

AN EXAMINATION OF THE EXPANDED JURISDICTION OF TAX APPEAL TRIBUNAL: A PANACEA FOR REVENUE DISPUTES OR RECIPE FOR CONSTITUTIONAL ANARCHY?

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Abstract

This study examined the tensions surrounding the jurisdiction of the Tax Appeal Tribunal (TAT) in Nigeria. The specific focus was on the shift from pre-2025 regime to the expanded powers under section 29 of the Joint Revenue Board (Establishment) Act, 2025 (JRBEA). The aim of study was to address the question of whether the legislative expansion of TAT jurisdiction over purely state-enacted tax laws is a legitimate efficiency reform or an unconstitutional incursion into Nigeria's fiscal federalism. In doing this, the study adopts a doctrinal research methodology which involved the analysis of the 1999 Constitution and judicial precedents, notably PSIRS v. Jos Electricity Distribution Company Plc and scholarly literature. In the course of the analysis, the study found that while the TAT effectively resolved disputes arising from federal statutes like the Personal Income Tax Act, the 2025 reform created a constitutional anomaly by subordinating state legislative authority and the jurisdiction of State High Courts to a federally constituted tribunal. The study further revealed that this centralisation risked institutionalising a de facto unitary system, potentially hollowing out the autonomy of federating units. To this end, the study recommended that the National Assembly amend section 29 to adopt a cooperative federalism model, requiring complementary state legislation to validate TAT jurisdiction over local levies. Additionally, the study proposed decentralising the tribunal's composition to include state-nominated representatives. The paper concluded that while the TAT is essential for specialised revenue dispute resolution, its legitimacy depends on a constitutional architecture that balances centralized efficiency with the structural integrity of Nigeria's federal character.

Keywords: Fiscal Federalism, Tax Appeal Tribunal, Constitutional Law, Revenue Disputes, Joint Revenue Board, Nigeria

1. Introduction

Taxation lies at the core of the fiscal relationship between the federal government and states. Inevitably, disputes arise over the extent of each federating unit in respect of the powers to impose and administer taxes. The resolution of these disputes therefore occupies a central place in Nigeria's tax administration system. However, the adjudication of these disputes has long rested on a complex interplay of statutory provisions and allocation of constitutional powers to impose and collect tax.¹ In a bid to address these disputes expediently and expertly, the Tax Appeal Tribunal was established as a specialised forum for tax disputes resolution² under the Federal Inland Revenue Service (Establishment) Act.³ The challenge has been that the scope of the

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¹ *Skye Bank v Kwara State Internal Revenue Service* (2021) 12 NWLR (Pt. 1789) 27; and *RECTARS (Ile-Ife) v Osun State Board of Internal Revenue* (2021) LPELR-55942(CA); *The Registered Trustees of Hotel Owners and Managers Association of Lagos v AG of the Federation and others* Unreported judgment delivered by Hon. Justice R. M. Aikawa of the FHC in Suit No. FHC/L/CS/1082/2019

² *TSKJ Construcoes Internacional Sociedade Uniperssoal LDA v. Federal Inland Revenue Service* (SC/955/2017)

³ FIRSEA, 2007 s 56

jurisdiction of the TAT in addressing disputes arising from taxes accruing to the states has been a subject of intense historical controversy and uncertainty. The Court of Appeal in *Plateau State Internal Revenue Service (PSIRS) v Jos Electricity Distribution Company Plc*⁴ attempted to clarify this uncertainty especially the question of the extent of the tribunal's jurisdiction over such disputes.

Similarly, the enactment of the tax reform Acts in 2025 offers a legislative response to the problem of jurisdictional uncertainty in this aspect of tax dispute resolution under consideration. Section 23 of the Joint Revenue Board (Establishment) Act, 2025 formally established the TAT and confers on it the jurisdiction and powers to settle any tax dispute and controversy arising from the administration of this Act or any other tax laws made by the National Assembly. However, section 29 of the Act specifically expanded the jurisdiction of the TAT. It vests the jurisdiction over disputes arising not only from federal tax legislation but also from "*any other tax law made by ... the House of Assembly of a State.*" The community reading of this provision and the second schedule to the JRBEA 2025 displaces or at least significantly overlaps with the existing jurisdiction of the State High Courts over tax matters arising from state legislation. This raises the question of the separation of judicial powers, the constitutional allocation of taxing powers and the integrity of Nigeria's federal character. This question is not merely academic. It reveals a challenge which the court of Appeal in Plateau's case left which section 29 encroaches upon.

