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Debre Berhan University



“From the community to the community”

DEBRE BERHAN UNIVERSITY COLLEGE OF LAW

[Rental Income Tax System and Rental Income Tax Administration in Ethiopia: The Law and Practice in Debre Birhan Town]



A Thesis Submitted in Partial Fulfillment of the Requirements for the Award of Master of Laws Degree (LL.M) in Business and Investment Law, at College of Law, Debre berhan University

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September 2020

Debre Berhan, Ethiopia

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Advisors

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Declaration


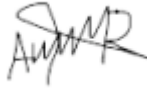
I, [Zegeye Brhane], hereby declare that the thesis titled [“Rental Income Tax System and Rental Income Tax Administration in Ethiopia: The Law and Practice in Debre Berhan Town”] is my original work and that it has not been submitted for any degree or examination in any other university. Where other people’s work has been used, this has been properly acknowledged.

Zegeye Brhane

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Date: 08/09/2020

This thesis has been submitted for examination with my approval as advisor.

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Dedication

This paper is dedicated to in loving memory of my father, Brhane, and my mother, Truwork, who sacrificed a lot to up bring me, my brothers and sisters.

Acknowledgment

First and above all, my praise should be granted for the Almighty God and His Mother St. Virgin Mary for their insurmountable help and guidance throughout my life and for the future endeavor.

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List of abbreviations/Acronyms

FDRE	Federal Democratic Republic of Ethiopia
ANRS	Amhara National Regional State
CSA	Central Statistical Authority/Agency
GDP	Growth Domestic Product
TIN	Tax Identification Number
Art.	Article
OECD	Organization for Economic Co-operation and Development
URA	Uganda Revenue Authority
Kms	kilometers
Chp.	Chapter
HC	High Court
IMF	International Monetary Fund
MoR	Ministry of Revenue
VAT	Value Added Tax
UK	United Kingdom
USA	United States of America
TAC	Tax Appeal Commission
FHC	Federal High Court
FSC	Federal Supreme Court
TAHC	Tax Appeal Hearing Committee
NSHC	North Shewa High Court

Abstract

Though rental income tax is one of the most important revenue sources of governments, the way it is designed and administered is affected by gaps in equitability, fairness and effectiveness. This paper tries to analyze the scheduler structures of the rental income taxation of properties under the federal and ANRS tax laws with respect to the practical implementations and their problems in general and particularly in Debre Berhan Town by analyzing these laws and by assessing the practice. The paper has investigated the rationality of rental income taxation of properties under different schedules with different rules of determining taxable rental income and tax rates; and the scope of the rental income taxation of properties under each of the schedules. The study shows that the rental income tax treatment of properties under different schedules with different taxation rules and rates affect the equitability, fairness, and effectiveness of the income tax system and administration. This paper submits that tax law related to rental income taxation of properties need to be revisited so as to enhance rental income tax equitability, fairness, and effectiveness. Finally, it concludes by providing recommendations and conclusions.

Key Terms: Property, System, Administration, Rental income tax

CHAPTER ONE

1 INTRODUCTION

1.1 Background of the Paper

Taxes have been the main sources of government revenue in both developed and developing countries to finance essential expenditures on the goods and services provided by the government. Hence, most developing countries faced the problem of fiscal imbalance of government expenditure and government revenue due to poor capacity of tax collection from domestic resources.¹ This incapacity of a country to collect the proper amount of tax revenue from domestic resources would lead to financial dependency on external assistance. Ethiopia is one of the developing countries that have a fiscal imbalance between the rapid expansion in expenditure and low tax revenue collection from domestic resources and the country has still be dependent on foreign assistance to finance its development expenditure. For instance, the IMF and World Bank report of 2016 indicates that the ratio of tax revenue to GDP in Ethiopia was only 23.47 percent, which was less than the average value of the sub-Saharan country that has 26 percent of GDP and too low to finance government expenditure that in turn resulted in continuous budgetary deficits.² The efficiency and effectiveness of a country on collecting the proper amount of tax revenue from domestic resources is influenced by the design and structures of a tax system and tax administration of a country.

One of the determining factors for the success of a tax administration is the design and structures of the tax system, which largely includes “set of rules, regulations, and procedures” and are not uniformly applied across the world. Different countries use different rules, regulations and procedures to defines tax bases and tax rates, to specifies who or what entity must pay and when

¹Neway Gobachew et al, Determinants of Tax Revenue in Ethiopia. Economics; Vol. 6, No. 1, 2018 available at <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj7INT8IPfqAhUyDmMBHYq_CqQQEjAGegQIBxAB&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fethiopia%2Fdocs%2FPerformance%2520and%2520prospects%2520of%2520tax%2520collection%2520in%2520ET.pdf&usg=AOvVaw0vo-3ABh61rG7kMt-DNrMQ&cshid=1596187495179811>(Accessed on June 17, 2020).

² Id.

it shall be paid and to specifies the detail procedures for ensuring compliance by providing information for reporting requirements and consequences.

Theoretically, most works of literature refer to two major income tax systems in the world: global income tax structure and scheduler income tax structures, though there has not existed without inter-penetration of the two systems in the actual income tax systems.³ The global income tax structure is a system of income taxation in which it requires “aggregation of all incomes of individuals or any other ‘taxable unit’ without any exceptions, and applies a single progressive income tax rate upon the taxable income and allows deductions for all expenses regardless of the sources of income”.⁴ It is widely used by the developed income tax system of the world. And scheduler income tax structure, on the other hand, is a system of income taxation in which it requires “partition income into specific sources of income and imposes separate income tax rules, and rates upon these individual sources of income and separate rules determine where certain expenses are deductible and to what extent in each identified schedules of the income tax structure”.⁵

The types of incomes which can be taxed under different income tax systems with different income tax rules, and rates include income from employment, income from business and investment, income from rental of properties, income from interest on deposits, income from share company or withdrawals of profits from a private limited company, income from royalties, games of chance, and income from gains of transfer of properties. In global income tax system, all of these types of incomes are taxed aggregately without any exceptions, and applies a single progressive income tax rate upon the taxable income and allows deductions for all expenses regardless of the sources of income. While in scheduler income tax system, all of these types of incomes are taxed separately with different income tax rules, and rates upon these individual sources of income and separate rules determine where certain expenses are deductible and to what extent in each identified schedules of the income tax structure.⁶

³ Taddese Lencho, the Ethiopian Income Tax System: Policy, Design and Practice, PhD Dissertation, the University of Alabama, 200 (2014).

⁴ Id. at 200-201.

⁵ Id. at 202.

⁶ Id. at 200-202.

The Ethiopian income tax system, which is scheduler by design, taxes individual sources and companies by separate tax rates.⁷ In the computation of taxable incomes, each of the schedules has its own separate and distinct internal rules under the Ethiopian ‘scheduler’ income tax system. Accordingly, schedule “A”(employment) income tax⁸ is collected through withholding by employers and thus excludes any deductions of employment-related expenses. While schedule “B”(rental of a building) income tax⁹ and schedule “C”(business) income tax¹⁰ apply after deduction of various expenses from gross incomes from each of the schedules. And taxable income under schedule “D” is computed on the gross income from each of the sources that rule upon withholding as a final tax like schedule “A”(employment) income tax and denies any deduction of expenses except capital gains tax that recognize deduction of capital costs.¹¹

Tax administration is an important component of a tax system that involves a series of procedures for the efficient and effective tax administration in the tax system, the voluntary tax compliance of taxpayers is believed to be shaped by two major theoretical approaches: economic deterrence and social-psychological approaches. The economic deterrence theory approach believed that taxpayers comply with the tax laws and pay taxes only because they fear audit and the subsequent sanctions. And social-psychological theory approach on the other hand believed that taxpayers’ tax compliance is dependent on the justice perception, how they value government expenditure, how they feel they are treated by the tax authority, and so on.¹² From these two theoretical approaches of voluntary tax compliance approaches, the Ethiopian tax administration has emphasized more on the economic deterrence theory approach to enhance the voluntary tax compliance of taxpayers.¹³

Rental income tax system and administrations, which is categorized under schedule B of the current income. There is variation across countries with respect tax design and administration in

⁷ Art.11, 14, 19 and 51-64 of the Federal Income Tax Proclamation No. 979/2016, Federal Negarit Gazeta, 22nd Year No.104, 18th August 2016 (here in after the Federal Income Tax Proclamation).

⁸ Id. Art. 10

⁹ Id. Art. 15 and Art. 23 of the Council of Ministers Federal Income Tax Regulation No. 410/2016, Federal Negarit Gazeta, 23rd Year No.82, 24th August 2017 (Here in after the Federal Income Tax Regulation).

¹⁰ Art. 20, 22-25 of the Federal Income Tax Proclamation, supra note 7 and Art. 27-41 of the Federal Income Tax Regulation supra note 9.

¹¹ Art. 51-64 of the Federal Income Tax Proclamation supra note 7.

¹² Dejene M.et al, Evaluation of Ethiopian Tax Administration System: Emphasis on Tax Payers Compliance. Vol. 6 No. 2, 47(December 2014).

¹³ Art. 100 & the following of the Federal Tax Administration Proclamation No. 983/2016, Federal Negarit Gazeta, 22nd Year No.103, 20th August 2016 (here in after the Federal Tax Administration Proclamation).

some countries, rental income tax is a subset of property tax, and in other countries its part of the income tax system. In the first instance, they charge taxes on the value of land and property rather than the income generated from the property. While on the other hand, some countries charge taxes on rental incomes of the property rather than the value of the property (wealth).¹⁴ While in some countries it's taxed in many countries by adding to the other sources of income, on the other hand, in some countries rental income is taxed separately.

Ethiopia is among those countries which have separate income tax rules and rates upon rental sources of income and separate rules determine where certain expenses are deductible and to what extent applied to rental income tax of properties.¹⁵ Taxation on rental income in Ethiopia has been assumed in existence since the introduction of income tax, though rental income tax was started since 1949 as a separate source of income tax. The tax base of the rental income tax was broader due to land and buildings were privately owned until the Derg regime come into power and abolished the private ownership of land and extra houses.¹⁶ And after the fall of the Derg regime, the Transitional Government introduced the free market economy approach which allowed private ownership of extra houses and involves in the rental of buildings while the ownership of land remains under the ownership of the state. And until now rental income tax of buildings has been continued as one separate principal source of the main income tax system of the country.¹⁷

This study is designed to deal with rental income tax system and administration of Ethiopia. Though it can be argued that the Ethiopian income tax system treats rental income tax from buildings in separate schedule; in practice rental income of properties in Ethiopia is taxed fragmentally under different schedules of the income tax laws. Since the elimination of the socialist economic system of the Derg regime and the enactment of the Federal Income Tax

¹⁴Florence B. Muleya et al, Rental Taxation: Curbing non-compliance and Improving Administration. Zambia Institute for Policy Analysis and Research and Zambia Revenue Authority Working Paper No. 33, 4(October 2018).

¹⁵ Under Ethiopian income tax laws, rental income of different properties fall under different schedules that have separate income tax rules and rates upon rental sources of income and separate rules determine where a certain expenses are deductible. That income from the rental of buildings is taxed under schedule "B", income from rental of properties such as equipment, machineries and vehicles in a regular basis is taxed under schedule "C" and income from casual rentals of land and other properties is taxed under schedule "D". For example, see Art. 13-15, 18-26 & 58 of the Federal Income Tax Proclamation supra note 7.

¹⁶Taddese, supra note 3 at 342.

¹⁷ Art. 13-17 of the Federal Income Tax Proclamation supra note 7 and Art. 21-26 of the Federal Income Tax Regulation supra note 9.

Proclamation, rental income tax from buildings is a separate principal “schedule” under the income tax law of Ethiopia. Though rental income tax from buildings has been continued a separate principal “schedule”¹⁸ under the income tax law of Ethiopia, it has no clear definition and detailed rules such as its scope of application, deductibles, exemptions that enable to distinguished rental income of buildings from other rental income of properties such as equipment, machineries, and guest houses in the regular basis and from casual rental income of land and other properties.¹⁹ By these reasons, the same rental income may be taxed under different schedules of the income tax law that makes in-equitability of the income tax system. Due to the income tax treatment under the different schedules of the income tax law is different. That determining taxable rental income under schedule “B”²⁰ is different from the determining of taxable rental income under schedule “C”²¹ and schedule “D”²².

In addition to the scheduler structures of the income tax law, the rental system and contractual relationship between the landlords and tenants might have a negative impact on the administration of rental income tax in Ethiopia. For example, the contract of the lease relating to houses has no special and mandatory rules regarding the formality requirements under Ethiopian contract law²³. The Civil Code allows the contracting parties with respect to lease contracts of houses in the form they want (in written or orally)²⁴. In the absence of update special and mandatory rules regarding the formality requirements of the contractual relationship between the landlords and tenants; and in the absence of a closely supervising body, accessing information to know house lessors and their income is difficult. As such, non-regulation of the rental contractual relationships has been creating a huge challenge to capture houses rental incomes fully into the income tax nets significantly.

In the rental income tax administration of Debre Berhan Town, properties rental income tax revenue is classified into two types: town administration revenue and regional government revenue. Rental income from the possession and property of the town administration and the ad

¹⁸ Art. 13-17 of the Federal Income Tax Proclamation, supra note 7.

¹⁹ Art. 2(2), 2(4) & 18-27 and 58 of the Federal Income Tax Proclamation, supra note 7.

²⁰ Id. Art. 15 and Art. 23 of the Federal Income Tax Regulation, supra note 9.

²¹ Art. 20, 22-25 of the Federal Income Tax Proclamation, supra note 7 and Art. 27-41 of the Federal Income Tax Regulations, supra note 9.

²² Art. 13-17 of the Federal Income Tax Proclamation, supra note 7.

²³ Art. 1678(3) and Art. 2945-2974 of the Civil Code Proclamation No. 165/1960 the Empire of Ethiopia Negarit Gazeta, 19thYear No.2, 5th May 1960 (herein after the Civil Code).

²⁴ Id.

Valorem tax/ betterment levy on the fixed asset which have transferred thereto through lease or in any contractual agreements as well as on urban landholding held in rental landholding system is the revenues of the town administration. And rental income from buildings other than kebele houses that are under the possession or ownership of the town administration is the revenue of the regional government. The rental income tax arrangements under the scheduler structures of the Amhara National Regional State (here in after ANRS) income tax law and absence of special and mandatory rules regulating the formality requirements of lease contracts that enables to access information about property lessors' rental incomes are also the challenges of rental income tax administration in Debre Berhan Town.

Therefore, this paper will try to look at the problems of the scheduler structures of the income tax law on the determining of 'taxable rental incomes of properties' and the un-regulated contractual relationship between the landlords and tenants with proper rules and institutions on the rental income tax system and rental income tax administration of Ethiopia taking the case of Debre Berhan Town.

1.2 Statement of the Problem

Even if having a tax system and tax administration is inevitable in every country in the world, the systemic approach and model of the tax system and tax administration has been a subject of controversy both in theory and practice. It is common knowledge that the tax system and the way of the tax administration would affect the revenue of the government and the socio-economic development of a country. To collect efficient and effective tax revenue from domestic economic resources, the tax system and the tax administration are required to be well designed and functioned properly and have the capacity and mechanism to bring all taxable incomes into the income tax net according to the income tax laws of the country. The rental income tax of properties is one of the most important sources of tax revenues of the government if it is regulated and administered at its level best.

In Ethiopia, urbanization and urban population are now increasing alarmingly with the demand and supply of urban land, residential buildings, commercial buildings, and other working

premises.²⁵ And urban land and building prices increase very frequently. Following this instance in the major cities of the country renting property and urban real estate construction is booming now for commercial renting, residential renting, and for selling of buildings, houses, villas, and other structures. For this reason, this growing and profitable real estate business and other property renting business required instituting efficient, effective, equitable, and progressive rental income tax systems and administration. That enables to collect significant tax revenue of the government from the domestic growing rental income tax resource potentials of the country.

Despite property rental income tax is not a new phenomenon in Ethiopia, there has been a big complying problem of properties rental income tax system and administration. That under the Ethiopian schedulers' income tax system; the rental income of properties has been treated under different schedules which have their own rules and tax rates. Under both the previous Income Tax Proclamation No. 286/2002 and the current Federal Income Tax Proclamation No. 979/2016, rental income from buildings is taxed under the rules and tax rates of schedule "B"²⁶. This is different from other schedules in terms of such as determining taxable incomes, and tax rates. These income tax laws have not yet defined the term "building" for the purpose of rental income tax. Which types of house structures and person or entities incorporate and exclude from rental income tax of buildings have not yet specified under these income tax laws. Except for the minimum (floor) rental income threshold exemption²⁷, whether there are other exemptions has not cleared. For instance, the rental income of buildings owned by government houses enterprises like Federal Houses Corporation and religious institutions are confusing, whether they are fully taxable. And the different property rental income tax treatment under different schedules of the Ethiopian income tax system has its negative impact on the equitability, efficient, and effective administration of rental income tax in Ethiopia. That income from the rental of buildings is taxed under schedule "B"²⁸, 'business rental income' or income from the rental of properties such as equipment, machineries, and vehicles in a regular basis is taxed under

²⁵ Menen Abebe, Regulation of Real Estate Business in Ethiopia. A Research Project Submitted in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Law, School of Law and Governance, Addis Ababa University 16-19 (2010).

²⁶ Art. 14-16 of the Income Tax Proclamation No. 286/2002 Federal Negarit Gazeta, 8thYear No.34, 4th July 2002 (here in after the Income Tax Proclamation) ; Art. 13-17 of the Federal Income Tax Proclamation, supra note 7 and Art. 21-26 of the Federal Income Tax Regulation, supra note 9.

²⁷ Art. 15(b) of the Income Tax Proclamation, supra note 24 and Art. 14(2) of the Federal Income Tax Proclamation, supra note 7.

²⁸ Art. 13-17 of the Federal Income Tax Proclamation, supra note 7.

schedule “C”²⁹ and income from casual rentals of land and other properties is taxed under schedule “D”³⁰. In this case, due to there is no clear demarcation between the schedules regarding the properties rental income and each schedules has different rules and tax rates in the determination of taxable rental income, the rental income taxation of properties has been opening a gap for income tax in-equitability and unfairness. This is because of the same rental income has taxed under different schedules of the income tax law that have different tax rules and tax rates.

The contract law that regulates the contractual relationship between the landlords and tenants has also its negative impact on the administration of rental income tax in Ethiopia. The rental contractual agreements of house lease are governed by the Civil Code of Ethiopia, which is not required to be made in written and deposited in the concerned bodies.³¹ Though Art. 2946 of the Civil Code states that the municipality within its jurisdiction may prepare a model contract form for the lease of houses, the provision is not mandatory for the parties to follow it and made in a written form.³² In the absence of update special and mandatory rules regarding the formality requirements of the contractual relationship between the landlords and tenants; and in the absence of a closely supervising body, accessing information to know house lessors and their rental income is difficult. This lacuna has opened room for the landlords to rent their houses and other like structures in the underground to generate income without concluding a rental contract in a written form and without depositing to the concerned government body and without notifying to the tax authority.

Therefore assessing the current rental income tax system and administration of Ethiopia with respect to the law and practice in general and in Debre Berhan Town in particular on the manner of determining ‘taxable rental income’ of “buildings” and other properties; deductibles, exemptions, declaration, assessment, and collection; enforcement and dispute settlement; and identifying the legal and practical challenges of the rental income tax system and administration to bring all taxable rental incomes of properties in the income tax net. And suggesting some recommendations to overcome the identified legal and practical challenges of the rental income

²⁹ Art. 2(2), 2(4) and 18-27 of the Federal Income Tax Proclamation, supra note 7 and Art. 10(4) of the Ethiopian Revenue and Customs Authority Presumptive Tax Enforcement Directive No. 138/2010, in Amharic unpublished.

³⁰ Art. 58 of the Federal Income Tax Proclamation supra note 7.

³¹ The Civil Code, Supra note 23.

³² Art. 2946 of the Civil Code, supra note 23.

tax system and administration of the country in general and in Debre Berhan Town, in particular, is very critical.

1.3 The Objective of the study

This study has the following general and specific objectives.

1.3.1 General Objective of the study

The general objective of this paper is to analyze and identify the legal and practical challenges and to investigate solutions thereto of the Ethiopian rental income tax system and rental income tax administration.

1.3.2 Specific Objectives of the study

The specific objectives of this paper are the following:-

- To explore the rental income tax arrangements under the “scheduler” structures of the Ethiopian income tax system;
- To analyze the manner of determining the taxable rental income of “buildings” and other rental income of properties;
- To examine the rental income tax administration focusing on declaration, assessment and collection, enforcement measures and dispute settlement mechanisms provided under the current relevant Federal and ANRS tax laws;
- To assess the major legal and practical challenges to capture all taxable rental incomes into the income tax net;

1.4 Research Question

The paper seeks to answer the legal and practical challenges of the Ethiopian rental income tax system and rental income tax administration? And will try to answers some specific questions of:

- ✓ How do the rental income tax arrangements under the “scheduler” structures of the Ethiopian income tax system affects the equitability and fairness of the rental income tax payments?
- ✓ How do the taxable rental income of “buildings” and other taxable rental income of properties are determined?

- ✓ How do the rental income tax declaration, assessment and collection, enforcement measures and dispute settlement mechanisms are provided under the current relevant Federal and ANRS tax laws?
- ✓ What are the major legal and practical challenges to capture all taxable rental income of properties into the income tax net?

