵ A person shall be deemed to be resident for income tax purposes

(a) In the case of an individual, a person will be termed as a resident if he has a permanent home in the United Republic and was present in the United Republic during any part of that year of income. The word permanent home is not defined in the Act²⁶. Therefore, its technical meaning should be construed in its ordinary dictionary meaning. The normal connotation is that of a place of residence where the person lives habitually though not necessarily permanently or even constantly. Moreover, a permanent home does not necessarily mean a house, bungalow or a horizontal room can be even in a hotel room.²⁷

²¹ The Constitution of the URT, 1977

²² Article 97(4) of the constitution of the United Republic of Tanzania, 1977

²³ [CAP 332 R.E.2019]

²⁴ [CAP 332 R.E.20019]

²⁵ [CAP 332 R.E.20019]

²⁶ *ibid*

²⁷ Mponguliana R.G, “The Theory and Practice of Taxation in Tanzania,” National Board of Accountants and Auditors Tanzania, 2nd Edition 2005

4.0 Challenges facing online Businesses in Tanzania

The third question posed from this study was what challenges emanating from electronic transactions and what should be the recommendation to strengthen tax laws that reflect the contemporary tax world and changing business environments that embrace cyber platforms. The objective behind this question is to evaluate the challenges emanating from electronic transactions and give a recommendation on what should be done to strengthen tax laws that reflect the contemporary tax world and changing business environments that embrace cyber platforms. The finding indicates that, there is plenty of issues related to online business as far as tax is concerned.

The impact of digital technology on e-commerce has posed a greater challenge on taxation systems at global level.²⁸Tanzania applies old principles of taxation where under the current laws situation the traditional and general principles of source, residence and jurisdiction for purposes of challenges behind taxation systems are that it is always difficult to tax information products between one country and another and it is extremely difficult to use existing offline laws in Tanzania and other countries to the cyberspace analogues of physical world business. He emphasizes that unlike indirect taxation such as PAYE, more difficult issues will arise in respect of indirect taxation imposed upon businesses and individuals who generate income in respect of operations undertaken in two or more countries. Here the author finds two issues that arise, the first being the division between taxes based on source of income and upon the residence of the taxpayer, and the second concerns the issue where a business may be considered to be established.

The study found that, digital technology, digitized goods can be ordered, paid and delivered electronically the fact that poses a challenge on taxation systems. There is a need to reform the laws governing income tax in Tanzania to reflect e-taxation and accommodating digital technology and electronic taxation. Mapunda.²⁹argues that the cross-border nature of internet transactions poses a challenge, the multiplicity of overlapping applicable laws and jurisdictions can lead to situations where an activity is subject to multiple and contradictory regulation or to no regulation at all. The author gives out some findings on difficult legal questions to answer given, the nature of the current laws that are tuned to the impact of e-commerce which has resulted from the rapid development of computer technology. Most governing business transactions provides that, the contract must be in writing and duly signed or authenticated before a witness, requirement which are no longer applicable in cyberspace world hence affecting these offline laws which have to be changed and reformed to accommodate ecommerce principles.

The fact that Information Communication Technology (ICT) or in other name electronic communication as an industry, in a strict sense is unregulated in Tanzania, the fact that makes the country run at risk of being a cybercriminals' haven. He went on identifying some legislative efforts that took shape in the year 2000 following a decision in the case of *Trust Bank Ltd v. Le-Marsh Enterprises Ltd and others*³⁰ which opened doors for the admissibility electronic evidence, as a result of which an amendment as effected to the Tanzania Evidence Act 1967 to accommodate the admissibility of such evidence, hence as of now electronic evidence is admissible in the Tanzanian courts of law. However, the author remarks that with such effort reached in amending the Tanzania Evidence Act,³¹ more legislation need be devised in this

²⁸ Mambi A. ICT Law Book, a source book for information and communication at p.159

²⁹ Mapunda, S.T. "Taxation of E-commerce: Role of the Law in Tanzania", A Research Dissertation Submitted to the Faculty of Law in Partial Fulfillment for Award of Bachelor of Laws (LLB) Degree of Mzumbe University. 2020. Page 10-15

³⁰ Commercial Case no. 4 of 2000, High Court Commercial Division at Dar es Salaam (Unreported).

