



## THE ECONOMIC POTENTIALS OF *JIZYAH* IN ISLAMIC STATE AND PERSONAL INCOME TAX IN NIGERIA: ANY MEETING POINT

By

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### **Abstract**

*Common growth of a state depends on its economic advancement and revenue generated from the individuals and sectors which serves as sources of income of the government in realization of infrastructural expenditures and facilities for the common good of all. Islam levied taxes on Muslims and non-Muslims which were payable to, and managed in Muslim treasury (Bait ul-Maal), from which necessary expenditures were taken care of. In the present time, compared to the previous one, personal income tax equates the then jizyah (head tax) paid by non-Muslims as they have the same objectives and serve the same purpose in actualizing the fiscal responsibilities placed on the government and economic growth of the nation. The paper therefore makes a comparison and dichotomy between the taxation in the modern age and that of taxes levied in an Islamic state, specifically, between Jizyah and personal income tax. Using the doctrinal methodology, this paper analyzes the potentials of the two sources to the economic growth. The work found that the objectives of jizyah and personal income tax are the same and set out the slight differences considering the application, administration and reliefs among other things. It also found that jizyah and personal income tax are seen as instruments of discrimination. The paper therefore recommends that the generated revenue, as it was properly managed in the olden days, should be utilized at the modern state and avoid imposition or levying of outrageous taxes on the citizens of the state; in order to have tax revenue compliance and stability.*

*Keywords: Jizyah, Taxation, Economy, Government, Revenue.*

### **1.0 INTRODUCTION**

A state, in discharging its duties, responsibilities and fiscal obligation, is expected of having certain instruments or tools put in place through which it generates incomes for smooth running of affairs or well-being of the citizens.



The efficient discharge of obligations placed on the government solely depends on source of income or revenue and resource mobilization. History has it that Islamic states have different means of generating revenues which are legally supported by the Glorious Quran, the practice of the Prophet Muhammad (S.A.W) and his companions. For instance; *zakah* and *waqf* are obligatory dues levied on Muslims, and other taxes realized from non-Muslims such as *ghanimah*, *Fai'*, *kharaj*, *ushr* and *jizyah* which is the subject of discussion of this paper.

The concept of *jizyah*, apart from *zakat*, has been subjected to different critiques which are mainly predicated on undue imposition of tax on non-Muslim citizens who resided in an Islamic state. However, those who hold this view failed to consider the economic aspect of *jizyah* levied on non-Muslims, and that of *zakat* and other taxes levied on Muslim citizens as compulsory dues. The justification for levy of *jizyah*, *zakat*, booties (*Fai'*), land tax (*kharaj*) is generally for the economic development and growth of the state. On the other hands, the philosophy and wisdom behind the levy of *jizyah* on non-Muslim citizens (*Al-Adhima*) who are domicile of Islamic states and *zakat* on Muslim citizens shall be analyzed. Likewise, the dichotomy between *jizyah* and personal income tax, and the proper utilization of tax revenues in modern age will be addressed.

Personal Income Tax on the other hands, is one of financial means specifically introduced in secular state for stimulation of national growth and development. Many states that have fiscal obligations to discharge are faced with infrastructural deficit and inability to provide certain needs for the well-being of citizens as a result of low or uncertain source of income. Tax policy, especially personal income tax also creates and stimulates economic growth and job creation as the sustainability of infrastructural development in a state solely depends on the revenue generation to provide socio-economic services to the generality of the citizens in present and future situation. Therefore, this policy is not an alien to both Islamic and English law as the two accommodate the institutionalizing and administration of revenue generation in a state.

Against this background, this paper is divided into different sections. The first section seeks to discuss the concept of *jizyah* and *zakat*, while the historical survey and legality of the two are addressed in section two of the paper, and section three deals with philosophy behind *jizyah*. Section four discusses economic potentials of *jizyah* and taxation in a state and five also consist of conclusion and recommendations.



## 2.0 THE CONCEPT OF *JIZYAH* AND PERSONAL INCOME TAX

*Jizyah* which otherwise known as poll tax or head tax is derived from the word *jaza* the singular of *jizah* which is literarily means compensation.<sup>1</sup> It is an obligatory due levied by the Muslim government as compensation for the protection of life, property, worship, and cater for the military responsibility, among other things in an Islamic state.<sup>2</sup> It can be also defined as an annual due taken from the free non-Muslims (*ahlal-dhimmah*) who are subjects of a Muslim government. The due which is used to ensure their protection, and take care of their welfare as their day to day activities are concerned.<sup>3</sup>

Scholars slightly diverged on the types of non-Muslims upon whom *jizyah* is levied, or whether it is generally applicable to all non-Muslims or only non-Muslims who live in Islamic state (*DaruAl-Islam*), and the actual amounts levied on them.<sup>4</sup>

*Jizyah* as defined above is therefore a tax levied by Muslim government on non-Muslims (*Ahl Dhimmah*) who, after being conquered by Muslims, agreed and pledged to reside in Islamic states where their lives and other interests will be protected, and enjoy amenities as enjoyed by Muslim citizens.

