

## **LEGALITY OF TRANSFER OF POWER TO COLLECT TAXES MEANT FOR LOCAL GOVERNMENTS TO THE STATE GOVERNMENTS IN NIGERIA**

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### **Abstract**

Taxing power is the capability of one level of government level to impose taxes through its laws and establish standards for their proper collection and administration through its agencies. Taxing powers in Nigeria are derived from the Constitution and are divided between the Federal, State, and Local governments. Tax administration and enforcement within its jurisdiction is the responsibility of each level of government. The Constitution of the Federal Republic of Nigeria 1999(As amended) and The Taxes and Levies (Approved List for Collection) Act<sup>1</sup> clearly stipulated the taxes that can be collected by each tier of government in Nigeria. The aim of this research is to examine the taxing powers of the State and Local Governments in Nigeria and the legality of any written agreement transferring the powers to collect taxes from Local Government to the State Government in Nigeria. The Constitution of the Federal Republic of Nigeria 1999(As amended) and The Taxes and Levies (Approved List for Collection) Act<sup>2</sup> clearly stipulated the taxes that are collected by each tier of government in Nigeria. The essence of the Act is to streamline the collection of these listed taxes to avoid double taxation and multiple tax collection from the taxpayers. In order words, no tier of government is allowed to collect taxes meant to be collected by another. By the provisions of the 1999 Constitution and the Taxes and Levies (Approved List for Collection) Act,<sup>3</sup> both the State and Local Governments are expected to strictly collect the taxes they are meant to collect and not to encroach on each other's taxing powers but ultimately, you observe the state government collecting taxes that are meant to be collected by the local government hereby breaching the provisions of the Constitution. However, where there is a state law permitting the local government to donate its powers to collect any tax to the State government then the State government can collect these taxes and levies on behalf of the local government. In the light of the findings mentioned above, this research work hereby recommends as follows: Legal framework for enactment of a Law by the State Houses of Assembly permitting the local government to donate its powers to the State government, adequate funding of tax authority, legal framework for enactment of law to provide for the harmonization and collection of all revenues including taxes, levies, rates, fees, charges etc. due to the State and Local government in all the States, creation of synergy between the States and Local governments to ensures that these taxes are collected effectively and need for a synergy between the State, local and tax authority in order to achieve an effective enforcement mechanisms for collection of taxes due for the state and local governments in Nigeria.

**KEYWORDS: TAXES AND LEVIES, TAXING POWER, TRANSFER OF POWER TO COLLECT TAXES STATE GOVERNMENT AND LOCAL GOVERNMENT,**

### **1.0 Introduction**

Taxing power can be described as the ability of one level of government to impose taxes through its laws and set requirements for the proper collection and administration of the tax by either its

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<sup>1</sup> Cap T 2 LFN, 2994.

<sup>2</sup> *Ibid*

<sup>3</sup> *Ibid*