1.5 The Scope of the Paper

The scope of the paper is limited to the assessment of legal and practical challenges and to investigate solutions thereto of the rental income tax system and rental income tax administration under the current relevant federal tax laws of Ethiopia in general and ANRS tax laws in particular. It will not address other types of taxes like employment withholding tax, turn over tax, capital gains tax, and value-added tax.

1.6 Research Methodology

This research employed both doctrinal and non-doctrinal aspects of legal research. It is based on qualitative methodology in which an attempt to understand the Ethiopian rental income tax system and rental income tax administration in general and ANRS rental income tax system and rental income tax administration in particular taking the case of Debre Berhan Town is made through a combination of literature review of rental income taxation and an assessment of the rental income tax practice through interviews of relevant correspondents. Intensive interviews and some personal discussion and observations are employed to make it empirical research. To properly address the issues raised under the research question, the interviews are conducted with the concerned tax officers and lawyers selected based on their expertise and other responsibilities. The nature of the interview is semi-structure because it is not easy sometimes and so I have employed the interview as time and other resources enable me to do that.

1.7 Significance of the Paper

The paper is expected to help serve as an input for the Ministry of Revenue /MoR/ and regional Bureaus in improving its performance in rental income tax collection and in making future tax law revision recommendations on the area of property rental income taxation. And used as an input for further research for those who interested to investigate the issues under considerations and expected to give a piece of knowledge to those who are interested to know about the issues of determining the taxable rental income of properties and the legal and practical challenges to

capture all taxable rental incomes into the income tax net under the rental income tax system and rental income tax administration of Ethiopia in general and Debre Berhan Town in particular.

1.8 Limitations of the Paper

As far as the knowledge of the researcher, there is no relevant court case on the issue of the manner determining taxable rental incomes of “buildings” and other properties, to overview the courts' position on the nature and scope of taxable rental incomes of “buildings” and other properties. Most disputes on the taxable rental incomes of “buildings” and other properties are handled by administrative mechanisms. Tax officers were reluctant to give adequate information. Literature writings relating to the issues are very general in nature. Writing material sources in relation to the manner of determining taxable rental incomes of “buildings” and other properties are not adequately available in the Ethiopian rental income tax system and rental income tax administration context.

1.9 Organization of the Paper

The paper is organized into five chapters. Chapter one is an introduction which composed of the background of the paper, statement of the problem, the objective of the paper, research question, the scope of the paper, research methodology, significance of the paper, limitations of the paper, and organization of the paper. Chapter two is about the rental income tax system and rental income tax administration in general that includes a general introduction, taxation on income and property, defining income and rental income, taxation of rental income of different properties, the treatment of rental income in different income tax systems, rental income tax administration and selected country experiences in rental income tax. Chapter three is about the rental income tax system and administration in Ethiopia which composed of the property and rental system in Ethiopia, Ethiopian income tax system: an introduction, historical development of rental income tax in Ethiopia, constitutional jurisdiction issues, rental income tax under the current “scheduler” structures, rental income tax administration in Ethiopia, and legal and practical challenges in rental income in Ethiopia. Chapter four is about rental income tax administration in Debre Berhan Town which is composed of a description of the study area, the property and rental system in Debre Berhan Town, rental income tax administration in Debre Berhan Town and major findings of the study. And the final chapter is a conclusion and recommendation based on

the legal and practical challenges of the Ethiopian rental income tax system and rental income tax administration identified in chapter three and chapter four.

CHAPTER TWO

2 RENTAL INCOME TAX SYSTEM AND RENTAL INCOME TAX ADMINISTRATION IN GENERAL

2.1 General Introduction on Income Tax System and Income Tax Administration

2.1.1 Income Tax System

The income tax system is a tax system in which it incorporates a set of rules, regulations, and procedures that defines income tax base and rates.³³ It also specifies who must pay income tax when it must be paid, and detailed procedures for ensuring income tax compliance such as information providing and reporting requirements, consequences for non-compliance of the income tax laws, and the enforcement machineries.³⁴

A well-structured tax system enables a country to generate a significant amount of revenue for the government expenditure of economic, political, and social infrastructure of a country. Government revenue from taxation in developing countries is low comparing to those of the developed countries due to the tax system of the developing countries is poor in personal and modern facilities.³⁵

In any tax system or income tax system, there are commonly accepted taxation principles that are referred to in the tax system as “the common canons of taxation which includes the canon of equity/fairness, convenience, certainty, economical, simplicity, and ability to pay.”³⁶

In theory, the income tax system is categorized into two: the global income tax system and scheduler income tax systems.³⁷ Even though these two income tax systems existed theoretically in the separate notions, there has not existed without inter-penetration of the two systems in the actual income tax systems across the world.³⁸ The theory of global income tax system is a system of income taxation in which it “requires aggregation of all incomes of an individual or any other ‘taxable unit’ without any exceptions, and applies a single progressive income tax rate upon the taxable income and allows deductions for all expenses regardless of the sources of income.”³⁹

³³ Joel Slemrod, Tax System Design: The Role of Enforcement University of Michigan, May 4, 2015.

³⁴ Id.

³⁵ Abdurrahman Adamu Pantamee & Muzainah Binti Mansor, A Modernize Tax Administration Model for Revenue Generation. International Journal of Economics and Financial Issues Vol. 6 Special Issue(S7) 192-193 (2016).

³⁶ Uganda Revenue Authority (2011), Taxation Handbook: A Guide to Taxation in Uganda – Kampala: Fountain Publishers, 7-9(2011).

³⁷ Taddese, Supera note 3.

³⁸ Id. at 200-201.

³⁹ Id. at 202.

This income tax system is widely used by the developed income tax system of the world. And the theoretical approach of the scheduler income tax system, on the other hand, is a system of income taxation in which it requires a partition of incomes into different specific sources of income and impose separate income tax rules and rates upon these different individual sources of income and separate rules determine where certain expenses are deductible and to what extent in each identified schedules of the income tax.⁴⁰

Even though there is no uniformly accepted income tax system model both in theory and practice across the world, in the history of income taxation a number of models have developed through times.⁴¹ There are four models of the income taxation that have been developed throughout the times across the world.⁴² The first is The Comprehensive Income Tax Model. This model is developed by some influential economists and legal scholars. It proposed that a comprehensive income tax system enables to tax all incomes with less deduction in the same rate schedule and brings both vertical and horizontal equity in the income tax system.⁴³ The Second is the Dual Income Tax Mode. This income tax model was “developed and implemented in reaction to the distortionary impact of progressive tax rates upon some forms of income from capital”.⁴⁴ It combines a progressive income tax upon income from labor and business with a proportional or flat tax rate upon income from capital”.⁴⁵ The third is Semi-Dual (Unstructured) Income Tax Model. This income tax model has different tax rates on different types of incomes. And commonly refers to the scheduler income tax systems though all scheduler income tax systems are not a dual income tax system model.⁴⁶ The fourth model is the Flat Income Tax Model. It is an income tax model that imposes a proportional or flat tax rate upon all forms of income equally. The supporters of this income tax model have argued that it is easier to administer, fairer, and more efficient due to all incomes are subject to the same tax rate or flat tax.⁴⁷

2.1.2 Income Tax Administration

Tax administration is the most complex public administration type that consists of a multiple and a diverse number of rules.⁴⁸ IMF confirmed that it is difficult to put principles specific to tax administration and administrative rules are designed in light of very broad principles like fairness and efficiency discussed above.⁴⁹ In tax administration law, there should be careful and explicit provisions that deal with mistakes. These will be to redress taxpayers' grievance (review, appeals, administrative remedies, ombudsmen) and to identify and correct (or prevent) errors by

⁴⁰ Id.

⁴¹ Id. at 171.

⁴² Id.

⁴³ Id. at 172.

⁴⁴ Id. at 173.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id. at 174-177.

⁴⁸ IMF (1996 & 1998), TAX LAW DESIGN AND DRAFTING: 107 (Victor Thuronyi et al ed. 1st & 2nd eds. 1996 & 1998) Vol. 1 & 2.

⁴⁹ Id.

officials (internal reviews, inspection, and anti-corruption units) due to there is no perfect tax administration in any tax system.⁵⁰ The system of the tax administration of a country affects the relationship between citizens and government and the way how income taxes are administered may affect the political future of the government and more fundamentally, public trust in government.⁵¹ The political economy of tax administration has a critical influence on the improvement of the tax administration system. That the economic approach to tax administration is simpler than the political economy of tax administration in more difficult due to “short-run political considerations often hamper the policy changes and attempts to improve revenue administration.”⁵²

The function of an organized income tax administration law is to make the tax collection system easy for both the tax authority and the income taxpayers. It helps the tax authority and other concerned government bodies involved in the taxation system easily understand, follow up, and interpret the tax laws. And the income taxpayers can have a clear understanding of the taxation rules and procedures and can voluntarily involve in the taxation process by their interaction with the tax authority.⁵³ Tax administration law, in general, is required to include all tax laws, regulations, administrative interpretations and court decisions on tax administration and procedure. This makes the taxation process easier for tax administrators, taxpayers, and tax adjudicators. In addition to these, tax administration law is also required to define clearly the rights and obligations of the taxpayers, tax officials, and third party withholding agents.⁵⁴

The issue of effective tax administration is the main concern of taxation in the history of every tax system in the world. The tax collection efficiency of a country determines the growth of that country. A country that has an efficient capacity of collecting tax revenue from the domestic resource may result in higher growth of its economy. As such many suggested that enhancing effective tax administration and increasing the tax revenue of the government is the main detrimental factor of growth.⁵⁵ Without a good income tax administration system, tax policy change, tax structures reform, and designing tax rates could not bring effective tax revenue collection of a country.⁵⁶

Gaps in tax administration do not only impact the government revenue but also affects the equity and efficiency of the taxation system of the country. In many developing and transitional countries, poor tax administration is an impediment to implementing the tax laws of the

⁵⁰Richard M. Bird, *Improving Tax Administration in Developing Countries*: Jol. of Tax Administration 28 (Nigar H. et al eds. 2015) University of Exeter and Institute of Taxation.

⁵¹ Id. at 23.

⁵² Id. at 24.

⁵³ IMF (1996 & 1998), *Supera* note 48, at 108.

⁵⁴ Id. at 111-112.

⁵⁵ McClellan Chandler B., *the Consequences of Poor Tax Administration: Collections, Growth, and Corruption*. Dissertation, Georgia State University, 13-14 (2013).

⁵⁶ Id. at 19.

countries.⁵⁷ In those countries, many administrative functions are performed manually rather than electronically modernized that the tax revenue base does not include all taxable incomes and not properly collected and enforced the tax laws.

Many developing countries have experienced that a tax policy reform for improving the tax revenue though the amount of revenue they collected from taxation remains insignificant. The tax administration of the developing countries is characterized as inefficient in changing the taxpayers' attitude toward compliance with tax laws, corruption, and distrust from the tax administration. Many scholars argue that without the proper tax administration system, having a good tax system cannot improve the tax revenue.⁵⁸ The tax administration competency and efficiency determine the capacity of a country to generate an adequate amount of tax revenue from the domestic tax potential economy resources.

To have an improved income tax administration system, scholars suggested that the following general rules should be the focus of the tax administration. These are:⁵⁹

- ✓ Know the context:- tax compliance reflects both the effectiveness of the tax administration and the attitudes of the taxpayers toward taxation and government.
- ✓ Keep it simple:- simple tax system enables to administered income tax effectively in low-compliance costs.
- ✓ Have a reform strategy:- by identifying the basic problems of the income tax administration and introducing more user devices to the problems.
- ✓ The taxpayers as client:- treat the taxpayers by facilitating services and providing adequate information to make the taxation procedure clear and easily understandable.
- ✓ Compliance costs matter:- avoid/or at least reduced/ the complexity and cumbersome administrative methods that lead to incur more costs for income taxpayers.
- ✓ Manage IT properly:- gather and utilize useful/necessary information in well-organized systems and procedures.
- ✓ Keep your eye on the ball:- closely follow up and monitor the non-filing, stop-filing, and compliance behavior of large taxpayers on the payment and liabilities of their tax compliance.
- ✓ Dealing with non-compliance:- the income tax administration should ensure that there is no default in the tasks of identification, assessment, collection of taxes, and in third parties' obligation to report transactions and withhold taxes. And monitoring the compliance and apply the sanctions provided by the law on non-compliant.

⁵⁷ Pantamee & Mansor, Supera note 35.

⁵⁸ Id.

⁵⁹ M.Bird, Supera note 50, at 30-37.

In the administration of income tax, enhancing high tax compliance and ensuring high tax revenue by reducing the opportunities for tax evasion and tax avoidance is the central issue of every country's income tax administration system of the world. The efficiency and effectiveness of an income tax administration system are being measured by the degree of income taxpayers' compliance with tax laws. On the way how tax compliance is enhanced, different theories proposed different mechanisms. There are three theories that have developed on tax compliance of the tax administration system in general and in the income tax administration in particular.

The first theory is the Economic Deterrence Theory. This theory was established in 1972 from the seminar work of Allingham and Sandmo.⁶⁰ It assumed that taxpayers' behavior is influenced by the determinant factors of the benefit and cost of tax evasion. That income taxpayer takes into account the probable detection and sanction cost and the non-compliance benefit of their activities. This theory supported that a stronger audit and heavy penalties will enhance taxpayers tax compliance and increase the tax revenue of the government. The tendency of tax evasion is more dependent on the severity of the sanctions imposed on the non-compliance income taxpayers. The second theory is the Social Influences Theory. This theory assumes that tax compliance is influenced by the individual taxpayers' behavior and the social norms of society. That the individual tax payer's behavior to comply with tax law, is highly influenced by social interactions like any other form of individual behavior.⁶¹ The social norms of society determine the tax compliance of the income taxpayers. The third theory is Fiscal Exchange Theory. This theory is involved in economic deterrence and social psychology theories. It suggested that income taxpayers' tax compliance is improved when the government ensures that the tax collected from its citizens is offering more improved public goods and services by establishing a tax bargaining between the income taxpayers and the government.⁶² It supposed that the appropriateness of government expenditures determines the income taxpayers' tax compliance. Income taxpayers' will be more willing to comply with their tax obligations when they are satisfied by the government expenditures of valuable goods and services for the benefit of the public at large.

When it comes to the model, several tax administration models have developed in order to maximize the tax revenue of the government. For the purpose of this thesis the following four models are worth discussing.⁶³ These models were developed for the purpose of maximizing the tax administration efficiency in general and income tax administration in particular for improving the tax revenue of the government. The first model is the system based model. In this model, tax administration requires to organize the objectives into the fundamental steps of input, process, outcome, and impact. That "inputs are required resources to smooth the organizational

⁶⁰ Adelaide Wairimu Waithira, Determinants of Residential Rental Income Tax Compliance by Property Owners in Thika Town. A Research Project Submitted in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Business Administration, School of Business, University of Nairobi 9-10 (2016).

⁶¹ Id. at 11-12.

⁶² Id. at 10-11.

⁶³ Pantamee & Mansor, *Supra* note 35, at 193.

efficiency and effectiveness, process are the activities involve in turning inputs to outputs and outputs are the results achieve by the organization, units, and individuals while outcomes to stand for the overall goals achieved from the previous stages.”⁶⁴ But this model has not been specified the inputs resources required for the good income tax administration performances. As a result, the OECD expanded the logic model in 2008.⁶⁵ The second model is Extended Sequence of Program Logic Model. This model is developed by the OECD in 2008 by extending the program logic model by introducing the concept of efficiency and effectiveness.⁶⁶ According to this model, the result of income tax administration is measured by the cost of the inputs to produce the outputs. This means that the cost of the income tax administration should be less than the tax revenue collected and compliance enhanced. The third model is Congruence Model. This model is developed so as to diagnose the causes of tax revenue administration weaknesses.⁶⁷ It focuses on the organization's inputs and outputs. The internal organization of the tax administration and the interaction among them affects the output of the income tax administration. But this model has not been incorporated taxpayers’ inputs and outcome to enhance voluntary tax compliance.⁶⁸ The fourth model is Modernize Congruence Model. According to this model to understand the efficiency and effectiveness of income tax administration, there must be exist tax administration as a system. The central aim of this model is to identify the root cause of low tax revenue generation within a given income tax administration system. It is believed that this model is more comprehensive and used to generate adequate tax revenue for the government where this model is adopted by countries.

2.2 Taxation on Income and Property

The various forms of taxation have existed throughout the history of humankind. Some of the most common the earlier forms of taxation were poll taxes, tariffs on goods, and property taxes on the value of land, buildings, and other personal property.⁶⁹ Property tax, being one is the most ancient form of taxation, was used in ancient Egypt, Babylon, Persia, and China and throughout the ancient world. The primary focus of property taxation during the early time was on land and its production value.⁷⁰ Property tax has begun for centuries certainly for longer than income tax and it continues to form an important part of the tax base in most advanced countries though nowadays most taxes are levied on the flow of income and expenditure.⁷¹ Taxation on income requires that income be defined and reported and the failure to fully report income often contributes to the expansion of the informal economy. That tax on income heavily at the local

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id. at 193-194.

⁶⁸ Id.

⁶⁹ Richard Henry Carlso, A Brief History of Property Tax. Available at https://www.iaao.org/uploads/a_brief_history_of_property_tax.pdf (Accessed on June 17, 2020).

⁷⁰ Richard Henry Carlso, A Brief History of Property Tax. Available at https://www.iaao.org/uploads/a_brief_history_of_property_tax.pdf (Accessed on June 17, 2020).

⁷¹ The Taxation of Land and Property. Available at <https://www.ifs.org.uk/uploads/mirrleesreview/design/ch16.pdf> (Accessed on June 17, 2020).

level and high-income households are likely to relocate to nearby communities or other countries with lower taxes.⁷² While property tax especially tax on land and buildings is considered as a natural tax base for the financing of local governments because of the fact that land and buildings have identifiable and unchangeable geographic locations.⁷³ Unlike income of households, discovering changes in land use, new buildings, building expansions, or new subdivisions of land is in principle fairly easy due to it is immovable and highly visible.⁷⁴

Most of the time property tax is levied on the value of the real property such as land and buildings annually unlike income tax that levied on the labor and capital gains accrued by a taxable person. The property tax share of GDP is different in many countries. Its share can reach as high as 2% or more in high-income countries/developed countries/, while it accounts for less than 1% in developing countries.⁷⁵ But property tax is considered as a good tax especially for the developing countries by a number of theoretical and policy justifications such as efficiency, equitability, and administrative innovation, the ideal source of local government revenue, and promotes transparency and accountability. Property tax is efficient due to it does not affect resource allocation by distorting the decision to supply and invest in the form of human and physical capital. As such property taxation is considered more efficient compared to income taxation. Property tax is imposed more on accumulated wealth/land and property/ that the nature of the tax base is immobile and not on the productive activities which undermine productive incentives rather it encourages more productive use of land and property. Property tax is also equitable due to it is considered as a progressive tax imposed on land and capital which are owned by relatively wealthy individuals and the burden of the tax is likely to be borne by middle and high-income earners. As a result property taxation is considered more relatively equitable than income taxation. Property taxation requires the creation of systematic record-keeping and organization and needs the involvement of collecting detailed data on land and properties, thus potentially spurring broader administrative improvements. Property tax is an ideal source of local government revenue due to property tax is a stable and predictable revenue source for the local governments. Because the tax base is geographically delimited and paid by residents with limited mobility and the properties are physically immovable, property taxation is in principle relatively easy/straight forward for governments to identify and tax properties even where administrative capacity is limited. And property taxation promotes transparency and accountability due to property tax is highly visible to taxpayers and in principle linked to improved local services. It

⁷²Lawrence Walters, Land and Property Tax: A Policy Guide. United Nations Human Settlements Programme (UN-HABITAT), 11 (2011).

⁷³ The Taxation of Land and Property. Available at <https://www.ifs.org.uk/uploads/mirrleesreview/design/ch16.pdf> (Accessed on June 17, 2020).

⁷⁴Walters, Supra note 72.

⁷⁵ Property Taxation in Developing Countries. Available at https://www.researchgate.net/publication/314952298_Property_Taxation_in_Developing_Countries (Accessed on June 17, 2020).

has the potential to bargain between taxpayers and governments over revenue and public spending due to policymakers and local officials are more accountable.⁷⁶

Even though property taxation has the above-mentioned advantages relative to income taxation, it has not free from limitations. The type of tax base, the method used to assess the revenue base, and the differences in the overall enforcement of the tax across localities are among the limitations of property taxation. The efficiency advantage of property tax that emanates from the immovable nature of the tax base only applies to land not always apply to buildings, especially non-residential structures that are mobile. For example, applying property tax on businesses that use relatively more property as an input in its production may be distortionary by affecting its decision on how, where, and in what form to invest. And taxation of buildings disproportionately higher than land may also discourage the maintenance and construction of new buildings that in turn slow down urbanization or growth of cities.⁷⁷ In addition, the valuation of properties that do not capture the real value of the property may result in differences in the effective tax rates across properties and create in-equitability in the tax base assessment.