This paper therefore, seeks to address the question of whether the expanded jurisdiction of the TAT represents a legitimate reform to enhance revenue dispute resolution or a constitutional anomaly that threatens the autonomy of Nigeria's federating units.

2. Fiscal Federalism and Constitutional Allocation of Taxing Powers in Nigeria

One cannot fully discuss fiscal federalism without first addressing the question: what is Federalism? Federalism, as a political philosophy, has its roots in the Latin *foedus* and *fides*; the former translates to an agreement, treaty, compact or covenant, while the latter means trust.⁵ It refers to a political system where sovereignty is constitutionally shared between a central authority and subnational units, such as states or provinces. It involves the division of powers between national and state governments, forming a federation.

As elegantly captured by Professor Itse Sagay, federalism is:

"...an arrangement whereby powers within a multi-national country are shared between a federal government and component units in such a way that each unit, including the central authority exists as a government separately and independently from others, operating directly on persons and properties with its territorial area and with a will of its own apparatus for the conduct of affairs and with an authority in some matters exclusive of others".⁶

⁴ (2025) 90 TLRN 01,

⁵ Adeleke Olumide Ogunnoiki, 'Federalism as a Political Ideology and System of Government: The Theoretical Perspectives' (2017) 3(9) *International Journal of Advanced Academic Research: Sciences, Technology & Engineering*, 52, 55

⁶ I Sagay, 'How a True Federal System Should Run' *The Nation* (Lagos, 19 May 2008) cited in Dare Arowolo, 'Fiscal Federalism in Nigeria: Theory and Dimensions' (2011) 2(2.2) *Afro Asian Journal of Social Sciences* 1-21

In this context, each governmental unit in a federation operates as an autonomous entity, not subordinate to another. Asobie⁷ highlights two key dimensions of cooperation in federalism: first, the capacity of citizens and groups to engage federally as equal partners for the common good beyond politics; and second, federalism as a social phenomenon structured around enduring religious, ethnic, cultural, or social groups that shape the polity.

Fiscal federalism on the other hand is a theoretical and practical framework that delineates the distribution of financial resources and corresponding responsibilities among various levels of government within a federal political system. At its core, the theory aims to determine which governmental functions and fiscal instruments (such as taxing powers and expenditure assignments) are most optimally centralised and which are best devolved to subnational levels of government.⁸ The fundamental objective of fiscal federalism is to enhance efficiency in the provision of public goods and services. This is achieved by promoting decentralisation where local preferences can be more effectively met, and by advocating for centralisation where economies of scale, national redistribution, or macroeconomic stabilisation are paramount.⁹

Nigeria operates a constitutional federal structure under the Constitution of the Federal Republic of Nigeria 1999 (as amended). The Constitution distributes legislative competence among the three tiers of government, namely the Federal Government, the State Governments, and the Local Government Councils.¹⁰ The allocation of taxing powers broadly follows this tripartite structure. At the outset, it is important to clarify that the expression 'taxing powers' is used in two distinct senses: first, the power to impose or legislate a tax; and second, the power to administer or collect taxes.¹¹ Thus, in *Nigerian Agricultural and Co-Operative Bank v Jigawa State Board of Internal Revenue*,¹² the court distinguished between the words 'impose' and 'collect'. According to the court, to 'impose' is active and legislative; to 'collect' on the other hand is passive and merely administrative. As this paper progresses, these components of taxing powers will be examined.

2.1 Federal Government

The taxing powers of the Federal Government of Nigeria are derived from section 4(2) of the 1999 Constitution of the Federal Republic of Nigeria (as altered). This section provides that

The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative list set out in part I of the second schedule to this constitution.

Section 4(2) of the 1999 Constitution (as altered) empowers the Federal Government to legislate on taxation through matters listed in the Exclusive Legislative List, contained in Part I of the Second Schedule. This includes taxes such as Customs and Excise Duties,¹³ Export duties,¹⁴ Stamp Duties,¹⁵ petroleum profit taxation, taxes on the income, profits and capital gains of corporate

⁷ A Asobie, 'Centralising Trends in Nigerian Federalism' in I Babawale and others (eds), *Reinventing Federalism in Nigeria: Issues and Perspectives* (Malthouse Press Limited 1998) 26

⁸ Teresa Ter-Minassian (ed), *Fiscal Federalism in Theory and Practice* (International Monetary Fund 1997) <<https://doi.org/10.5089/9781557756633.071>> accessed 10 March 2026.