³¹ [CAP 6 R.E.2022]

area to regulate among other things electronic commerce, electronic signature and electronic communication generally. These challenges can be described hereunder as follows:

Firstly, the absence of a legal framework governing taxes from online businesses. In this context, all available tax regimes lack comprehensive provisions to address the issue of online business and methods to assess tax on digital transactions. Such mischief has cost the national revenues from the electronic business that would have otherwise been recovered by having effective tax laws that address online business and a modus operandi for taxing online business transactions. The Constitution under Article 138 provides the conditions of taxation that “No tax of any kind shall be imposed save under a law enacted by Parliament or under a procedure lawfully prescribed and having the force of law by a law enacted by Parliament”. This provision entails that any person including the government itself or its agency shall not impose any kind of tax without having legislation establish or give right for such kind of taxation section 4 of the Income Tax Act.³²

The study found that TRA lose a lot of income from online business due to the fact that, there is no adequate tax laws to empowers Tanzania Revenue Authority collect tax from those people who generate income from social platforms which will comply with Article 138 of the Constitution.³³ The newly proposed law shall give TRA a clear mechanism on social network users who generate profits through it ,tracking online transactions and able to make tax assessment for the purpose of income tax payment as required by the law³⁴ that for every person who generate profits from business has to pay income tax.

The second challenge is that, the available Income Tax Act, Cap 433 has no specific provision whatsoever to enable tax assessment and collection from online business which so far have become apparent in modern business transactions.³⁵ Legislators must ensure tax statutes are efficient and effective enough to cover the current environment including income taxation in e-commerce specific on social platforms so that both taxpayers with a physical and virtual place of business are subject to the Income Tax Act. Tanzania Legislators tried to amend several provisions including section 3 of the Income Tax Act³⁶ which provides the meaning of Permanent Establishment as amended current by section 20 of the Finance Act³⁷ but still the questions guided this study answered less on how income tax can be levied from e-commerce with the virtual place of business. As a result, currently, people with a virtual place of business on social platforms are taxed less in income because of technological advancement compared to those people who are subjects to income tax with a physical place of business cannot levy a tax without having a law which recognizes the virtual place as a place of business whereby people can earn money hence to be recognized as a taxpayer.³⁸

The third challenge is due to the fact that it is difficult to identify tax payers and their respective tax identification numbers because online business involves different geographical locations and tax

³² [CAP 399 R.E.2019]

³³ The Constitution of the United Republic of Tanzania,1977

³⁴ Income Tax Act [CAP 332 R.E.2019]

³⁵ For instance, under section 8 of the Income Tax Act, Cap 433 of 2019 states inter alia that: -

A person’s income from a business for a year of income is the person's gains or profits from conducting the business for the year of income. Subject to the provisions of subsection (3), there shall be included in calculating a person's gains or profits from conducting a business for a year of income the following amounts derived by the person from conducting the business during the year of income - (a) service fees;) incomings for trading stock; (c) gains from the realization of business assets or, liabilities of the business as calculated per the law of the United Republic of Tanzania.

