Electronic Tax System in Tanzania: Appraisal of the Legal Basis

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Abstract

With the development of Information Technology in the world many aspects of life has been affected, this, for instance, has influenced countries to come up with policies and measures for adopting these changes. This discussion is therefore focused on looking at the frameworks for the introduced electronic tax system in Tanzania, mainly on the legal basis of it. The main area looked at is the tax collection system, to include electronic filling of returns, electronic registration and licensing of tax payers, rights and liabilities of tax payers and efficiency of the system. The discussion also gives an overview and discussion on tax legislations, the ICT policy and regulations which are made and/ amended to incorporate the electronic system provisions in tax administration. This discussion has come up with the conclusion that there is mismatching of the law regulating this newly adopted system, as it recommends for harmonizing the system in lining with ideal taxation in aspect of policy, law and their administration.

1. Introduction

Taxation is commonly defined to mean a compulsory contribution to the state’s funds.² It is levied either directly from taxpayer by means of income tax, capital gains, inheritance and corporate tax, or indirectly through tax on purchases of goods and services. A good example is

¹ LL.M I, Registration Number: LL.M 46409
² The Oxford Dictionary of Law, 2001
the value added tax, and through various kinds of duties like road tax, stamp duty and duties on betting and gaming.

The major reason for the imposition of taxation is to raise revenues for government expenditures, facilitating the government with ability to provide social services like health, education, defense, order, infrastructures and anything in demand by the people. The other rationale is for protecting the domestic market by imposing heavy tax on unnecessary importations.

The Tanzania tax system is built on three very important components, namely tax policy, tax law and tax administration. Tax policy, these are the statements and wishes which the government wanted to accomplish through the use of taxes. The government raises revenues for its expenditures and distribution of income\(^3\) for purposes of stabilizing the economy of its people and to motivate investments. Tax administration is referred to as a set of activities done and formulated by the government in ensuring that taxes are levied in accordance to relevant law, this embodies that the existing system must identify the tax liabilities as per existing taxing legislations, to assess the levied tax base whether it is smaller or larger than tax liability. Also that tax administration is set to prosecute, collect and penalize tax evaders in making sure that taxes are paid in accordance to the existing taxing legislations\(^4\)

*Apronius V. Mbilinyi*\(^5\) has confirmed that tax has been a major source of income for any country to develop, in term of economic, social and political. This demand has led for countries

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4 Article 138 (1) of the Constitution of the United Republic of Tanzania, 1977 (as amended time to time), effect that tax of any kind shall not be imposed save in accordance with a law enacted by the Parliament, or pursuant to a procedure prescribed by the Parliament with the force of law enacted by the Parliament.

through their tax agencies or bodies to try to adopt different systems, the rationale being to have an efficacy tax system for efficient tax administration. Tanzania in particular, has in the year 1995 through the Tanzania Revenue Authority Act\(^6\) established the Tanzania Revenue Authority (TRA) which became operational in 1996 with among other objectives is to advise the government on fiscal policy and to administer the revenue laws.

The Tanzania government through Government Notice Number 192 of 2010 (G.N. NO. 192/2010) has officially introduced an electronic system of administering taxes, by the use of Electronic Fiscal Devices (EFD), as the Finance Act\(^7\) under section 36 provides to be used in its tax administration. This being an initial stage to employ the use of this system, a number of changes have been seen to be made, in aspect of tax policy, tax administration and above all the EFD taxing legislations have been made and some amended to encompass the newly system, it is to this point this paper is intended to venture and see the legal basis for the new system of tax administration in the country.

2.0. The Development of Information and Communication Technology (ICT)

Anderson and Glen referred the concept of Information and Communication Technology (ICT) as being derived from previous terms like Information Technology (IT) and new technologies. They argued that the addition of the term communication to information technology (IT) emphasizes the growing importance attributed to the communication aspects of new technologies. They define ICT as generally related:

“...to those technologies that are used for accessing, gathering, manipulating and presenting or communicating information. The technologies could include hardware (such as computers and other

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\(^6\) The Tanzania Revenue Authority Act, [CAP 399 R:E 2002]
\(^7\) The Finance Act No. 15 of 2010
The calculation for the Information and Communication Technology (ICT) is as such that, the differing number of the term ‘communication’ is significant in that the singular form is concerned with human interaction while the plural form is generally taken to refer to the whole field of data communications infrastructure. Hence, the world is evidenced with changes in term of technology. ICT permeates the business environment, it underpins the successive of the modern corporations, and it provides governments with an efficient infrastructures. The usefulness of ICT is immeasurable since with the development of technologies life of millions of people in the world has become easier, and the government with adoption of the e-governance system, its infrastructures has been improved in aspect of delivering services to its citizens. Therefore, with this imminence development governments in the world are inevitably and forced by circumstances to adopt the use of ICT in its dealings.