The term property tax may not be limited to the tax imposed on the physical land and buildings; rather it includes a set of legal rights like intangible rights on land and buildings. It is not only imposed on ownership right, but also on use right of these properties.⁷⁸ And differentiating the value of land and buildings is not easy task. The land and the structures upon it usually considered as a unit. Though in some legal systems, ownership or rights of use in a building is possible without rights on the underlying land. But in this case some use of the underlying land in reality is unthinkable. As such the land and buildings constitute two integral components of a larger entity which value cannot be divided in a meaningful way.⁷⁹ In some countries such as Kenya, South Africa, and some parts of Australia, property tax is imposed only on land. A few countries like Tanzania imposed property tax only on buildings. And some countries imposed property tax on both land and buildings or improvements usually together but some countries like Hungary separately.⁸⁰ The value of land and building for property taxation usually can be determined by value based system and area based system. In value based system the market value of the property is considered. While in area based system property taxes are determined simply by multiplying a measurement of area by the tax rate.⁸¹ And land value estimated on the

⁷⁶ Property Taxation in Developing Countries. Available at https://www.researchgate.net/publication/314952298_Property_Taxation_in_Developing_Countries (Accessed on June 17, 2020).

⁷⁷ Property Taxation in Developing Countries. Available at https://www.researchgate.net/publication/314952298_Property_Taxation_in_Developing_Countries (Accessed on June 17, 2020).

⁷⁸ IMF (1996 & 1998) supra note 48, at 270.

⁷⁹ Id. at 286.

⁸⁰ Richard M. Bird & Enid Slack, Land and Property Taxation: A Review 12(March 2002).

⁸¹ Property Taxation and Land Management. Available at <https://pdfs.semanticscholar.org/968f/a68307c066ec826c8835fe4496401d778238.pdf> (Accessed on June 27,2020)

basis of a land value map and building value based on the construction cost of the building.⁸² Property tax only on the site value of the land regardless of the improvements to the site encourages investment of buildings and improvements of land.⁸³ As such property taxation should not be imposed on the improvements of land and buildings to operate in a single tax base with income tax that levied on the labor and capital gains accrued by a taxable person from giving rental service and transferring such properties.

2.3 Defining Income and Rental Income

While it's difficult to find a single definition for income, and it is constructed mainly based on the underlying goals or purposes of the relevant policy or study issues. Income is the basis for assigning tax burdens, for distributing transfers, and for broader normative issues of inequality and justice in the income tax systems.⁸⁴ Scholars identified the different conceptions under various income tax traditions into the three: accretion, source, and trust conceptions of income.⁸⁵ The accretion concept of income is the very broad concept of income that includes any income from whatever sources derived into the income tax net. It is closely related to the global income tax systems. The source concept of income is closely related to the scheduler income tax systems. It is a narrow concept of income that excludes some incomes that have not to fall under the specified sources. And the trust concept of income is a narrow concept of income like source concept of income and it excludes capital/capital gain from the concept of income. But nowadays the accretion concept of income is the widely used concept of income throughout the world. For this reason, the distinctions between accretion, source, and trust conceptions of income are no longer relevant to many income tax systems in the world now.⁸⁶

Many countries have defined income in their income tax laws in different ways. For example, the South African Income Tax Act 58 of 1962 defined income as “the amount remaining of the gross income of any person for any year or period of assessment after deducting therefrom any amounts exempt from normal tax.”⁸⁷ And the Federal Income Tax Proclamation of Ethiopia defined income as “every form of economic benefit including non-recurring gains, in cash or kind from whatever source derived and in whatever form paid, credited, or received.”⁸⁸ In these two income tax laws, the definition of income has no similar scope of application. What constitutes income and what does not in these laws are specified differently through the way of defining income.

⁸² M. Bird and Slack supra note 79, at 13.

⁸³ M. Bird and Slack supra note 80.

⁸⁴ John Brooks, The definitions of income. Available at <http://eureka.sbs.ox.ac.uk/7292/1/WP1708.pdf> (Accessed on June 17, 2020).

⁸⁵ Taddese, Supera note 3, at 185-191.

⁸⁶ Id.

⁸⁷ Income Tax Act 58 of 1962. Available at <https://www.lawinsider.com/search?q=income%20tax%20act%2058%20of%201962> (Accessed on June 19, 2020).

⁸⁸ Art. 2(14) of the Federal Income Tax Proclamation, supra note 7.

Similarly, rental income has also no single definition and in many countries of different income tax systems, rental income is defined differently to delimit the scope of rental income that what constitutes rental income and what does not in their income tax laws. For instance, rental income is defined under Kenyan Income Tax Act as “all rent, premium or any other consideration for use or occupation of the property.”⁸⁹ And rental income is defined under Ugandan Income Tax Act as “total amount of rent derived by a person for the year of income from the lease of immovable property (land and buildings) in Uganda with the deduction of any expenditure incurred in respect of the property.”⁹⁰ Though countries defined the term rental income in their income tax laws by specifying its scope of application on the rental of different properties, rental income can be defined as the full amount of rent and associated payments that the landlords/property owners receive or become entitled to, when landlords/property owners rent out their property, whether it is paid to landlords/property owners or their agents. The associated payments may be in the form of goods and services.⁹¹

2.4 Taxation of Rental of different Properties

The tax base of property rental income taxation varies from country to country.⁹² In some countries, rental property tax includes all types of property rental income; whether movable, immovable, tangible, or intangible property and rights. While in some other countries, rental of property tax is limited to the immovable property of land and buildings or the buildings alone. For instance in Turkey, rental taxation includes all types of property rental income; whether movable, immovable, tangible, or intangible property and rights. The income tax law of Turkey specifies the properties and rights that are subject to rental income taxation as follows:

- “Land, building, mineral water and underground water sources, mines, stone pits, production places of sand and gravel, brick and tile fields, salt works and their parts;
- Large fishing net fields and fishponds;
- Component parts of immovable properties leased separately and all their installations, inventory stock, and flooring;
- Rights registered as immovable property;

⁸⁹ Income Tax Act Cap. 470. Available at <https://eregulations.invest.go.ke/media/Income%20Tax%20Act.pdf> (Accessed on June 19, 2020).

⁹⁰ Income Tax Act Cap. 340. Available at <https://finance.go.ug/sites/default/files/Publications/Income%20Tax%20Act.pdf> (Accessed on June 19, 2020).

⁹¹ Rental properties 2014. Available at <https://www.ato.gov.au/uploadedFiles/Content/MEI/downloads/ind39784n17290614.pdf> (Accessed on June 17, 2020).

⁹² See for instance South African Income Tax Act, Income Tax Act 58 of 1962. Available at <https://www.lawinsider.com/search?q=income%20tax%20act%2058%20of%201962> (Accessed on June 19, 2020), Kenyan Income Tax Act, Income Tax Act Cap. 470. Available at <https://eregulations.invest.go.ke/media/Income%20Tax%20Act.pdf> (Accessed on June 19, 2020), and Ugandan Income Tax Act, Income Tax Act Cap. 340. Available at <https://finance.go.ug/sites/default/files/Publications/Income%20Tax%20Act.pdf> (Accessed on June 19, 2020).

- Searching, operating and franchise rights and their licenses, patent right, trademark, commerce title, any kind of technical drawing, design, model, plan and cinema and television films, audiotapes and videotapes, a secret formula belonging to an experience acquired in the industry, commerce and science or rights as the right of usage or privilege of usage on a production method;
- Copyrights (excluding Income occurring from the leasing of copyrights by authors or their legal inheritors and patentees or their legal inheritors which is considered as income from the independent business);
- Ships and shares of a ship and all the motorized shipment and unloading vehicles;
- Motorized transfer and draw-frame vehicles, any kind of motorized vehicle, machine and installation, and their appurtenance⁹³ are the different properties that are subject to rental income taxation in Turkey.

In Uganda, immovable properties of land and buildings are the properties that are subject to rental income taxation under the Income Tax Act of Uganda. Rent under the Ugandan Income Tax Act is classified into two: business income and property income. If the rental income is derived by a person whose business is wholly or mainly the holding or letting of the property, it is classified under business income. And if the rental income is derived by a person whose business is not wholly or mainly the holding or letting of the property, it is classified under property income.⁹⁴ And in Kenya rental income of buildings is taxed by different tax laws: income tax act and VAT act. That rental income derived from residential buildings is taxed under the income tax act; and the rental income derived from non-residential/commercial buildings is taxed under the VAT act.⁹⁵ The rental taxation of the different properties in these countries indicates that property rental income tax is imposed on income from rent of different properties with different taxation systems. Unlike Kenyan income tax law, Ugandan income tax law has a separate schedule and tax rate structure for individual rental income of immovable property/land and buildings/.

In the taxation of rental properties, some countries have sought policies to improve the provision of rental accommodation by subsidizing and tax frameworks that better support landlords and tenants. Those countries reduce the cost of owning and managing a rental property by deducting mortgage interest and operational cost, depreciation allowances, lower tax on rental income and able to offset rental losses against other types of income.⁹⁶ In preferential taxation of housing, in

⁹³ Turkish Revenue Administration (2010), Guidebook on Rental Income for Non-Resident Taxpayers Turkish Revenue Administration Taxpayer Services Department Publication No. 107, 18(February 2010).

⁹⁴ URA, Taxation Hand Book. A Guide to Taxation in Uganda. Available at <https://ura.go.ug/Resources/webuploads/INLB/TAXATION%20HANDBOOK%20.pdf> (Accessed on June 22, 2020).

⁹⁵ Muleya, et al supra note 14, at 18.

⁹⁶ Cyrille Lenoel et al, International evidence review on housing taxation, UK Collaborative Center for Housing Evidence Final Report R2018-02-03, 33 (25 September 2018).

most countries the imputed rent enjoyed by owner-occupied households is exempt from income taxation; while in some other countries imputed rent is subject to income tax. And mortgage interest tax relief policies in many countries are also the way of housing tax treatment. For example, in the UK and Germany, there is no imputed rent tax; mortgage interest tax relief and capital gains tax on a primary residence are preferential taxation of housing.⁹⁷

The main taxes on housing in the UK are capital gains tax, council tax, stamp duty, inheritance tax, and VAT on repairs. Capital gains tax is payable on the nominal increase in the value of a house (generally) excluding an owner-occupiers' main dwelling. Council tax is a recurrent tax based on the assessed or imputed value of a property and paid by the occupier (rather than the owner) to the local authority, not the central government. Stamp duty is a transaction tax based on the transaction price. Inheritance tax is payable on the total value of an estate of which the house often constitutes the main part, but with major exemptions for the value of property passed on to descendants. And VAT is not charged on the purchase of houses themselves, it is charged at the standard rate of 20% on materials and labor for any repairs or construction work relating to an existing building.⁹⁸ The UK uses only property taxation (in particular council tax) to fund local government, rather than a mix of income tax, goods, and services tax and property tax.⁹⁹ In UK rental losses are not allowed to be offset against other types of income and depreciation is limited to the wear and tear of furnished accommodation only.¹⁰⁰

2.5 The Treatment of Rental Income in different Income Tax Systems

There is no uniformly accepted rental income tax system in the world. Rental income taxation is different in many countries in the world in many aspects. In some countries, rental income tax is a subset of property tax. That they charge taxes on the value of land and property rather than the income generated from the property. Progressive property tax is presumed that it has both economic and social benefits for a state which follows this taxation system. It used to generate the significant revenues needed for states sustainably, “promote private investment in industry and address widening social inequalities.”¹⁰¹ It has a tax burden on wealthy people relative to poor people. As such having a comprehensive progressive property tax has multiple advantages for a state having this type of taxation. While on the other hand, some countries charge taxes on rental incomes of the property rather than the value of the property (wealth).¹⁰² The rental income tax

⁹⁷ Francesco Figari, Alari Paulus, Holly Sutherland, Panos Tsakloglou, Gerlinde Verbist and Francesca Zantomio, Taxing Home Ownership: Distributional Effects of Including Net Imputed Rent in Taxable Income. Available at <http://ftp.iza.org/dp6493.pdf> (Accessed on June 22, 2020).

⁹⁸ Lenoel, et al supra note 96, at 12-13.

⁹⁹ Lenoel, et al supra note 96, at 6.

¹⁰⁰ Lenoel, et al supra note 96, at 33.

¹⁰¹ Tom Goodfellow, Property Taxation and Economic Development: Lessons from Rwanda and Ethiopia. The University of Sheffield and Sheffield Political Economy Research Institute Speri Global Political Economy Brief No.4, 3-7 (September 2016).

¹⁰² Muleya, et al, supra note 14.

system is also different in the tax treatment of rental income in the income tax systems of many countries. The taxation system of rental income in the global income taxation system is different from the scheduler income taxation systems. In countries that follow a global income tax system, “all incomes received from various sources including rent are aggregated and allowed expenses deducted.”¹⁰³ The global income tax system is supported on the side of economical equitability points of view due to all sources of income are taxed similarly and treated in the same manner.¹⁰⁴ On the other hand, countries which follow a scheduler income tax system, “different sources of incomes are subject to different incomes tax rules and tax rates.” In this income tax system, rental income is taxed separately from other kinds of incomes in different tax rates and different income tax rules determine the expenses allowed to be deducted. Scheduler income tax system is supported on the side of “administrative simplicity” due to income taxes are presumptive and withholding taxes.¹⁰⁵

2.6 Rental Income Tax Administration

In the rental income tax administration system, countries use different ways of collecting and administering mechanisms although it's part of the general rules of tax administration. For instance in India, rental income from a property being building or land appurtenant thereto of which the taxpayer is owned is charged to tax under the head income from house property. Rental income of a person other than the owner like rental income received by a tenant from sub-letting cannot be charged to tax under the head income from house property. Income from sub-letting is taxable under the head income from other sources or as the case may be as profits and gains from business or profession.¹⁰⁶ And in some countries like USA, income derived from rental of properties is subject to taxation in the same manner of other incomes such as employment income, business and investment income taxation. That any rental income received from renting out of properties will be included in the total gross income of a taxpayer and taxed aggregately by applying the same income tax rates and expenses rules.¹⁰⁷

Some countries like Kenya use tax collection agents and some withholding system of collection for the effective administration of rental incomes (especially for the administration of rental incomes of houses). The appointed agents follow up closely with the landlords who have not registered and not paid their rental income tax within their defined geographic locations or blocks. The assigned agents can be charged to act as remuneration of 2% from collected as a commission.¹⁰⁸ The Kenyan government has made many measures to collect significant rental income tax revenue from the taxable rental incomes by bringing all the rental incomes into the

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Department of Revenue, Ministry of Finance, Government of India, Income from House Property. Available at <https://www.incometaxindia.gov.in/tutorials/12.%20income-from-house-property.pdf> (Accessed on June 17, 2020).

¹⁰⁷ Airbnb, General Guidance on the Taxation of Rental Income 3-4 (January 2017). Available at <https://assets.airbnb.com/eyguidance/us.pdf> (Accessed on June 27, 2020).

¹⁰⁸ Muleya, et al supra note 14.

tax bracket. In the administration and collection of rental incomes, the Kenyan government has issued the Finance Act 2015 and included an amendment to the Income Tax Act of Kenya which came into force on January 1, 2016.¹⁰⁹ According to this Act, the “commissioner” appointed a tenant or an agent to withhold a 10% withholding tax on all rental payments made to a resident landlord for the use or occupation of immovable property. And for rental payment made to a non-resident landlord not having a permanent establishment in Kenya, the tenant or agent required to withhold tax at 30% on all the rental payments/including premium or similar considerations/ made to a non-resident landlord for the use or occupation of immovable property.¹¹⁰ In the case where the appointed tenant or agent fails to deduct and remit withholding tax, a penalty of 10% of the tax due and interest at the rate of 1% per month until the tax is paid will be imposed.¹¹¹

2.7 Selected Country Experiences in Rental Income Tax

2.7.1 USA

In the income tax system of the USA, all amounts of income received as rent must be included in the total gross income and taxed aggregately. Any income derived from the rental of properties is subject to USA income tax like any other income/business and investment income. Any rental income from a property located inside the USA and any foreign rental income accrued by USA citizen or permanent resident is taxable with other incomes under the USA income tax law.¹¹² Income received from renting out of the property will be liable for income tax and included in an income tax return. The income and expenses rules apply to all rental properties. The receiver of rental income of property can claim all maintenance and administrative costs depending on the property used and the nature of the work being done for earning the rental incomes. Rent in the income tax law constitutes the gross amount of payment received for the use or occupation of property including payments received for any goods and services that are provided. And any expenses like utility expenses paid by guests are treated as a rental income under the income tax law of the USA.¹¹³ The rental income taxpayers must report their rental income as a cash-basis or accrual-basis in the USA income tax law. The cash- basis taxpayers report rental income on their return for the year they actually or constructively receive it and they deduct all expenses in the

¹⁰⁹ Kenya Imposes New Income Tax on Residential Rentals. Available at [https://www.ey.com/Publication/vwLUAssets/Kenya_imposes_new_income_tax_on_residential_rentals/\\$FILE/2015G_CM5576_Kenya%20imposes%20new%20income%20tax%20on%20residential%20rentals.pdf](https://www.ey.com/Publication/vwLUAssets/Kenya_imposes_new_income_tax_on_residential_rentals/$FILE/2015G_CM5576_Kenya%20imposes%20new%20income%20tax%20on%20residential%20rentals.pdf) (Accessed on June 2, 2020).

¹¹⁰ Withholding Tax on Rental Income. Available at https://www.rsm.global/kenya/sites/default/files/media/publications/rsm_newsletter_-_wht_on_rental_income.pdf (Accessed on June 4, 2020).

¹¹¹ Withholding Tax on Rental Income. Available at https://www.rsm.global/kenya/sites/default/files/media/publications/rsm_newsletter_-_wht_on_rental_income.pdf (Accessed on June 4, 2020).

¹¹² Airbnb, General Guidance on the Taxation of Rental Income. 3-4 (January 2017). Available at <https://assets.airbnb.com/evguidance/us.pdf> (Accessed on June 27, 2020).

¹¹³ Id.

year they pay them. And accrual-basis taxpayers report rental income when they earn it instead of when they receive it and they deduct expenses when they pay them.¹¹⁴

Investment in the residential housing by homeowners who reside in the houses they own and by landlords who rent their properties to others receive preferential treatment under the USA income tax law. Rental housing tax is treated differently than other pure income tax.¹¹⁵ A dwelling unit used as a home and rented less than 15 days during the year is not considered to be rental and not required to report the rental income and rental expenses from this activity.¹¹⁶ And housing rental income tax treatment includes the size of the qualifying depreciation allowance, limitations on the use of passive activity losses, the tax treatment of capital gains, and tax credit for low-income housing.¹¹⁷ The tax advantage of owning a house is encouraging households to own and spend more on their housing rather than rent.¹¹⁸

2.7.2 Turkey

In Turkey rental taxation includes almost all types of property rental income; whether movable, immovable, tangible, or intangible property and rights. Rental income from the following properties and rights in Turkey is subject to under rental income taxation with some conditional exceptions.

- “Land, building, mineral water and underground water sources, mines, stone pits, production places of sand and gravel, brick and tile fields, salt works and their component parts;
- Large fishing net fields and fishponds;
- Component parts of immovable properties leased separately and all their installations, inventory stock, and flooring;
- Rights registered as immovable property;
- Searching, operating and franchise rights and their licenses, patent right, trademark, commerce title, any kind of technical drawing, design, model, plan and cinema and television films, audiotapes and videotapes, a secret formula belonging to an experience acquired in the industry, commerce and science or rights as the right of usage or privilege of usage on a production method;
- Copyrights (excluding Income occurring from the leasing of copyrights by authors or their legal inheritors and patentees or their legal inheritors which is considered as income from the independent business);

¹¹⁴ Id.

¹¹⁵ Larry Ozanne, Taxation of Owner-Occupied and Rental Housing Working Paper Series, Congressional Budget Office Washington D.C. Working Paper 2012-14, 4-6 (November 2012).

¹¹⁶ Airbnb, supra note 112.

¹¹⁷ Ozanne, supra note 115.

¹¹⁸ Ozanne, supra note 115, at 23.

- Ships and shares of a ship and all the motorized shipment and unloading vehicles;
- Motorized transfer and draw-frame vehicles, any kind of motorized vehicle, machine and installation, and their appurtenance¹¹⁹ are subject to under rental income taxation. But if those property and rights are included in commercial or agricultural enterprises, their income is calculated with the determination of commercial or agricultural income.¹²⁰

And the liable rental income taxpayers of immovable property's income are "the owners, tenants (persons having the rights to use actually), possessors, servitudes and usufruct right owners of the property and their tenants in the event of leasing of a rented property and right."¹²¹ The taxation of immovable property rental income is different. Those taxpayer who have only rental income from the immovable property will submit annual tax declaration if their rental income from houses exceeds annually established tax exception amount and their rental income which are not subject to withholding or tax exception in a calendar year exceeds the limit to submit a declaration. But the rental income derived from the lease of the workplace is subject to a declaration when the total income from the workplace exceeds the limit to submit a declaration with no exception of rental income.¹²² The annually established exception amount applies only to rental income from properties that have been rented as a house. And it should be deducted from rental income to be declared in the annual tax declaration when rental income from house exceeds the amount specified for an exception.¹²³ In the rental income tax declaration, every member of a family is required to submit a declaration on their own behalf for the rental income they obtained from the property and rights belonging to them.¹²⁴ And a taxpayer who has obtained rental income from more than one house benefited the exception at one time to the total amount of rental income of all houses.¹²⁵ Non-filing or understated filing of rental income obtained from houses will not be benefited from the exceptional amount of annually specified. Rental income taxpayers who submit declaration before any determination is made by the administration on their own accord for their rental income that they did not declare or include in their declarations on time, will benefit from the related exception.¹²⁶

Deductions with respect to rental income in Turkey to be declared by an annual tax declaration are specified by the income tax law and other relevant laws. And if the income to be declared in

¹¹⁹ Turkish Revenue Administration (2010), Supra note 93.