⁹ *Ibid*

¹⁰ *Peace Mass Transit Limited v Federal Capital Territory & Ors* (2014) LPELR 23740 (CA)

¹¹ GE Ngwu and SC Anih, 'An Examination of the Power to Impose and the Power to Collect Tax under the Nigerian Legal System' (2020) 2(2) *International Review of Law and Jurisprudence* 61.

¹² (2000) 1 NRLR 62 @73 and 75.

¹³ Item 16, Part I of the Second Schedule to CFRN

¹⁴ *Ibid.*, item 25

¹⁵ *Ibid.*, item 58

bodies.¹⁶ It should be noted that the Constitution allows the Federal Government to impose certain taxes while delegating their collection to states, as stated in Item 7 of the Concurrent List.¹⁷ This enables states to collect personal income tax, capital gains tax, and stamp duties from residents. The Federal Government also possess taxing powers under the Concurrent Legislative List. Thus, Nigeria Tax Act, 2025 (a federal legislation) imposes personal income tax as well as stamp duties which the state government is empowered to administer. It should be noted that when this is the case, the state government is not to legislate on such matter again as the doctrine of covering the field and double taxation applies.¹⁸ This doctrine will be extensively discussed later in this study. Typically, states and local governments tax individuals, while the Federal Government taxes corporate bodies. In cases of shared tax jurisdiction, legislative power remains with the Federal Government, while administration may involve collaboration with states.

2.2 State Government

Under the 1999 Constitution of Nigeria (as altered), no specific tax is expressly reserved for State Governments. However, Item 9 of the Concurrent Legislative List permits a State House of Assembly to legislate on the collection of any tax, fee, or rate, and to delegate such collection to Local Government Councils under prescribed conditions. The section provides thus:

A House of Assembly may, subject to such condition as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a Local Government Council.

This implies that states can impose taxes on matters within the Concurrent List and on residual matters. That is those not covered by the Exclusive or Concurrent Lists. In *Aberuagba v Attorney-General Ogun State*,¹⁹ Bello JSC interpreted 'any tax' in this context to include residual matters, though this is not explicitly stated in the Constitution. Section 4(7) further empowers State Assemblies to legislate on matters not listed in the Exclusive List, those in the Concurrent List as prescribed, and any other matter they are constitutionally empowered to address. Thus, State Governments have legislative authority over the Concurrent List and residual matters.

2.3 Local Government

The 1974 Local Government Reforms elevated the status of Nigeria's Local Governments from mere administrative units to constitutional entities. While they lack general law-making powers, they can enact subsidiary legislation as permitted by state laws. Section 7(1) of the 1999 Constitution (as amended) mandates states to establish Local Government Councils, defining their structure, finance, and functions. However, Local Governments have limited taxing powers.²⁰ They typically lack the power to impose taxes but can administer taxes. Thus, their taxing powers are confined to collecting rates, radio and television licences,²¹ and assessing private houses for levies as prescribed by state laws.²² While local government councils lack direct constitutional

¹⁶ *Ibid.*, item 69

¹⁷ The Concurrent List is set out in the first column of Part II of the Second Schedule to the 1999 Constitution (as amended).

¹⁸ *Ibid.*, item 8

¹⁹ (1985) 1 NWLR (part 3) 395 at 405

²⁰ J.J Odinkonigbo & N. Ikeyi, 'Is the Power of a State to Impose Sales Tax in Nigeria Fettered by the Imposition of Value Added Tax by the Federal Government?' [2015] 16, *Common wealth Law Bulletin*, 4.