2.1. An Overview of the Computer System Revolution and the Development of ICT in Tanzania

As per Klodwig Mgaya\textsuperscript{10} the first computer in Tanzania, an ICT 1500, was installed in the Ministry of Finance in 1965. By 1974 there were seven computers in the country and the


\textsuperscript{9} UNESCO “Information and Communication Technology in Education” Available at: http://www.unesdoc.unesco.org/images/0012/001295/129538e.pdf [Accessed on the 20th, November, 2013]

\textsuperscript{10} Klodwig Mgaya, “Development of Information Technology in Tanzania”. Available at http://www.unu.edu/unupress/unupbooks/uu19ie/uu19ie0i.htm, visited on 20/October-2013. Also Ndamagi, C.
Ministry of Finance had already acquired a new computer, an ICL 1900. The program of which at the end of the day failed following a number of reasons, like lack of IT personnel, uncoordinated planning and the government intervention after it appears that a lot of resources were used unsuccessful.

The country having influenced with the ongoing global changes proposed, in the year 2003, the ICT Policy. Although prior to this there were other ICT related policies which were in place, like the National Telecommunications Policy (1997), The National Postal Services Policy (2003) and the National Information and Broadcasting Policy (2003). The policy aims at ensuring development of ICT infrastructures and services so as to accelerate access to ICT services by all sectors of the national economy as part of the national development strategy.

The Tanzania ICT Policy (2003) was approved by parliament in 2005 to provide government guidance on ICT issues. Lack of an overall ICT Policy and poor harmonization of initiatives had previously led to the random adoption of different systems and standards, unnecessary duplication of effort and waste of scarce national resources on the one hand, and lack of strategies for the utilization of ICT as a driving force for national development on the other. The policy articulates ten main focus areas in harnessing ICT in Tanzania; strategic ICT leadership, ICT infrastructure, ICT industry, human capital, legal and regulatory framework, productive sectors, service sectors, public service, local content and universal access\textsuperscript{11}

\textsuperscript{11} The National ICT Policy (2003). Also Desderius Hekwe (2013) \textit{“An Appraisal of the Legal Basis for Electronic Signatures in Tanzania”} A dissertation submitted in partial fulfillment of an award of the Bachelor of Laws of St. Augustine University of Tanzania, at pg. 36

3.0. The Introduction of Electronic Tax System in Tanzania tax Administration.

As cited above that the Tanzania tax system is built in three very important parts, such that, the tax policy, tax laws and tax administration (supra).

Therefore, with the adoption of the ongoing technological changes (ICT), the country has ventured into using the technology in administering its tax system. This is being reached upon after some necessary changes have been made in term of the three interdependent parts, tax policy, tax laws and tax administration. There are notable changes with the adoption of the electronic system of taxation in Tanzania made, but prior to this changes the system was largely analogous, to the extent that the TRA discovered a lot of revenues were not collected on due and efficiently manner.

3.1.0. The introduction of the use of Electronic Fiscal Devices (EFD)

The policy on the use of (EFD) was introduced by the G.N. NO. 192 of 2010, with the same effect a law was made by the parliament, the Finance Act\textsuperscript{12} under which section 36 amended the Value Added Tax Act\textsuperscript{13} by inserting on its interpretation clause a new term ‘fiscal receipt’ to mean a fiscal document printed by electronic device for the customer of goods or services supplied to him bearing the content specified under the Value Added Tax (Electronic Fiscal Devices) Regulations, 2010. Section 40 (b) of the Finance Act (2010) has amended section 16 of the Value Added Tax, by adding immediately after subsection (4) the new subsection (5) to mean;