¹²⁰ Turkish Revenue Administration (2010), Supra note 93, at 9.

¹²¹ Id.

¹²² Turkish Revenue Administration (2010), Supra note 93, at 17. And Turkish Revenue Administration (2016), Guidebook on Rental Income for Non-Resident Taxpayers Turkish Revenue Administration Taxpayer Services Department Publication Print No: 217, 7-8(February 2016).

¹²³ Turkish Revenue Administration (2010), Supra note 93, at 12.

¹²⁴ Turkish Revenue Administration (2010), Supra note 93, at 18.

¹²⁵ Turkish Revenue Administration (2010), Supra note 93, at 13.

¹²⁶ Turkish Revenue Administration (2010), Supra note 93, at 19-20. And Property in Turkey, 22 (June 2019). Available at <https://www.gyoder.org.tr/uploads/Yay%C4%B1nlar/HTB-TEM2019-ING-web2.pdf> (Accessed on June 20, 2020).

an annual tax return and declarations to be made satisfy the requirements specified in the laws, the following items may be subject to deduction:

- “Individual insurance premiums and premiums paid to individual retirement schemes,
- Education and health care expenses,
- Donations and aids,
- Sponsorship expenses,
- Donations in kind and in cash in relation to natural disasters,
- Donations and aids made in cash to Turkish Association of Crescent proved with a receipt,
- Donations and aids which are completely deductible in accordance with other laws.”¹²⁷

To tax rental income in Turkey, the income should be collected in cash or in kind. The collection of rental income in cash constitutes payment of rent in Turkish Liras or in foreign currency and cheques. And the collection of rental income in-kind payments is valued according to the Turkish Tax Procedure Law to determine the taxable rental income.¹²⁸ And in the taxation of rental income, the net amount of taxable rental income is determined in two different ways: lump sum expenses method (for other than those who lease rights) and actual expenses method. The taxpayers who have chosen the lump sum expenses method (for other than those who lease rights) can after deducting the amount of exception from their rental income set off the lump sum expenses at specified percent (e.g. in 2019, at 15%) of the remaining amount against actual expenses. Whereas the taxpayers who have chosen the actual expenses method, the following actual expenses can be deducted from the gross amount of rental income:

- ✓ “Lighting, heating, water and elevator expenses paid by lesser for rented property,
- ✓ Management costs relating to the administration of the rented property and measured according to the importance of property,
- ✓ Insurance expenses relating to the rented property and rights,
- ✓ The interest of debts relating to the rented property and rights and 5% of the acquisition value of a rented house for 5 years beginning from the date of acquisition (This deduction applies only to rental income of the rented house; non-deductible part is not evaluated as expenditure surplus. This deduction is not valid for houses acquired before 2005.),
- ✓ Taxes, fees, charges and special assessments paid for the rented property and rights, as well as charges paid by lessor to municipalities for participation to spending,
- ✓ Depreciations,
- ✓ Repair and maintenance expenses incurred by lesser for the rented property,
- ✓ Rents and other actual expenses paid by sub-lessor,

¹²⁷Turkish Revenue Administration (2010), *Supra* note 93, at 18. And Turkish Revenue Administration (2016), *supra* note 122, at 8-11.

¹²⁸Turkish Revenue Administration (2010), *Supra* note 93, at 9-10.

- ✓ Rent of the house accommodated by the lessors who rent their own property, (It is not allowed for taxpayers not residing in Turkey, including Turkish nationals who residing abroad, to deduct the amount of rents they pay in a foreign country from the rental income they obtain in Turkey),
- ✓ Cost of damages and compensations paid for rented property and rights based on a contract, act, or court decree.”¹²⁹

2.7.3 Uganda

In Uganda, the tax base of rental income is generally on immovable properties, specifically on the commercial and residential properties that are rented out by the property owners.¹³⁰ Rent under the Ugandan Income Tax Act is classified into two: business income and property income. If the rental income is derived by a person whose business is wholly or mainly the holding or letting of the property, it is classified under business income. And if the rental income is derived by a person whose business is not wholly or mainly the holding or letting of the property, it is classified under property income.¹³¹ Rental income in Uganda is income earned by an individual from letting out of the immovable property (land and buildings). Under the Income Tax Act of Uganda, the individual rental income is segregated and taxed separately as though it were the only source of income for the taxpayer.¹³² And in the rental income tax administration of Uganda, rental tax at 20% for individual landlords and 30% for companies owning rental properties are collected by the URA. Rental income, expenditure, and losses generated by a taxable individual or company are required to be declared in a rental income tax return separate from the usual business income return.¹³³

¹²⁹ Turkish Revenue Administration (2010), *Supra* note 82, at 13-15. And *Property in Turkey*, 22-23 (June 2019). Available at <https://www.gyoder.org.tr/uploads/Yay%C4%B1nlar/HTB-TEM2019-ING-web2.pdf> (Accessed on June 20, 2020).

¹³⁰ Washington H. A. Olima, *Property Taxation in Anglophone East Africa: Case Study of Uganda*. Available at https://www.lincolnst.edu/sites/default/files/pubfiles/1790_1013_WP10NEA8.pdf (Accessed on June 27, 2020).

¹³¹ URA, *Taxation Hand Book. A Guide to Taxation in Uganda*. Available at <https://ura.go.ug/Resources/webuploads/INLB/TAXATION%20HANDBOOK%20.pdf> (Accessed on June 22, 2020).

¹³² URA, *Taxation Hand Book. A Guide to Taxation in Uganda*. Available at <https://ura.go.ug/Resources/webuploads/INLB/TAXATION%20HANDBOOK%20.pdf> (Accessed on June 22, 2020).

¹³³ OXFAM, TJN-A and SEATINI (2015), *Fair Tax Monitor Uganda*, 19 (December 2015). Available at https://maketaxfair.net/assets/wbb-publications/1861/Uganda%20FTM%20%20Report-Final%20Final%205_12_2016.pdf (Accessed on June 27, 2020).

CHAPTER THREE

3 RENTAL INCOME TAX SYSTEM AND ADMINISTRATION IN ETHIOPIA

3.1 The Property and Rental System in Ethiopia

The term “property” has very broad senses. It is everything that has material or moral value for human beings beginning with their own body, reputation, freedom to think, and act. It is beyond ownership or title of materials.¹³⁴ In its narrower legal sense, property rights are defined as bundles of rights and include the right to occupy, enjoy, use and transfer.¹³⁵ The transfer component includes sell, grant, bequeath, Rent or sublet.¹³⁶

In Ethiopia, before the coming into the power of the Derg regime, private ownership of properties including the land was fully recognized. Landlords in different urban areas were investing much in the development of housing for rental.¹³⁷ But in 1975, the Derg regime abolished the property ownership of rural land by Proclamation No. 31/1975 and urban land and extra rentable houses by Proclamation No. 47/1975. During this time all urban lands and extra houses of the wealthy urban dwellers were confiscated by the Derg government without any compensation to the properties. All extra houses which were rented by the house owners and had drawn some amount of rental income prior to the enactment of Proclamation No. 47/1975, was placed under the kebele administration; all those units that were rented for 100 Birr or less per month and gave the custody of all those units that had a monthly rent of more than 100 Birr to the Agency for the Administration of Rental Housing.¹³⁸ All urban lands were put in the hand of the state. Only a person who was required for the purpose of building a dwelling house was to be granted free of charge up to 500m². And only a single dwelling house ownership was allowed. Any person was not allowed to obtain income from urban land and house.¹³⁹

After the dawn fall of the socialist regime of the Derg government, Ethiopia reintroduces the full property rights; except ownership of both urban and rural lands. According to the 1995 FDRE

¹³⁴ Fassil Alemayehu, Law of Property Teaching Material. Prepared under the Sponsorship of the Justice and Legal System Research Institute 5 (2009), (unpublished).

¹³⁵ Id.

¹³⁶ UN-HABITAT (2011), Land and Property Tax A Policy Guide. Available at <http://www.ipti.org/wp-content/uploads/2017/06/United-Nations-Land-and-Property-Tax-A-Policy-Guide-2011.pdf> (Accessed on June 20, 2020).

¹³⁷ Daniel W/Gebriel & Melkamu Belachew, Land Law Teaching Material. Prepared under the Sponsorship of the Justice and Legal System Research Institute 59-60(2009), (unpublished).

¹³⁸ Id. at 60-62.

¹³⁹ Id. at 62.

Constitution, all urban and rural land is the property of the state and the Ethiopian people.¹⁴⁰ A person who builds and made a permanent improvement on the land by his labor and capital has the full right to alienate, bequeath, where the right of use expires, remove his property, transfer his title, or claim compensation for it. Only individual ownership of land and thereby having the sole right of exchanging and selling it is prohibited by the constitution.¹⁴¹ This means that individuals have the full right to rent land and buildings.

In Ethiopia, the rental systems of buildings are two: private and public. The government owns a lot of urban buildings after the nationalization of them by Proclamation No. 47/1975. The established rental agency/present named as Houses Corporation/ administers those governments owned buildings. The agency puts a regulated and mostly fixed rate of rent for its tenants. While private owners of buildings are at liberty to put the market price for rent by negotiating with their tenants. The rental of buildings may be for residential or commercial uses. In most advanced countries, the ceiling of rent that should be paid for a residential house is regulated by law for a public purpose and social welfare reasons.¹⁴² In Ethiopia, there is no such residential house policy yet.

Under the FDRE Constitution, urban land like rural land cannot be privately owned and shall not be subject to sale or other means of exchange.¹⁴³ But except these limitations of land right, all other property rights including lease right can be exercised by private urban land holders. And any immovable property or building and permanent improvements on the land by any once own labour or capital can be fully privately owned and can be transferred without any limitations to third parties.¹⁴⁴ So under the FDRE Constitution, urban land use right can be acquired from private urban land holders through lease. And house can be acquired by any transferring mechanisms. Under the Urban Lands Lease Holding Proclamation No. 721/2011 of Ethiopia on the other hand, urban land use right may only be acquired through the lease holding system that provided by the government only.¹⁴⁵ According to this proclamation, no urban land use right can be acquired from private urban land holders through lease. Though houses can be transferred privately through any transferring mechanisms, urban land use right may only be transferred through the lease holding system that provided by the government only. Regarding the contractual regulatory frameworks of the lease of houses, except the Civil Code¹⁴⁶ there is no special and update law that regulate the contractual relationship of the lessors and the lessee. The contracting parties can determine the forms of the lease contract and the amount of lease through negotiation without restriction.

¹⁴⁰ Art. 40(3) of the Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazeta, 1st Year No. 1, 21 August, 1995.

¹⁴¹ Id. Art. 40(7&8).

¹⁴² Daniel & Melkamu, *supra* note 137, at 76.

¹⁴³ Art. 40(3) of the FDRE Constitution, *supra* note 140.

¹⁴⁴ Art. 40(1&7) of the FDRE Constitution, *supra* note 140.

¹⁴⁵ Art. 5(1) of the Urban Lands Lease Holding Proclamation No. 721/2011, Federal Negarit Gazeta, 18th Year No.4, 18th November 2011.

¹⁴⁶ Art. 2945-2974 of the Civil Code, *supra* note 23.

3.2 Ethiopian Income Tax System: An Introduction

Even though the exact time when taxation in Ethiopia started is not known, many writers presumed that taxation in Ethiopia started during the time of Zerayakob around 1414 in a traditional way of taxation. And this traditional form of taxation was continued until the introduction of the modernized form of taxation system by the Regime of Emperor Haile Selassie in the 1940s.¹⁴⁷ The first Ethiopian income tax law was enacted in 1944 for levying tax on the income of individuals and businesses. Since this time the modern income tax system began to operate in the full sense in Ethiopia. And starting from this time the Ethiopian income tax system has been a scheduler income tax structure.¹⁴⁸ Even though some of the original schedules have either completely disappeared or been replaced by others, while some of the other schedules have retained their original contents. And the scheduler approach of the income tax structure has not been changed yet.¹⁴⁹

Under the current federal government structures of Ethiopia, both the Federal and Regional Governments have been the power to issue their own income tax laws and collect and administer in respect of income sources reserved to each respectively by the FDRE Constitution.¹⁵⁰ In both layers of the government, the income tax system is a collection of a number of income taxes that all the individuals' sources, categories as well as the companies are subject to separate tax rates. For instance, the federal income tax system of the country consists of a collection of income tax laws. That the income tax system consists of five schedules which identified by alphabets: A, B, C, and D & E. Schedule 'A' of the income tax system charges income from employment; Schedule 'B' income from the rental of buildings; Schedule 'C' income from business; Schedule 'D' income from other; and Schedule 'E' exempt income.¹⁵¹ In the computation of taxable incomes, each of the schedules has its own separate and distinct internal rules under the income tax system of the country.

3.3 Historical Development of Rental Income Tax in Ethiopia

Taxation on rental income in Ethiopia has been assumed in existence since the introduction of income tax though rental income tax was started since 1949 as explicitly refers to rental income as a separate taxable source of income tax.¹⁵² And in 1956 under the Income Tax Decree No. 19/1956¹⁵³, separately from any other income schedule 'B' has become income from rent of land and buildings. And it has continued under the Income Tax Proclamation No. 173/1961 as a separate source of income tax and was taxed at the tax rate of 35% on taxable income of organizations and associations having legal personality and tax rates of 10-45% progressively

¹⁴⁷ Dejene M.et al, Evaluation of Ethiopian Tax Administration System: Emphasis on Tax Payers Compliance. Vol. 6 No. 2, 47-49(December 2014).

¹⁴⁸ Taddese, Supera note 3, at 1.

¹⁴⁹ Id.

¹⁵⁰ Art. 51(10), 96, 52(2)(e) & 97 of the FDRE Constitution, supra note 140.

¹⁵¹ Art. 8 of the Federal Income Tax Proclamation, supra note 7.

¹⁵² Taddese, Supera note 3, at 342.

¹⁵³ The Income Tax Decree No. 19/1956, the Empire of Ethiopia Negarit Gazeta, 16th Year No.118, 1956.

(fixed rate within the bracket) on taxable income of other persons.¹⁵⁴ The tax base of the rental income tax was broader due to land and buildings were privately owned until the Derg regime come into power and abolished the private ownership of land and extra houses.¹⁵⁵ And after the fall of the Derg regime, the Transitional Government introduced the free market economy approach which allowed private ownership of extra houses and involves in the rental of buildings while the ownership of land remains under the ownership of the state. The Income Tax Amendment Proclamation No. 62/1993 after a long time absence of rental income tax of land and buildings, reintroduced rental income tax of buildings under schedule ‘B’ as a separate taxable source of income tax.¹⁵⁶ And even though intensive income tax reform has done in 2002 and revised in 2016, the tax base and scope of rental income tax has not changed. And until now rental income tax of building has been continued as one separate principal source of the main income tax system of the country.¹⁵⁷ Both under the Income Tax Proclamation No. 286/2002 and its enforcement regulation and Federal Income Tax Proclamation No. 979/2016 and its enforcement regulation, rental income or schedule ‘B’ income tax have no detailed rules that regulate the scope of its application in the main income tax system of Ethiopia. These income tax laws have not clearly defined what type of structures considered as “building” for rental income tax purpose. As a result, the schedule ‘B’ income tax has the least legitimate and persuasive in terms of the stability and autonomy of the sources taxable under schedule ‘B’ in the framework of the scheduler structure of the Ethiopian income tax system.¹⁵⁸ The historical development of rental income tax, in general, has been narrower than its started time, and still, its tax base is limited to buildings rental income only.

3.4 Constitutional Jurisdiction Issues

Ethiopia has followed a federal form of state after the unitary form of state end up in 1991. It introduced a decentralized system of taxation in the constitutional text under the FDRE Constitution of 1995. The power of taxation is divided between the two tiers of the state as federal state exclusive taxation power and regional states' exclusive taxation power.¹⁵⁹ That the allocation of income tax powers between the federal state and the regional states are on the basis of taxpayers' identity, nature, and ownership of business and organization. For example, the employment income tax is allocated on the basis of the identity of the employer that if the employer is the federal government or international organization, the federal government has exclusive power of employment taxes and other than these two; the power of employment

¹⁵⁴ Art. 10 of the Income Tax Proclamation No. 173/1961. Available at <https://chilot.files.wordpress.com/2011/09/income-tax-lawproclamation-no-173-of-1961.pdf> (Accessed on June 27, 2020).

¹⁵⁵ Taddese, Supera note 3, at 342.

¹⁵⁶ Income Tax (Amendment) Proclamation No. 62/1993, the Empire of Ethiopia Negarit Gazeta, 52nd year, No. 61, 1993.

¹⁵⁷ Taddese, Supera note 3, at 342.

¹⁵⁸ Id. at 343.

¹⁵⁹ Yonas Girma Adimassu, A Review of Constitutional Principles Regarding Taxation: Ethiopian and Turkish Perspective. 4-9 (18 April 2017). Available at <https://www.preprints.org/manuscript/201704.0101/v1> (Accessed on June 27, 2020).

taxation is belonging to regional governments.¹⁶⁰ On the other hand, income tax on business profits is allocated on the basis of ownership of the business or the legal form of business organization. That the federal government has exclusive taxation power on profit generated by federal government-owned business and legal form of business organizations; and regional governments have profit taxation on business and legal form of business organizations owned by them(including taxation on income from agricultural activities).¹⁶¹ Income from corporate and their shareholders is the concurrent taxation power of both the federal and regional governments.¹⁶²

Rental income tax power under the FDRE Constitution is given for both the federal government and regional governments. If the owner of the building leased is the federal government, the taxation power of the rental income generated is the federal government.¹⁶³ And all regional governments owned properties and privately owned properties rental income tax is the exclusive power of the regional governments.¹⁶⁴

The constitutional allocations of rental income tax of buildings indicate that the federal government has no taxation power on the rental income of buildings privately owned by individuals.¹⁶⁵ Rental income tax from buildings is the primary taxation powers of regional governments. And the taxation powers between regional governments are determined on the basis of the location of the buildings. It is not based on the nature of the business organization like business income tax. Individuals and companies that are involved in the business of rental of buildings are required to pay their tax liability of rental income to the regional states where the buildings are located. But in practice, the taxation power allocations of the FDRE Constitution will not escape from constitutional jurisdiction issues. For instance, a real estate company that engaged in the construction of buildings, houses, villas, and various other structures for the purpose of both for selling and renting them in different parts of the country is required to file/report its taxable income for different regional governments and for the federal government. The company is required to file/report its taxable income of selling business to the federal government and its taxable income of renting business to the regional governments in which the buildings are situated. In this case, in the absence of detailed rules, potential for loss of revenues as a result of lack of oversight and coordination among the different layers of governments may happen. This lack of coordination may be an advantage for the real estate company to claim a double deduction for the same expenses from different layers of governments due to the company's taxable income is fallen in different tax jurisdictions and the rules of deductions under schedule 'B' and schedule 'C' are separate and different treatments.¹⁶⁶ According to the

¹⁶⁰ Art. 96(2) & 97(1) of the FDRE Constitution supra note 140.

¹⁶¹ Art. 96(3) & 97(3&4) of the FDRE Constitution supra note 140.

¹⁶² Art. 98(2) of the FDRE Constitution supra note 140.

¹⁶³ Art. 96(6) of the FDRE Constitution supra note 140.

¹⁶⁴ Art. 97(6) of the FDRE Constitution supra note 140.

¹⁶⁵ The cumulative reading of Art. 96(6) and 97(6) of the FDRE Constitution supra note 140.

¹⁶⁶ Taddese, Supera note 3 at 359-362.

interview conducted with tax officers of Addis Ababa City Administration Revenue Beauru, in practice, though some real estate companies have engaged in rental business of buildings in addition to their selling business in the City Administration, they have paid their rental income tax together with their selling business income tax to the federal government.¹⁶⁷ But according to the taxation power allocations of the FDRE Constitution as noted above, the federal government has no taxation power on rental income tax except owned by it and with the possibility of concurrent taxation power on the rental incomes of companies and their shareholders.¹⁶⁸

The other Constitutional Jurisdiction Issues raised under the rental income taxation power of properties is between the regional governments and local governments. The FDRE Constitution empowered the establishments of local governments with adequate power to enable the people to participate directly in the administration of the local governments.¹⁶⁹ In the same manner the Revised Amhara National Regional Constitution¹⁷⁰ and the Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation No.69/2002¹⁷¹ stipulates such power of the local governments. But the rental income taxation power of properties in the case of Debre Berhan Town shows that local governments/ city administrations and municipalities have no such adequate taxation power. The rental income taxation power of the city administration is limited only on the rental income of properties which are possessed or owned by it. It has no rental income taxation power on other privately owned properties in the town. The rental income of all properties other than the properties under the possession or ownership of the city administration, are the taxation power of the regional government.¹⁷² Due to this reason the town administration has no adequate rental income taxation power that enables it to provide the basic needs of the town independently and allow the town communities participation directly in the rental income administration.

¹⁶⁷ An interview conducted with Ato Yossef Girma, Deputy Manager of Addis Ababa City Administration Revenue Office and We/ro Etagegnehu Mekuria, tax assessment auditor of Addis Ababa City Administration Yeka Sub City Small Tax Payers Branch Office, on May 24, 2020.

¹⁶⁸ Art. 98(2) of the FDRE Constitution, supra note 140.

¹⁶⁹ Art. 50(4) of the FDRE Constitution, supra note 140.