²¹ Par 1(b) of the Fourth Schedule to the CFRN

²² *Ibid.*, par 1(j)

taxing powers, section 7(1) and (5) enables Local Governments to generate revenue from specified sources for their sustainability. Moreover, their historical dependence on federal and state statutory allocations has been addressed in *Attorney-General of the Federation v Attorney-General of Abia State & 35 Ors.*²³ The Supreme Court held in this case that local governments are constitutionally entitled to financial autonomy and also declared that allocations from the Federation Account must be paid directly to Local Government Councils, not through state governments. The courts have also in certain instances appeared to have conferred tax imposition powers upon the Local Government Councils. For instance, in the case of *Mobil Producing Nigeria Unlimited & Anor v Tai Local Government Council & Anor*²⁴ the court held that; the 1999 Constitution in the Fourth Schedule also listed the functions of the Local Government Council which include administering taxes on private owned properties.²⁵

The separation of taxing and collecting powers ensures uniformity, prevents double taxation, and avoids rate inconsistencies across Nigeria.

3. Tax Appeal Tribunal and Jurisdictional Uncertainty Before the Tax Reforms Acts, 2025

Before the Tax Reform Acts of 2025, TAT was established under section 59 of the FIRSEA 2007 as a specialised tribunal for the resolution of disputes under Nigeria's tax laws. Its subject-matter jurisdiction was tied to taxes administered by the Federal Inland Revenue Service, principally companies income tax, petroleum profits tax, capital gains tax on companies, value added tax, and personal income tax within the scope of federal administration. In that original statutory design, the tribunal's jurisdiction was clearly delineated and internally coherent, being limited to disputes arising from federal taxes administered by the Service.

The legislative landscape shifted materially with the amendment of Personal Income Tax Act in 2011, specifically section 60. That section provided that the TAT "*established pursuant to Section 59 of the FIRSEA, 2007 shall have the powers to entertain all cases arising from the operations of this Act.*" The breadth of this formulation immediately generated interpretive controversy. Since PITA governs, inter alia, the personal income tax collected by state revenue authorities from individual taxpayers' resident within each state, the question arose whether section 60 extended TAT jurisdiction to disputes involving revenue accruing not to the federal government but to the states.

Nigerian courts approached this question with notable inconsistency. In *Skye Bank v Kwara State Internal Revenue Service*,²⁶ the Court of Appeal held that the TAT lacked jurisdiction over state-directed PITA revenue disputes, privileging state judicial autonomy over the text of section 60. However, in *RECTARS (Ile-Ife) v Osun State Board of Internal Revenue*,²⁷ a differently constituted Court of Appeal reached the contrary conclusion, finding the section 60 extension broadly operative. This judicial divergence with two appellate court decisions on all fours producing opposite outcomes created a serious doctrinal uncertainty for taxpayers, revenue authorities, and practitioners alike.

²³ (2024) SC/CV/343/2024

²⁴ [2004] INTLR 182

²⁵ Similarly, in *Knight Frank & Rutley v A.G Kano State, UWAIS*, CJN says that 'It is only Local Government Councils have the power to assess and impose rates on privately owned property'

²⁶ (2021) 12 NWLR (Pt. 1789) 27

²⁷ (2021) LPELR-55942(CA)

Complicating the issue further, several states enacted or amended state revenue laws that expressly conferred exclusive original jurisdiction on their High Courts over tax disputes involving state revenue. The Plateau State Revenue (Consolidation) Law 2020 is among such instruments.²⁸ These state laws created a parallel, state-level dispute resolution infrastructure that, its proponents argued, was constitutionally founded on the residual legislative powers of the states and could not be displaced by federal legislation extending TAT jurisdiction.

The resulting landscape, on the eve of the 2025 reforms, was one of considerable institutional dysfunction: taxpayers faced conflicting forum choices, revenue authorities were uncertain about which court or tribunal would uphold their actions, and the transaction costs of tax litigation were artificially inflated by preliminary jurisdictional battles. This dysfunction provided the immediate impetus and, arguably, the justification for a legislative resolution of the kind attempted by section 29 of the JRBEA 2025.

4. Judicial Interpretation or Legislative Expansion of TAT Jurisdiction: Whither the Solution?

The conflict between judicial caution and legislative ambition reached its zenith in the transition to the 2025 tax regime. While the judiciary sought to define the TAT's jurisdiction through a careful reading of constitutional boundaries, the legislature opted for an expansionist evangelism aimed at centralising all tax disputes under a single administrative umbrella.²⁹

4.1 Plateau State Internal Revenue Service v Jos Electricity Distribution Company PLC

The decision of the Court of Appeal in *Plateau State Internal Revenue Service v Jos Electricity Distribution Company PLC*³⁰ arrived as the most authoritative judicial resolution of the jurisdictional debate. The facts of the case are instructive. PSIRS commenced proceedings at the TAT in Jos against JEDC for the recovery of alleged tax liabilities to the tune of approximately N1.8 billion, comprising PAYE tax, withholding tax on contracts and supplies, and development levy for the years 2015 and 2016.³¹ JEDC challenged the jurisdiction of the TAT on the ground that the taxes in dispute were payable to the Plateau State Government, not to the Federal Government, and therefore fell outside the TAT's competence.