\textsuperscript{12} The Finance Act No. 15 of 2013
\textsuperscript{13} The Value Added Tax Act [CAP. 148 R:E 2002]
“Any cost incurred by a taxable person during initial purchase of an EFD from an Approved Supplier shall be deemed to be an input tax”\textsuperscript{14}

Bearing in mind the effect of Article 138 (1)\textsuperscript{15} that tax of any kind shall not be imposed save in accordance with a law enacted by the parliament, or pursuant to a procedure prescribed by the parliament with the force of law enacted by the parliament. The term ‘procedure’ has a lot to do with what the parliament was to do in complying with the mother law of the land, that a mere adoption of a new system in relation with taxation is equal as imposing a new tax to existing or prospective taxpayers. Hence, with the enactment of the Finance Act (2010) with the above changes is much appreciated when interpreting the provisions of the constitution. Further, that the new system of administering taxes which is being adopted by the government is of legitimacy though its efficacy is what is questionable since there have been already claims about the usefulness of the new system among businessman in the country.

3.1.1. The Finance Act No. 15 of 2010

This Act was made with the rationale of imposing and altering certain taxes, duties, levies, fees and to amend certain written laws reading to the collection and management of public revenues. The Act is of useful in this discussion since it is the one with fundamental provisions for the introduction of an EFD in administering taxes. It has at least five provisions which have formed the legal base for the introduction of electronic tax system. These are section 35, 36, 40, 41 and 42 provided under PART XII which has amended the Value Added Tax Act in incorporating it with provisions on applicability of EFD.

\textsuperscript{14} The Finance Act No. 15 of 2010
\textsuperscript{15} The Constitution of the United Republic of Tanzania, 1977 (as amended time to time)
The Act has provided rights and duties to both taxpayers, for those who pay direct tax and the one who pays indirect taxes like those who purchases goods or services for daily use from general suppliers. The law is clear under section 40 (b) that taxable persons are supposed to purchase EFD from approved supplier of this devices, the incurred cost in initial purchase of EFD is termed as ‘input tax’ and subsequently he has the duty to issue fiscal receipts to his prospective customers. This has been effected further with a penalty, as provided for under section 42 that any person who willfully commits or omits to do any acts with intent to evade tax shall be liable to a fine of twice the amount of tax involved in the commission or to pay five millions shillings or whichever is higher or to be imprisoned for two years or to both.

On the other hand the Act has given a right with duty to all customers to demand for fiscal receipts wherever they pay for certain goods or services, this is included under section 41 (d) of the Act.

3.1.2. The Value Added Tax (Electronic Fiscal Devices) Regulations, 2010

The Government Notice No. 192 published on the 28th May, 2013 has officially made these Regulations applicable, and as provided under Regulation 2 of the Regulations, that their applicability is only for users of EFD who are doing their business in Mainland Tanzania, they do not apply for businessman in Zanzibar.

The Regulations has some fundamental outlines towards the use of this newly system of administering tax in the country. As it is well known that for there to be an ideal tax system, as proclaimed by Adam Smith16 things like equality, certainty, convenience, social justice and efficient administration must be given weight wherever a tax system is either adopted or changed.

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in complying with the existing situation. This has effect when discussing these Regulations, since this was an initial point for the adoption of the new system, though technologically changes were inevitable, but policy and legal frameworks are the one to tell whether the changes has reflected toward an ideal system of tax administration.

It is provided under Regulation 4 of the Regulations to the effect that all taxable persons and any person to whom the Commissioner may appoint to be eligible for registration to register himself, and the qualifications are provided by the same Regulation that he must purchase an EFD from an Approved Supplier, he must have also a delivery note from the same person and any other requirements to be prescribed by the Commissioner, then, as per Regulation 4 (2), he is to be issued with identification number which is to be prescribed by the Commissioner.

Regulation 9 of the Regulations has referred to the EFD system as a system which is to be established by the Commissioner for transmission, receipt, storage and monitoring of fiscal information relating to sales transactions done by users in the course of their daily business. The system which shall be electronically connected to all users of EFD registered under these Regulations.