¹⁷⁰ Art. 45 of the Revised Amhara National Regional Constitution Approval Proclamation No. 59/2001 Zikre-Hig Gazette, 7th Year No. 2, 5th Day of November, 2001 (herein after the Revised Amhara National Regional Constitution).

¹⁷¹ See the preamble of The Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation No.69/2002 Zikre-Hig Gazette, 14th Year No. 11, 12th Day of August, 2009 (herein after The Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation No.69/2002).

¹⁷² An interview conducted with Ato Getaneh Damtew and Ato Yasien Adem, tax officers of the Debre Berhan Town Revenue Office, on July 3, 2020.

3.5 Rental Income Tax under the Current Scheduler Structures

3.5.1 Rental Income Tax of Buildings

The rental income tax of buildings is imposed on a person who gains income above the minimum threshold income from the rental of buildings. Any furniture and equipment that are leased with the building would be included in the rental income and taxed. The rental income tax rate of buildings is imposed on the nature of the taxpayers of the buildings on the rates of: on the rental income of bodies 30% flat on taxable income and on the rental income of individuals at a progressive and flat rate within the bracket(10-35%).¹⁷³ And the income tax law imposes that in the case when the owner of the building allows a lessee to sub-lease is liable for the payment of the tax which the sub-lessor is liable if the sub-lessor fail to pay.¹⁷⁴ When the construction of the new building is completed or rented, the owner and the builder are required to notify the administration of the kebele in which the building is situated about such completion and the name, address, and Tax Identification Number (TIN) of the person or persons subject to tax on income from the rental of the building. And the kebele administration has an obligation to communicate the information obtained to the appropriate tax authority.¹⁷⁵ Schedule ‘B’ income tax has not covered all forms of income from the rental of all types of property. It is limited to income from rental of buildings, and related incomes from the lease of furnished quarters and equipment¹⁷⁶ and if the building is sub-leased, the income of sub-lessor on the difference between income from sub-leasing and the rent paid to the lessor.¹⁷⁷ The rental incomes other than the rental income of buildings and related incomes from the lease of furnished quarters and equipment are not covered under schedule ‘B’ income tax of the Ethiopian income tax system. Other rental income of properties has been covered under schedule ‘C’ and schedule ‘D’ which makes confusion of delimitation and rationality on this separation.

3.5.2 Rental Income Tax of Business

Under the Ethiopian scheduler income tax system, rental income generated from the regular business of leasing property other than buildings is taxed under schedule ‘C’ or income tax of business. Many businesses that engaged in the rental of buildings like for hotels, hostels, pensions, guest houses, and holiday houses service are subject to income tax under schedule ‘C’ or income tax of business;¹⁷⁸ rather than under schedule ‘B’ or rental income tax of buildings. And business lease which includes buildings is also taxed under schedule ‘C’ or income tax of business.¹⁷⁹ In the determining of the taxable rental income of the business rental income taxpayers under schedule “C” is with the aggregation of the total business income of a taxpayer

¹⁷³ Art. 14 of the Federal Income Tax Proclamation, supra note 7.

¹⁷⁴ Art. 16 of the Federal Income Tax Proclamation, supra note 7.

¹⁷⁵ Art. 17 of the Federal Income Tax Proclamation, supra note 7 and Art. 26 of the Federal Income Tax Regulation supra note 9.

¹⁷⁶ Art. 15(3) of the Federal Income Tax Proclamation, supra note 7.

¹⁷⁷ Art. 14 of the Federal Income Tax Proclamation, supra note 7.

¹⁷⁸ Art. 2(2(a & c)), 2(4) and 21 of the Federal Income Tax Proclamation, supra note 7.

¹⁷⁹ Art. 22 of the Federal Income Tax Regulation, supra note 9.

for the year reduced by the total deductions allowed to the taxpayer for the year.¹⁸⁰ Which the total deductions allowed to the rental income taxpayer for the year includes: hospitality expenditures incurred by an employee in receiving guests from outside the business for the purposes of promoting and enhancing the business, medical expense incurred for employees, expenditure incurred in the provision of food and beverage services for employees, business promotion expenses incurred locally or abroad, expenditure incurred by a lessee of his own volition at variance with the terms of the contract concluded with the lessor in the maintenance or repair or improvement of the leased business asset, charitable donations to Ethiopian charities and Ethiopian societies to a call for development or emergency call by the government, the depreciable assets and business intangibles of the taxpayer declined in value during the tax year, and the cost of a repair or improvement made to a depreciable asset during the tax year.¹⁸¹ And the income tax exemption below 7201 Birr per year is allowed only if the aggregate total business income of a taxpayer is below 7201 Birr per year.¹⁸² The rental income tax rate of business is imposed with the aggregate total taxable business income on the nature of the taxpayers of the business on the rates of: on the rental income of bodies 30% flat on taxable income and on the rental income of individuals at a progressive and flat rate within the bracket(10-35%).¹⁸³

Under the income tax law of Ethiopia, there is no clear policy rationality why rental incomes of residential or commercial buildings are taxed separately from other forms of business income in general and rental income of the business in particular. Even though in the opinion of some officials¹⁸⁴ of the Ministry of Revenues, the separate tax treatment of rental income of buildings is for administrative simplicity and government revenue protection. That the separation of schedule ‘B’ income from schedule ‘C’ income is to protect Schedule “B” income from a possibility of offset by Schedule “C” losses. In the opinion of some officials of the Ministry of Revenues, on the other hand, the separation of schedule ‘B’ income from schedule ‘C’ income has no significant relevance beyond referring the source of income.¹⁸⁵

3.5.3 Casual Rental of Land and Other Properties

Taxation of income from the casual rental of the property began as a taxable income in the Ethiopian income tax system was in the 1978 Income Tax Amendment Law, and was taxed under schedule ‘C’ or business income.¹⁸⁶ And it was separated from schedule ‘C’/ business

¹⁸⁰ Art. 20(1) of the Federal Income Tax Proclamation, supra note 7.

¹⁸¹ Art. 22-25 of the Federal Income Tax Proclamation, supra note 7 and Art. 27-41 of the Federal Income Tax Regulation, supra note 9.

¹⁸² Art. 19(2) and 21(2) of the Federal Income Tax Proclamation, supra note 7.

¹⁸³ Art. 19(1&2) of the Federal Income Tax Proclamation, supra note 7.

¹⁸⁴ An interview conducted with Ato Yossef and We/ro Etagegnehu, supra note 167.

¹⁸⁵ An interview conducted with Ato Amir Yossuf and Ato Bekena legal advisor to the Ministry of Revenue, on July 10, 2020.

¹⁸⁶ Taddese, Supera note 3, at 482.

income and became taxable under schedule ‘D’ in the Income Tax Proclamation No. 286/2002.¹⁸⁷

Under the income tax systems of Ethiopia, an income derived from the casual rental of property (including any land, buildings, or movable asset) not related to business activity is taxable at a flat rate of 15% of the annual gross amount of income.¹⁸⁸ The classification of rental income tax under the income tax system is that: if a person is involved in the activity of rental of buildings on a regular basis is required to file/report his/its rental income tax liability under schedule ‘B’; and if a person is involved in the activity of rental of property other than buildings, like machinery, furniture, equipment, vehicles, tools, etc., is required to file/report his/its rental income tax liability under schedule ‘C’ of the income tax system. And if a person gained rental income from the casual rental of property (including any land, buildings, or movable asset), he/it should be filed/reported his/her rental income tax liability under schedule ‘D’. What about land on a regular basis rented for the workplace in urban areas? The income tax laws have not yet placed it under any of the schedules. The practice in Addis Ababa City administration is that rental income from the rental of land on a regular basis is charged under schedule ‘C’¹⁸⁹; though the income tax laws are silent.

The income tax system has not yet clearly specified what ‘casual rental’ means and what it should be qualified to be ‘casual rental’ for income tax purposes under the income tax laws. Different opinions are forwarded by tax officers and practitioners: some believed that casual rental income tax of property is applicable only to those persons who gained income from the occasional rental of property and are not registered as a taxpayer.¹⁹⁰ And some others believed that casual rental income tax of property is applicable to any person who gained income from the occasional rental of property; that whether a person is registered as a taxpayer or not is matter to tax a person under schedule ‘D’.¹⁹¹ According to the Ethiopian Revenue and Customs Authority Presumptive Tax Enforcement Directive No. 138/2010¹⁹², casual rental income tax of property is applicable for a person who has not participated in trade activities and rented his/its property which is used regularly for another purpose in the case when the property has not given its regular service. The message of this directive is similar to the opinions of those who believed that casual rental income tax of property is applicable only to those persons who gained income from the occasional rental of property and are not registered as a taxpayer. From the message of the directive, one can conclude that the casual rental income tax of property is not applicable to those persons who are participating in trade activities and generate casual rental income of the property. This makes a big loophole to escape from the rental income tax of property in Ethiopia.

¹⁸⁷ Art. 35 of the Income Tax Proclamation, *supra* note 26.

¹⁸⁸ Art. 58 of the Federal Income Tax Proclamation, *supra* note 7.

¹⁸⁹ An interview conducted with Ato Yossef and We/ro Etagegnehu, *supra* note 167.

¹⁹⁰ An interview conducted with Ato Amir *supra* note 185 and Ato Teshome Ayele, tax assessment auditor to the Ministry of Revenue on July 10, 2020.

¹⁹¹ An interview conducted with Ato Yossef and We/ro Etagegnehu, *supra* note 167.

¹⁹² Art. 2(9) of the Ethiopian Revenue and Customs Authority Presumptive Tax Enforcement Directive, *supra* note 29.

3.6 Rental Income Tax Administration in Ethiopia

3.6.1 Determination of Taxable Income

Determining the taxable rental income is dependent on the national tax legislation of each country. The tax base is critical issue in determining taxable income. Rental income tax under the Ethiopian income tax system has been treated under schedule ‘B’ or schedule ‘C’ or schedule ‘D’ depending on the nature of income of the property. That income from the rental of buildings in the regular basis is treated under schedule ‘B’; income from the rental of business is treated under schedule ‘C’ and income from the casual rental of property (including any land, buildings, or movable asset) is treated under schedule ‘D’. In this case, the determination of taxable rental income under the three schedules is different due to each schedule has its own rules on the determination of such as the tax base, deductibles, and exemptions.

In principle taxable rental income of buildings under the Federal Income Tax Proclamation is the gross amount of income derived by a rental taxpayer from the rental of buildings for the year reduced by the total amount of deductions allowed to a taxpayer for the year.¹⁹³ And the gross amount of income derived by a taxpayer from the rental of a building for a tax year includes:

- ✓ “all amounts derived by the taxpayer during the year under the lease agreement, including any lease premium or similar amount;
- ✓ All payments made by the lessee during the year on behalf of the lessor according to the lease agreement;
- ✓ The amount of any bond, security, or a similar amount that, during the year, the taxpayer is entitled to retain as a result of damage to the building and that has not been used by the taxpayer in repairing the damage to the building; and
- ✓ The value of any renovation or improvement made under the lease agreement to the building when the cost was borne by the lessee in addition to the rent payable to the taxpayer.”¹⁹⁴

And it also includes any amount attributable to the lease of the furniture or equipment if a taxpayer leases a furnished building.¹⁹⁵ The rental income of a taxpayer from a building below 7201 Birr per year is exempted from rental income tax under the Federal Income Tax Proclamation.¹⁹⁶

In principle taxable income from the rental of business under the Federal Income Tax Proclamation is determined with the aggregation of the total business income of a taxpayer for

¹⁹³ Art. 15(1) of the Federal Income Tax Proclamation, supra note 7.

¹⁹⁴ Art. 15(2) of the Federal Income Tax Proclamation, supra note 7.

¹⁹⁵ Art. 15(3) of the Federal Income Tax Proclamation, supra note 7.

¹⁹⁶ Art. 14(2) of the Federal Income Tax Proclamation, supra note 7.

the year reduced by the total deductions allowed to the taxpayer for the year.¹⁹⁷ And taxable rental income from the casual rental of property (including any land, buildings, or movable asset) is the annual gross rental income.¹⁹⁸ There is no deduction and exemption for a casual rental income tax taxpayer under the income tax system.

Generally, the determination of taxable rental income of property rental income under the three schedules (schedule 'B', schedule 'C', and schedule 'D') of the income tax system of Ethiopia has made tax liability differences among similar rental income taxpayers. That schedule 'B' rules recognized standard deductions for those taxpayers who do not maintain books and records,¹⁹⁹ but those taxpayers who do not maintain books and records under schedule 'C' are not entitled standard deductions rather they are subject to the regime of standard assessment.²⁰⁰ And the casual rental income tax of property under schedule 'D' is final or imposes on the gross rental income of the taxpayers with excluding any deductions of casual rental-related expenses and exemptions.²⁰¹ These differences of deductibles and exemptions rules in the determination of taxable rental income under the three schedules (schedule 'B', schedule 'C' and schedule 'D') of the Federal Income Tax Proclamation No. 979/2016 has made in-equitability and unfairness between rental income taxpayers.

3.6.2 Deductibles and Exemptions

Due to the rental income tax of property under the Ethiopian income tax system has been treated under different schedules which have their own rules and tax rates; the deductibles and exemptions are not similar across the schedules. Tax on rental income of schedule 'B' and schedule 'C' is imposed after deduction of expenses allowed under each schedule²⁰² and the exemption (7200 Birr).²⁰³ But the deductibles and exemptions under schedule 'C' are applied on the aggregate total gross income of all business activities not only on rental business income. And unlike schedule 'B' and schedule 'C' tax on casual rental income of schedule 'D' is final (excluding any deductibles and exemptions).²⁰⁴ And the deductible expenses allowed under schedule 'B' and schedule 'C' are not the same.

In principle all expenses incurred by the rental income taxpayers who maintain books of account in deriving rental income under schedule 'B' are deductible. According to the Federal Income Tax Proclamation No. 979/2016, schedule 'B' rental income taxpayers who maintain books of

¹⁹⁷ Art. 20 of the Federal Income Tax Proclamation, supra note 7 and Art. 27 & ff. of the Federal Income Tax Regulation, supra note 9.

¹⁹⁸ Art. 58(1) of the Federal Income Tax Proclamation, supra note 7.

¹⁹⁹ Art. 15(5) of the Federal Income Tax Proclamation, supra note 7.

²⁰⁰ Art. 49 of the Federal Income Tax Proclamation, supra note 7 and Art. 49 of the Federal Income Tax Regulation, supra note 8.

²⁰¹ Art. 58(1) of the Federal Income Tax Proclamation, supra note 7.

²⁰² Art. 15 and 20-25 of the Federal Income Tax Proclamation, supra note 7 and Art. 27-41 of the Federal Income Tax Regulation, supra note 9.

²⁰³ Art. 14(2), 15(4), 19(2) and 21(2) of the Federal Income Tax Proclamation, supra note 7.

²⁰⁴ Art. 58(1) of the Federal Income Tax Proclamation, supra note 7.

account can entitled deductions allowed for any expenses to the extent necessarily incurred by the taxpayers in deriving rental income and paid during the tax year including:

- ✓ “the cost of the lease of land on which the building is situated;
- ✓ Repairs and maintenance;
- ✓ Depreciation of the building, furniture and equipment;
- ✓ Interest and insurance premiums; and
- ✓ Fees and charges, but not tax, levied by a State or City Administration in respect of the land or building leased”.²⁰⁵

If a rental income taxpayer under schedule “B” who has required maintaining books of account failed to do so, the taxable rental income of a taxpayer is determined by reducing 35% of the total gross rental income as expenses and the remaining 65% is considered as a taxable income.²⁰⁶

And schedule ‘B’ rental income taxpayers who do not maintain books of account, a deduction shall be allowed for the following amounts:

- “Fees and charges, but not tax, levied by a State or City Administration in respect of the land or building leased and paid by the taxpayer during the year;
- An amount equal to fifty percent (50%) of the gross rental income derived by the taxpayer for the year as an allowance for the repair, maintenance and depreciation of the building, furniture and equipment”.²⁰⁷

The standard deduction of an amount to fifty percent (50%) of the gross rental income derived by the taxpayers who do not maintain books of account is applicable for schedule ‘B’ taxpayers²⁰⁸ only. The rental income taxpayers of schedule ‘C’ who do not maintain books of account are not allowed to the standard deduction of an amount to fifty percent (50%) of the gross rental income; rather they are subject to the regime of standard assessment.²⁰⁹ These deductibles and exemptions rules under schedule ‘B’, schedule ‘C’ and schedule ‘D’ has been creating inequality and unfairness among similar rental income taxpayers of the three schedules.

3.6.3 Rental Income Tax Declaration, Assessment and Collection

- a. Rental Income Tax Declaration:- any rental income taxpayer is expected to declare his/its rental income for the proper implementation of tax laws. The declaration of income, expenses and documents attached to the declaration will assist the tax authority to asses

²⁰⁵ Art. 15(7) of the Federal Income Tax Proclamation, supra note 7.

²⁰⁶ Art. 7(5) of the Ethiopian Revenue and Customs Authority Presumptive Tax Enforcement Directive, supra note 29.

²⁰⁷ Art. 15(5) of the Federal Income Tax Proclamation, supra note 7.

²⁰⁸ Id.

²⁰⁹ Art. 49 of the Federal Income Tax Proclamation, supra note 7 and Art. 49 of the Federal Income Tax Regulation, supra note 9.

and determine the proper amount of tax liability of the taxpayers. Proper declaration of income, expenses and documents attached to declaration will also protect the taxpayers from the arbitrary imposition of tax liability by the tax authority and facilitate the tax assessment.²¹⁰ According to the Federal Tax Administration Proclamation and Federal Tax Administration Regulation, every taxpayer who have required to file a tax declaration shall made their tax declaration in the approved form of the tax authority and in the manner prescribed by the authority.²¹¹ All rental income taxpayers (schedules ‘B’, ‘C’ & ‘D’) are expected to submit the rental income declaration in a form and manner of the tax authority prescribed. The taxpayers in general under the Federal Income Tax Proclamation are categorized in to three categories. Category “A” taxpayer being a company or any other person having an annual gross income of Birr 1,000,000 or more; Category “B” taxpayer being a person, other than a Company, having an annual gross income of Birr 500,000 or more but less than 1,000,000 and; Category “C” taxpayer being a person other than a Company, having an annual gross income of less than Birr 500,000.²¹² A Category “A” or “B” taxpayer should file a tax declaration within 4 months or 2 months from the end of the tax year, respectively. For a Category “A” taxpayer the declaration shall include taxpayer’s profit and loss statement and balance sheet for the year. On the contrary a Category B taxpayer should only attach the taxpayer’s profit and loss statement for the year. Category A or Category B taxpayers should pay the due tax when the period of tax declaration for the year is due. A Category “C” taxpayer is required to file for a tax declaration and subsequently pay the due tax from 7th day of July to 6th day of August each fiscal year. And a taxpayer who has Schedule “D” income for a tax year that is not discharged by the withholding of tax from the income shall file a tax declaration within 2 months after the date of the transaction. The payment of the tax should also be effected when such period is due.²¹³ As the interviewed tax officials described²¹⁴, though the tax administration laws imposed a duty on rental income taxpayers to declare income, expenses and documents attached to the declaration in the prescribed form and manner, most rental income taxpayers are not complying with it. Especially most landlords of residential houses have not submitted the lease contract to the tax authority for assessment and determination of the proper amount of their tax liability.

²¹⁰ Elsabet Dessalegn, the Right of Tax Payers to Due Process in Tax Administration in Ethiopia: A Case Oriented Study. A Research Project Submitted in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Law, School of Law and Governance, Addis Ababa University 29-30 (2015).

²¹¹ Art. 21-24 of the Federal Tax Administration Proclamation, supra note 13 and Art. 8 of the Council of Ministers Federal Tax Administration Regulation No. 407/2017, Federal Negarit Gazeta, 22rd Year No.79, 9th August 2017 (herein after the Federal Tax Administration Regulation).

²¹² Art. 3 of the Federal Income Tax Proclamation, supra note 7.

²¹³ Art. 83 & 84 of the Federal Income Tax Proclamation, supra note 7.

²¹⁴ An interview conducted with We/ro Zenet Mohammed, taxpayers registration and information officer of Western Addis Ababa Federal Higher Tax Payers Branch Office and We/ro Bogalech Abebe, tax assessment auditor of Addis Ababa City Administration Nifas Silk Lafto Sub City Small Tax Payers Branch Office, on May 24, 2020.

- b. Rental income tax assessment:- tax assessment is conducted one of the two types of tax assessment: self-assessment²¹⁵ and official government assessment²¹⁶. In the self-assessment system, the taxpayers make to know their tax obligations and rights by the tax authority. They calculate their own tax liability to complete their tax return and to remit the correct amount of tax at the time required by the law without the intervention of the tax officials in each process except selectively at a later stage to audit returns.²¹⁷ The taxpayers play a key role in determining the tax due. The taxpayers expected to analyze and calculate the tax liability. The tax authority may investigate the self-assessment when it suspects a fraudulent act.²¹⁸ It is presumed as a good strategy of tax administration to administer tax laws effectively. That the taxpayers have more responsibility, due to they prepared their tax returns without the direct assistance and confirmation of tax administrators.²¹⁹

In official government assessment, the taxpayers' participation is very minimal that they only required submitting different information and documents which used to determine the tax liability by the tax authority. The tax assessment may be made by the way of assessment based on books of account and assessment by estimation. In the assessment based on books of account, the records and accounts of the taxpayers will be examined by the tax authority. And in assessment by estimation, the tax authority determines the tax liability of the taxpayers based on different information gathered about the income of the taxpayers.²²⁰

- c. Rental income tax collection:- generally tax payments required to be in line with the income of the taxpayers and proportion to the taxpayers' level of income. And the cost of collection and the taxes should not be discouraging doing business. It should be conscious and convenient.²²¹ According to the Federal Tax Administration Proclamation, tax is a debt owed to the government and shall be payable to the tax authority in the authorized method prescribed by the tax authority in the due date.²²² And if the taxpayers fail to pay tax in the due date by the prescribed method, the taxpayers shall be liable for additional costs in which the tax authority incurred in recovering the unpaid tax.²²³

²¹⁵ Art. 25 of the Federal Tax Administration Proclamation, supra note 13.