The TAT, after hearing argument, assumed jurisdiction and awarded partial relief in favour of PSIRS. JEDC appealed to the Federal High Court. FHC held that jurisdiction to determine disputes relating to taxes due to the Plateau State Government was vested in the Plateau State Revenue Court and that neither the TAT nor the FHC had jurisdiction over such disputes.³² PSIRS in turn appealed to the Court of Appeal.

The Court of Appeal, in allowing the appeal, undertook a careful analysis of the legislative history and purpose of section 60 of PITA. Tracing the textual evolution of the provision, the court concluded that the 2011 amendment was designed to extend TAT jurisdiction comprehensively to

²⁸ Plateau State Revenue (Consolidation) Law 2020, s 103

²⁹ VC Okoro, 'A Critical Review of Nigerian Tax Reforms: Legal Ramifications and Judicial Developments' (2026) 10 *International Journal of Law, Politics and Humanities Research*, 207-220

³⁰ (2025) 90 TLRN 01

³¹ Agbada S, 'Jurisdiction of the Tax Appeal Tribunal over Taxes Accruing to the States; a Review of *Plateau State Internal Revenue Service (PSIRS) v Jos Electricity Distribution Plc (JEDC)*' *BusinessDay* (26 June 2025) <<https://businessday.ng/news/legal-business/article/jurisdiction-of-the-tax-appeal-tribunal-over-taxes-accruing-to-the-states-a-review-of-plateau-state-internal-revenue-service-psirs-v-jos-electricity-distribution-plc-je/>> accessed 10 March 2026

³² *Ibid*

'all cases arising from the operations of this Act', a formulation that encompassed disputes involving PAYE, withholding tax and other items collected by state authorities pursuant to PITA, notwithstanding that the revenue accrued to the state rather than to the federal government. The court found the Rectars decision more consonant with legislative intent than Skye Bank, and it expressly overruled the Federal High Court's restrictive holding.

The court was careful, however, to delimit the scope of its ruling. The Court of Appeal distinguished between two categories of taxes. First, taxes imposed by federal legislation (including PITA) but collected by state revenue authorities: for this category, the TAT possesses jurisdiction by virtue of section 60, since the substantive tax law in question is a federal enactment. Second, taxes imposed exclusively by state laws (such as hotel accommodation taxes, entertainment levies, or market taxes established solely under state legislation): for this category, the court found that neither the TAT nor the Federal High Court has jurisdiction, as these imposts are creatures of the state's own legislative domain and should be adjudicated before State High Courts.

The PSIRS's decision is significant for several reasons. It resolves the intra-appellate divergence between Skye Bank and Rectars in favour of a broader TAT jurisdiction over federal-statute taxes, albeit with a principled federal-state demarcation. It provides a constitutionally plausible rationale: since PITA is a federal statute, disputes arising from its administration are properly within the orbit of a federal adjudicatory mechanism. And it arrives critically on the very eve of the JRBEA's enactment, meaning that the legislature had the benefit of (or at the very least enacted section 29 against the backdrop of) this important judicial guidance.

4.2 Section 29 of the Joint Revenue Board Establishment Act, 2025

The 2025 legislative overhaul, particularly the Joint Revenue Board (Establishment) Act, appears to have been drafted as a direct challenge to the boundary-setting approach of the judiciary. Section 29 of the JRBEA unequivocally expands the jurisdiction of TAT to cover disputes arising from: Nigeria Tax Act, 2025; Nigeria Tax Administration Act, 2025; any other tax law made by the National Assembly and any tax law made by the House of Assembly of a State.

The explicit reference to the Nigeria Tax Act and Nigeria Tax Administration Act (both 2025 enactments forming part of the same reform package) confirms and consolidates TAT jurisdiction over the full spectrum of federal taxation, including income taxes, companies income tax, petroleum profits tax, and value added tax. This is uncontroversial and aligns with both judicial authority and constitutional logic.