On the other hand, Personal Income Tax refers to as an obligatory payment imposed by a levying authority, that is, a government which is made on the incomes of individuals and organizations.<sup>5</sup> It is a financial charge or levy imposed on an individual or legal entity by a federal or state.<sup>6</sup> It is usually a monetary charge on a person's income, property or transaction and usually levied

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<sup>1</sup> Sayed Afzal Peerzade 'Jizyah: A Misunderstood Levy' J. KAU: Islamic Econ.,(2010) 23 (1) <https://iei.kau.edu.sa/Files/121/Files/> accessed 14 November, 2024

<sup>2</sup> Syamsuri, R. Akbar, I. Kamaluddin and M. Ghozali, 'The Jizyah Concept as the Source of BaitulMaal in Supporting the Country's Economy' *Al-IktisabJournalofIslamicEconomicLaw* (2020) 4 (2) 112

<sup>3</sup> Sayed Afzal Peerzade, 'Jizyah: A Misunderstood Levy'

<sup>4</sup> At-Tareeqi A. Ibrahim., 'Al-jizyah Wa Ahkamuha Fi Al-fiq' Al-Islami' <https://www.alukah.net/library> accessed 12 November, 2024

<sup>5</sup> Uzochukwu E., and Fidelis U., and Ugbah A. A., 'Taxation and Nigerian Economy' proceeding of the 7<sup>th</sup> Annual International Academic Conference on Accounting and Finance Disruptive Technology: Accounting Practices, Financail and Sustainability Reporting <https://icanig.org> accessed on 20 August, 2024

<sup>6</sup> Ibid



and collected by a defined authority at both the Federal and state level.<sup>7</sup> This tax is equally defined as a compulsory levy imposed on the individuals or corporates by a public authority for the use of public purposes.<sup>8</sup>

Flowing from the above, the two concepts (*jizyah* and personal income tax) despite the disparity in the nomenclature given to them and their institutionalization, are the compulsory charges levied by the government on the populace and are purposely designed and structured as means for revenue generation; in quest to provides certain needs for welfare and development of a given society.

### 3.0 HISTORICAL SURVEY AND LEGALITY OF *JIZYAH* IN ISLAM AND PERSONAL INCOME TAX IN NIGERIA:

#### 3.1 Historical Survey of *Jizyah*:

Basically, Islam is religion that always calls for peace. However, it encourages Muslims, when war becomes unavoidable and a last option, to fight non-believers.<sup>9</sup> This is because, according to Islam, the purpose of war is to establish peace and freedom, if that can be achieved without necessarily resorting to war so be it.<sup>10</sup>

Islam accommodates non-Muslims who refuse to embrace Islam but agreed under contract and treaty (*aqdal-dhimma*), to be members of Islamic state with condition that their lives and property will be protected and their right to freedom of religion will not be deprived by Muslim government.<sup>11</sup> These people are otherwise referred to as *Ahlu Adhimmah* or *dhimmis* (people under protection).<sup>12</sup>

Muslim government, while accommodating non-Muslims in Islamic land, levied payment of *jizyah* on them to ensure protection of their lives and properties. This is because, the only means of generating revenue for government was the payment of *zakat* which is only obligatory act imposed on Muslim citizens with the exclusion of non-believers.<sup>13</sup>

<sup>7</sup> AbdulRazaq M. Taofeeq., 'CasesandMaterialsonNigerianTaxation' (1<sup>st</sup>edn, Eastern Book Company, Lucknow, 2016) 5

<sup>8</sup> Soyode, L. and Kajola, S. O, 'TaxationPrincipalsandPracticeinNigeria' (Solicon Publishers, Ibadan, Nigeria, 2006) 4

<sup>9</sup> Syed J. A. and Iqbal Dar A, and Ahmad Dar A., 'War Permitted Under Doctrine of Necessity Not General Rules in Islam' JHSSJournalofHumanitiesandSocialScience, (2017) 22 (6) 50

<sup>10</sup> Ibid.

<sup>11</sup> Ibid. 51

<sup>12</sup> EmonAnver. M., 'Religious Minorities and Islamic Law: Accommodation and the Limits of Tolerance'<https://www.law.utoronto.ca/sites/default/files/users/aemon/islamic/> accessed 5 December, 2024

<sup>13</sup> Ghozali M., and Nugroho W., 'Reviewing the Concept of Jizyah: A Theoretical Approached to History' Amwalun: JournalofEkonomidanKeuanganSyariah, (2021) 5 (1) 52- 53



Payment of *jizyah* had been in existence even before the advent of Islam, when the countries that lost in battlefield were asked to pay tributes to the countries that conquered.<sup>14</sup> This was a practice of Roman, Persian and Greek before the Islam.<sup>15</sup> *Jizyah* was levied on non-Muslims after the 8<sup>th</sup> year of *Hijriyah*, and some are of the view that it was 9<sup>th</sup> year of *Hijriyah* (after Hijrah), immediately after the *Tabuk* war.<sup>16</sup> Since the era of Islamic government in Medina when the prophet Muhammad was the head of state, he levied *jizyah* on non-Muslims such as Jewish, Christian and others to ensure protection under the leadership of the prophet as they coexisted with the Muslims.<sup>17</sup>

It was reported that during the caliphate of Abubakr, Khalid bin Walid entered into agreement with the Christian of Himyar and the agreement is read thus:

I have declared it as rightful to suspend collection of *jizyah* from a person who because of his old age is unable to work; who is afflicted by a disease or a calamity; a person who was previously very rich and now is so poor that his coreligionists are giving him alms. Security to him and his family will be arranged from *bayt al-mal* so long he is in the vicinity of *dar al-Islam*.<sup>18</sup>

During this period, the amount paid by non-Muslim was not even certain until the period of Umar bnKhatib who later prescribed certain amounts to be paid to the Muslim's treasury as the individual status was considered.<sup>19</sup> The amount realized from *jizyah* was one of sources of revenue for the government.<sup>20</sup>

Other caliphs after Umar also implemented *jizyah* such as Uthman bin Affan and Ali bin AbiThalib. This also extended to the Kingdom of Ummayya, Abassiyah and the Kingdom of Mughal in India.<sup>21</sup>

