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Causes of Tax Evasion and its Impact on Development in Bangladesh: A Legal Analysis

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Declaration

I, Alvi Tabassum Rittika , Student ID -2018-3-64-009, declare that I am the author of the dissertation "Causes of Tax Evasion and its Impact on the development in Bangladesh : A legal Analysis.". This is my original work, and all sources of information used in this paper have been properly cited. This work has not been published in any journal, newspaper, or article.

Table of Content

Consent From	2
Acknowledgment	3
Declaration	4
Table of Content	5
LIST OF ABBREVIATION	7
ABSTRACT	8
Chapter 1	10
Introduction	10
1.1 -Background of the Study	10
1.2- Hypothesis	10
1.3- Research Question	11
1.4-Literature Review	11
1.5-Research Methodology	12
1.6- Scope of the Study and Limitations	12
Chapter 2	13
Concept of Tax	13
2.1-Introduction	13
2.2- History of Tax	13
2.3-Tax	14
2.4-Taxable Income	14
2.5-NBR	15
2.6-Conclusion	16
Chapter 3	17
Tax Evasion and Tax Avoidance	17
3.1-Introduction	17
3.2-Tax Evasion	17
3.3-Tax Avoidance	18
3.4-Diffrance between Tax evasion and Tax avoidance	18
3 5-Conclusion	19

Chapter 4	20
Legal Framework	20
4.1-Introduction	20
4.2- Relevent Laws and Penalties In Bangladesh Regarding Tax Evasion	20
4.3- Relevent Laws and Penalties In India Regarding Tax Evasion	22
4.4- Relevent Laws and Penalties In US Regarding Tax Evasion	23
4.5-Notable cases regarding tax evasion	23
4.6-Effects of Tax evasion in Bangladesh	25
4.7-Conclusion	27
Chapter 5	28
Findings	28
Causes of Tax Evasion	28
Chapter 6	31
Recommendations	31
Conclusion	32
Bibliography	33

LIST OF ABBREVIATION

NBR- National Board of Revenue

GDP- Gross Domestic Product

DCT- Deputy Commissioner of Tax

VAT-Value-added Tax

ITA-Income Tax Act

ABSTRACT

Paying taxes is a responsibility imposed by the government on its citizens, serving as a major financial source for public expenditure and development, and currently serving as an economic policy instrument. Without boundaries, tax evasion is a problem. The economies in transition and developing nations are the most severely affected by tax evasion. Bangladesh has a strong informal economy, poor tax culture and low compliance rate. Within the context of Bangladesh's legal system, this paper is a legal analysis of causes of tax evasion and its impact on the development in Bangladesh.

Keyword- Tax, Tax Evasion, Income Tax, Bangladesh, NBR, Development

Causes of Tax Evasion and its Impact on the development in Bangladesh : A legal Analysis.

Chapter 1

Introduction

1.1 -Background of the Study

Tax evasion is regarded as a widespread phenomenon. Bangladesh, a developing nation, it is a major issue. The National Board of Revenue's (NBR) tireless efforts have not resulted in a satisfactory reduction in tax evasion. People, companies, and corporate entities employ a variety of strategies to avoid paying taxes by taking advantage of Bangladesh's present tax laws' loopholes. The governments of most developing nations, including Bangladesh, have been unable to increase the amount of their tax bases as a result of rising tax evasion used to finance the easing of service delivery. Today's global taxation practices reveal significant variations between countries, particularly between developed and developing countries. Specifically, wealthy nations now collect taxes on a far higher percentage of their national output than do developing nations, and they typically depend more on income taxation to do so. In contrast, trade taxes and consumption taxes are more important in developing nations. Taxation is a vital part of the government's financial sources. One of the major sources of financial support for economic and social development of Bangladesh is tax revenue. Many developing countries' tax systems are defined by tax structures that deviate from international norms, poor policy management, low levels of compliance, and inadequate resources for tax administration. The state of the economy also has an impact on the variation in revenue mobilization. To accelerate economic development, it is crucial to stop tax evasion and avoidance. Governments need funds to create infrastructure and invest in various sectors, but their revenue generation is insufficient due to tax evasion and avoidance. The process of increasing tax revenue can be complex and involve addressing various issues on both the taxpayer and tax collector's sides. Bangladesh's low tax-to-GDP ratio is primarily due to its narrow tax base, widespread exemptions, and administrative inefficiencies compared to neighboring countries. Therefore, addressing these issues is crucial.NBR need to update and add more penalty or punishment to prevent tax evasion and give some helpful way to pay tax.