Most consequentially, the phrase 'any other tax law made by... the House of Assembly of a State' purports to vest in a federal tribunal established by federal statute and funded from the Consolidated Revenue Fund jurisdiction over disputes arising from purely state legislation. This is the provision that sits most uneasily with the constitutional framework. The question is whether the National Assembly has the constitutional competence to confer on a federal body adjudicatory authority over disputes that, by their very nature, concern the exercise of state legislative and executive powers.

While on one reading, the provision is a pragmatic attempt to create a single, specialist forum for all tax disputes in Nigeria, reflecting a legislative judgment widely shared among tax practitioners that the specialist expertise of the TAT makes it better suited to resolve complex tax controversies than generalist State High Courts. For instance, this quest for a uniform taxation law as a guide for all the components States in Nigerian federation has been defended in the case of *Eti-Osa Local*

*Government v. Jegede*³³ where Dongban-Mensem, JCA held that "... to leave taxation at large at the whim and caprice of the different tiers of government would expose the entire citizenry to undue, multiple and overlapping taxes and levies." This is also the line which the Supreme Court in *Attorney General Lagos State v. Eko Hotels Limited & FBIR*³⁴ when it was called upon to address the issue of double taxation in VAT and sales tax in Lagos State. Kekere-Ekun, JSC was emphatic when he held thus: -

... VAT is an existing law by virtue of S.315 (1) of the 1999 Nigerian Constitution and since VAT has covered the field on the subject of sales tax, it therefore prevailed over Lagos Sales Tax (Schedule Amendment) Order 2000. I am in complete agreement with the learned counsel for the 1st and 2nd Respondents that not only do both legislations cover the same goods and services, they are also targeted at the same consumer. The tax has already been collected by Eko Hotels Limited pursuant to VAT Act. When disputes arose as to which of the two claimants (FBIR or LSBIR), the tax collected, should be remitted to, it rightly approached the court for direction. There is no doubt in my mind that it would amount to double taxation for the same tax to be levied on the same goods and services, payable by the same consumers under two different legislations.

While this ruling aligns with the constitutional principle of covering the field and can be seen through the lenses of a solution to double taxation and certainty of tax administration, if not guided well, it will become a pathway for encroachment by the federal government in the legislative competencies of states.³⁵ Thus, on another reading, it represents an impermissible federal incursion into the judicial sphere of the states, displacing state court jurisdiction by federal statute in a manner that the Constitution does not intend.

The constitutional challenge is formidable. Section 272(1) of the Constitution vests in the High Court of a State jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, duty, liability, privilege, interest, obligation or claim is in issue. This was the situation in *Chemiron International Ltd v LIRS*.³⁶ In this case, Lagos Internal Revenue Service issued a demand notice to Chemiron for under-deduction and under-remittance of employees' PAYE to the tune of 10 million Naira. In response, Chemiron challenged the demand notice at the State High Court. LIRS challenged the jurisdiction of the court on the ground that Chemiron failed to comply with sections 58 and 60 of PITA. In its decision, the court ruled in favour of Chemiron and upheld that it has jurisdiction under section 272 of the Constitution.

Though one can argue that section 251(1)(b) of the 1999 Constitution gives *exclusive* jurisdiction to the Federal High Court which by extensive coverage means TAT³⁷ in civil causes and matters

³³ (2007) 10 NWLR (Pt1043) 537 at 559 See also *Mobile Producing (Nigeria) Unlimited v. Eleme Local Government Rivers State* (2004) 10 CLRN 99 per Nwodo J.

³⁴ (2018) 31 TLRN 1 at 9

³⁵ C Halliday, G Akolokwu, RO Ugbe, M Nwanyanwu, EG Orie, G Oyedokun and U Jack-Osimiri, 'Disputes Resolution in Nigerian Taxation: Critical Appraisal of Jurisdictional Powers' (2021) 10 *Benue State University Law Journal* 50, 54

³⁶ *Chemiron International Ltd v LIRS* (Lagos State High Court, 20 June 2018) (unreported). See also Andersen in Nigeria, 'Lagos State High Court Rules That the Tax Appeal Tribunal Has Original Jurisdiction to Determine Matters Relating to Personal Income Tax' (13 December 2018) <<https://ng.andersen.com/lagos-state-high-court-rules-that-the-tax-appeal-tribunal-has-original-jurisdiction-to-determine-matters-relating-to-personal-income-tax/>> accessed 6 April 2026.