²¹⁶ Art. 26-30 of the Federal Tax Administration Proclamation, supra note 13.

²¹⁷ David Crawford, Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean, Chapter 7 Filing and Payment. USAID Leadership in Public Financial Management 7 (August 2013).

²¹⁸ Elsabet, supra note 210, at 28.

²¹⁹ Crawford, supra note 217.

²²⁰ Elsabet, supra note 210, at 29.

²²¹ Abeba Zeleke, Assessment of Tax Administration focusing on Tax Assessment and Collection procedure in case of Nifas Silk Lafto Sub City Small Taxpayers Branch Office Branch. A Research Project Submitted in Partial Fulfillment of the Requirements for the Degree in Bachelor of Arts in Accounting, Kidist Mariam University College 15(May, 2013).

²²² Art. 30(1&2) of the Federal Tax Administration Proclamation, supra note 13.

²²³ Art. 30(3) & 31-36 of the Federal Tax Administration Proclamation, supra note 14.

According to the information gathered from the interviewed legal experts and tax officers,²²⁴ the amount of rental income tax that it should have been collected is not collecting due to there is no relevant information on the income of the lessors. There is no clear and mandatory law that regulates and imposed a duty on all lessors to conclude a written contract with the lessees and registered and deposited to the concerned government body (like the Federal Documents Registration and Authentication Authority). Even though the Ministry of Revenue Directive No. 152/2011 imposed a duty on the commercial buildings lessors to registered the lease contract that is concluded for three months and above to the concerned body, its scope and application exclude most lessors.²²⁵ As such unless the lessors voluntarily announced their rental income and the tax authority reached by its tax intelligence and third parties information, knowing their rental income is very minimal. Tax collection from the rental income of non-commercial buildings lessors (especially from private houses lessors) has remained negligible even though gaining a significant amount of rental income from private rental houses has increased due to the urban population growth and the persistent housing problem of urban areas. To incorporate all private house lessors into the tax network, the tax authority should give emphasis to private house lessors like any other business community.

3.6.4 Enforcement Measures

The capacity of a country to collect a significant amount of tax revenue from domestic sources is highly influenced by the efficiency of the institution of tax administration.²²⁶ Effective tax administration enhances high tax compliance and ensures high tax revenue by reducing the opportunities of tax evasion and tax avoidance. The modern tax administration system has not function on the fear of sanction alone. There should be much emphasis on the treatment of taxpayers as clients than as would-be criminals by reducing taxpayers' compliance costs and uncertainty on the rules and procedures of taxation.²²⁷ Low tax revenue can be the result of the improper enforcement of the tax laws provisions; due to the low capacity of the tax administration authority or the improper relationship of the tax administration authority and the taxpayers in the taxation process. Tax administration could be secured by enhancing taxpayers' compliance with the tax laws through keeping the proper registration, assessment and collection procedures of taxation. Tax compliance is a crucial issue of any tax systems in the world. It refers to "an accurate reporting of income and expenses claims in accordance with tax stipulated laws".²²⁸ Hence tax is the main source of government revenue for public expenditure, ensuring tax compliance is very critical for every government of the world. It is almost impossible to improve the tax revenue collection capacity of the government without enhancing the tax

²²⁴ An interview conducted with Ato Amir and Bekena, supra note 185, Ato Teshome, supra note 190 and We/ro Zenet, supra note 214.

²²⁵ Art. 22(1)(a) of the Ministry of Revenue Books of Account and Records Enforcement Directive No. 152/2011, in Amharic (unpublished).

²²⁶ Muleya, et al supra note 14, at 15.

²²⁷ M.Bird, supra note 50, at 37.

²²⁸ Waithira, supra note 60, at 1-2.

compliance of taxpayers. The Ethiopian government has made many measures to ensure that the tax base is broadened, voluntary compliance is improved, and domestic resource mobilization is enhanced to reduce the fiscal deficit of the country. The government has revised the income tax law and enacted a separate tax administration law to improve the tax administration system.

The Federal Tax Administration Proclamation empowers the tax administration authority to take any measures on the taxpayers who are not comply with the tax laws and participate in tax evasion or any illegal activities. It has empowered without any restriction to enter, search and seized any premises, place, goods, property, document, and data storage device.²²⁹ And it has also empowered to issue order for a temporary closure of business²³⁰; and to issue order to the financial institutions serving for 10 days for the preservation of funds and assets deposited with financial institutions²³¹. On these powers of the tax authority, two different arguments are forwarded. The first argument is that these powers of the tax authority are contrary to the constitutionally safeguarded rights of the privacy of citizens.²³² The supporters of this argument strongly argue that Art. 26 of the FDRE Constitution safeguard the rights of privacy and it provides the very exceptional conditions in which these rights may be limited by law. But the powers of the tax authority with regard to enter, search and seized any premises, place, goods, property, document, and data storage device is not categorized under the very exceptional conditions of the Constitution. As such these unlimited powers of entering, searching and seizure including the issuance of order should not be given to the tax authority. The second argument on the other hand is that the power of the tax authority is constitutional on the basis of Art. 26(3) of the FDRE Constitution due to the issue of tax is the interest of the public at large.²³³

In other tax systems like USA, the tax administration authority power to search and seize taxpayers' property is not unlimited like in the case of Ethiopia. The tax administration authority may only be searched and seize the property of the taxpayers if prior judicial warrant is given.²³⁴ This means that the appropriateness of the search and seizure of taxpayers property is determined and specified by the involvement of courts /the judiciary/ rather than the exclusive power of the tax administration authority /the executive/.

3.6.5 Dispute Settlement

The dispute in the taxation process may be raised as a result of confusion as to the scope of application of the tax law; the ambiguity and vagueness of certain provisions of the tax laws; not being able to understand the correct meaning or interpretation of a given legal provision (by both

²²⁹ Art. 41 & 66 of the Federal Tax Administration Proclamation, supra note 13.

²³⁰ Art. 45 of the Federal Tax Administration Proclamation, supra note 13.

²³¹ Art. 42 of the Federal Tax Administration Proclamation, supra note 13.

²³² An interview conducted with Ato Amir and Bekena, supra note 185.

²³³ An interview conducted with Ato Fikadu Melesse and Ato Daniel, the legal expert of the Ministry of Revenue on July 10, 2020.

²³⁴ Elsabet, supra note 210, at 71.

parties); when the taxpayer fails to observe the legal obligations imposed specifically on him and when the tax authority arbitrarily imposed improper tax liability on the taxpayer.²³⁵

In the tax dispute settlement mechanism of the Ethiopian tax system, taxpayers have required to resolve a dispute that exists within the tax administration authority itself with the assessors or inspectors in the first place.²³⁶ And if the dispute is not resolved, the dispute is entertained by the review department which is established within the tax administration authority with a certain level of autonomy and independence.²³⁷ But the review department shall follow the procedures specified by the tax administration authority in reviewing the disputes hearings, and the basis for making recommendations to the Authority and the decision making procedure.²³⁸ And the power of the review department is that only giving recommendation to the tax administration authority. After having regard to the recommendations of the review department, the tax administration authority may accept or reject the recommendation in part or as a whole and makes an objection decision.²³⁹

A taxpayer who has dissatisfied with the objection decision of the tax administration authority and if the tax administration authority has not made an objection decision within 180 days from the date that the taxpayer filed notice of the objection and the end of such day, the taxpayer within 30 days may appeal to the Tax Appeal Commission (herein after TAC)²⁴⁰; which is established out of the tax administration authority and relatively autonomous and independence though it is on the executive wings of the government. But the right to appeal to the TAC is allowed on a condition of “only if the taxpayer has paid to the Authority 50% of the tax in dispute under the tax assessment”.²⁴¹

A taxpayer who has dissatisfied with the decision of the TAC may appeal to the Federal High Court (herein after FHC) within 30 days after being served with notice of the decision of the TAC on the conditions of “only if the taxpayer has paid 75% of the tax in dispute under the assessment” and “on a question of law only”.²⁴² And a taxpayer who has dissatisfied with the decision of the FHC may appeal to the Federal Supreme Court (herein after FSC) within 30 days after being served with notice of the decision of the FHC.²⁴³ This is the second appeal right of the taxpayer to the regular courts but only on a question of law. And in the whole levels of the proceeding, the burden of proof is on the taxpayers’ side.²⁴⁴

²³⁵ Elsabet ,supra note 210, at 74-75.

²³⁶ Art. 54 of the Federal Tax Administration Proclamation, supra note 13.

²³⁷ Art. 55(1) of the Federal Tax Administration Proclamation, supra note 13.

²³⁸ Art. 55(2) of the Federal Tax Administration Proclamation, supra note 13.

²³⁹ Art. 55(3&4) of the Federal Tax Administration Proclamation, supra note 13.

²⁴⁰ Art. 55(7) and 56(1) of the Federal Tax Administration Proclamation, supra note 13.

²⁴¹ Art. 56(2) of the Federal Tax Administration Proclamation, supra note 13.

²⁴² Art. 57(1, 3 & 4) of the Federal Tax Administration Proclamation, supra note 13.

²⁴³ Art. 58 of the Federal Tax Administration Proclamation, supra note 13.

²⁴⁴ Art. 59 of the Federal Tax Administration Proclamation, supra note 13.

In the tax dispute settlements of the Ethiopian tax system in general and rental income tax dispute settlement in particular, the taxpayer's right throughout the tax dispute resolution mechanism has limited by the following aspects:

- i. By limiting the channels of tax dispute settlement on the assessment of tax and of penalties only. The channels of tax dispute settlement has limited to the assessment of tax and of penalties. As such taxpayers have no chance to challenge the tax administration authority such as on the legality of the tax directives of the tax administration authority and the procedural irregularities of the tax administration process. In other tax system like UK and Australia, taxpayers have the right to challenge the tax administration authority on the grounds of such as “illegality, procedural irregularities, irrationality, and denial of natural justice, lack of jurisdiction or authority, and decision-based upon irrelevant consideration.”²⁴⁵
- ii. By limiting the appeal rights of those taxpayers who cannot pay 50% of the tax in dispute under the tax assessment to appeal the TAC and cannot pay 75% of the tax in dispute under the tax assessment to appeal the FHC. Due to this limitation, taxpayers may lose the constitutional right to be heard in the TAC and also in the regular courts on the question of law.
- iii. By limiting the right to appeal to the regular courts on the question of law only. Under the Ethiopian legal system, distinguishing the question of law from the question of fact is difficult. There is no clear definition that enables us to distinguish the question of law from the question of fact. As a result, taxpayers may be confused about the distinction of the question of law from the question of fact and cost unnecessary burden on them. And the taxpayers may be abused by the tax assessors and auditors using their power unlawfully. In this case, the taxpayers lose the right to be heard before the regular courts on such abuse of facts.
- iv. By imposing the burden of proof on the taxpayers only. Taxpayers may not be proved their claim due to in certain cases presentation of evidence on the side of taxpayers may be difficult while it may be easy on the side of the tax administration authority. As such the taxpayers would lose their right due to the burden of proof is imposed on the side of them only.

3.7 Legal and Practical Challenges in Rental Income in Ethiopia

3.7.1 Legal Challenges

Under the scheduler income tax system of Ethiopia, rental income of property has been divided under three schedules: rental income of buildings under schedule ‘B’, rental income of business under schedule ‘C’ and casual rental income of property (including any land, buildings, or movable asset) under schedule ‘D’. In this division of rental income, there are no detailed

²⁴⁵ Taddese Lencho, the Ethiopian Tax System: Excesses and Gaps. Michigan State International Law Review Vol. 20:2, 377(2012).

governing rules on rents and rental values that would ultimately delimit the nature and the scope of these schedules. The Federal Income Tax Proclamation simply referred the schedules as schedule 'B' as "income from the rental of buildings"²⁴⁶, schedule 'C' as "income from the lease of a business"²⁴⁷, and schedule 'D' as "casual rental income of property".²⁴⁸ There are no clear definitions provided for 'rental income', 'building', 'lease of business' and 'casual rental income' that are subject to rental income tax under each of the schedules. This ambiguous structural division of rental income creates differences in the application of the law which leads to in-equitability and unfairness between rental income taxpayers; and affects the administrative feasibility of the rental income tax system.²⁴⁹ For instance, two rental income taxpayers who have the same rental income may be taxed under different schedules which have different rules of deductibles and expenses. A rental income taxpayer who gained income from regular rent of buildings is treated under schedule 'B' and a rental income taxpayer who gained income from regular rent of the movable property is treated under schedule 'C' which have different rules of deductibles and expenses. As such even though the two rental income taxpayers have gained the same rental income, their rental income tax liability will be different.

And in the administration of rental income tax of property under the Ethiopian income tax system, the absence of special and mandatory rules that regulate the contractual relationship between landlords and tenants is the other legal challenge of the Ethiopian rental income system. The rental contractual agreements of house lease is governed by the Civil Code of Ethiopia, which is not required to be made in written and deposited in the concerned bodies.²⁵⁰ The Civil Code allows the contracting parties with respect to lease contracts of houses in the form they want (in written or orally).²⁵¹ Though Art. 2946 of the Civil Code states that the municipality within its jurisdiction may prepare a model contract form for the lease of houses, the provision is not mandatory for the parties to follow it and made in a written form.²⁵² And even though the Ministry of Revenue Directive No. 152/2011 imposed a duty on the commercial buildings lessors to registered the lease contract that is concluded for three months and above to the concerned body, its scope and application exclude most lessors (especially all private residential houses lessors).²⁵³ By these reasons, the absence of update special and mandatory rules regarding the formality requirements of the contractual relationship between the landlords and tenants; and the absence of a closely supervising body, accessing information to know house lessors and their income is difficult. As such un-regulation of the rental contractual relationships has been creating

²⁴⁶ Art. 13 & ff. of the Federal Income Tax Proclamation, supra note 7.

²⁴⁷ Art. 22 of the Federal Income Tax Regulation, supra note 9.

²⁴⁸ Art. 18 & ff. of the Federal Income Tax Proclamation, supra note 7.

²⁴⁹ Haleluya Tesfaye, Critical Assessment on the Enforcement of Rental Income Tax on the Ethiopian Orthodox Tewahido Church in Addis Ababa: Legal Loopholes and Practical Challenges. A thesis submitted in partial fulfillment of the requirements for the Award of Master of Laws (LL. M) in Business Law at School of Law, College of Law and Governance Studies, Addis Ababa University, 12(December, 2019).

²⁵⁰ The Civil Code, supra note 23.

²⁵¹ Id.

²⁵² Art. 2946 of the Civil Code, supra note 23.

²⁵³ The Ministry of Revenue Books of Account and Records Enforcement Directive, Supra note 225.

a huge legal challenge to capture houses rental incomes fully into the income tax nets significantly.

3.7.2 Practical Challenges

Even though rental income tax is dated back to the late 1940s, there are no detailed rules and regulations which distinguished schedule ‘B’ from schedule ‘C’ and schedule ‘D’ and govern the scope of application of each schedule.²⁵⁴ Though all properties (immovable, movable, tangible or intangible) may be the sources of rental income under the Ethiopian income tax system, the taxation of rental income from those properties is fragmentally under different schedules which have their own tax rates and deductibles and expenses rules in the income tax law. According to Tadesse, the practice surrounding the scope and meaning of schedule ‘B’ under the Ethiopian income tax system is “sketchy, patchy, anecdotal and at times inconsistent.”²⁵⁵ The scheduler structures of rental income taxation under the income tax system leads to the splitting of one business income (rental income) into three schedules (schedule ‘B’, schedule ‘C’ and schedule ‘D’) that creates opportunities for tax planning and tax allocation of income to less tax liabilities and double exemption floor, deductibles and expenses (especially for schedule ‘B’ and ‘C’ rental taxpayers).²⁵⁶ Those rental income taxpayers who pay the whole rental income under one schedule are more burden sum than those rental income taxpayers who splitting their rental income and pay under more than one schedule. In this case, two persons who have identical taxable rental income may have different tax burdens due to the artificial distinctions and the advantage of double-dip exemptions in the case where those persons engaged in two rental activities fall under different schedules (rental of immovable and rental of movable properties in a regular basis). A person who has engaged in both rental of buildings and machinery enjoy a floor exemption from both schedule ‘B’ and schedule ‘C’ and has less tax burden than a person who has engaged only either rental of buildings or machinery in a regular basis and has identical taxable rental income.

The current scheduler rental income tax structures of Ethiopia forces some businesses not only to split their incomes but also to report their rental income tax returns to different jurisdictions.²⁵⁷ For instance, a company that engaged in both rental of buildings and machinery required to report the rental income of the buildings to the Regional Governments or the Governments of the City Administrations in which the buildings are situated and the rental income of the machinery to the Federal Government. This is due to the different treatment of rental income tax of properties under the income tax law; that rental income from buildings in a regular basis under schedule ‘B’²⁵⁸ and rental income from machinery in a regular basis under schedule ‘C’.²⁵⁹

²⁵⁴ Haleluya, *supra* note 249.

²⁵⁵ Taddese, *Supera* note 3, at 347.

²⁵⁶ Taddese, *Supera* note 3, at 352.

²⁵⁷ Taddese, *Supera* note 3, at 351.

²⁵⁸ Art. 13-17 of the Federal Income Tax Proclamation, *supra* note 7.

Generally, the current scheduler rental income tax structure of Ethiopia creates practical challenges on both the rental income taxpayers and tax administration systems. Those rental income taxpayers who have gained rental income from the rental of different properties are required to file separately no matter how small the amount of tax is going to be paid in each of the schedules. That creates an unnecessary burden on rental income taxpayers which will affect the overall income tax administration. As the interviewed tax officers described, practically those rental income taxpayers of schedule 'C' are allowed to deductibles of bad debts and reinvestment while those rental income taxpayers of schedule 'B' are not allowed to deductibles of bad debts and reinvestment.²⁶⁰ And those rental income taxpayers of schedule 'B' who do not require to maintained books and records are entitled to a standard deduction of 50% of the gross income,²⁶¹ but those rental income taxpayers of under schedule 'C' are not entitled to a standard deduction of 50% of the gross income; rather they are subject to standard income tax assessment.²⁶² This is creating in-equitabilities and unfairness among similar rental income taxpayers.

²⁵⁹ Art. 2(2), 2(4) and 18-27 of the Federal Income Tax Proclamation, supra note 7 and Art. 10(4) of the Ethiopian Revenue and Customs Authority Presumptive Tax Enforcement Directive, supra note 29.

²⁶⁰ An interview conducted with We/ro Zenet and We/ro Bogalesh, supra note 214.

²⁶¹ Art. 15(5) of the Federal Income Tax Proclamation supra note 7.

²⁶² Art. 49 of the Federal Income Tax Proclamation, supra note 7 and Art. 49 of the Federal Income Tax Regulation, supra note 9.

CHAPTER FOUR

4 RENTAL INCOME TAX ADMINISTRATION IN DEBRE BERHAN TOWN

4.1 Description of the Study Area

Debre Berhan Town is found in North Shewa Zone of ANRS. It serves as the administrative center for North Shewa Zone and Basonna Worena Wereda. It is located in the North-Eastern part of the country's capital city of Addis Ababa at the road distance of 130 kilometers/kms/ and at the road distance of 695 kms from the capital city of ANRS Bahir Dar in the Eastern part of the region²⁶³. The town is bounded by the weredas of North Shewa Zone of ANRS and currently, it is classified with 9 planed boundary kebeles and 5 unplanned boundary /rural/ sub-kebeles with the total area of about 18,081 hectares from which 5711 hectares is plan bounded and built-up area under urban occupation. The population size of the town in 2013 CSA was estimated to 83,479. And currently, the population size of the town is estimated to 120,399.²⁶⁴ The nine planed boundary kebeles have their own administrative center. And they administered properties and give public services within their respective boundaries. Properties holders and owners in the town are private persons, city administration, regional government, federal government, religious institutions and other non-governmental institutions. And the revenue sources of the town includes: city service fees, rental income from the possession and property of the town administration (including kebele houses), ad Valorem tax/ betterment levy on the fixed asset which have transferred thereto through lease or in any contractual agreements as well as on urban landholding held in rental landholding system, budget support of the regional government, and other supports from international institutions.²⁶⁵

4.2 The Property and Rental System in Debre Berhan Town

The property rights and rental system in Debre Berhan Town are not so unique from the property rights and rental system of the country that noted in chapter three. After the dawn fall of the socialist regime of the Derg Government, all property rights except ownership of both urban and rural lands are fully recognized and exercised by private persons in the town. The ownership of both urban and rural lands is vested in the state and Ethiopian people.²⁶⁶ But except individual ownership right, selling, and exchanging it with other commodities all other rights including

²⁶³Dagne Amdetsion, Utility Service Provision from Planning Perspective. The case of Debre Berhan Town, ANRS, Ethiopia. International Journal of Scientific & Engineering Research Volume 8, Issue 8, 12-14(August 2017). Available at <https://www.ijser.org/researchpaper/Utility-Service-Provision-from-Planning-Perspective-The-case-of-Debre-Birhan-Town-ANRS-Ethiopia.pdf> (Accessed on July 27, 2020).