Regulation 14 is for administration. Under which the Electronic Fiscal Device Technical Committee is to be formed by the Commissioner, its rationale being to assist the Commissioner in all matter relating to technical aspects regarding the administration of these Regulations. Members of this committee are to be appointed from TRA, the Ministry responsible for Finance, the Tanzania Bureau of Standards (TBS), the Tanzania Communication Regulatory Authority (TCRA) and other person as may be deemed necessary.
There are offences in these Regulations, the essence being to compel businessman in Mainland Tanzania to use EFD wherever they transact, for instance under Regulations 20 it effect that a person shall be liable to pay not less than Tanzania shillings three million or to imprisonment for a term of not exceeding twelve months or to both, if that person has failed to use EFD for the reasons beyond the provisions of the Value Added Act\textsuperscript{17} or these Regulations. Also it is provided under Regulation 21 to effect that a person shall be liable to conviction and shall pay the tax involved and a fine twice the amount of that tax or four million Tanzania shillings or to both if that person has used the device fraudulently for purpose of misleading the system or the Commissioner.

The Regulations has given room for EFD users to appeal in case they are aggrieved with both the findings and decision of the Commissioner. This is incorporated for under Regulation 27 that any person aggrieved by the findings and decision of the Commissioner may appeal to the Tax Revenue Appeals Board established under the Tax Revenue Appeals Act\textsuperscript{18}. The best judgment rule gets applicable, as the principle developed in \textit{GUNDA SHUBBAYYA Vs CIT}\textsuperscript{19} to the effect that though it does not carry any statutory definition but as judicially defined the rule implies that the Commissioner must rely on material evidence and resort to reasonability in course of making his decision.

The government being aware that introducing a new system in taxation could lead to misunderstandings among tax payers, especially in incurring costs for purchasing the EFD, it have decided to take the burden of incurring cost for purchasers of the first batch of EFD. The Regulations under Regulation 28 (1) provides that;

\begin{itemize}
\item \textsuperscript{17} The Value Added Act [CAP. 148 R:E 2002]
\item \textsuperscript{18} Tax Revenue Appeals Act [CAP. 408 R:E 2002]
\item \textsuperscript{19} (1939)7 ITR 21
\end{itemize}
“For purposes of enabling users to start using electronic fiscal devices, the Government of United Republic of Tanzania shall cover for the costs of purchasing the first batch of electronic fiscal devices in respect of identified categories of users.”

This position is made clear in the First Schedule that costs incurred by traders for purchase of EFD from approved supplier for the first time shall be borne by the Government. The cost shall be set off from the output tax on submission of the VAT returns, one month following the month of the purchase under the normal refund system. This therefore shows, as to what extent the new tax policy has considered the ideal aspect of taxation. If it was to be borne by the users direct from the start it could bring more controversies.

Therefore, with these Regulations customers, who normally pay indirect taxes, are required as per Regulation 29 of the Regulations to claim and obtain electronic fiscal receipts from the seller wherever they pay for goods or services. The Regulation cited is also very clear that it may happen that the Commissioner is in need to see such electronic fiscal receipt from the customer concerned, then the customer is obliged to give it to him for any inspection. And when the seller refuses to issue such receipt the customer must notify the Commissioner immediately.

3.1.3. The Income Tax (Electronic Fiscal Devices) Regulations, 2012

These Regulations were made applicable by the Government Notice No. 389 published in the 14th December, 2012.

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20 The Value Added Tax (Electronic Fiscal Devices) Regulations, 2010
21 Ibid
Although the Regulations has almost same provisions as those provided under the Value Added Tax (Electronic Fiscal Devices) Regulations\textsuperscript{22}, these Regulations has fundamental outline for the introduction of the use of EFD on income tax administration in the country which are accrued from employment, business and investment as per section 5 (1) of the Income Tax Act\textsuperscript{23}.

Regulation 2 of the Regulations has extended the jurisdiction of its applicability on both Mainland Tanzania and Zanzibar. It is therefore declared under Regulation 10(2) of the Regulations that a person who is required by virtue of Regulation 4(1) to be registered shall not conduct or operate any business undertaking within the Mainland Tanzania and Zanzibar without the use of EFD. Regulation 3 has given the meaning of EFD to mean;

“A machine designed for use in business for efficient management control in areas of sales analysis and stock control system which conforms with the requirements specified in these Regulations and dully registered under regulation 5 of these Regulations including Electronic Tax Register, Electronic Fiscal Printer and Electronic Signature Device”\textsuperscript{24}

