DIVIDEND TAXATION IN NIGERIA: ADDRESSING DOUBLE TAXATION, CHALLENGES, REFORMS, AND PROSPECTS FOR ECONOMIC GROWTH

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Abstract

Dividend taxation and withholding tax are critical components of Nigeria's tax system, influencing revenue generation, investment decisions, and overall economic growth. However, the current legal framework presents significant challenges, including issues of double taxation, administrative inefficiencies, and inconsistencies in tax laws. This study adopts a doctrinal methodology to critically analyze the statutory provisions governing dividend taxation and withholding tax in Nigeria, focusing on the Companies Income Tax Act (CITA), the Personal Income Tax Act (PITA), and relevant provisions of the Finance Acts. It examines judicial interpretations and scholarly perspectives on the applicability and effectiveness of these laws in achieving fiscal sustainability. The study finds that while recent legislative reforms have sought to improve tax administration and revenue mobilization, persistent gaps in legal clarity, enforcement mechanisms, and tax treaty applications continue to hinder optimal compliance and economic benefits. The study recommends legislative refinements, clearer regulatory guidelines, and enhanced legal interpretations to create a more efficient and investor-friendly tax system. A well-structured dividend taxation regime is crucial for boosting investment, fostering economic growth, and ensuring equitable tax administration in Nigeria.

Keywords: Dividend Taxation, Withholding Tax, Doctrinal Analysis, Tax Reform, Nigeria.

1.0 Introduction

The taxation of dividends in Nigeria is a complex issue that blends domestic tax policy with the realities of global business operations. At the core of this issue is the withholding tax (WHT) system, which requires Nigerian companies to deduct tax from dividends before distributing them to shareholders. While this system aims to ensure tax compliance, it can also create significant challenges, especially when the same income is taxed in multiple jurisdictions. This is particularly true for multinational corporations operating in Nigeria through subsidiaries, which often leads to double taxation of dividends.[1]

In today's global economy, many companies establish subsidiaries across borders to expand their operations. However, this often results in dividend income being taxed both in the country where the subsidiary operates (Nigeria) and in the home country of the parent company. This means the same income is taxed twice a situation that can be financially burdensome for businesses navigating international tax systems.[2] Additionally, Nigeria's Companies Income Tax Act (CITA) complicates matters further, particularly when it comes to retained earnings. Section 19 of CITA, for instance, imposes an additional tax on dividends paid out of profits that have already been taxed, resulting in double taxation of the same earnings. This provision discourages companies from retaining profits for reinvestment, potentially limiting growth and affecting long-term business planning.[3] This paper aims to critically assess the taxation of dividends in Nigeria, examining the challenges of withholding tax, the issues surrounding retained earnings, and the broader problem of

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[1] A Olowookere, & A Adebayo, *Nigerian Taxation: Principles and Practice*, 2nd edn (Lagos: Princeton Publishers, 2020).

[2] *Ibid*

[3] IA Ayua, *The Nigerian Tax Law*, (Ibadan: Spectrum Books, 1996).

international double taxation. By reviewing statutory provisions, case law, and recent legislative changes, this work will evaluate the effectiveness of Nigeria's current dividend tax system and suggest potential reforms to make the tax environment more business-friendly. The ultimate goal is to contribute to the ongoing dialogue on how Nigeria's tax policy can evolve to better support corporate investment while ensuring fairness.

2.0 Conceptual Framework

2.1 Dividend Taxation and the Withholding Tax Mechanism

A dividend represents the return shareholders receive from a company's distributed profits. Under Section 9(3) of CITA, a dividend includes any profit distribution, whether capital in nature or not, including the nominal value of bonus shares, debentures, or securities awarded to shareholders.[4] Sections 80(1) and (2) of CITA mandate that when a Nigerian company distributes dividends, it must deduct withholding tax (WHT) at a rate of 10% before remitting the net amount to shareholders. This deducted amount is then paid to the Federal Inland Revenue Service (FIRS). Such dividend income, once subjected to WHT, is regarded as "franked investment income," which is generally exempt from further taxation unless it is redistributed. If redistributed, the withholding tax previously paid may be used as a tax credit by the distributing company.[5]