³⁶ [CAP. 332 R.E.2019]

³⁷ The Finance Act,2021

³⁸

jurisdictions. The Act under Section 22³⁹ requires a person who becomes potentially liable to tax because of carrying a business or investment shall apply for a Taxpayer Identification Number within fifteen days from the date of commencing the business. This law requires a person to apply for TIN in the prescribed form accompanied by documentary evidence for applicants⁴⁰. About the Income Tax Act, a person when registered by the Commissioner General of Tax and issued with a Taxpayer Identification Number for the first time, to carry on a business or investment, the requirement to pay instalment tax under the Income Tax Act shall be deferred for six months from the date when the Tax Identification Number was issued. The Act provide a requirement of a legal duty for every taxpayer⁴¹ to pay tax including income tax without having a clear provision on how the Commissioner General identify social platform users with a virtual place of business as taxpayer compare with a physical place of business as the tax principle required. As a result, most of the provisions in these statutes became irrelevant to those people with a virtual place of business hence the government lose a lot of income.⁴²

5.0 Challenges facing TRA in tax assessment of online business

Tanzania Revenue authority faces challenges in making assessment or evaluation of these online businesses or transactions which generate income for its user and no methodology so far used to track online business transactions for determining the correct amount of tax to be paid from businesses conducted via social media platforms in the country. It is a rule of law and practice that any taxing authority in the world and Tanzania in general, before imposing any tax on an individual be it a natural person or corporate body, an individual must be subjected to tax evaluation to ascertain the correct amount of tax which that individual must pay.

This rule is well applied in traditional tax regimes through the use of the permanent establishment principle, whereby the taxing authority will be able to make a physical visit and evaluation of business transactions. Tax evaluation is the back bone which governs the imposition of tax on an individual. This is observed by this study that this rule is challenging when it comes to business transactions conducted via social media platforms, although these businessmen generate profits from these social media platform business dealings. It is challenging because the tax authority cannot be able to make an assessment or evaluation of these made of businesses, to determine the correct amount of tax to be paid from businesses conducted via social media platforms in the country. This study revealed that the current tax laws in the country are behind the technological developments which introduced different methods of conducting business in the societies. This creates a loophole which businessmen in the country use to exploit profits which are not subject to taxes.

During the interviews with tax consultants based in Dar es Salaam and Iringa, raised issues of dwindling governmental tax bases once the online business becomes prominent. One of the issues they raised pertained to the fact that in developing countries like Tanzania, for a person be it legal or natural to be regarded as a taxable entity, here must be a physical address.

However, in the case online business, it is hard to verify the address of those involved in the transactions. That is the reason why it has been asserted that in such kinds of businesses, which involve the traditional

³⁹ As amended by the Finance Act, 2021 section 51

⁴⁰ See s.23

⁴¹ Tax payer means any person who is liable to pay tax as defined under section 3 of The Tax Administration Act [CAP 438 R.E.2019]

⁴²

tax enforcement mechanism, audit trails will disappear in Cyberspace. The experts raised the problem of failing to verify the identity of parties involved in the transactions. The experts further pointed out that obtaining the acceptable documents of proof is always difficult, and they warned that under such business mediums, tax havens will tend to become common.

Majority of the respondents (85%, with 55% strongly agreeing, 30% agreeing) indicated that there is still limited awareness on electronic taxation in Tanzania, something which hinders the proper implementation of e-taxation in the country. This stems from the fact that a good number of people do not know about e-taxation and how precisely to pay their taxes. Moreover, this situation cannot be only limited to the informal sector alone, but rather among many business persons in the country. This could be attributed partly attributed to the rapid technological changes that have caught many developing countries like Tanzania unprepared.

According to majority of the respondents (74%, 52 strongly agreeing, 22% agreeing), there is lack of an enabling legal and regulatory framework on e-taxation in Tanzania. For instance, much as Tanzania has so many laws on taxation with the major one being the Income Tax Act (2019), Tax Administration Act 2019, Income Tax Act Cap. 332 Revised Edition 2017, the Value Added Tax Act, 2019 the government has ignored coming up with a specific law or amending these acts to capture the taxation of online business. For instance, under Section 37 (b) of the Value Added Tax Act (2019) requires every person be it corporate or natural to have a physical address before one of registered for VAT.