<sup>14</sup> Al-Karawiy I. Muhammad., 'FiqhusSiyasahAs-Sha'riyfil Imam Al-Baji' (Al-Azhar University, Cairo, 2014)<https://bfdm.journals.ekb.eg/> accessed 5November, 2024

<sup>15</sup> Ibid

<sup>16</sup> Al-Quraibi, I., 'Ta'rikkhulafah' (Jakarta: Qisthi Press, 2009) 54

<sup>17</sup> Muchsin A. M., and Manan A., 'Historical Development of Tax During the Early Islamic Period: *Jizyah* and *Kharaj*'- *JurnalAl-Tamaddun*, Vol. 14, No. 2, 2009<https://ejournal.um.edu.my/index> accessed 3November, 2024

<sup>18</sup> Abu Yusuf, 'Kittabal-Kharaj, (Matbahas-Salfiyah, Cairo, 1346 A.H.) 12

<sup>19</sup> Ibid

<sup>20</sup> Muchsin A. M., and Manan A., "Historical Development of Tax During the Early Islamic Period: *Jizyah* and *Kharaj*'

<sup>21</sup> Ibid



### 3.2 Legality of *Jizyah*:

Islam recognizes the payment of *jizyah* during the time of the Prophet with direct injunction from the Quran, same was practiced by the prophet Muhammad (SAW) and during the era of his caliphs as it is explained in the above discussion. In view of this, *jizyah* has legal basis from the Quran, Sunnah and *Ijma*. Allah mentioned the word *jizyah* in a verse of Quran as it is read thus;

Fight those who do not believe in Allah, nor in the latter day, nor do they prohibit what Allah and His Apostle have prohibited, nor follow the religion of truth, out of those who have been given the Book, until they pay the tax in acknowledgment of superiority and they are in a state of subjection.<sup>22</sup>

Ibn Jaoziy said that the above verse is the legal basis of *jizyah* under Islamic law.<sup>23</sup> The verse apparently shows that *jizyah* is not alien to Islam as it has been implemented under the leadership of the prophet in Medinah. This *jizyah* is in form of compensation paid for security provided by the Islamic governance under whose non-Muslims domicile.<sup>24</sup> It was reported that the Prophet Muhammad (S.A.W) has taken *jizyah* from the Magi who lived in the land of Hajar.<sup>25</sup> Payment of *jizyah* was levied on non-Muslims during the time of his companions, most especially during the era of caliph Umar bin Khatab.<sup>26</sup>

It was also reported in Sahihu Bukari and Muslim that the Prophet sent Abu Ubaidah bin Jara' to Ba'rain for the collection of *jizyah*.<sup>27</sup> In another report, Umar bin Khatab did not request *jizyah* from *Majus* until he witnessed that the prophet sent Abdur-Rahman bin A'uf to collect *jizyah* from *Majus* in Hajar.<sup>28</sup> According to Ibn Qudamah, all Muslim scholars unanimously agreed on the permissibility of *jizyah*.<sup>29</sup>

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<sup>22</sup> Surah at-Taubah verse 29

<sup>23</sup> Al-Asqalani A. Ali., 'FatihuAl-BariyfiShar'SahihBukariy' vol. 2 (Dar Al-ma'rifah, Cairo, 2013) 67

<sup>24</sup> Ibid

<sup>25</sup> Abu Dawud, hadith 1582, Tirmidhi, hadith 1513

<sup>26</sup> Ishaq M. A., Aliyu S.U.R., Jibril B.T., 'Principles of Islamic Taxation' in Shehu U. R, Mansur Idris and Amina A. Isma'il (ed)-Readings in Islamic Economics, (Benchmark Publishers Limited, Kano, 2013) 95

<sup>27</sup> Fatihu Al-Bariy, vol. 7, 71 also Sahih Muslim, KitabAs'dwaRaqahiq, vol. 8, 212

<sup>28</sup> Ibid, 69

<sup>29</sup> Ibn Qudamah, 'Al-Mugni', vol. 10, (DaruAlam Al-Kutub, 1997) 567



### 3.3 Historical Survey of Personal Income Tax in Nigeria:

Taxation in Nigeria can be safely traced back to the pre-colonial period before eighteenth century when direct taxation was introduced in Northern Nigeria by the autocratic leadership of Fulani Emirs.<sup>30</sup> It was a religious act among Muslims in Northern Nigeria to pay *zakat* as Islam sanctions.<sup>31</sup> In Yoruba land, certain amounts of money (*Isakole*) was traditionally collected from the individual citizens.<sup>32</sup> This policy was introduced by traditional rulers and local law enforcement agents purposely to finance the development of their various communities.<sup>33</sup>

In 1904 and prior to colonial era, modern taxation was introduced in Nigeria which was known as a community tax.<sup>34</sup> In Northern part of Nigeria, there were other taxes paid to Emirs for use of the land, access to markets, *gundu* (agricultural tax on farm crops) and *jangali* or cattle tax amongst others.<sup>35</sup> In Yoruba land, taxes such as *Isakole* (landrental), *owoode* and *OwoAshinghu*, these taxes were paid either in cash or kind by traders to the rulers and a fixed sanction was prescribed for non-compliance.<sup>36</sup> Not only this, at festival periods, heads of the families brought their dues and presents to the King and there was a particular share that was usually given to the King from the estate of their prominent inhabitants.<sup>37</sup>

Ibo before the colonial period, particular in Benin also had a means of generating revenue in the communities which came in form of tributes.<sup>38</sup> This was paid by the traders in proportion to the value of the goods transported and fine was equally imposed by the traditional judicial system.<sup>39</sup>

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<sup>30</sup> Johnstone, H. A. S 'The Fulani Empire of Sokoto (Oxford University Press, Ely Honx, 1967) 9