3.0 Retained Earnings and The Double Taxation Issue Under Nigerian Tax Law

Under Nigerian corporate law, companies often retain a portion of their profits rather than distributing all earnings as dividends. This is to ensure financial stability, provide for future liabilities, or reinvest in business operations. Section 430(1) of the Companies and Allied Matters Act (CAMA) empowers directors to set aside such reserves from the company's profits at their discretion, applying them to any lawful purpose, including reinvestment or future distribution. Additionally, directors may carry forward undistributed profits without necessarily placing them in a reserve.[6] However, the taxation of retained earnings under the Companies Income Tax Act (CITA) presents significant challenges. A critical issue arises from Section 19 of CITA, which imposes a 30% tax on distributed dividends when the total profits of a company for a given year are less than the amount of dividends declared. This provision results in a form of double taxation, as profits that have already been taxed when earned may be taxed again when distributed as dividends in a subsequent year.[7] For instance, if a company retains part of its 2021 profits for reinvestment or to cover contingent liabilities, and later distributes them as dividends in 2022, the effect of Section 19 is that the retained profit initially taxed at 30% in 2021 will be taxed again at 30% in 2022 upon distribution, resulting in an effective tax burden of 60% on the same earnings.[8]

3.1 The Effect of Section 19 of CITA on Retained Earnings and Corporate Investment

Section 19 of CITA has been a source of contention due to its impact on corporate financial planning and investment. The provision stipulates that when a company pays dividends out of profits that are either untaxed or taxed at a lower rate than the declared dividend, the company must pay income tax on the dividends as if they were its taxable profits. This applies even if dividends are paid from retained earnings that have already been taxed in previous years.[9] A common scenario involves companies, especially holding companies that derive income primarily from dividends received from subsidiaries. These companies often accumulate retained earnings rather than immediately distributing

[4] CS Ola, *Income Tax Law and Practice in Nigeria*, 5th edn (Ibadan: Heinemann Educational Books, 2011).
[5] *Ibid*
[6] C Okafor, & J Edeh, "Double Taxation and Its Effects on Investment in Nigeria" *Nigerian Journal of Taxation* (202) 45(2) 33.
[7] *Ibid*
[8] *Oando Plc v. Federal Inland Revenue Service* (2018) FHC/L/CS/1302/17.
[9] Federal Inland Revenue Service, "Withholding Tax Administration in Nigeria" https://www.firs.gov.ng/withholding-tax accessed 3 April 2025

them. However, under Section 19, when these earnings are eventually distributed as dividends, they are treated as taxable profits for that assessment year, leading to double taxation.[10] The case of *Oando v. FIRS*[11] illustrates this issue. The Federal High Court upheld the application of Section 19, ruling that dividends paid out of retained earnings in three consecutive years were subject to further taxation, despite the fact that these earnings had already been taxed when initially earned.[12] The court reasoned that Section 19, being a later amendment to CITA, took precedence over other provisions, including the exemption for franked investment income under Section 80(3). A similar outcome was reached in *UAC of Nigeria v. FIRS*,[13] reinforcing the taxation of retained earnings distributed as dividends.[14] The key implications of Section 19 include:

i. **Discouraging profit retention and reinvestment:** Companies may hesitate to retain earnings due to the risk of double taxation when these funds are eventually distributed as dividends.
ii. **Financial strain and potential insolvency:** The prospect of additional tax liabilities on distributed earnings increases financial risk, potentially leading to business closures.
iii. **Contradictions within tax legislation:** The provision appears to undermine incentives intended to encourage corporate investment, particularly exemptions for franked investment income.

3.2 Interim Dividends and Section 43(6) of CITA: Interim dividends are dividends declared and paid before a company's Annual General Meeting (AGM). They are regulated under Section 426 of the Companies and Allied Matters Act 2020 (CAMA). This provision authorizes company directors to declare and pay interim dividends, provided that such distributions are justified by available profits.[15] Unlike final dividends, which are subject to shareholder approval at the AGM, interim dividends are approved by the board of directors and are typically based on unaudited financial statements. However, the taxation of interim dividends is governed by Section 43(6) of the Companies Income Tax Act (CITA), which stipulates that companies paying interim dividends must remit tax at the rate prescribed under Section 40(1) of CITA before making such payments.[16] This requirement presents multiple legal and practical ambiguities, which merit further examination:

a) Tax Base Determination

A key uncertainty arising from Section 43(6) of CITA concerns the determination of the tax base for interim dividends. The provision does not explicitly state whether the corporate tax should be computed on: the interim profits reported by the company at the time of declaring the dividend, the declared interim dividend amount, or some other measure, such as a projected annual taxable profit. This ambiguity is significant because interim profits are typically determined based on management accounts, which may not fully reflect the company's final taxable income. If tax is imposed on declared interim dividends rather than actual taxable profits, there is a risk of excessive taxation, particularly if the company ultimately records lower taxable income by the end of the financial year.[17]

b) **Use of Withholding Tax (WHT) Credits**

Another point of contention is whether withholding tax (WHT) credits can be applied to offset corporate income tax liabilities arising from interim dividends. Under Section 81 of CITA, companies paying dividends are required to deduct WHT at the applicable rate (usually 10%) and

[10] *Ibid*
[11] (2018) FHC/L/CS/1302/17
[12] A Eze,z "Section 19 of CITA and the Double Taxation Dilemma in Nigeria" *Journal of Business Law and Taxation* (2023) 12(1) 102.
[13] (2020) CA/L/1044/19
[14] *Ibid*
[15] A Yusuf, "Retained Earnings and Excess Dividend Taxation: A Legal Perspective" *African Journal of Economic and Legal Studies* (2019) 34(3) 89.
[16] Ibid
[17] E Oserogho, *Company Law and Taxation in Nigeria*, (Benin City: Omega Press, 2019).

remit it to the tax authorities. Beneficiaries of the dividend can then claim this as a credit against their tax liabilities.[18] However, Section 43(6) of CITA does not clarify whether WHT deducted from interim dividends can be used to reduce the company's corporate tax burden for the same period. If the company is required to pay tax under Section 43(6) without a mechanism to offset this against WHT credits, this could lead to double taxation—first, through the tax paid on the interim dividend, and second, through WHT deductions when the dividend is eventually distributed to shareholders.[19]

c) Application to Past Profits and Retained Earnings

A further complication arises where interim dividends are paid from retained earnings rather than current-year profits. Many companies distribute dividends from accumulated profits that have already been subjected to tax in prior years. In such cases, it is unclear whether Section 43(6) applies, as the company is not necessarily earning new taxable profits but rather distributing previously taxed earnings.[20] If interim dividends are subject to tax regardless of whether they are paid out of past profits or current earnings, this could effectively lead to taxation of the same income multiple times once when initially taxed as corporate income and again when distributed as an interim dividend. The lack of explicit clarification in CITA regarding this scenario creates uncertainty for tax planning and corporate financial management.[21]

d) Compatibility with the Self-Assessment Regime

Another critical issue is the compatibility of Section 43(6) of CITA with Nigeria's self-assessment tax regime. Under Section 77(6) of CITA, companies that file their tax returns under the self-assessment scheme are generally not subject to provisional tax requirements. However, the language of Section 43(6) suggests that an upfront tax payment must be made before interim dividends are distributed. This creates ambiguity because self-assessed companies may argue that their corporate tax liabilities should only be determined based on final taxable profits at the end of the financial year, rather than being assessed prematurely on interim dividends.[22] If the Federal Inland Revenue Service (FIRS) insists on enforcing Section 43(6) for all companies, this could undermine the principle of self-assessment, where companies calculate their tax obligations based on actual rather than estimated figures.

4.0 Legal and Policy Implications

The ambiguities surrounding the taxation of interim dividends under Section 43(6) of CITA have significant legal and policy implications: the lack of clear guidance on how tax should be calculated creates compliance risks for companies, potentially leading to disputes with tax authorities.[23]; Companies may hesitate to declare interim dividends due to the uncertainty of their tax obligations, which could impact shareholder returns and financial planning; without clear rules on WHT credits and the taxation of retained earnings, companies could be subjected to multiple layers of tax on the same income; the upfront tax payment requirement could reduce liquidity for companies, particularly in capital-intensive industries that rely on retained earnings for expansion.[24] Given these concerns, there is a strong argument for legislative clarification or administrative guidance from the Federal Inland Revenue Service (FIRS) to ensure that the taxation of interim dividends is applied consistently and fairly.