The above provision has the effect that for any EFD to be used by the users it must be licensed by the Commissioner\textsuperscript{25} and dully connected to the system, the system is being clarified under Regulation 9(1) to mean the system established by the Commissioner that transmits, receive, stores and monitor the fiscal information relating to sales transactions done by users in the course of their daily business. As per these Regulations, EFD are to be supplied by the approved and appointed supplier who is supposed to acquire them from the appointed Manufacturer within the meaning Regulation 8(1 and 2) of the Regulations, that, such

\textsuperscript{22} The Value Added Tax (Electronic Fiscal Devices) Regulations, 2010
\textsuperscript{23} The Income Tax Act, [CAP. 332 R:E 2008]
\textsuperscript{24} ibid
\textsuperscript{25} Means the Commissioner of income tax as defined under section 3 of the Income Tax Act, Cap. 332
manufacturer will be appointed by the Commissioner upon proves that, he has a reputable financial position, own and possess high technical expertise in making EFD with a minimum of five years in manufacturing EFD, guarantees coverage of not less than three years, a contract for guarantee is to be made with the Commissioner and of any other qualifications as may be prescribed for by the Commissioner.

It is being declared under Regulation 10(3) of the Regulations that the person who is required by virtue of Regulation 4(1) to be registered shall be obliged to purchase a complete set of EFD, such as, Electronic Tax Register, Electronic Fiscal Printer and Electronic Signature Device from an approved supplier. Normally, the EFD will be used in compliance with a certain category of business transactions relating to goods or services involving users whereby each user shall use an EFD suitable to the category, operation and type of his transactions. A user is therefore always duty bound to enter into his EFD all required information relating to his business transactions and issue fiscal receipts or invoices to his customers, as per Regulation 14 (1 and 3) of the Regulations.

In order for there be an efficient electronic information system for the use of EFD in income tax administration, an EFD Technical Committee is established under Regulation 15(1) with members from the Tanzania Communication Regulatory Authority (TCRA), Tanzania Bureau of Standards (TBS), Ministry of Finance and Economic, Tanzania Revenue Authority (TRA) and any other person as the Commissioner deems it to be fit. The Committee is for advising the Commissioner on the overall performance and operation of the EFD system in income tax administration, to include also the advice of reformation of tax policy, tax laws and tax administration in aspect of the newly adopted system of taxation.
Further, there are penalties and sanctions imposed by these Regulations in making sure that the new system is operative and that no one is evading or avoiding taxes. Regulation 21 is of the effect that any person who is by virtue of Regulation 10 required to use EFD in his business transactions, and contravene the same is liable. But that any person within the meaning of Regulation 21 who fails or opted to purchase the EFD is also liable, upon conviction, to a fine not less that Tanzania shillings three million or to imprisonment for a term not exceeding twelve months, or both. Also that any person who deliberately tempers with or causes EFD not to work properly, is guilty of offence and upon conviction he is liable to a fine not less that Tanzania shillings one million or to imprisonment for a term not exceeding three months, or both.

Regulation 24 is of much interest with respect to rights and duties of the customers, upon failure to demand and retain a fiscal receipt or fiscal invoice, the provision read as such that;

“All person who fails to demand and retain a fiscal receipt or fiscal invoice or fails to report a denial of issuance of the receipt or invoice as required … commits an offence and upon conviction is liable for payment of twice of the amount of the tax evaded”\textsuperscript{26}

The provision above seems to impose the liability to the public directly without regards on whether the public is aware of it or not. The viability of the liability above I don’t think it to be justifiable with its direct influence to the public who are in all cases customers to the goods in the market. I real find its essence for the Commissioner in forcing or asking the assistance of the customer in helping the implementation of the new system. Hence it should be borne in minds of customers that upon this failure they are to incur liability.

\textsuperscript{26} The Income Tax (Electronic Fiscal Devices) Regulations, 2012
The Regulations has given a room for any person aggrieved with the findings of the Commissioner, that is, any act, omission or decision made by the Commissioner to appeal before the Tax Revenue Appeals Board established under the Tax Revenue Appeals Act\textsuperscript{27}. When an appeal is being launched the procedures set out under the Tax Revenue Appeals Act shall apply.