<sup>31</sup> Ibid

<sup>32</sup> Ola, C. S., 'Income Tax Law and Practice in Nigeria (Heinemann Educational Books, Nigeria, Plc., Ibadan, 2001) 3

<sup>33</sup> Ibid

<sup>34</sup> Ojo, A. E., and Oladipo F. O., 'Tax and Taxation in Nigeria: Implications on the Construction Industry Sector' International Journal of Civil Engineering, Construction and Estate Management, (2017) 5 (4) 45

<sup>35</sup> Okauru I. O., 'History of African Tax Compliance – Nigeria As a Case Study' published in Leadership Newspapers on 17<sup>th</sup> November, 2011 <https://ngfrepository.org.ng> accessed on 21<sup>st</sup> August, 2024

<sup>36</sup> Ibid

<sup>37</sup> Okauru, I. O., 'A Comprehensive Tax History of Nigeria' (Safari Books, Onireke, Ibadan, Nigeria, 2012) 73

<sup>38</sup> Ibid

<sup>39</sup> Ibid 76



In the colonial era, particularly 1904, the British introduced the first Income Tax law by consolidating all the existing traditional taxes in Nigeria under the Land Revenue Proclamation of 1904.<sup>40</sup> They further made a move to centralize the Nigerian tax system. Another Proclamation, the Native Revenue Proclamation, 1906 was later introduced to harmonize the various taxes in Nigeria.<sup>41</sup> The Proclamation of 1904 and that of 1906 later became the first in the sequence of the taxation policies in Nigerian taxation policy.<sup>42</sup>

It must be put on record that the present form of taxation in Nigeria can be traced back to 1914 when the Northern and Southern Directorate introduced the implementation of the basics of taxation in Nigeria. Though, at that time, there was no law regulating tax collection in the southern part of Nigeria until 1917 when certain changes to the law culminated in the Native Revenue Ordinance of 1917 was introduced.<sup>43</sup>

In 1937, a Native Direct Taxation (Colony) Ordinance No. 41 of 1937 was passed into law in order to cover natives that lived in Lagos colony, this is because, the Native Revenue Ordinance of 1917 only applied to natives that lived in other parts of Nigeria. In 1940, the Direct Tax Ordinance No. 4 of 1940 was said to be the first major tax legislation in Nigeria after previous ordinances have been incorporated into the Direct Tax Ordinance of 1940.<sup>44</sup> In that relevant time, the tax was levied on income from land, rents derived from land, annual profits of the produce from land and individual incomes from employments, and pensions. This Ordinance exempted the Europeans living in the former regions from paying taxes.<sup>45</sup>

In 1961, there was a development in the history of tax system in Nigeria, when Income Tax Management Act (ITMA) was enacted to enhance the thorough administration of tax laws in the country and to protect individuals from been

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<sup>40</sup> Abdulrazaq, M.T., 'Principles and Practice of Nigerian Tax Planning and Management', (2<sup>nd</sup> edn., Stirling-Horden Publishers Ltd., Ibadan, 2013) 5

<sup>41</sup> Ibid

<sup>42</sup> Ibid

<sup>43</sup> Agbonika M. John and Agbonika A. Josephine 'Administration of Personal Income Tax in Nigeria: An Appraisal' *the International Journal of Humanities & Social Studies* (2016) 4 (2) 345-347

<sup>44</sup> Ibid

<sup>45</sup> Dekker M. Nicolaas, 'The History and Development of Tax in Nigeria- An Overview' being a project submitted for the degree, Faculty of Economic and Management Sciences, University of Pretoria <https://repository.up.ac.za/bitstream/handle> accessed 2 October, 2024



subjected to double taxation in both federal and state government.<sup>46</sup> In 1993 the Personal Income Tax Decree was promulgated, and this was the position until the Personal Income Tax Act was enacted in 2004, and same was amended on the several occasions up to date.<sup>47</sup>

### **3.4 Legal Framework of Personal Income Tax in Nigeria**

For the purpose of this paper, the legislations on Personal Income Tax will be considered. In Nigeria, the Constitution of the Federal Republic of Nigeria, 1999 which is the organic law generally provides for the collection of tax. Section 44 (1) of the Constitution confers the power on the legislative arm of the government to legislate on levying of collection and administration of taxes.<sup>48</sup>

Also section 24 paragraph (f) states that, it is the duty of every citizen of the country to honestly declare his income to appropriate and lawful agencies and then pay his tax promptly.<sup>49</sup> Making a declaration of the income will assist tax-collectors to determine the amount to be levied on the citizen.<sup>50</sup>

Section 1 of the Personal Income Tax Act also levied tax on the individual citizens, communities and families.<sup>51</sup> Section 7 of Federal Inland Revenue Service Act, also gives the Federal Inland Revenue Service power to assess the individuals including companies, enterprises that are chargeable with tax and thereafter collect, account and enforce payment of taxes as may be due to the government or any of its agencies.<sup>52</sup>

### **4.0 OBJECTIVES AND PHILOSOPHY BEHIND LEGALIZING JIZYAH AND PERSONAL INCOME TAX:**

In the light of the above Quranic verse which serves as a legal basis for *jizyah* and other authorities under reference, the followings are the wisdom behind the levying of *jizyah* on non-Muslims living in Islamic state.