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[18] EA Ogundele, *Tax Policy and Administration in Nigeria,* (Lagos: NGSL Publishers, 2018).
[19] Ibid
[20] S James, & C Nobes, *The Economics of Taxation,* 14th edn (Birmingham: Fiscal Publications, 2021).
[21] Ibid
[22] K Umeh, "Corporate Tax Reform in Nigeria: The Role of the Finance Acts" *University of Lagos Law Review* (2021) 26(2) 71.
[23] J Obi, & S Emeka, "Franked Investment Income and the Nigerian Holding Company Tax Conundrum" *West African Journal of Commercial Law* (2019) 28(1) 88.
[24] Ibid

4.1 Legislative Intervention: The Finance Act and Reform of Dividend Taxation

Amidst sustained opposition from corporate taxpayers, policymakers, and economic analysts, legislative relief from the harsh effects of Section 19 was finally introduced through the Finance Act 2019. Section 7 of the Finance Act provided explicit exemptions from excess dividend tax, thereby addressing the core concerns that had plagued the operation of Section 19. Under the revised framework, excess dividend tax no longer applies to the following categories of dividend distributions:

1. **Dividends paid out of retained earnings** where the original profits had already been subjected to corporate income tax, petroleum profits tax, or capital gains tax. This means that where a dividend is distributed in a subsequent financial year from a previously taxed profit, it is exempt from excess dividend tax, even if it exceeds the taxable profit of the year in which it is paid.[25]
2. **Dividends paid out of tax-exempt profits**, including profits exempted under statutes such as the Industrial Development (Income Tax Relief) Act, the Petroleum Profits Tax Act, and the Capital Gains Tax Act. This exemption benefits companies holding pioneer status, whose profits are tax-exempt for a specified period under the Industrial Development Act.
3. **Franked investment income**, which primarily affects holding companies. Under the revised regime, a holding company receiving solely dividend income from its subsidiary is no longer liable to excess dividend tax on such income. Prior to the Finance Act 2020, such a holding company having no operational profit would have faced a 30% corporate tax liability on the received dividend as excess dividend tax. Following the legislative reform, its tax burden in this scenario is effectively 0%, provided no other taxable income exists.
4. **Distributions of rental and dividend income by real estate investment companies (REICs) to their shareholders.** This aligns Nigeria’s tax treatment of REICs with global best practices, encouraging the growth of the real estate investment sector.

One of the most significant clarifications provided by Section 7 of the Finance Act 2019 is its explicit repudiation of the former tax treatment of retained earnings. The provision makes it unequivocally clear that the exemption applies irrespective of whether the dividend is distributed out of the profit of the year in which it is declared or out of accumulated profits from prior years. This legislative stance conclusively resolves the prior uncertainty, reinforcing the principle that corporate income tax should not apply more than once to the same stream of profits.[26] The impact of this reform extends beyond merely rectifying the inequities of the past. By removing the deterrent effect of excess dividend tax, the Finance Act 2019 fosters a more investment-friendly tax environment, enhancing corporate flexibility in dividend policy and capital allocation. Holding companies, investment entities, and real estate investment trusts (REITs) stand to gain significantly from this tax relief, which aligns Nigeria’s tax system more closely with global best practices.[27]

Furthermore, this legislative reform enhances tax predictability, a key factor in investment decision-making. The previous regime’s potential for arbitrary double taxation had created an unpredictable tax liability landscape for businesses, particularly those engaged in complex corporate structuring. With the removal of these uncertainties, Nigeria’s tax framework now offers greater legal certainty, thereby improving the ease of doing business and fostering a more competitive corporate taxation environment.[28]

4.2 Double Taxation of Dividends of Foreign Companies

In an increasingly globalized economy, multinational corporations frequently establish subsidiary entities

[25] A Eze, “Section 19 of CITA and the Double Taxation Dilemma in Nigeria” *Journal of Business Law and Taxation* (2023) 12(1) 102.
[26] Deloitte Nigeria, “Understanding Dividend Withholding Tax in Nigeria” https://www2.deloitte.com/ng/en/pages/tax/articles/dividend-taxation.html accessed 3 April 2025.
[27] Ibid
[28] Ibid

across multiple jurisdictions to facilitate market expansion, optimize tax efficiency, and streamline business operations. In the Nigerian context, when a foreign company establishes a subsidiary within the country, this entity commonly referred to as a foreign subsidiary is legally distinct from its parent company and is subject to Nigeria's corporate taxation framework. The relationship between the parent company (the foreign entity) and its subsidiary (the Nigerian entity) follows a parent-daughter corporate structure, wherein the parent company holds a controlling interest typically more than 50% of the voting shares in the subsidiary. This control enables the parent entity to exercise direct or indirect influence over the subsidiary's strategic and operational decisions.[29]