Unlike the provisions of the Value Added Tax (Electronic Fiscal Devices) Regulations\textsuperscript{28} under which it is expressly provided under Regulation 28 (1) to the effect that for purposes of enabling users to start using electronic fiscal devices, the Government of United Republic of Tanzania shall cover for the costs of purchasing the first batch of electronic fiscal devices in respect of identified categories of users, the provisions under the Income Tax (Electronic Fiscal Devices) Regulations\textsuperscript{29} did not encompass for the recovery of the costs to be incurred by users in starting using the EFD. This therefore in the face of equity as a key factor for an ideal tax system seems to be a lacuna either in tax policy, tax laws or within the ambits of tax administration on its entirety. The contention above is well founded in the wording of the Regulations itself that there are categories of users of EFD and each user must specify information as to which category of he belongs when using the EFDs, but no leniency within the provisions which gives room for users or prospective users to get prepared in adopting a new system, which is on the face of it costly. What the Regulations tells under Regulation 10(3) is to threaten and order for anyone who is conducting or operating any business within Mainland Tanzania and Zanzibar to purchase and start using the EFD regardless he has reputable financial status of acquiring all set of EFD as proclaimed under the same Regulation.

\textsuperscript{27} Tax Revenue Appeals Act [CAP. 408 R:E 2002]
\textsuperscript{28} The Value Added Tax (Electronic Fiscal Devices) Regulations, 2010
\textsuperscript{29} Income Tax (Electronic Fiscal Devices) Regulations, 2012
4.0. The Model of the System adopted by Tanzania.

It is well noted that the use of electronic devices in tax administration in the context of East Africa was first seen on 2005 in Kenya when the government required all traders giving out services and selling goods to have an Electronic Tax Register (ETR) machine, enabling the government to track VAT charges. Therefore the system in Tanzania seems to have gone further modification, since when talking of EFD it encompasses Electronic Tax Registers, Electronic Signature Devices (ED) and Electronic Fiscal Printers (EFP). The former implies the device which is used by retail business that issue receipts manually, it has the same effect as that of Kenya.

4.1. The Kosovo Model of EFD in Tanzania.

Without any doubts the adopted 2010 EFD system of tax administration in the country has its root in Kosovo, in the other way it is the copy and paste of what the Republic of Kosovo has adopted in the year 2008/2009 while in course of strengthening her tax policy. Therefore having looked at the practice in Kosovo one may come to the conclusion that there is mismatching of tax policy, tax laws and tax administration in Tanzania with the introduction of the new tax system, the system which requires businessman to purchase and use the EFD, and that they should not conduct or operate any business without the use of EFD.

In Kosovo for instance, when there are changes in tax administration the Director General is supposed to issue what is called ‘Public Ruling’ to the public notifying them on the intention of the government and the rationale plus the meaning and the significance of the newly
introduced system. In August-2009, for example, the Director General has issues ‘the Fiscal Electronic Devices Technical Specification and Requirements’\textsuperscript{30} this ruling encompasses the legal framework for the introduction of the EFD system in the country, of which they refer it to the constitution and they enacted laws for such effect. The ruling also shows where these devices are to be found by pointing out the authorised manufacturer and supplier of the same, as the case in Tanzania. But the ruling provides for rights and obligations of businessman and customers in general while using EFD.

The term “Electronic Fiscal Devices or Fiscal Electronic Devices” as being referred in Kosovo is being defined to include electronic devices such as fiscal cash registers and electronic devices on the sales points which shall be licensed from authorised bodies of the Ministry of Finances in order to be recognised as fiscal\textsuperscript{31}. And these devices use electronic developed memories integrated in cash registers or developed system with computer basis for registering the selling transactions, their printings through fiscal printers and their certifications through fiscal electronic devices for endorsement and similar devices. Fiscal Electronic Device is used for issuance of fiscal vouchers for the incomes. Issuance of vouchers for incomes does not depend on the payment manner

Following a number of public complains about the efficiency of the EFD in Kosovo in the year 2012 another public ruling was issued subject to Article 65(1) of the Constitution of the Republic of Kosovo and the Law of Tax Administration and Procedure,\textsuperscript{32} the ruling under Article 1 has incorporated the legal frameworks for EFD, Article 2 is for the tax administration


rights, this, for instance has put a condition that all businessmen has to use EFD in their transactions. Article 3 gives the rationale for the Director-General in keeping issuing public rulings for smooth operation of EFD system in the Republic of Kosovo.