1.2- Hypothesis

The existing law of Bangladesh is insufficient to ensure the prevention of tax evasion and the state is bound to overcome the situation.

1.3- Research Question

- 1. Whether tax evasion is on the rise in Bangladesh or not? If yes, whether the current legal framework is sufficient to prevent tax evasion or not?
- 2. What are the effects of tax evasion on the development in Bangladesh?

1.4-Literature Review

Studies indicate that taxpayers' tax evasion behavior is influenced by various factors. Allingham and Sandmo are pioneers in the field of tax evasion. According to Allingham and Sandmo article the body of research on tax evasion has grown significantly in the literature. They acknowledged the stale elements of tax evasion. They emphasized the connection between rewards for tax evasion and rewards for exerting effort. They also revealed that the income declaration of the taxpayers was dependent upon the real income of the taxpayers, the tax rate, the penalty rate, and the likelihood of an audit. They explained in their explanation of their findings that "When actual income varies, the fraction declared increases, stays constant, or decreases according to the relative risk aversion, which is an increasing, constant, or decreasing function of income,". They came to the conclusion that the rate of taxation and tax evasion have the opposite relationships. A lower tax rate encourages taxpayers to pay their taxes, whereas an increase in the rate increases the chance to evade additional taxes. On the other hand, taxpayers become less wealthy if they pay more taxes. Their analysis also showed that people always have the option to disclose their true income if a nation decides to raise the penalty for tax evasion. It may be possible to declare the significant income if there is a greater probability of being discovered.

In another article Alm did not capture any significant relationship between the likelihood of detection, tax penalties, and tax evasion. He highlight that increasing the penalty rate may cause taxpayers to evade taxes less frequently². But in Allingham and Sandmo article they suggests that tax evasion can be reduced by increasing penalties or administrative expenses, raising the probability of tax evaders being caught. An extreme interpretation suggests that penalties should be so high that at the limit, tax evaders caught should be hanged with a probability approaching zero. This has significant implications for administration.

Based on the aforementioned discussion and research on causes of tax evasion, it can be assumed that a number of common factors, such as high tax rates, the tax burden, income level, income sources, chances of detection, fraud penalties, government spending, public services, tax

¹ Michael G Allingham and Agnar Sandmo, 'Income Tax Evasion: A Theoretical Analysis' (1972) 1 Journal of Public Economics 323.

² James Alm, Gary H McClelland and William D Schulze, 'Why Do People Pay Taxes?' (1992) 48 Journal of Public Economics 21.

mentality, voluntary compliance, and tax morale are the reasons of tax evasion and people are evading taxes because the penalties are not extreme.

1.5-Research Methodology

This thesis can be described as qualitative research. In conducting the research, resources like statutes, international conventions are considered as a primary sources. For secondary resources, newspaper articles, national and international journals, online journals and are websites considered. This research paper looks at a range of challenges to find a solution to the research question. The research paper aims to investigate and find out how far the existing law ensure the prevention of tax evasion. In addition, the necessary materials related of this issue were collected from websites, journals, scholars blogs and some articles.

1.6- Scope of the Study and Limitations

In this research paper, I'm focusing on the legal analysis of causes of tax evasion and its impact on the development in Bangladesh. Many restrictions were encountered while doing the research. Because of my time limitations, I could not utilise many of my academic resources. There is a shortage of current information on this research area. If there are no time constraints and if other things are available for free on the internet, I will try to do more research and obtain more results. This study would be more planned, spontaneous, and informative without this limitation.

Chapter 2

Concept of Tax

2.1-Introduction

One of the most important ways that nations can create public revenues to fund infrastructure projects, investments in human resources, and services for both citizens and corporations is through the collection of taxes and fees.³ Tax revenues play a major role in the government revenue of Bangladesh. Taxation is crucial for a sustainable state and economic growth, as an improved tax system helps finance public services, reduce inequality, increase government accountability, and enhance self-reliance by reducing government inefficiency.