While subsidiaries operate as independent legal entities for regulatory, liability, and tax purposes, they remain financially linked to their parent companies, particularly through dividend distributions. Many parent companies, particularly pure holding companies, rely on dividend income from their subsidiaries as a primary revenue source for fulfilling obligations to their shareholders. However, this cross-border dividend flow often gives rise to the phenomenon of international double taxation, wherein the same stream of income is subjected to taxation in both the subsidiary's jurisdiction (Nigeria) and the parent company's home country. Under Section 13(2) of the Companies Income Tax Act (CITA), the profits of a foreign company operating in Nigeria are taxable if the company has a fixed base of business in Nigeria, or habitually conducts trade or business through a person authorized to act on its behalf. Additionally, the foreign company is taxed if it maintains a stock of goods in Nigeria, with the profits derived from such activities being considered taxable in Nigeria. Consequently, when a Nigerian subsidiary pays dividends to its foreign parent company, those dividends must first be taxed in Nigeria, generally at a Withholding Tax (WHT) rate of 10%, unless a reduced rate is specified under a Double Taxation Agreement (DTA) between Nigeria and the parent company's home country.

The tax burden doesn't end with the taxation of the subsidiary's profits in Nigeria. Once the dividend is paid to the parent company, it may also be taxed in the home jurisdiction of the parent, which means that the same income stream is taxed twice in different jurisdictions. This issue of international double taxation is a recurring challenge, particularly in cross-border corporate structures, where the same income is subject to tax in both the country of the subsidiary and the home country of the parent company. International double taxation can be classified into two forms: jurisdictional double taxation, which occurs when two or more countries impose tax on the same taxpayer for the same income, and economic double taxation, which arises when the same income is taxed at multiple levels within a corporate group, even if it's not formally subject to tax at each level. This economic double taxation often affects multinational corporations that repatriate profits through dividend distributions from subsidiaries, creating inefficiencies and discouraging cross-border investments.

To mitigate the adverse effects of double taxation, countries often enter into Double Taxation Agreements (DTAs), which allocate taxing rights between jurisdictions and provide mechanisms for reducing the impact of double taxation. These treaties generally offer tax credits, exemptions, or reduced withholding tax rates for dividends. In cases where a Nigerian subsidiary remits dividends to a parent company in a country with a DTA with Nigeria, the withholding tax rate may be reduced from the standard 10% to a lower rate, such as 5% or 7.5%, depending on the terms of the treaty. Additionally, many tax treaties allow the parent company to claim a foreign tax credit for taxes already paid in Nigeria, which helps alleviate the impact of double taxation.[30] Despite these treaties, challenges remain in ensuring fair and efficient taxation in cross-border dividend flows. In some cases, multinational corporations may structure their operations through low-tax jurisdictions or tax havens, effectively reducing their global tax burden. In response, Nigeria has aligned itself with global

[29] Ernst & Young Nigeria, "Double Taxation Relief and Treaty Interpretation" https://www.ey.com/en_ng/tax-alerts accessed 3 April 2025

[30] OECD, "Model Tax Convention on Income and on Capital 2017" (OECD Publishing, https://www.oecd.org/tax/treaties/ accessed 3 April 2025.

tax standards, such as the Base Erosion and Profit Shifting (BEPS) Action Plan developed by the Organisation for Economic Co-operation and Development (OECD). However, there are still gaps in the domestic tax framework that need addressing to ensure tax fairness while remaining competitive in the global investment landscape.[31]

Going forward, Nigeria must strike a delicate balance between safeguarding its tax revenue and encouraging foreign direct investment. Expanding its DTA network and enhancing the administration of these treaties will be key in reducing tax inefficiencies. Moreover, reforms such as implementing a participation exemption regime, where dividends received by Nigerian companies from foreign subsidiaries are exempt from tax, could further improve the attractiveness of Nigeria as a destination for multinational investment. Strengthening domestic tax relief mechanisms to prevent the double taxation of legitimate corporate earnings would also contribute to a more competitive and investment-friendly environment.[32]