5.0 Legal Challenges on Efficiency Operation of EFD in Tanzania

As cited above that the Tanzania tax system is featured into three distinctive characters, which is the tax policy, tax laws and tax administration. Therefore, the viability of the newly adopted system in administering tax collection in the country is to be accrued from the same, above features. Since, the coexistence of the above characters gives the hegemony of tax system generally, but if not met and coexist, the result will be chaos especially with tax payers.

Hence, looking unto the legal framework for the introduced EFD tax system in the country, as per the discussed legislations, they seem to have potency by Tanzania Revenue Authority in curbing tax evasion and tax avoidance, through easy way of submitting returns, paying taxes and the manner of collecting taxes is simplified with the use of technology. These legislations were made essentially to curb the bigger area where taxes are accrued from. With TRA the system is dimmable for easy collection of taxes, the challenges remain with tax payers to whom tall tax liabilities are relied on, as they demand for an ideal system be it analogous or digital, and since EFD is concerned, the system plus the enabling tax legislations were supposed to put into account a number of tax payer’s rights.

Challenges in this context are mainly on tax payers’ rights. There have already complaints from businessmen, who as per this virtue, taxpayers, in Mwanza, Mbeya and Dar es

Salaam\textsuperscript{34} rioting and complaining against the newly adopted system as of much expensive, inoperative and not reasonable as per life status of many Tanzanians. Their demands are the once which shows how does the laws enacted in supporting the system effective, and within the language of taxation, ideal laws. Although the law has been made with view to reach that extent, that the system should not be too expensive and inoperative, by promising that at the start the government shall incur all the expenses and costs for acquiring the devices, as per Regulation 28,\textsuperscript{35} still this discussion believes that the promises are not meeting the extent of ideal system as a principle of taxation.

These legal challenges are mainly attributed with the reformation which has been done to some of the tax legislations to be inadequate with demands of both the government on one hand and the people (tax payers) on the other hand. This has effect that the government wanted to accrue much revenue for its expenses, but also tax payers needs to have a system which is fair, easy for them to escape tax liabilities and sometimes which is just with reference to their life standards. For the tax payers, this is founded since the reformed laws are the law on value added tax and income tax, but other laws were left without any modifications.

6.0 Conclusion

In meeting a clear meaning of taxation as one of a key element which a country uses in raising revenue for implementing certain things for its people, the Tanzania tax administration is supposed to be an ideal system of taxation. And therefore, paying tax is a conditional thing to citizens in supporting activities of their government.

\textsuperscript{34} 31\textsuperscript{st} December, 2013-Mwanza, 04\textsuperscript{th} January, 2014-Mbeya.  
\textsuperscript{35} The Value Added Tax (Electronic Fiscal Devices) Regulations, 2010
By introducing a new system for administering taxes in the country, it implies for people that the system would be of benefits to them since their government will be able to collect enough revenues from correct places for their further benefits. This therefore, with right-min set, cannot be veiled from people responsibility (liability) of paying taxes wherever required, but as per the law, as Bentham argued that such law must be a good law, which could not bring sadness to them, and so as an ideal tax system.

The notion above is subsequently with essence by the introduction of EFD or electronic system of administering taxes in Tanzania, a system which is supposed to be of efficacy in curbing tax avoidance and evasion. Although, this discussion does believe that paying tax is a constitutional right that a person should not be charged with tax if not provided with by law enacted by the parliament. As the reference to Article 138 (1)\(^{36}\) that all taxes shall be imposed by law enacted by the parliament with reasonable procedures for its realization.

Having noticed that the tax system with the newly adopted system is mismatching with the will of tax payers, since some of their key rights are not self-realizable, this discussion do recommends for EFD policy be reframed in considering the standard of tax payers and their rights like costs for purchasing the devices is bigger, lack of knowledge as to its significance, laws which regulate tax transactions to be reviewed in whole to incorporate harmonized provisions covering electronic system of taxation, the government to put it clear on aspect of incurring cost for first users of the system, but further that the government before it was ventured into implementing the system it should start with category of tax payers for practical wise with leniency rules and/ regulations for changing tax payers into the new system and not by use of force.

\(^{36}\) The Constitution of the United Republic of Tanzania, 1977
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