- i. To indirectly accord more respect to Muslims or Islamic government under whose non-Muslims live, and subjecting non-Muslims to the control of Islamic state. 'until they pay the tax in acknowledgment of

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<sup>46</sup> Agbonika M. John and Agbonika A. Josephine 'Administration of Personal Income Tax in Nigeria: An Appraisal' 347

<sup>47</sup> Ibid

<sup>48</sup> See section 44(1) and (2) of the Constitution of Federal Republic of Nigeria, 1999 as amended

<sup>49</sup> See section 24(f) of the Constitution of Federal Republic of Nigeria, 1999 as amended

<sup>50</sup> Ibid, CFRN

<sup>51</sup> Section 1 (a) – (b) of Personal Income Tax Act, 2011

<sup>52</sup> The Federal Inland Revenue Service, Act, 2007



- superiority and they are in a state of subjection'.<sup>53</sup> This was aimed to bring peaceful co-existence and avoid power tussle in the state.
- ii. It is an open opportunity for non-Muslims to learn from leniency of Islam at the time of staying with Muslims. Non-Muslims may be persuaded by good relations of Muslims.<sup>54</sup>
  - iii. To ensure Muslims who are in power to realize or generate incomes or revenue for smooth running or discharging their obligations such as protection of life, property and wellbeing of non-Muslims as it was agreed.<sup>55</sup> This last point here is the main aspect this paper intends to address.

In the course of discussing the philosophy and wisdom behind levying of *jizyah* on non-Muslims, three points are mentioned, one of which is to be a means of generating income or revenue for the state. In this respect, scholars have exchanged different views on the real or actual wisdom behind it. The views of scholars therefore are as follows;

According to Hanafi School who are of the view that *jizyah* is levied on non-Muslims as amount paid in returning of assistance and protection rendered by Muslim state. Some scholars of this school held that it is paid to as ransom.<sup>56</sup>

Maliki school of law are of the view that, *jizyah* is taken from non-Muslims as a ransom and nothing more. Shafi'i school opined that *jizyah* is legalized as a ransom and payment made for allowing non-Muslims to reside in Islamic state.<sup>57</sup>

Contrary to the view held by the previous scholars, the contemporary scholars are of the view that *jizyah* is levied on non-Muslims as means of generating revenue for the state.<sup>58</sup> They buttressed their point that, Islam imposed payment of *zakat* on Muslims to generate revenue for the state. Therefore, since non-Muslim citizens were not, under Islamic law, commanded to pay *zakat*, and since Muslims and non-Muslims equally enjoy security and other infrastructures in the state, there should be way of contributing to financial stability and strength of the state from their own ends.

In Nigerian tax system, personal income tax purposely serves as the sustainable means of government for financing public affairs and stimulating the economic

<sup>53</sup> Surah at-Taubah verse 29

<sup>54</sup> IbnArabi, 'AhkamAl-Qur'an' vol. 2, (Dar- Al-Kutub Al-Alamiyyah, 2003) 913

<sup>55</sup> Shaoqiy A., 'Al-IslamfiQafsiAt-tiham' (Dar- Al-Fikr, 2007) 118

<sup>56</sup> As-Sarkhasi, 'Al-Mabsut' vol. 10, (Dar- At-Turas Al-Arabi) 77

<sup>57</sup> At-Tariqiy A. I., 'Al-JizyahWaAhkamuhaFiAl-fiqhAl-Islam' in IbnArabi, 'AhkamAl-Qur'an' vol. 2, (Dar- Al-Kutub Al-Alamiyyah, 2003) 913

<sup>58</sup> 'Fiqh As-Sunnah' vol. 3, 67



growth and development in the country such as infrastructures, internal and external defense, maintenance of law and order, improving the wellbeing of the citizens as usually required, pay the national debts and the likes.<sup>59</sup> The collection of personal income tax also provides the government with stable resource to provide the public needs, goods and services. Therefore, the noble objectives and purpose of personal income tax include but not limited to the followings;

- i. To address the issue of poor standard of living and quality of life both in rural and urban area of the country
- ii. To facilitate and achieve sound economic growth and development in the country. The taxes collected are often used to maintain reasonable price stability
- iii. To enhance and provide the government with stable income in making provision for public good such as maintenance of law and order, internal and external security of the country and other social amenities'.
- iv. To promote fiscal responsibility of the government.<sup>60</sup>

Following from the above discussion, the main objectives of levying of both *jizyah* and personal income tax on citizens irrespective of the country is to strength the economic growth and development of a state in the quest to provide the needs of the citizens and non-citizens reside therein.

## 5.0 ECONOMIC POTENTIALS OF *JIZYAH* AND PERSONAL INCOME TAX IN NIGERIA

*Jizyah* as one of potential sources of Islamic state revenue has been one of number of policies designed by the Prophet for Islamic economics.<sup>61</sup> Though, a number of policies were introduced in strengthening the economic stability of Islamic country, some of which are categorized as *dawriyyah* (routine) and *ghayrdawriyyah* (non-routine) which is also known as accidental incomes.<sup>62</sup> The routine sources of revenue for the country (*al-mawaridal-maliyyah addawliyyah*) include but not limited to zakat, land tax (*kharaj*), ushur (import and export tax), security guarantee tax (*jizyah*).<sup>63</sup>

There are several factors that called for introduction of different taxes in the early development of Islamic finance to enhance economic stability and efficient

<sup>59</sup> Eke M. N., 'Principles and Importance of Taxation to the Nigeria's Economy' <https://www.researchgate.net/publication/> accessed on 16 December, 2024

<sup>60</sup> Ibid

<sup>61</sup> AlawiyeHabeebulahOlawale., 'Concept of Jizyah under Islamic Law and The Historical Factors Contributing to Its Decline' *Journa of Islamic Shariah*, (2023) 2 (1) 95

<sup>62</sup> Azim, S., 'IslamicEconomics: PublicFinanceinEarlyIslamicThought' (New Delhi: Goodword Books, 2004) 45