³⁷ Since its decision when registered is considered that of the FHC

“connected with or pertaining to the taxation of companies and other bodies, establishments or entities carrying on business in Nigeria and all other persons subject to Federal taxation.” It is important to note that the emphasis of that provision is on federal taxation and thus, state-imposed taxes are not within this jurisdiction. Thus, in *Access Bank Ltd v Edo State Board of Internal Revenue*,³⁸ the court have ruled that the Federal High Court does not have the constitutional or statutory jurisdiction to hear any matter to or connected with the revenue of a state.

Consequently, it is the position of this study that tax disputes involving state-imposed levies plainly fall within the rubric of Section 272(1) of the Constitution. While the Constitution does not prohibit the creation of federal tribunals, the displacement of State High Court jurisdiction by federal legislation in matters not falling within the Exclusive Legislative List or the ambit of concurrent legislative power requires careful constitutional justification or risks watering down the very pillars of our federal structure.

5. Constitutional and Institutional Implications for the Nigerian Fiscal Federalism

The implications of the expanded jurisdiction of TAT under section 29 of JRBEA operate on both constitutional and institutional planes and must be assessed at both levels of analysis.

From a constitutional standpoint, the main problem which this study identifies is one of competence. The legislative power of the National Assembly is bounded by the Constitution. Outside the Exclusive and Concurrent Legislative Lists, states possess residual legislative authority.³⁹ Where a state has enacted a tax law exercising that residual authority or its concurrent authority over items such as road taxes, entertainment taxes, or market levies, the adjudication of disputes under that law is, a matter for the state judiciary. Thus, any federally enacted statute purporting to vest jurisdiction over such disputes in a federal tribunal risk violating the principle of constitutional supremacy and the structural autonomy of state governments.

The jurisprudence of the Supreme Court on federalism, though not always perfectly consistent, has recognised that the federal government may not, through legislation, effectively hollow out the institutional competences of the states. In *Attorney-General of Abia State v Attorney-General of the Federation*,⁴⁰ the apex court affirmed that the constitutional distribution of powers is not merely hortatory. It creates enforceable boundaries on federal legislative action. Flowing from this, it is the argument of this paper that the extension of TAT jurisdiction to state tax laws, to the extent it displaces State High Court jurisdiction, may cross one such boundary.

The institutional implications are equally significant. JRBEA envisions a TAT organised into zones, with a Coordinating Secretary and zonal secretaries appointed by the Minister of Finance. Each Tribunal consists of five Tax Appeal Commissioners, with a quorum of three.⁴¹ Decisions are enforced as judgements of the Federal High Court upon registration. The Second Schedule to the JRBEA 2025 further provides that TAT decisions may be appealed to the Federal High Court and ultimately to the Court of Appeal.

This appellate architecture routing tax disputes from the TAT through the Federal High Court to the Court of Appeal has historically created tension with the jurisdiction of State High Courts over state tax matters. The PSIRS’s case itself exemplifies this: PSIRS commenced at the TAT, JEDC appealed to the Federal High Court, and the matter eventually reached the Court of Appeal. A State

³⁸ (2018) LPELR-44156(CA).

³⁹ TW Nwoke, ‘Taxing Powers of the Three Tiers of Government in Nigeria: An Extrapolative Appraisal’ (2021) 2 *International Journal of Law and Clinical Legal Education*, 74, 80

⁴⁰ (2002) 6 NWLR (Pt. 763) 264

⁴¹ JRBEA 2025, s 24

High Court was bypassed entirely. If section 29 is read broadly, this bypass becomes institutionalised for all state tax matters, including those arising purely under state legislation, a result that is difficult to reconcile with the constitutional role of State High Courts as courts of general jurisdiction over state legal affairs.

Furthermore, the funding structure of the TAT appropriated from the Consolidated Revenue Fund⁴² means that state tax disputes will be adjudicated in a tribunal whose financial lifeline runs entirely through the federal government. While this does not per se create a bias problem, it does create a perception issue of considerable political sensitivity in the Nigerian federal context, where inter-governmental fiscal relations are chronically fraught.