Further, Section 43 of the same act mandates the Commissioner General to maintain and publish an up-to-date register of all registered persons, which must include the name and address of the registered person. The same situation obtains with the Income Tax Act Cap. 332 under Section 84 (2) which states: “Every withholding agent shall file with the Commissioner within thirty days after the end of each six-month calendar period a statement in the manner and form prescribed specifying...the name and physical address of the withholder.” The implication of these pieces of legislation, read together is that for any transaction to be captured there must be a physical address of the persons supposed to pay taxes. This hence might become difficult for people purchasing electronic services such as websites hosting, remote maintenance of programs and equipment, buying of software and the updating thereto, access to databases or self-education, whereby it might be difficult to ascertain the address of the consumer.

Another problem that has been identified by the respondents with regard to ecommerce taxation is the issue of a complex tax system. Majority of the respondents (70%, with 40% strongly agreeing, 30% agreeing) show that Tanzania’s system is taxation is a complex matter, which very few people understand. This is quite different from other countries such as the USA, where a simple tour through the Internal Revenue Service website shows that the feedback from the taxpayers show how exhaustive and easy for tax payers to file their taxes electronically in the USA. It is hence vital for the TRA here in Tanzania to emulate best example from other countries and best practices in order to make the processes of electronic tax filing not only very meticulous but also easy to utilize. This view as further supported during interviews with independent tax consultants based in Dar es Salaam, who had this to say:

“When it comes to traditional business, there is still much outcry from many of the taxpayers that consult us...Most of them complain of the complexity of the current taxation system. Many of them complain that the laws are too cumbersome for ordinary people to understand them. Moreover, in

certain cases, the tax assessments are not certain. So, we still wonder how electronic taxation can be bettered we still have many challenges with taxation of traditional business... ”⁴³

Other than the issue of complexity of taxation system, majority of the respondents (70%, with 46% strongly agreeing, 30% agreeing) that the current taxation system for traditional business lacks incentives. This complicated by the fact that from time immemorial, many people have built a culture of not understanding why they need to pay for taxes. What normally comes to the mind of a typical Tanzanian citizen when he or she is asked to pay his taxes, a typical thinking is that the government could be planning to enrich itself. A good example is that when the government, in its development of the infrastructural projects, has been demolishing houses within the road reserves without any compensation. Such houses belong to tax payers and they are demolished without any compensation and moreover on a very short notice.

The study found that, the implication is that such victims of the government’s policies are not to pay their taxes as before. Moreover, whenever corruption cases also appear in the media, of how government officials are misusing government’s money, this act as a serious disincentive for people not to pay taxes. Given this situation obtaining in traditional businesses, it also applies to non-traditional businesses like online businesses, where people. Because the government currently relies on self-assessment for tax purposes of incomes from online businesses owing to lack of a clear legal framework for online businesses, this is likely to create a disincentive for would-be tax payers. This view was further echoed during interviews with tax a consultant based in Dar es Salaam, and he had this to say:

“Of course, for any taxation system to be more effective, tax payers much be incentivized to understand why they need to pay taxes. In developed countries, for instance, much as they have stricter laws and guidelines on taxes, studies show that it not the legal sanctions that push people to pay taxes; rather, it is the belief that the taxes would be utilized for the betterment of society...”⁴⁴

According to majority of the respondents (95%, with 60% strongly agreeing, 35% agreeing), illiteracy is another challenge that affects electronic taxation. In Tanzania, for instance, electronic filing while being implemented, is yet to take roots. since many people, including some TRA officials are not yet very conversant with online businesses.