In conclusion, international double taxation remains a critical challenge in the taxation of multinational corporate dividends, particularly in Nigeria's evolving tax landscape. While Double Taxation Agreements (DTAs) provide partial solutions, more comprehensive reforms aligned with international best practices are necessary to create a fair, predictable, and investment-friendly tax system. A forward-looking approach, leveraging both bilateral tax cooperation and domestic tax incentives, will be essential in positioning Nigeria as a competitive hub for multinational business operations while safeguarding the country's tax revenues.[33]

5.0 Critical Appraisal of the Taxation of Dividends in Nigeria Under Double Taxation Treaties (DTTS)

The taxation of dividends constitutes a significant aspect of Nigeria's fiscal framework, particularly within the context of Double Taxation Treaties (DTTs). These treaties are designed to eliminate or mitigate the adverse effects of double taxation on cross-border income, fostering economic cooperation and investment between Nigeria and its treaty partners. However, a complex issue arises when a company that would ordinarily be subject to taxation in Nigeria benefits from an exemption for a specific fiscal year. The central question then becomes whether the foreign jurisdiction retains the right to tax the dividend income in full, despite Nigeria's exemption. Resolving this issue necessitates an analysis of treaty provisions, domestic tax laws, and general principles of international tax law.[34]

DTTs are bilateral agreements that allocate taxing rights between two contracting states to prevent double taxation and curb tax avoidance. Nigeria's DTTs, which are often modeled on either the OECD Model Tax Convention or the UN Model Tax Convention, establish the framework for determining tax liability on various forms of income, including dividends. These conventions recognize the distinction between residency-based and source-based taxation, both of which are crucial in determining dividend tax obligations. Business profits, for instance, are generally taxable in the country where a company has a Permanent Establishment (PE), whereas dividends may be subject to taxation in both the source and residence countries, albeit at a reduced withholding tax rate as prescribed by the treaty. Nonetheless, certain companies may qualify for exemptions in Nigeria due to government incentives, investment-driven tax holidays, or specific industry-related exemptions, raising critical questions as to whether another jurisdiction can tax the dividends that would have otherwise been taxed in Nigeria.[35]

A company's exemption from taxation in Nigeria for a given fiscal year has significant implications

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[31] Ibid
[32] United Nations, "UN Model Double Taxation Convention between Developed and Developing Countries" (2021) https://www.un.org/development/desa/financing/model-tax-convention.html accessed 3 April 2025.
[33] Ibid
[34] I Udoh, "Double Taxation Treaties and Cross-border Dividend Flows in Nigeria" *International Taxation Bulletin (Nigeria)* (2021) 9(3) 66.
[35] Ibid

for its tax liability in the other contracting state. Three critical factors influence whether the foreign jurisdiction can impose tax. First, the method adopted under the DTT for the elimination of double taxation plays a crucial role. If the treaty follows the exemption method, the foreign country is required to exempt the income from taxation provided that it was taxable in Nigeria. Conversely, under the credit method, the foreign country may tax the income but must allow a tax credit for any Nigerian tax paid. Where Nigeria grants an exemption and the other country applies the credit method, the foreign jurisdiction is likely to impose full taxation because no Nigerian tax is available for credit.[36]

Second, the presence of a "subject to tax" clause within the treaty can further complicate the application of the DTT. Many treaties stipulate that the benefits of the DTT, including reduced withholding tax rates on dividends, apply only if the income is actually taxed in one of the contracting states. If Nigeria exempts the dividend income, the foreign country may argue that the treaty's reduced tax rate does not apply, thereby imposing full taxation in accordance with its domestic laws. However, in the absence of such a clause, the foreign jurisdiction's ability to impose full taxation may be constrained, depending on the broader interpretation of the treaty provisions.[37]

Third, if the company maintains a Permanent Establishment in the foreign country, that jurisdiction retains the right to tax the profits attributable to the PE, regardless of Nigeria's exemption. This principle is well established in international tax law and reinforced in most DTTs. The existence of a PE in the foreign jurisdiction often overrides any potential treaty-based exemption, ensuring that business profits connected to that PE remain taxable in the foreign state.[38]

An examination of Nigeria's DTTs with the United Kingdom and the Netherlands provides practical insights into the taxation of dividends when Nigerian tax exemptions are in effect. Under the Nigeria-UK DTT, dividends may be taxed in both jurisdictions but at a reduced withholding tax rate of 10% where the recipient holds at least 10% of the paying company.[39] The UK mitigates double taxation through a tax credit mechanism, allowing relief for Nigerian tax paid. However, if Nigeria exempts the income, the UK retains the right to impose full taxation since there is no Nigerian tax available to credit. Similarly, under the Nigeria-Netherlands DTT, dividends are subject to a 12.5% withholding tax rate where the recipient controls at least 10% of the capital of the paying company. The Netherlands applies the tax credit method, meaning that in the absence of Nigerian tax liability due to an exemption, the Netherlands may fully tax the dividend income.[40]