<sup>63</sup> Ibid.



financial system.<sup>64</sup> Apart from the fact that these taxes are textually recognized under Islamic law, the objectives of Shariah (*Maqasid Shariah*) enjoin leaders to legalize any policy that protects the interest of individuals and society, provides for the well-being of the citizens, public interest and economic growth of a country provided that it does not offend any explicit texts.<sup>65</sup>

*Jizyah* was levied on non-Muslims to make a positive contribution towards the economy and the welfare of both Muslims and non-Muslims.<sup>66</sup> It was an important economic product of the Islamic states.<sup>67</sup> The payment of *jizyah* by non-Muslims who were living in Islamic state allows them to have equal access to public expenditures on the protection, security and provisions to maintain the economic stability in Muslim communities.<sup>68</sup> In other words, *jizyah* was used as an instrument for economic growth and development in a country and solves the fiscal challenges faced by Muslim countries in the globe.<sup>69</sup> Therefore, the financial contribution of the non-Muslims strengthened the state treasury and the revenue generated in Muslim countries to take care of the general welfare of the citizens and other public services such as construction of roads, bridges and the likes.<sup>70</sup>

The economic potentials of personal income tax on the other hands perform two economic functions: it performs fiscal and redistribution functions. That is, personal income tax provides financial means for covering some public expenses and it levels the equalities.<sup>71</sup> It has a significant impact on sustainable economic growth and development of a country. It equally reduce budget expenditures and the fiscal responsibilities of the country in the economy.<sup>72</sup>

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<sup>64</sup> Ibid

<sup>65</sup> Priyadi U., and Pambekit G., 'The Implementation Potential of Village Fund in Islamic Economic Perspective with The Instrument of Maqasid Shariah', *Advances in Social Science, Education and Humanities Research (ASSEHR)* 140, 184

<sup>66</sup> Irikhami N., 'Zakat, Kharaj, Ushr, and Jizya as the Instruments of Islamic Public Finance: A Contemporary Study' *Journal Ekonomidan Keuangan Islam*, (2019) 8 (1) 98

<sup>67</sup> Ibid, p. 100

<sup>68</sup> Ariani F., 'Ushur and Jizyah in the Perspective of Islamic Economics: Their Role and Function in State Revenue' 1<sup>st</sup> Antasari Conference of Islamic Economics and Business, (2024) 186

<sup>69</sup> Ibid, 185

<sup>70</sup> Alawiye Habeebullah Olawale., 'Concept of Jizyah under Islamic Law and The Historical Factors Contributing to Its Decline' 92

<sup>71</sup> Wolowiec T., 'Potential and Possible Ways of Harmonizing the Personal Income Taxation Process' *Comparative Economic Research*, (2018) 21 (3) 110

<sup>72</sup> Nikolova B. S., 'Personal Income Taxation and Its Effects on Economic Development and Growth' <https://www.igi.com/chapter.personal-income-taxation-and-its-effects-on-economic-development-and-growth> accessed 27 December, 2024



Personal income tax amongst other taxes occupies a central position in tax system.<sup>73</sup> It has been used as enhance government expenditure, business cycle development and monetary policies.<sup>74</sup> Therefore, the potential of personal income tax is applied as an instrument or tool for maintaining sustainable economic development and social stability of developed and under-developed countries across the globe.

### **6.0 JIZYAH AND PERSONAL INCOME TAX: A MEETING POINT**

In the light of the above discussion, the two forms of generating revenue are designed to enhance the economic stability and environmental protection in a given country. However, the two are applied in different countries and implemented in some different ways.

To analyze the meeting points of the two tax policies, the followings will be succinctly discussed; application and administration of *jizyah* and personal income tax, *jizyah* and personal income tax rates, exemption and tax reliefs.

#### **i. Application and Administration:**

In an Islamic state, there are taxes that generally apply to Muslim citizens such as payment of *zakat*, *kharaj*, *ushr* amongst other taxes.<sup>75</sup> *Jizyah*, in an Islamic state is strictly applied to non-Muslims who chose to reside in the state.<sup>76</sup> The levy of *jizyah* on them was to ensure the principle of social justice amongst the people, irrespective of their religion or notion.<sup>77</sup> In other words, *zakat*, *kharaj*, *ushr* and others were imposed on Muslims as a way of contributing to economy and social security of the state while *jizyah* was only tax levied on non-Muslim to that effect. Payment of *jizyah* made non-Muslims entitled to protection from any attack that may negatively affect their lives, properties and as well as their business.<sup>78</sup>

Unlike *jizyah*, personal income tax is imposed on the individuals living in a country irrespective of their religion, tribe, notion and the country they come from, and it applies to their earnings. Section 3 of the Personal Income Tax Act states the incomes that are chargeable which include; gains or profit realized from any business, trade, wages, salaries, allowances, pensions, charges or gratuities.<sup>79</sup> *Jizyah* also applies to all incomes of non-Muslims who were the

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<sup>73</sup> Ibid

<sup>74</sup> Ibid

<sup>75</sup> Ishaq M. A., Aliyu S.U.R and Jibril B. T., 'Principles of Islamic Taxation' 97

<sup>76</sup> Ibid

<sup>77</sup> AlawiyeHabeebulahOlawale, 'Concept of Jizyah under Islamic Law and the Historical Factors Contributing to Its Decline' 87

<sup>78</sup> Abu Yusuf, 'Kitab al-Kharaj',

<sup>79</sup> Personal Income Tax Act (Amended), 2011



taxpayers. It can be safely say that since it was established that incomes of old age were not taxable under Islamic law, pensions and gratuities cannot fall within the tax bracket in an Islamic state.