²⁶⁴ Data collected from Debre Berhan Town Utility Service Provision office.

²⁶⁵ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172.

²⁶⁶ The FDRE Constitution supra note 140 and the Revised Amhara National Regional Constitution, supra note 170.

renting it are not prohibited.²⁶⁷ Urban land holders in the town are lease holders, old land possession holders and informal holders. And urban houses possessors or owners in the town are private persons, the city administrations, the ANRS Houses Agency, religious institutions, and other governmental and non-governmental institutions. The city administration has collected service charges and other fees from those urban land and house holders for the service it rendered in the town according to the Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation No.69/2002.²⁶⁸

Property rental income in Debre Berhan town is categorized into two revenue types: the Town Administration Revenues and the Regional Government Revenues. Rental income from the possession and property of the town administration and the ad Valorem tax/ betterment levy on the fixed asset which have transferred thereto through lease or in any contractual agreements as well as on urban landholding held in rental landholding system is the revenues of the town administration. And rental income from buildings other than kebele houses that are under the possession or ownership of the city administration is the revenue of the regional government.²⁶⁹ Regarding the rent amount of houses, the city administrations and the ANRS Houses Agency put a regulated and mostly fixed rate of rent for their tenants. While private house lessors are at liberty to put the market price for rent by negotiating with their tenants.

In many countries, property taxes including rental incomes of properties are the fundamental sources of revenue for local government services.²⁷⁰ An efficient land and property taxation power of local governments can foster infrastructure and services in cities and towns and contribute to the improvement of local communities by fostering improved local accountability and responsiveness.²⁷¹ Scholars suggest that property tax on immovable property /land and buildings/ including rental income tax from their services should serve as independent sources of local government finance. The values of land and buildings increased with frequent services such as road, electricity, water, legal protections and other basic utilities provided by local governments. And the revenue base of land and buildings cannot readily shift to other jurisdictions like other forms of tax revenue basis.²⁷²

²⁶⁷ Art. 40(7&8) of the Constitution of the Federal Democratic Republic of Ethiopia, supra note 140 and the Revised Amhara National Regional Constitution, supra note 170.

²⁶⁸ Art. 5 of The Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation, supra note 171 and an interview conducted with Ato Getaneh and Ato Yasien, supra note 172.

²⁶⁹ An interview conducted with Ato Shambel Gashaw and Ato Dannel Negash Revenue Collection Officers of Debre Birhan Town Revenue Office, on July 7, 2020.

²⁷⁰ Property Taxation and Land Management. Available at <https://pdfs.semanticscholar.org/968f/a68307c066ec826c8835fe4496401d778238.pdf> (Accessed on July 27, 2020).

²⁷¹ Lawrence Walters, Land and Property Tax: A Policy Guide. UN-HABITAT 2011. Available at https://www.researchgate.net/publication/302593361_Land_and_Property_Tax_A_Policy_Guide/link/5731e34508aea45ee8363737/download (Accessed on July 27, 2020).

²⁷² IMF (1996 & 1998), supra note 48, at 267.

As such, the rental income tax of buildings is the revenue bases of local governments and it should be used for infrastructure and services of the local governments. For this reason, the laws that determine the city administrations and municipalities' revenue sources²⁷³ and the practice of rental income tax of buildings in Debre Berhan Town should be revisited so as to foster infrastructure and services in town and contribute to the improvement of local communities by fostering improved local accountability and responsiveness in the town.

4.3 Rental Income Tax Administration in Debre Berhan Town

4.3.1 Determination of Taxable Income

The tax base is critical issue in determining taxable income. Determining the taxable rental income is dependent on the ANRS tax legislations which are the verbal copy of the federal tax legislations. That rental income tax under the ANRS income tax law has been treated under schedule 'B' or under schedule 'C' or under schedule 'D' depending on the nature of income of the property. Income from the rental of buildings on the regular basis is treated under schedule 'B';²⁷⁴ income from the rental of business is treated under schedule 'C'²⁷⁵ and income from the casual rental of property (including any land, buildings, or movable asset) is treated under schedule 'D'.²⁷⁶ Each schedule has used different rules for determining the taxable rental income of the rental income taxpayers. That the taxable rental income of rental income taxpayers under schedule "B" is the gross amount of income derived by a rental taxpayer from the rental of buildings for the year reduced by the total amount of deductions allowed to a taxpayer for the year.²⁷⁷ And if the rental income of the taxpayers is below 7201 Birr per year, the rental income of the taxpayers is fully exempted.²⁷⁸ In the determining of the taxable rental income of the business rental income taxpayers under schedule "C" is with the aggregation of the total business income of a taxpayer for the year reduced by the total deductions allowed to the taxpayer for the year.²⁷⁹ And the income tax exemption below 7201 Birr per year is allowed only if the aggregate total business income of a taxpayer is below 7201 Birr per year.²⁸⁰ And taxable rental income of the casual rental income taxpayers under schedule "D" is final or imposes on the gross income of

²⁷³ The Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation, supra note 171.

²⁷⁴ Art. 13-17 of the Amhara National Regional State Income Tax Proclamation No.240/2016 Zikre-Hig Gazette, 14th Year No. 11, February 03, 2015.

²⁷⁵ Art. 2(2 & 4) and 18-22 of the Amhara National Regional State Income Tax Proclamation supra note 274; Art. 22 of the Regional Council of Regional Government Income Tax Regulation No. 163/2018 Zikre-Hig Gazette, 14th Year No. 11, December 12, 2018. And Art. 4 and the table attached thereof of the ANRS Revenue Bureau Presumptive Tax Enforcement Directive No. 002/2011, in Amharic (unpublished).

²⁷⁶ Art. 55 of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁷⁷ Art. 15(1) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁷⁸ Art. 14(2) and 15(4) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁷⁹ Art. 20(1) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁸⁰ Art. 19(2) and 21(2) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

the taxpayers with no or excluding any deductions of casual rental-related expenses and exemptions.²⁸¹

According to the interviewed tax officers of the Bebre Berhan Town Revenue Office²⁸², the practice in the determination of taxable rental income of schedule ‘B’, ‘C’ and ‘D’ in the town is as follows. Income from the rental of houses or schedule ‘B’ rental income tax in the town has imposed after reducing deductible expenses which are produced by the rental income taxpayers and accepted by the tax administration authority and exempted rental income (7200 Birr) in the tax year, if the rental income taxpayers have required maintaining books and records. And if a rental income taxpayer who has required maintaining books and records failed to do so, the rental taxable income is 65% of the gross rental income and the remaining 35% of the gross rental income of a rental income taxpayer is considered as expenses. And if the rental income taxpayers have not required maintaining books and records, the rental taxable income is only 50% of the gross rental income and the remaining 50% of the gross rental income of a rental income taxpayer is considered as expenses. The taxable rental income of the business rental income taxpayers under schedule “C” has determined with the aggregation of the total business income of a taxpayer for the year reducing deductible expenses which are produced by the rental income taxpayers and accepted by the tax administration authority and exempted aggregate business income (7200 Birr) in the tax year, if the business income taxpayers have required maintaining books and records. And if a rental income taxpayer who has required maintaining books and records under schedule “C” failed to do so, the taxable income is 80% of the gross total business income and the remaining 20% of the gross total business income of a rental business income taxpayer is considered as expenses. And if the rental income taxpayers have not required maintaining books and records under schedule “C”, the rental taxable income is determined based on the regime of standard assessment.²⁸³ And the taxable rental income of the casual rental of property (including any land, buildings, or movable asset) or schedule “D” rental income is the gross income of the taxpayers in the tax year without any deductibles and exemptions. As the interviewed tax officers description, in the determination of taxable casual rental income of schedule “D” has no deductibles and exemptions due to the income is not from the regular activities of the taxpayers and the possibility of expenses expenditure and loses in such casual activity is very minimal.²⁸⁴ But these reasons are not persuasive due to the rental activity is casual is not mean that the casual rental income taxpayers have no expenses and loses in the securing of the rental income.

²⁸¹ Art. 55 of the Amhara National Regional State Income Tax Proclamation, *supra* note 274.

²⁸² An interview conducted with Ato Getaneh and Ato Yasien, *supra* note 171 and Ato Shambel and Ato Dannel, *supra* note 269.

²⁸³ The ANRS Revenue Bureau Presumptive Tax Enforcement Directive, *supra* note 275 and an interview conducted with Ato Getaneh and Ato Yasien, *supra* note 172.

²⁸⁴ An interview conducted with Ato Shambel and Ato Dannel, *supra* note 269.

Thus the practice of the manners of determining taxable rental income under the three schedules (schedule “B”, schedule “C” and schedule “D”) in Debre Berhan Town and the ANRS income tax laws like the federal income tax laws (as discussed in chapter three above) have been creating in-equitability and unfairness among rental income taxpayers.

4.3.2 Deductibles and Exemptions

The rules and amount of deductibles and exemptions under the ANRS income tax laws are different across the schedules (schedule “B”, schedule “C” and schedule “D”); in the same manners of the federal income tax laws (as discussed in chapter three). Tax on rental income of schedule ‘B’ and schedule ‘C’ is imposed after deduction of expenses²⁸⁵ and exemptions²⁸⁶ allowed under each schedule; that the deductibles of expenses under schedule “B” is applied on the total gross rental income from buildings only and the deductibles of expenses under schedule “C” is applied on the aggregate total gross business income from all business activities. But the tax on casual rental income of schedule ‘D’ is final (excluding any deductibles and exemptions).²⁸⁷

According to the Amhara National Regional State Income Tax Proclamation No. 240/2016, schedule ‘B’ rental income taxpayers who maintain books of account can entitled deductions allowed for any expenses to the extent necessarily incurred by the taxpayers in deriving rental income and paid during the tax year including:

- ✓ “the cost of the lease of land on which the building is situated;
- ✓ Repairs and maintenance;
- ✓ Depreciation of the building, furniture and equipment;
- ✓ Interest and insurance premiums; and
- ✓ Fees and charges, but not tax, levied by a State or City Administration in respect of the land or building leased”.²⁸⁸

And if those rental income taxpayers under schedule “B” who have required maintaining books and records have failed to maintain books and records, the taxable rental income of the taxpayers’ is determined by reducing 35% of the total gross rental income as expenses and the remaining 65% is considered as a taxable income.²⁸⁹ But if those rental income taxpayers under schedule “C” who have required maintaining books and records have failed to maintain books and records, the taxable rental income of the taxpayers’ is determined by reducing 20% of the total gross business income as expenses and the remaining 80% is considered as a taxable

²⁸⁵ Art. 15 and 20-25 of the Amhara National Regional State Income Tax Proclamation, supra note 274 and Art. 27-41 of the Regional Council of Regional Government Income Tax Regulation, supra note 275.

²⁸⁶ Art. 14(2), 15(4), 19(2) and 21(2) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁸⁷ Art. 55 of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁸⁸ Art. 15(7) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁸⁹ Art. 7(5) of the ANRS Revenue Bureau Presumptive Tax Enforcement Directive, supra note 275.

income.²⁹⁰ And schedule ‘B’ rental income taxpayers who do not maintain books of account, a deduction shall be allowed for the following amounts:

- “Fees and charges, but not tax, levied by a State or City Administration in respect of the land or building leased and paid by the taxpayer during the year;
- An amount equal to fifty percent (50%) of the gross rental income derived by the taxpayer for the year as an allowance for the repair, maintenance, and depreciation of the building, furniture and equipment”.²⁹¹

The standard deduction of an amount to fifty percent (50%) of the gross rental income derived by the taxpayers who do not maintain books of account is applicable for schedule ‘B’ rental income taxpayers only.²⁹² The rental income taxpayers of schedule ‘C’ who do not maintain books of account are not allowed to the standard deduction of an amount to fifty percent (50%) of the gross rental income; rather they are subject to the regime of standard assessment.²⁹³

And according to the interviewed tax officers of the Bebre Berhan Town Revenue Office, in practice all deductibles and exemptions allowed for schedule ‘C’ rental income taxpayers have not allowed for schedule ‘B’ rental income taxpayers. Deductibles such as hospitality expenditures incurred by an employee in receiving guests from outside the business for the purposes of promoting and enhancing the business, medical expense incurred for employees, and business promotion expenses, are not practically deductible for schedule ‘B’ rental income taxpayers. The reason raised by them is that in most of the time to generate rental income of schedule ‘B’ has not need such employees. These employees are always for pensions and guest houses that are taxed under schedule ‘C’.²⁹⁴ But this reason has not hold water due to in reality many schedule ‘B’ rental income taxpayers in the town have security guards and cleaners/sanitation employees for their rented buildings.

These deductibles and exemptions rules under schedule ‘B’, schedule ‘C’ and schedule ‘D’ has been creating in-equitability and unfairness among similar rental income taxpayers of the three schedules. Due to similar rental income taxpayers’ tax liability is different under the three schedules as indicated above.

4.3.3 Rental Income Tax Declaration, Assessment, and Collection

On the issue of rental Income Tax Declaration, according to the ANRS Tax Administration Proclamation and ANRS Tax Administration Regulation, every taxpayer who has required filing

²⁹⁰ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172.

²⁹¹ Art. 15(5) of the Amhara National Regional State Income Tax Proclamation, supra note 274.

²⁹² Id.

²⁹³ Art. 48 of the Amhara National Regional State Income Tax Proclamation, supra note 274 and Art. 49 of the Regional Council of Regional Government Income Tax Regulation, supra note 275.

²⁹⁴ An interview conducted with Ato Getaneh and Ato Yasien, supra note 171 and Ato Shambel and Ato Dannel, supra note 269.

a tax declaration shall made their tax declaration in the approved form of the tax authority and in the manner prescribed by the authority.²⁹⁵ The authority notice in writing the taxpayers to file the tax in the manner and in the due date specified in the notice. By these taxes administration laws, all rental income taxpayers (schedules ‘B’, ‘C’ & ‘D’) are expected to submit the rental income declaration in a form and manner of the tax authority prescribed. The tax authority may determine a taxpayer’s tax liability based on any reliable and verifiable sources of information available to it.

The practice in Debre Berhan Town as the interviewed tax officers described that though the tax administration laws imposed duty on rental income taxpayers to declare income, expenses and documents attached to the declaration in the prescribed form and manner, most rental income taxpayers are not complying with it.²⁹⁶ According to the interviewed tax officers, many landlords of residential houses have not submitted the lease contract to the tax authority for assessment and determination of the proper amount of their tax liability. Even some landlords have submitted the lease contracts, the amount of lease described on the lease contract is much-reduced amount. Rental income taxpayers have not declared proper information regarding their rental incomes. For these reason, the tax Follow-up Work Process officers prepare annual market rent based on third party information and personal observation of the houses by recording the quality, location or distance from the main road of the town.²⁹⁷ When it comes to rental income tax assessment, tax assessment is conducted one of the two types of tax assessment: self-assessment²⁹⁸ and official government assessment.²⁹⁹ In the self-assessment system, the taxpayers make to know their tax obligations and rights by the tax authority. The taxpayers play a key role in determining the tax due. The taxpayers expected to analyze and calculate the tax liability. In official government assessment, the taxpayers’ participation is very minimal that they only required submitting different information and documents which used to determine the tax liability by the tax authority.

The practice in Debre Berhan Town as the interviewed tax officials described is that most rental income tax has been assessed by the official government assessment method based on the information gathered by the tax Follow-up Work Process officers.³⁰⁰ In most cases, the rental income taxpayers have not made to know their rental income tax obligations and rights to the tax authority. That rental income tax liability is determined by the tax authority on annually

²⁹⁵ Art. 21 of the Amhara National Regional State Tax Administration Proclamation No. 241/2016 Zikre-Hig Gazette, 20th Year No. 4, February 03, 2016 and Art. 8 of the Regional Council of Regional Government Tax Administration Regulation No. 162/2018 Zikre-Hig Gazette, 20th Year No. 4, December 12, 2018.

²⁹⁶ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172 and Ato Alemu Bereket, the Follow-up Work Process Officers of Debre Berhan Town Revenue Office, on July 3, 2020.

²⁹⁷ An interview conducted with Ato Shanbel Gashaw, supra note 269 and W/ro Alemtsehay asgellew the Follow-up Work Process Officers of Debre Berhan Town Revenue Office, on July 5, 2020.

²⁹⁸ Art. 25 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

²⁹⁹ Art. 26-30 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³⁰⁰ An interview conducted with Ato Getaneh supra note 172 and Ato Yechale Melese Revenue Collection Officers of Debre Berhan Town Revenue Office, on July 5, 2020.

collected information about the rental income taxpayers by tax Follow-up Work Process officers.³⁰¹ In the rental income tax assessment process, the taxpayers' participation is very minimal that they may only require submitting different information and documents which used to determine the tax liability by the tax authority. The reason for the minimal participation of rental income taxpayers in the rental income tax assessment process as some tax officers described³⁰² and as personally observed, the rental income taxpayers perception on rental income tax is not positive, the relationship between the taxpayers and the tax authority is hostile, and absence of intensive tax education and awareness creation to the rental income taxpayers.

The other and the important task in rental income tax administration is rental income tax collection. According to the ANRS Tax Administration Proclamation, tax is a debt owed to the government and shall be payable to the tax authority in the authorized method prescribed by the tax authority in the due date.³⁰³ And if the taxpayers fail to pay tax in the due date by the prescribed method, the taxpayers shall be liable for additional costs in which the tax authority incurred in recovering the unpaid tax.³⁰⁴ In the administration of rental income tax of property in Debre Berhan Town, accessing accurate information about property lessors' income is the big challenge of the tax revenue authority. That the amount of rental income tax that it should have been collected is not collecting due to there is no relevant information on the income of the lessors.³⁰⁵ There is no proper property registration system and clear and mandatory law that imposed a duty on all property lessors to conclude a written contract with their lessees and registered and deposited to the concerned government body. As such unless there is a compelling registration of new property rent-out and proper improvement in keeping records of rented property for the proper management of the rental income tax of property, detecting rental income tax evasion of property by the investigation of the tax Follow-up Work Process officers is not effective enough. According to the interviewed tax officers of the Debre Berhan Town Revenue Office,³⁰⁶ in practice income from the rental of buildings owned by religious institutions is taxed when the buildings have rented to bodies/ such as government institutions, banks, and insurances/ due to such bodies have the duty to withhold rental tax when they paid rent to the religious institutions. The tax officers said that there is no religious institution that has registered as taxpayers and paid rental income tax in the town.³⁰⁷ Rental income tax from buildings owned by religious institutions is not collected significantly due to there is no clear understanding of whether they are taxable or not. The reason they raised is that religious institution are not profit makers and so they should not be registered as taxpayers and paid tax. But the income tax laws of the region are not yet exempted from any rental income tax of property. And rental income tax from buildings owned by the ANRS Houses Development Agency /herein after the Agency/ in

³⁰¹ Id.

³⁰² An interview conducted with Ato Shambel and Ato Dannel, supra note 269.

³⁰³ Art. 30(1&2) of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³⁰⁴ Art. 30(3) and 31-36 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³⁰⁵ An interview conducted with Ato Getaneh, supra note 172 and Ato Shambel, supra note 269.

³⁰⁶ An interview conducted with Ato Getaneh and Yasien, supra note 172.

³⁰⁷ Id.

the town has not been collected by the Debre Berhan Town Revenue Office. The tax officers of the town revenue office said that rental income from these buildings has not been taxed due to they are fully established by government budget and wholly owned by it.³⁰⁸ But according to the interviewed conducted with the administrator of the buildings in the town or the employee of the Agency in Debre Berhan Town, rental income from these buildings have been taxed with the whole rental incomes of the Agency across the region at a tax rate of 30% annually as a body for the ANRS Revenue.³⁰⁹

4.3.4 Enforcement Measures

Tax administration could be secured by enhancing taxpayers' compliance with the tax laws by keeping the proper registration, assessment, and collection procedures of taxation. Effective tax administration enhances high tax compliance and ensures high tax revenue by reducing the opportunities for tax evasion and tax avoidance.³¹⁰ Low tax revenue can be the result of the improper enforcement of the tax laws provisions; due to the low capacity of the tax administration authority or the improper relationship of the tax administration authority and the taxpayers in the taxation process. The tax enforcement measures should be clear and be specified by the law and it should not be opened gaps for tax evasion and tax avoidance and abuse of power by the authority.

The ANRS Tax Administration Proclamation in the same manner as the Federal Tax Administration Proclamation as discussed in chapter three empowers the tax administration authority to take any measures on the taxpayers who do not comply with the tax laws and participate in tax evasion and avoidance or in any illegal activities. It has empowered without any restriction to enter, search, and seized any premises, place, goods, property, document, and data storage device.³¹¹ And it has also empowered to issue an order for the temporary closure of business, and to issue an order to the financial institutions serving for 10 days for the preservation of funds and assets deposited with financial institutions.³¹² Regarding these unlimited tax enforcement measures of the tax authority powers, two opposite arguments are forwarded by different legal experts. The first argument is that giving unlimited power to the tax administration authority has been opened a chance for violations of the constitutionally safeguarded rights of privacy of citizens.³¹³ The tax administration authority as a party in the issues of the taxation activity, it may not be decided impartially whether such as search and seizure, temporary closure of business and preservation of funds and assets deposited with financial institutions is necessary or not. As such the power to issue orders such as to search and

³⁰⁸ Id.