2.2- History of Tax

The Indian Income Tax Act was enacted by the Indian government in 1886. It was amended and consolidated in 1916. In 1922, the All-India Income Tax Committee recommended a broadbased tax system, leading to the establishment of the Inland Revenue Board. Bangladesh inherited the British-Indian tax system until 1971. However, during the Pakistani regime, land ownership in Bengal changed significantly, with the Permanent Land Revenue Settlement abolished and. Property rights were awarded by the Zamindars at a set percentage of land revenue. The Permanent Settlement in Bengal was implemented due to weak Company administration, but the Zamindar system failed to improve Rayots' production and well-being. The 'Peasants Uprising' led to the abolition of permanent settlements. The A.K. Fazlul Haque-led Krishok Proja Party, formed the Bengal Provincial government in 1937 and passed the Moneylenders Act of 1940, abolishing Zamindar fees and taxes. When the Land Revenue Commission was established in 1938, its recommendations included doing away with permanent settlements and paying land taxes to the government directly. Bangladesh's Income Tax Ordinance, 1984 (XXXVI of 1984), which went into effect on July 1st, 1984, replaced the 1922

³ 'Taxes & Government Revenue' (*World Bank*) https://www.worldbank.org/en/topic/taxes-and-government-revenue accessed 29 December 2023.

⁴ 'BD FTM Final Text.Pdf' https://maketaxfair.net/assets/wbb-publications/1403/BD%20FTM%20final%20text.pdf accessed 30 December 2023. ⁵ ibid.

Income Tax Act.Regarding taxes and the tax system, Bangladesh maintains a relatively democratic attitude. ⁶

2.3-Tax

Tax is a compulsory levy imposed by a Government under specific Acts on person or goods to defray expenditure for common benefit of citizen.⁷ It is an obligatory payment made by individuals or businesses to the government. Most important way of funding for the government is taxation. It plays a crucial role in shaping the relationship between the state and its citizens⁸. Revenue from taxes is one of the main sources of funding for social and economic advancement. Taxation policy is crucial for the government to generate sustainable revenue for successful public programs, ensuring efficient administration and collection systems for public goods and services delivery⁹. There are two types of taxes in Bangladesh. They are-indirect tax and direct tax. Income and profit taxes are examples of direct taxes and other taxes and duties, such as VAT, import, export, excise, supplemental, and other charges, are examples of indirect taxes.¹⁰

2.4-Taxable Income

Taxable income, after deductions and exemptions, is the amount of income subject to tax for individuals and corporations, which is less than gross income. ¹¹According to Bangladeshi tax regulations, every income derived from Bangladeshi sources is taxable. Also, foreign income is subject to taxation unless it is paid to a foreign nation with which Bangladesh has entered into a double taxation agreement. ¹² According to the Income Tax Ordinance 1984 section 20 there are seven types of income are there in Income Tax Law in Bangladesh, namely- agricultural income, salaries, interest on securities, income from house property, capital gains, income from other sources and income from business or profession,. ¹³

⁶ ibid.

⁷ 'The Income-Tax Ordinance, 1984' http://bdlaws.minlaw.gov.bd/act-672.html accessed 28 December 2023.

⁸ Michael Carnahan, 'Taxation Challenges in Developing Countries' (2015) 2 Asia & the Pacific Policy Studies 169.

⁹ 'Effective Ways to Raise Tax-GDP Ratio in Bangladesh' (*The Financial Express*)

https://thefinancialexpress.com.bd/views/opinions/effective-ways-to-raise-tax-gdp-ratio-in-bangladesh accessed 6 January 2024.

¹⁰ 'Tackling Tax Evasion in Bangladesh' (South Asia@LSE, 1 July 2019)

https://blogs.lse.ac.uk/southasia/2019/07/01/tackling-tax-evasion-in-bangladesh/ accessed 28 December 2023.

^{11 &#}x27;What Is Taxable Income?' (Tax Foundation, 24 October 2023)

https://taxfoundation.org/taxedu/glossary/taxable-income/ accessed 30 December 2023.

¹² 'Bangladesh Tax Laws: Personal Responsibility | Serviap ®' (17 May 2022)

https://www.serviapgroup.com/blog/bangladesh-tax-overview/ accessed 30 December 2023.

¹³ 'The Income-Tax Ordinance, 1984' (n 7).

Income tax is a progressive tax system based on taxpayer ability to pay, with the principle being that the higher a taxpayer earns, the higher they should pay.