It must be equally noted that the two (personal income tax and *jizyah*) are paid annually to the government treasury.<sup>80</sup> Unlike personal income tax that allows the policy of Pay-As-You-Earn (PAYE) whereby the tax authorities deduct taxes directly from the wages or salaries of employee, in *jizyah*, the satisfaction, convenience and consent of government's employee, that is, a taxpayer will be obtained whether one is government's employee or not, he pays *jizyah* once it is due to be paid.<sup>81</sup>

Concerning the administration of *jizyah*, Islamic state for long had established treasury called *Baitul Maal* where Muslims save the treasure.<sup>82</sup> This is an Islamic institution where public funds or properties are kept until it is time for disbursement for certain purpose and at the same time, mobilize the funds for the state projects.<sup>83</sup> This institution is of special task of managing the income and expenditure of a state such as economies or property of state or the citizens.<sup>84</sup> It is of various departments, namely; department for army, department for management, department for employees of the state and department for *Baitul-maal* itself.<sup>85</sup>

By virtue of Section 7 and 87 of Personal Income Tax Act, 2011, the relevant tax authorities are in charge of assessment and collection of tax for both Federal and State. The Federal Inland Revenue Service (FIRS) is charged with the administration of tax and collect various taxes due to the Federal Government as it is enshrined in the Federal Inland Revenue (Establishment) Act.<sup>86</sup> Likewise State Internal Revenue Service (SIRS) collects taxes at the state level.<sup>87</sup> Therefore, the moneys raised by the federal tax authority will be paid into one Consolidated Revenue Fund of the Federation and those raised by the state tax

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<sup>80</sup> AlawiyeHabeebulahOlawale, 'Concept of Jizyah under Islamic Law and the Historical Factors Contributing to Its Decline' 87. See also section 2 of Personal Income Tax Act, 2011

<sup>81</sup> Ibid

<sup>82</sup> Rahman M. H., 'Bayt Al-Mal and Its Role in Economic Development: A Contemporary Study' Turkish Journal of Islamic Economics, (2015) 2 (2)

<sup>83</sup> Ibid

<sup>84</sup> Johari N., 'Baitulmal from the Accounting Perspective' Journal of Historical Archaeology & Anthropological Science, Vol. 4 Issue 6, 2019<https://medcraveonline.com/JHAAS/> accessed on 6 November 2022

<sup>85</sup> Abu Yusuf, 'Kitabal-Kharaj', 62

<sup>86</sup> Section 2, 3, 25 and 68 of the Federal Inland Revenue (Establishment) Act, No. 13 of 2007

<sup>87</sup> Section 87 of Persona Income Tax Act, 2011 as amended



authority will be paid into one Consolidated Revenue Fund of the State.<sup>88</sup> The proceeds of the taxes would be distributed among the states on the basis of derivation.<sup>89</sup>

**ii. *Jizyah* and Personal Income Tax Rates:**

The tax rates basically determined by the amount of incomes of the taxpayers. The amount paid as *jizyah* during the era of Caliph *Umar bin Khattab* are as follows;

- (a) The rich among non-believers was requested to pay at least 48 dirhams annually,
- (b) The middle- class were asked to pay 24 dirhams annually which is half of what is paid by the rich people among them,
- (c) The poor people who earn little but has no property paid 12 dirhams annually.<sup>90</sup>

The applicable rates of tax on an annual basis in Nigeria depends on the amount an individual earns. For instance, the PAYE rates progresses from 7% if annual income of the person is less than N300, 000 and 24%, if the individual annual income is more than N3,200,000 of an employment taxable income. Therefore, the annual charge increases as per capita income rises.<sup>91</sup>

**iii. Exemption and Tax Reliefs:**

*Jizyah* applied to all mature, male *dhimmi* (non-Muslims) and have the means to pay. Therefore, women, old age, disabled, children and poor who have no means to pay were exempted.<sup>92</sup> Likewise, in Nigeria, an individual who is an employee that earns the national minimum wage or below from employment are exempted from personal income taxes.<sup>93</sup> There are incomes exempted from tax as provided under Third Schedule of Personal Income Tax Act.<sup>94</sup>

A consolidation relief allowance shall also be allowed subject to a minimum of 1 percent of gross income whichever is higher plus 20 percent of the gross income and the balance shall be taxable.<sup>95</sup>

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<sup>88</sup> Section 80 and 120 of the 1999 Constitution of the Federal Republic of Nigeria

<sup>89</sup> Section 163 of the Constitution

<sup>90</sup> Muchsin A. M., and Manan A., 'Historical Development of Tax During the Early Islamic Period: *Jizyah* and *Kharaj*'- *Jurnal Al-Tamaddun*'.

<sup>91</sup> Oriakhi D. E and Osemwengie P. K., 'Tax Incentives and Revenue Productivity of the Nigerian Tax System' *International Journal of Development and Economic Sustainability*, (2013) 1 (1) 35

<sup>92</sup> Ishaq M. A., Aliyu S.U.R and Jibril B. T., 'Principles of Islamic Taxation' 97

<sup>93</sup> Section 37 of Personal Income Tax Act, 2011 as amended and see section 19 of the same Act

<sup>94</sup> Section 33 of Personal Income Tax Act, 2011 as amended

<sup>95</sup> AlawiyeHabeebulahOlawale, 'Concept of *Jizyah* under Islamic Law and the Historical Factors Contributing to Its Decline' 87.



In history it is also recorded that Abu Ubaidah, who was one of the generals of the caliph Umar, ordered the governor of Syria to return the *jizyah* funds given by the *dhimmi* infidels because he felt unsure that the Muslim army would be able to defend Syria from Roman attacks.