³⁰⁹ An interview conducted with Wo/ro Nardous Bahru the administrator of buildings owned by the ANRS Houses Development Agency in Debre Berhan Town, on July 21, 2020.

³¹⁰ Waithira, supra note 60, at 1-2.

³¹¹ Art. 41 and 66 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³¹² Art. 42 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³¹³ Art. 26 of the FDRE Constitution, supra note 140 and the Revised Amhara National Regional Constitution, supra note 170.

seizure, temporary closure of business, preservation of funds, and assets deposited with financial institutions should not be the power of the tax administration authority; rather it should be decided by independent courts.³¹⁴ And the second argument on the other hand is that the power of the tax authority is constitutional on the basis of Art. 26(3) of the FDRE Constitution and the Revised Amhara National Regional Constitution due to the issue of tax is the interest of the public at large.³¹⁵ The privacy right under the constitutions is not an absolute right; and giving the power to issue orders such as to search and seizure, temporary closure of business, preservation of funds and assets deposited with financial institutions to the tax administration authority is proper due to the issues of taxation needs special and immediate actions. If these powers are exclusively given to the courts, the tax administration cannot preserve the tax which is the interest of the public at large.³¹⁶ But many countries like USA which has advanced tax administration system experience show that tax administration authority may only be searched and seize the property of the taxpayers if prior judicial warrant is given.³¹⁷ As such the second argument which supports the current Ethiopian tax administration system in general and ANRS in particular has not persuaded the writer of this thesis.

4.3.5 Dispute Settlement

The ANRS Tax Administration Proclamation provides that in the tax dispute settlement mechanism, taxpayers have required to resolve a dispute exists within the tax administration authority itself with the assessors or inspectors in the first place and if they have not satisfied by the decision, they have the right to file a notice of objection/ grievance to the authority within 21 days after service of the notice of the decision.³¹⁸ Then the grievance is entertained by the review department which is established as a permanent office within the tax administration authority with a certain level of autonomy and independence which gives a recommendation to the authority.³¹⁹ And the review department shall follow the procedures specified by the tax administration authority in reviewing the disputes hearings, and the basis for making recommendations to the Authority and the decision making procedure.³²⁰ After having regard to the recommendations of the review department, the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center/ may accept or reject the recommendation in part or as a whole and makes an objection decision.³²¹ The practice in

³¹⁴ An interview conducted with Ato Belachew Kidane Higher Public Prosecutor of ANRS General Attorney Beauru of North Shewa Division, on July 24, 2020 and Ato Gebeyehu Seife Higher Public Prosecutor of ANRS General Attorney Beauru of Addis Ababa Division, on July 10, 2020.

³¹⁵ An interview conducted with Ato Fikadu supra note 205 and Ato Habtamu Tirffe Higher Public Prosecutor of ANRS General Attorney Beauru of North Shewa Division, on July 24, 2020.

³¹⁶ Id.

³¹⁷ Elsabet, supra note 210, at 71.

³¹⁸ Art. 54 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³¹⁹ Art. 55(1) of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³²⁰ Art. 55(2) of the Amhara National Regional State Tax Administration Proclamation, supra note 295 and Art. 4(2) and 6(5) of the ANRS Revenue Bureau Tax Grievance Decision Making Implementation Directive No. 005/2011, in Amharic (unpublished).

³²¹ Art. 55(3&4) of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

Debre Berhan Town is also in line with these laws. And the litigation procedures and taxpayers hearing rights after the objection decision of the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center/is in the following manner.

A taxpayer who has dissatisfied with the objection decision of the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center/ and if the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center/ has not made an objection decision within 180 days from the date that the taxpayer filed a notice of the objection and the end of such day, the taxpayer within 30 days may appeal to the Tax Appeal Hearing Committee (herein after TAHC) which is established at town level out of the tax administration authority and relatively autonomous and independent.³²² But the right to appeal to the TAHC is allowed on a condition of “only if the taxpayer has paid to the Authority 50% of the tax in dispute under the tax assessment”.³²³

A taxpayer who has dissatisfied with the decision of the TAHC may appeal to the North Shewa High Court (herein after NSHC) within 30 days after being served with notice of the decision of the TAHC on the conditions of “only if the taxpayer has paid 75% of the tax in dispute under the assessment” and “on a question of law only”.³²⁴ And a taxpayer who has dissatisfied with the decision of the NSHC may appeal to the ANRS Supreme Court (herein after ANRS SC) within 30 days after being served with notice of the decision of the NSHC.³²⁵ This is the second appeal right of the taxpayer to the regular courts but only on the question of law. And in the whole levels of the proceeding, the burden of proof is on the taxpayers’ side.³²⁶

Generally in the tax dispute settlement mechanism, taxpayers may only litigate with the tax administration authority on the issues of tax assessment (or on tax category, tax amount and penalties); prior payment of 50% of the tax in dispute to appeal the TAHC; prior payment of 75% of the tax in dispute and only on the question of law to appeal the NSHC and the burden of proof in the whole proceeding is on the taxpayer's shoulder. Regarding these restrictions of the taxpayers in the tax litigation processes, two different arguments have been forwarded by legal experts. The first argument³²⁷ is that these restrictions have denied the right of access to justice that constitutionally safeguarded the basic right of everyone³²⁸ and the right to be heard in the

³²² Art. 55(7) and 56(1) of the Amhara National Regional State Tax Administration Proclamation, supra note 295 and Art. 9(1) of The Revised Amhara National Region City Administrations and Municipalities’ Revenue Title and Tariff Determination, Council of Regional Government Regulation, supra note 171.

³²³ Art. 56(2) of the Amhara National Regional State Tax Administration Proclamation, supra note 295, Art. 9(2) of the Revised Amhara National Region City Administrations and Municipalities’ Revenue Title and Tariff Determination, Council of Regional Government Regulation, supra note 171 and Art. 10(5) of the ANRS Revenue Bureau Tax Grievance Decision Making Implementation Directive, supra note 320.

³²⁴ Art. 57(1,3&4) of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³²⁵ Art. 58 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³²⁶ Art. 59 of the Amhara National Regional State Tax Administration Proclamation, supra note 295.

³²⁷ An interview conducted with Ato Belachew and Ato Gebeyehu, supra note 314.

³²⁸ Art. 37 of the FDRE Constitution, supra note 140 and the Revised Amhara National Regional Constitution, supra note 170.

full proceeding of the litigation. And the second argument³²⁹ is that allowing the taxpayers to litigate in the whole proceedings of the litigation without such restrictions may cause the government to lose its tax revenue and in turn, it affects the public interest at large. As such the restrictions are the policy behind to protect the revenue of the government/ the public interest at large.

4.4 Major Findings of the study

4.4.1 Regarding Property Rental Income Taxation System

According to the interviews conducted with tax officers of Debre Berhan Town tax administration authority,³³⁰ the property lessors in the town are the city administration, private persons, ANRS House Development Agency, and religious institutions. Those property lessors have determined the rent amount of their properties in the town by different ways. The city administration and ANRS House Development Agency put regulated and mostly fixed rate of rent for their tenants. While private persons and religious institutions are at liberty to put the market rent amount for their tenants with negotiation. The rental income tax revenue from those property lessors has not been the sole revenue of the city administration. In the town rental income tax administration, the city administration has collected revenue from properties which are under the possession or ownership of the city administration and the ad Valorem tax/ betterment levy on the fixed asset which have transferred thereto through lease or in any contractual agreements as well as on urban landholding held in rental landholding system only. All other rental income tax revenue from properties or buildings in the town is under the revenue jurisdictions of the regional government. This rental income tax revenue allocation shows that even though Art. 45 of the Revised Amhara National Regional Constitution and the preamble of the Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation No.69/2002 aim to give adequate power to local governments to enable them self-administration on their socio-economic development by their own self-independent revenue sources, the practice of property rental income taxation in Debre Berhan Town is not in line with the objective of these laws.

4.4.2 Regarding the Determination of Taxable Rental Income, Deductibles, and Exemptions

The manner of determining taxable rental income in Debre Berhan Town as the interviews conducted with tax officers³³¹ of the town tax administration authority is in line with the tax laws of the region which is similar to federal tax laws. That schedule 'B' and 'C' rental income taxpayers have allowed deductibles and exemptions but not schedule 'D' rental income taxpayers. And under schedule 'B', if the total rental income is below 7201 Birr per

³²⁹ An interview conducted with Ato Fikadu and Ato Habtamu, supra note 315.

³³⁰ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172 and Ato Shambel and Ato Dannel, supra note 269.

³³¹ Id.

year is exempted; but in case of schedule ‘C’, this exemption is allowed only if the aggregate total business income of a rental income taxpayer is below 7201 Birr per year. Under schedule ‘B’, rental income taxpayers who have required to maintaining books and records but failed to do so are treated as 35% of the total gross rental income as expenses and the remaining 65% as taxable income. But in case of schedule ‘C’, rental income taxpayers, 20% of the totals gross business income as expenses and the remaining 80% as taxable income. And under schedule ‘B’, standard deductions of 50% of the total gross rental income for rental income taxpayers who do not require to maintain books of account is allowed; but this standard deduction is not allowed for rental income taxpayers who do not require to maintain books of account under schedule ‘C’; rather subject to the regime of standard assessment. And in addition to these differences of determining taxable rental income under the three schedules of the rental income, as the interviewed tax officers³³² of the town described deductibles such as hospitality expenditures incurred by an employee in receiving guests from outside the business for the purposes of promoting and enhancing the business, medical expense incurred for employees, and business promotion expenses have not allowed for schedule ‘B’ rental income taxpayers while these deductibles are allowable for schedule ‘C’ rental income taxpayers. As such the practice in Debre Berhan Town and the rules of determining taxable rental income under the three schedules (schedule ‘B’, ‘C’ and ‘D’) of the tax laws of the region have made un-equitabilities and unfairness among similar rental income taxpayers due to the different rules of deductibles and exemptions and tax rates in the determining of taxable rental income under these schedules.

4.4.3 Regarding Rental Income Tax Declaration, Assessment and Collection

According to the interviewed tax officers³³³ of Debre Berhan Town Revenue Authority, many property lessors in the town have not declared their rental income, expenses, and documents to be attached to the declaration in the prescribed form and manner of the tax administration laws of the region. Due to rental income taxpayers have not declared their rental income with proper information, the tax follow-up and work process officers of the revenue authority of the town prepare annual market rent amount based on third parties information and personal observation (or tax intelligence) of properties (or houses) by taking into consideration the quality, location or distance from the main road of the town. And the rental income tax assessment of the town has conducted by the official government assessment method based on the information gathered by the tax follow-up and work process officers (or tax intelligence). The reason for the low self-rental income tax assessment in the town for the tax officers is that the attitude of the property lessors towards rental income tax is not positive and due to inadequate number of tax officers, intensive and continuous awareness creation for property lessors has not given properly. And on rental income collection of the town, accessing accurate information about property lessors’ rental income is the practical challenge of the town revenue authority. This is due to low

³³² Id.

³³³ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172 and Ato Shambel and Ato Dannel, supra note 269.

property registration system and lack of clear and mandatory law that imposed a duty on all property lessors to conclude written contract with their lessees and registered and deposited to the concerned government body. And the enforcement of the law on the rental income of the religious institutions has not been clear and uniformly accepted in the town. As such rental income tax from religious institutions properties in the town has not collected properly due to there is no clear understanding that whether rental incomes of religious institutions are fully taxable or not.

4.4.4 Regarding Enforcement Measures and Dispute Settlement

The enforcement measures and dispute settlement mechanism in Debre Berhan Town tax administration is in the same manner as provided under the ANRS tax administration laws which have empowered the tax administration authority to take unlimited measures on taxpayers' privacy and property rights to enforce tax liabilities and limit the taxpayers' full hearing rights in the dispute settlement proceedings. As the interviewed tax officers³³⁴ of the town tax revenue authority, the tax authority of the town has issued an order of search and seizure, temporary closure of business and preservation of funds and assets deposited with financial institutions. In this case hence the tax authority is a party on the issue at hand; it may not give an independent decision on the issue of whether such measures are necessary for the specific issue raised. Even though some legal experts as discuss in the previous section argue on the opposite side on the basis of the nature of taxation issue is so technical and needs immediate actions so as to preserve the tax revenue of the government or the public interest at large, many countries that have advanced tax administration system like USA³³⁵ gives such powers to the independent courts to decide the properness of the measures to be taken in case by case on the basis of the evidence provided to it.

In the tax dispute settlement mechanisms of the town, tax grievance has tried to settled with the discussion of the taxpayers and the tax assessors or tax inspectors in the first place and if the tax grievance cannot be solved by such discussion, the taxpayers have filed notice of the grievance to the authority within 21 days after service of the notice of the decision of the tax assessors or tax inspectors. After receiving the tax grievance of the taxpayers, the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center forward to the review department which is established within the authority to give recommendation to the authority based on the procedures specified by the authority in reviewing the grievance hearings, the basis for making recommendations and the decision making procedures. Then the tax administration authority/Revenue Collection and Follow-up Work Process in case of kebele revenue center has given an objection decision by accepting the recommendation or rejecting it. And if the taxpayers have not satisfied with the objection decision or has not made an objection decision within 180 days from the date that the taxpayers

³³⁴ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172 and Ato Shambel and Ato Dannel, supra note 269.

³³⁵ Elsabet, supra note 210, at 71.

filed notice of the objection and the end of such day, the taxpayer within 30 days may appeal to the TAHC which is established at the town level out of the tax authority and relatively autonomous and independent by prior payment of 50% of the tax in dispute. And the taxpayers can only appeal to the regular court (or NSHC) by prior payment of 75% of the tax in dispute and only on the question of law. And the burden of proof in the whole proceeding is on the taxpayer's shoulder only.³³⁶ These limitations have affected the taxpayers' full hearing rights in the dispute settlement proceedings.

³³⁶ See Art. 54-59 of the Amhara National Regional State Tax Administration Proclamation, supra note 295; Art. 4(2), 6(5) and 10(5) of the ANRS Revenue Bureau Tax Grievance Decision Making Implementation Directive, supra note 320 and Art. 9(1&2) of the Revised Amhara National Region City Administrations and Municipalities' Revenue Title and Tariff Determination, Council of Regional Government Regulation, supra note 171.

CHAPTER FIVE

5 CONCLUSION AND RECOMMENDATION

5.1 Conclusion

Rental income taxation of properties under the Ethiopian income tax system has taxed fragmentally under the three different schedules (schedule 'B', 'C' and 'D') which have their own rules of determining taxable rental income and tax rates. That a taxpayer, who has accrued income from the rental of buildings in regular basis has been treated under schedule 'B'; and a taxpayer, who has accrued income from the rental income 'business lease' and the rental of buildings for hotels, hostels, pensions, guest houses, and holiday houses service and rental income from machinery, furniture, equipment, vehicles, tools, etc. in regular basis has been treated under schedule 'C'. While a taxpayer, who has accrued rental income from the casual rental of property (including any land, buildings, or movable asset) has been treated under schedule 'D'. And taxable rental income of schedule 'B' and schedule 'C' has determined after deduction of expenses allowed under each schedule and the exemption (7200 Birr). While taxable rental income of schedule 'D' has been the gross income without any deduction. These scheduler arrangement of rental income tax and the manner of determining taxable rental income under the three different schedules (schedule 'B', 'C' and 'D') of the Ethiopian income tax system have created in-equitable and unfair tax liabilities between similar rental income taxpayers of properties.

In the rental income tax administration as part of the general tax administration, the tax enforcement measures and dispute settlement mechanisms provided under both the federal tax administration laws and ANRS tax administration laws have limited some basic rights of the taxpayers. That the tax administration authority has empowered without any restriction to issue an order and to enter, search, and seized any premises, place, goods, property, document, and data storage device. And it can also issue an order for the temporary closure of business and for the preservation of funds and assets deposited with financial institutions serving for 10 days. In this case, due to the tax administration authority is the party in the issue, it may not decide impartially on the limitations of such rights of the taxpayers. And on the dispute settlement mechanisms provided under these tax administration laws, taxpayers hearing rights are limited with certain conditions. That if taxpayers want to challenge the tax administration authority on the issues of such as the legality of the directives and procedural irregularities, the tax administration laws have not provided in the tax dispute settlement mechanisms. And the tax appeal right of the taxpayers have limited on the issues of tax assessment (or on tax category, tax amount and penalties); prior payment of 50% of the tax in dispute to appeal the TAC; prior payment of 75% of the tax in dispute and only on the question of law to appeal the regular Courts and the burden of proof in the whole proceeding is on the taxpayers' shoulder only.

And finally the absence of special and mandatory rules that regulate the contractual relationship between lessors and lessees and the confusion of the scope of application of the three different schedules (schedule 'B', 'C' and 'D') have been the major legal and practical challenges of Debre Berhan Town Tax Revenue Office³³⁷ in particular and Ethiopian rental income taxation system in general to capture all taxable rental income in the income tax net and to collect properly. That the absence of update special and mandatory rules regarding the formality requirements of the contractual relationship between the lessors and lessees; the absence of a closely supervising body and lack of advanced property registration system have made a challenge for accessing information about properties lessors and their taxable rental incomes. And lack of clear definitions of 'rental income', 'building', 'lease of business' and 'casual rental income' for the purpose of rental income taxation in both the federal and ANRS income tax laws and the absence of clear and detail rules that determine the scope of such rental incomes have been confusing on their applications in practice.

5.2 Recommendation

Having analyzed the rental income tax system and administration of Ethiopia and the practice in Debre Berhan Town, this paper submitted the following recommendations as part of the solutions to minimize the rental income taxation problems of the country in general and Debre Berhan Town in particular.

- ❖ The rental income tax of properties should not be treated under different schedules which have their own rules of determining taxable rental income and tax rates under the income tax laws of the country. The manner of determining taxable rental incomes of properties should be similar for similar rental income taxpayers. There should not be differences between rental income taxpayers of schedule 'B', 'C', and 'D' on the manner of determining taxable rental income, deductibles, exemptions and tax rates.
- ❖ In the tax administration system of the country, the tax administration laws should limit some powers of the tax administration authority and should provide full channels of tax dispute settlement mechanisms for taxpayers. The power to issue such as search warrant, the order of seizure, temporary closure of business, and preservation of funds and assets deposited with financial institutions should not be given to the tax administration authority. These powers should be given to the independent courts. The tax administration authority should only be searched and seize the property of taxpayers if prior judicial warrant is given. And the tax dispute settlement mechanisms should not be limited to the assessment of tax and of penalties only. There should be clear provisions that provide a chance for taxpayers to challenge the tax administration authority on issues such as the legality of the tax directives of the authority and procedural irregularities of the tax administration process. And the appeal rights of taxpayers should not be limited only by a prior condition of payments of 50% of the tax in dispute to appeal to the TAC

³³⁷ An interview conducted with Ato Getaneh and Ato Yasien, supra note 172 and Ato Shambel and Ato Dannel, supra note 269.

and 75% of the tax in dispute to appeal to the regular courts. Other alternatives like producing guarantee should be allowed for those taxpayers who cannot pay such a huge amount in the appeal time specified under the laws. And the appeal rights of taxpayers to the regular courts should not be limited on the question of law only; appeal on material facts should also be allowed. And the burden of proof should not be always on the shoulder of the taxpayers. There should be a chance to shift to the authority in some cases.

- ❖ To capture all taxable rental incomes in the income tax net of the country and to collect significant tax revenue from the rental income of properties, there should be clear and mandatory law that regulates and imposed a duty on all property lessors to conclude a written contract with their lessees and registered and deposited to the concerned government body and there should be well organized property registration system. And the income tax laws should clearly define the term ‘rental income’, ‘building’, ‘lease of business’ and ‘casual rental income’ for the purpose of rental income taxation in both the federal and ANRS income tax laws and there should be clear and detail rules that determine the scope of application of the three different schedules (schedule ‘B’, ‘C’ and ‘D’) in the rental income taxation system.

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D. Interviews

- ❖ An interview conducted with Ato Yossef Girma, Deputy Manager of Addis Ababa City Administration Revenue Office, (Addis Ababa, Ethiopia, on May 24, 2020).
- ❖ An interview conducted with We/ro Etagegnehu Mekuria, tax assessment auditor of Addis Ababa City Administration Yeka Sub City Small Tax Payers Branch Office, (Addis Ababa, Ethiopia, on May 24, 2020).
- ❖ An interview conducted with Ato Amir Yossuf, legal advisor to the Ministry of Revenue, (Addis Ababa, Ethiopia, on July 10, 2020).
- ❖ An interview conducted with Ato Bekena, legal advisor to the Ministry of Revenue, (Addis Ababa, Ethiopia, on July 10, 2020).
- ❖ An interview conducted with Ato Teshome Ayele, tax assessment auditor to the Ministry of Revenue, (Addis Ababa, Ethiopia, on July 10, 2020).
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- ❖ An interview conducted with Ato Yasien Adem, tax officers of the Debre Berhan Town Revenue Office, (Debre Berhan, Ethiopia, on July 3, 2020).
- ❖ An interview conducted with Ato Alemu Bereket, the Follow-up Work Process Officers of Debre Berhan Town Revenue Office, (Debre Berhan, Ethiopia, on July 3, 2020).

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- ❖ An interview conducted with Ato Gebeyehu Seife, Higher Public Prosecutor of ANRS General Attorney Beauru of Addis Ababa Division, (Addis Ababa, Ethiopia, on July 10, 2020).
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