With this, it can be said that the reforms effectively create a monopolistic national tax agency. From a federalist perspective, this arrangement undermines the status of states as coordinate authorities. In centralising both collection and dispute resolution, the reforms risk converting states into mere recipients awaiting federal remittances, a condition that is fundamentally incompatible with a federal system where each tier should generate and collect its own revenue to serve as a check on central power. This shift toward a de facto unitary system is viewed by some as a dismantling of constitutional protections intended to prevent tyranny and ensure local accountability.

6. Reconciling Efficiency with Constitutional Federalism: Proposals for Jurisdictional Clarity

The tension identified in this paper is not irresolvable. The policy imperatives that animate the JRBEA harmonisation, dispute resolution efficiency, taxpayer protection, and the elimination of jurisdictional chaos are real and pressing. What is required is a constitutional architecture that achieves these ends without impermissibly subordinating state judicial authority to a federal adjudicatory regime. Flowing from this, the following proposals are advanced.

To start with, the National Assembly should amend section 29 to distinguish expressly between the categories identified in *PSIRS v JEDC*. TAT jurisdiction over disputes arising from federal tax laws administered by state authorities (including PITA) should be affirmed and placed beyond doubt. TAT jurisdiction over disputes arising from purely state-enacted tax laws should be conditional upon the enactment of a complementary state law conferring concurrent jurisdiction, a cooperative federalism model. This two-track approach would preserve the constitutional authority of states while enabling those states that wish to access the efficiency of the TAT to do so.

Similarly, the composition of the TAT should be reconsidered with a view to ensuring that state representation in the adjudicatory process is institutionally embedded. The current five-member Commission structure, whose members are appointed by the federal Minister of Finance, is structurally federal. An amendment requiring that at least one member in any panel hearing a dispute involving state revenue be nominated by the relevant state would create a structural stake for states in the tribunal's processes and reduce the perception that federal authority is adjudicating its own interests.

More so, the National Economic Council (NEC) which, under section 50 of the JRBEA, may give binding fiscal policy directives to the Joint Revenue Board should be utilised as the platform through which inter-governmental consensus on TAT jurisdiction over state taxes is built. A NEC resolution, endorsed by all thirty-six states and the FCT, accepting TAT jurisdiction over specified

⁴² *Ibid.* s 30

categories of state tax disputes, would provide a robust political and constitutional foundation for the extended jurisdiction that section 29 establishes by legislative fiat alone.

Finally, and most fundamentally, the legislature should ensure coherence between section 29 of the JRBEA and the provisions of the Nigeria Tax Administration Act 2025, which appears to be the primary operational statute governing tax administration across all tiers. Any jurisdictional provisions in the latter Act must be harmonised with section 29 to prevent a new generation of interpretive disputes arising from intra-reform inconsistency.

7. Conclusion

The Joint Revenue Board of Nigeria (Establishment) Act, 2025 represents an ambitious and, in many respects, admirable attempt to bring institutional coherence to Nigeria's fractured tax administration landscape. The Tax Appeal Tribunal, as redesigned and empowered by section 29, holds genuine promise as a specialist forum capable of resolving complex revenue disputes with greater expertise and efficiency than generalist courts. However, the paper has argued that undifferentiated extension of TAT jurisdiction to disputes arising from state tax legislation under section 29 of JRBEA, 2025 imposes constitutional tensions that will, if unresolved, generate a new wave of jurisdictional litigation capable of defeating the very purpose the provision was designed to achieve. The Court of Appeal's decision in *PSIRS v JEDC*, while laudably clarifying the pre-reform position, does not itself resolve the constitutional dimensions of the new provision: it adjudicated the pre-reform question of whether federal tax legislation (PITA) could confer jurisdiction on the TAT over state-directed revenue; it did not, and could not, speak to the constitutionality of a federal statute purporting to extend TAT jurisdiction to disputes under purely state legislation. The path forward lies not in choosing between centralised efficiency and federal autonomy as competing absolutes, but in designing institutional arrangements that honour both values. Cooperative federalism, jurisdictional delimitation, and inclusive tribunal composition offer the tools for this reconciliation. A Nigeria in which tax disputes are resolved efficiently, impartially, and with full respect for the constitutional status of its constituent units is both attainable and realistic. What remains uncertain is whether lawmakers and political leaders possess the commitment and determination to refine the ambitious yet imperfect framework established by the 2025 reforms Acts.