In another occasion, Khalid Ibn Al-Waleed's was reported to have written a letter in 12 H.A to a man called Salouba Ibn Nastouna when he entered the Euphrates. The letter was read as follows;

This is a letter from Khalid the son of Waleed to Salouba the son of Nastuona, and his people: I have promised you my protection in return for your payment of *jizyah*. It is upon you to pay tribute and upon me to protect you (if you do not pay tribute I will not protect you)<sup>96</sup>

The Islamic state government, particularly during the era of caliph Umar considered the financial status of non-Muslims in levying *jizyah* on them. He was once reported that there was an occasion where he met with a blind *Dhimni* (non-believer live in an Islamic state) begging for fund or money to pay *jizyah*, the caliph Umar exempted the blind man from paying *jizyah* and proceeded to make provision for him out of *baital-Maal* (state treasury) to settle what he needed most at that time.<sup>97</sup> Umar believed that the money in *baital-Maal* is meant to be used to provide for the Muslims and non-Muslims live in an Islamic state.<sup>98</sup>

Contrary to the above position, the tax authorities or Nigeria government, in the event of their failure to properly implement or manage the revenue realized in favour of the citizens, will not return or refund the taxes collected to the taxpayers, except in a situation where an individual is overcharged.

Participation of non-Muslims in military service on which funds are expended may also exempt them from *jizyah*.<sup>99</sup> Where a non-Muslim chooses to participate in military service since *jizyah*, among other means, was spent to build more strength on the frontiers and maintenance of the combatants.<sup>100</sup> According to some scholars, non-Muslim citizens are not allowed to participate in military service, because it is exclusive duty of Muslims.<sup>101</sup> Also, where a non-Muslim in

<sup>96</sup> Al-Banna H., 'Peace In Islam 'https://www.islambasics.com accessed 3<sup>rd</sup> November, 2022

<sup>97</sup> Abu Yusuf, 'Kitabal-Kharaj'

<sup>98</sup> Ibid

<sup>99</sup> Abu Ja'faar At-Tabari, 'Ta'rikhAt-Tabari' vol. 4 (Dar Al-Maharif, Misra, 1967) 152

<sup>100</sup> Ibid.

<sup>101</sup> Ghozali M., and Nugroho W., 'Reviewing the Concept of Jizyah: A Theoretical Approached to History' Amwalun: JournalofEkonomidanKeuanganSyariah, (2021) 5 (1) 52- 53



an Islamic state embraces Islam, he will be exempted from *jizyah*. It is therefore obligatory on him to pay *zakat* if his money or property reaches *nisab*.<sup>102</sup>

The levy of *jizyah* is made in a secular state i.e.; where non-Muslims lives, in a just manner.<sup>103</sup> For an ideal society to succeed in administration of state, it is deemed necessary on it to have means of generating funds from the citizens both Muslim and non-Muslim citizens.<sup>104</sup> Therefore, it is duty of the Muslim government to provide them equal protection, safety, security and other rights due to them as citizens.

## 7.0 CONCLUSION

Like Islamic state, the modern state has different channels through which funds and resources are mobilized for the benefit of citizens, such as personal income tax, company tax, value added tax, amongst others. Islamic state, to ensure the infrastructural development of the state, levies *jizyah* on non-Muslims while *zakat* and other taxes are made compulsory on Muslims.

These taxes are made important and they are sources upon which economic conditions of state lie. Some states mobilize capital to discharge their fiscal obligations by taking debts from other countries which are meant to be paid back, and generate revenue through tax collection to strengthen their expenditures.

Despite the slight disparities between the two, *jizyah* and personal income tax are administered by different institution. *Baitul-Maal* was established to look after the revenue of an Islamic state to the benefit of both Muslim and non-Muslim citizens, and government treasury such as Federal Internal Revenue Service or State Internal Revenue Service are conferred with taxing powers to the advantage of citizens and non-citizens who reside or carry on business in the state. Category of citizens of a modern state are exempted from personal income tax such as an employee whose income is less than minimum wage, while poor among non-Muslims are equally exempted from payment of *jizyah*.

On the final note, *jizyah* and personal income tax serve as means of ensuring the economic potential, and also guarantee wellbeing of privileged, less privileged citizens and the foreigners who reside in the country regardless of their religious, tribal affiliation and the status. There are key findings from this paper;

- i. The study invariably shows the lack of the proper monitoring and administration of personal income tax collection hinders the economic growth in the country.

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<sup>102</sup> Ibid

<sup>103</sup> Sayed Afzal Peerzade 'Jizyah: A Misunderstood Levy'

<sup>104</sup> Ibid



- ii. The persistent increase in personal income tax rates contributes to non-compliance of tax payers with personal income tax policy, and seen as an instrument used against the aliens that live in the country.
- iii. Misappropriation of the revenue realized from personal income tax discourages the citizens.
- iv. *Jizyah* is correlated with the personal income tax, notwithstanding the slight disparities as to the level of tax holidays or reliefs introduced for the vulnerable persons, prisoners or workers during economic hardship.

Considering the above findings of this work, the followings are recommendations;

- i. Government, in order to strengthen the economic development of a country, is expected to monitor the administration of tax collection and the institutions that are charged with the responsibility.
- ii. To ensure more compliance with the tax policies, specifically personal income tax, the government should determine the personal income tax rates by considering the individuals' income.
- iii. Government should desist from misappropriation of funds realized from the individuals' income and make proper utilization of the same to the benefit of the citizens, non-citizens that reside or carry out their business in the country and development of the country itself.
- iv. Government should borrow from the Islamic principles of *jizyah* by desisting from levying an outrageous tax and introducing policy that will exempt the pensioners from tax policy as they are considered to be of old ages.