6.0 Conclusion

Online business has eliminated borders and both buyers and sellers have to communicate virtually and payment is affected through electronic means. With the help of the internet, the world has become a global community, and business transaction is possible regardless of geographical boundary. Online business as well-known as online business has transformed business procedures and practices and made the global community a potential client in the gigantic shopping mall at the expense of the canon of taxation. In Tanzania, online business has become imminent since online business practices have increased their fame, and people can buy and sell goods and services without having physical communication. Such a revolution has raised concern about tax assessment and the collection as it’s not within the ambit of tax laws in Tanzania which consequently make government lose huge revenue. Cross-border. Online business poses new international challenges for tax authorities to check tax evasions and underlines the need for

⁴³ Interview, Tax Consultant, Dar es Salaam, October, 2022.

⁴⁴ Interview, Tax Consultant, Dar es Salaam, October, 2022.

substantial administrative cooperation and guidelines to be evolved by the policymakers. To block undesirable facts like tax loss and tax evasion, countries are struggling to find a certain and uniform solution yet which is a matter of inquiry and research. Although Online business leads to some of the major tax reforms which may curb unethical and unlawful tax practices all over the world, still there is a lot more needs to be done with the rapidly changing pace of innovative technologies and business practices in the form of E-commerce.

REFERENCES

BOOKS

1. Andrew Lymer and John Hasseldine, *The International Taxation System*, Kluwer Academic Publishers London, 2002.
2. Bornman M and Wassermann, *Tax literacy in Digital Economy 2020*, *ejournal of Tax Research*, 2018
3. Chunuram, S. *Legal Research Methodology: An Overview*, *Journal of Emerging Technologies and Innovative Research* 2021 Vol.8 pp.442-484 also available at https://www.researchgate.net/publication/355523510_LEGAL_RESEARCHMETHODOLOGY_AN_OVERVIEW/citation/download2.
4. Hamed, Raed. "E Business: Concepts and Context with Illustrative Examples of e-business and e-commerce in Education", University of Mosul, 2019.
5. Hellawell, R. "United States Income Taxation and Less Developed Countries:" A Critical Appraisal. *Columbia Law Review*, 66(8),1996. page 1393–1427.

JOURNAL ARTICLE

1. Kutz, M. "Introduction to E-commerce", *Combining Business and information technology, the ebook company*, 2016
2. Magdalena J, *The Principles of Tax Law Equality in The Context of Direct Taxation. Journal of Economics and Management*, 2017 Vol.30.pp 70-84
3. Mambi, A. *ICT Law Book, a source book for information and communication*
4. McLure, E.C. (2015). "Taxation". *Britannica*. Retrieved 3 March 2015.
5. Mponguliana R. G, *National Board of Accountants and Auditors Tanzania: The Theory and Practice of Taxation in Tanzania 2nd Edition* 2005
6. Philip A, *Taxation of electronic commerce in developing countries: A case for shifting of focus to consumption taxes*, *Nnandi Azikiwe University Journal of International Law and Jurisprudence*, 2019, Vol.1 No1, pp 41-50 (accessed from <https://www.ajol.info/index.php/naujilj/article/view/183702>)

REPORTS

1. Richard, J.& Basu, S. "Taxation of Electronic Commerce:" A Developing Problem, *International Review of Law, Computers & Technology*. available at <http://www.tandfonlinr.com> retrieved on 9th April 2023
2. Rukindo, S. *Taxation in the Digital Era: An analysis of the Challenges of taxation of E-commerce in Uganda*. Academia Education, 2016, pp 92-106,
3. Saiteu B. *Challenges in the Administration of Value Added Tax in respect of Taxation of Digital Economy in Tanzania*, *Commonwealth Law Review Journal*, 2020, Vol 6, pp 196-211.

4. Shigella E.E. The effect of E-Commerce on Tax Laws in Tanzania Case Study of income and VAT Laws, Administered by Tanzania Revenue Authority. LL.M Dissertation, the Open University of Tanzania (OUT),2013
5. Shirley Dennis-Escoffie *Tax Issues for E-Commerce Businesses,2000*
6. The Ottawa Taxation Framework Conditions were welcomed by Ministers and the Ministerial Conference on Electronic Commerce held in Ottawa on 7 – 9 October 1998