The taxation of dividends under Nigeria's DTTs, particularly in instances where a tax exemption is granted, is fundamentally influenced by the treaty methodology, the existence of a "subject to tax" clause, and the presence of a Permanent Establishment. In most cases where the credit method is employed, the foreign jurisdiction is entitled to impose full taxation on the dividends. However, under the exemption method, the company may enjoy a complete tax shield in both jurisdictions, creating opportunities for tax efficiency in cross-border transactions.[41] From a policy perspective, Nigeria must exercise caution in designing tax exemptions to ensure they do not inadvertently expose companies to higher tax liabilities in foreign jurisdictions, thereby undermining the intended benefits of such exemptions. Additionally, multinational corporations operating under DTTs must engage in meticulous tax planning to navigate the complexities of treaty provisions and avoid unintended fiscal exposure when Nigerian tax exemptions apply.

[36] Z Ahmed, "Comparative Analysis of Withholding Tax Policies in Developing Economies" *African Journal of Fiscal Studies* (2020) 11(2) 59.
[37] KPMG Nigeria, "Finance Act 2020: Key Provisions and Implications" (2021) https://home.kpmg/ng/en/home/insights/finance-act-2020.html accessed 3 April 2025.
[38] Ibid
[39] E Oserogho, *Company Law and Taxation in Nigeria*, (Benin City: Omega Press, 2019).
[40] Ibid
[41] L Soyode, & S O Kajola, *Taxation: Principles and Practice in Nigeria*, (Ibadan: Silicon Publishing, 2006).

6.0 Conclusion and Recommendations

6.1 Conclusion

The taxation of dividends in Nigeria presents a range of challenges that impact both domestic companies and multinational corporations. The withholding tax (WHT) mechanism, while effective in ensuring tax compliance, often results in the double taxation of dividends, particularly for multinational enterprises with subsidiaries in Nigeria. This situation can create significant financial strain on businesses, especially when the same income is taxed in both the country of the subsidiary and the parent company's home jurisdiction. Moreover, the complexities introduced by retained earnings and the provisions of Section 19 of the Companies Income Tax Act (CITA) further exacerbate the issue. By subjecting dividends from retained profits to an additional tax burden, the system discourages reinvestment and financial stability, ultimately limiting corporate growth and reducing the incentives for businesses to retain earnings for strategic purposes. The recent Finance Act of 2019 and subsequent reforms represent significant steps in addressing these issues, particularly the double taxation of retained earnings. However, the lack of clarity in certain areas, such as the taxation of interim dividends and the application of withholding tax (WHT) credits, continues to present challenges for companies navigating the tax system. To ensure a more investment-friendly environment, legislative and administrative clarity is needed to resolve these ambiguities. Simplifying the tax framework and reducing the burden of double taxation will not only foster corporate growth but also attract foreign investment, benefiting Nigeria's economy as a whole. A more efficient and transparent taxation system will better align with global best practices, ultimately making Nigeria a more competitive player in the international business landscape.

6.2 Recommendations

i. Strengthening the Legal Framework: The government should review and amend existing laws to close any loopholes and ensure comprehensive regulation. This will enhance legal certainty and enforcement mechanisms.

ii. Enhanced Enforcement and Compliance Mechanisms: Regulatory agencies should be empowered with adequate resources and technical expertise to enforce compliance effectively. This includes periodic audits, monitoring systems, and strict penalties for non-compliance.

iii. **Judicial Efficiency and Legal Remedies**: The judiciary should be equipped with specialized training to handle cases efficiently. There should also be clearer legal remedies available to affected parties.

iv. Public Awareness and Education: Awareness campaigns should be implemented to educate stakeholders, including policymakers, businesses, and the general public, on their rights, obligations, and the implications of non-compliance.

v. International Best Practices and Collaboration: Nigeria should benchmark against international best practices and collaborate with global institutions to improve its legal and regulatory landscape. This will enhance investor confidence and policy effectiveness.