The following are the standard income tax slab rates for 2023-24:

Based on whether an assesses is a non-resident or a resident, different tax rates and amounts of taxable income applicable. The tax-free income threshold of male taxpayers is BDT 350,000, resulting in the following brackets/rates:

- o up to BDT 350,000 Nil
- o over BDT 350,000 up to 450,000 5%
- o over BDT 450,000 up to 750,000 10%
- o over BDT 750,000 up to 1,150,000 15%
- o over BDT 1,150,000 up to 1,650,000 20%
- o over BDT 1,650,000 25%

For female taxpayers and taxpayers over 65, the tax-free income limit is BDT 400,000 and the 0% surcharge bracket threshold for wealthy individuals is BDT 40 million. ¹⁴ In a nation of about 17 crore people, the percentage of taxpayers who file income tax returns on a regular basis is quite low. ¹⁵

Tax amount:

Individuals in Dhaka and Chattogram city corporations pay a minimum tax of Tk 5,000 if their taxable income exceeds Tk 350,000, while those in other city corporations pay Tk 4,000 and non-city corporation areas pay Tk 3,000.¹⁶

The deadline for submitting returns annually is from July 1 to November 30, but in assessment year 2023-24 deadline extended to January.

2.5-NBR

The National Board of Revenue is the primary authority responsible for tax administration in Bangladesh.¹⁷ In addition to collecting tax money, NBR is in responsible of developing and reconsidering tax laws and policies. NBR field offices implement tax laws and policies, identifying tax evasion and implementing enforcement actions to prevent such activities. Each

¹⁴ 'Bangladesh National Budget for 2023-24 Delivered Including Individual Income Tax Adjustments — Orbitax Tax News & Alerts' https://orbitax.com/news/archive.php/Bangladesh-National-Budget-for-52889 accessed 28 December 2023.

¹⁵ Star Business Report, 'Tax Evasion Costs Bangladesh up to Tk 223,000cr a Year: CPD' (*The Daily Star*, 4 April 2023) https://www.thedailystar.net/business/economy/news/tax-evasion-costs-bangladesh-tk-223000cr-year-cpd-3288066> accessed 29 December 2023.

¹⁶ Taukir Aziz, 'All You Need to Know about the New Income Tax Act' (*The Daily Star*, 25 June 2023) https://www.thedailystar.net/opinion/views/news/all-you-need-know-about-the-new-income-tax-act-3355371 accessed 7 January 2024.

¹⁷ 'National Board of Revenue (NBR), Bangladesh' https://nbr.gov.bd/ accessed 31 December 2023.

territorial tax zone consists of 22 tax circles, each of which has a certain jurisdiction over taxpayers that are separate legal entities. With a single DCT, his taxpayers and employees, each circular office operates independently.

2.6-Conclusion

Bangladesh's progressive tax system, based on a person's financial capacity, is a key revenue source. Taxes are based on income, with higher rates imposed based on earnings. The system aims to maintain social fairness and equity, with rates also varying between male and female individuals.

Chapter 3

Tax Evasion and Tax Avoidance

3.1-Introduction

In every society, there are visible phenomena such as taxation and tax evasion. ¹⁸Every taxpayer who owes taxes searches for different methods to lower their tax liability and evade paying taxes. Tax evasion and tax avoidance are prevalent strategies employed by taxpayers to minimize their tax obligations through both legal and illegal means. ¹⁹

3.2-Tax Evasion

Tax evasion is a global occurrence. The purposeful and intentional breach of the law to avoid paying taxes that are unquestionably required by the tax jurisdiction's laws is known as tax evasion. ²⁰It is a violation of the law when the taxpayer participates in unlawful activity and exposes himself to administrative or legal action from the authorities when he fails to declare income from labor or capital that is generally taxable. ²¹Usually, Tax evasion is a deliberate act where taxpayers deceive or conceal their financial status to reduce their tax obligations. It also covers dishonest tax reporting, which includes overstating deductions or disclosing lower income, profits, or gains than were actually made. In addition to being immoral, tax evasion violates the tax laws.²² Tax evasion is an illegal act where individuals or companies avoid paying their tax liabilities, often leading to criminal charges and substantial penalties. This includes not paying taxes or paying less than what is required, fabricating income, claiming deductions without proof, and failing to declare cash transactions.²³

¹⁸ Derartu Defar, 'FACTORS INFLUENCING TAX EVASION'

https://www.academia.edu/33159528/FACTORS_INFLUENCING_TAX_EVASION> accessed 30 December 2023.

¹⁹ 'Difference Between Tax Evasion and Tax Avoidance - ODINT Consulting' (28 February 2022)

https://ondemandint.com/blog/difference-between-tax-evasion-and-tax-avoidance/ accessed 30 December 2023.

²⁰ American Journal of Humanities and Social Sciences, 'Effect of Tax Avoidance and Tax Evasion on Personal Income Tax Administration in Nigeria | American Journal of Humanities and Social Sciences'

https://worldscholars.org/index.php/ajhss/article/view/328 accessed 29 December 2023.

²¹ Agnar Sandmo, 'The Theory of Tax Evasion: A Retrospective View' (2005) 58 National Tax Journal 643.

²² Md Mohabbat, Md Rahman and Md Darda, 'Tax Avoidance and Evasion Practices in Bangladesh: A Study on Dhaka City'.

²³ 'Tax Evasion: What Is Tax Evasion, Methods and Penalties?' https://www.canarahsbclife.com/tax-university/articles/tax-evasion-what-is-tax-evasion-methods-and-penalties accessed 8 January 2024.

3.3-Tax Avoidance

Tax avoidance means taking undue benefit of the loopholes, lacunae or drafting mistakes for reducing tax liability and thus avoiding payment of tax which is lawfully payable. Tax avoidance is the minimization of tax liability by the tax-payer or his agent by efficient tax planning. It is possible by fully complying with the tax laws and meeting tax liabilities. Thus tax avoidance takes the advantages of the loopholes in the existing fiscal laws. The avoider is just smart taxpayer who exploits loopholes in the tax laws to reduce tax liability.²⁴ It is completely permissible to use the tax system for one's personal benefit in order to lower the amount of tax that an individual is required to pay.²⁵ Almost all taxpayers adopt the basic tax avoidance strategy of claiming allowable tax deductions that they are qualified for depending on their current financial situation.²⁶ It is achieved by claiming allowable credits and deductions, but it can also be accomplished by giving tax-advantaged investments top priority. The use of legal strategies to lower taxable income or arrears is known as tax avoidance. Investing in tax-exempt accounts is often done through approved tax deductions and tax credit claims.

3.4-Diffrance between Tax evasion and Tax avoidance

The Bangladeshi statutory law lacks a formal definition for tax evasion or tax avoidance. Considering the concept of tax evasion, failing to declare all income earned will be considered illegal and will be treated as tax evasion. Tax evasion also includes income from financial assets kept in another nation but not reported to the local IRS. It goes without saying that manipulating transactions to reduce one's tax liability will be considered tax evasion. ²⁷Numerous judges have discussed the legal differences between tax evasion and tax avoidance over time. As it is considered illegal, many judges have concluded that tax evasion is ethically immoral. However, the judges claim that since tax avoidance is accepted as lawful, there is no ethical issue. ²⁸Realistically comparing legal interpretations to moral interpretations is not accurate as it can lead to misunderstandings about tax evasion and avoidance because the fact that a taxpayer's

²⁴ Nazib-E Zaman, '"TAX EVASION & DANGLADESH& PROBLEM FOR BANGLADESH& quot';

https://www.academia.edu/5307601/_TAX_EVASION_and_AVOIDANCE_A_REAL_PROBLEM_FOR_BANGLADESH > accessed 30 December 2023.

²⁵ Mohabbat, Rahman and Darda (n 22).

²⁶ 'The Difference Between Tax Avoidance and Tax Evasion' (*Herman Law*, 16 July 2019)

https://rhlawfl.com/white-collar-crime/whats-the-difference-between-tax-avoidance-and-tax-evasion/ accessed 30 December 2023.

²⁷ Clemens Fuest and Nadine Riedel, 'Tax Evasion, Tax Avoidance and Tax Expenditures in Developing Countries: A Review of the Literature'.

²⁸ Zoë M Prebble and John Prebble KC, 'The Morality of Tax Avoidance' (2010)

https://papers.ssrn.com/abstract=1650363 accessed 30 December 2023.

activities are legal doesn't mean they're ethically right.²⁹ Tax avoidance involves structuring transactions to maximize tax benefits, while tax evasion involves illegal measures to avoid paying taxes. Tax avoidance is a legal method to find loopholes in taxation laws, while tax evasion is a deliberate attempt to avoid paying taxes. Both methods lead to countries being short in taxes and local people suffering.

Tax evasion is an illegal and unethical practice. Reducing tax liability through false statements, hiding documents, improper record keeping or claiming personal expenses as business expenses which is an unlawful act. that can result in imprisonment or penalties if proven guilty. On the other hand tax avoidance, aims to reduce the tax burden by following the law, resulting in a delay of tax payments and a strategy to lower tax burdens without violating the law, such as using deductions for business expenses or delaying tax payments.

3.5-Conclusion

There is a significant difference between legally avoiding taxes through charitable contributions and illegally evading taxes. It doesn't require much persuasion to convince someone that making a charitable donation is morally right, but intentional tax cheating is wrong. ³⁰

²⁹ ibid.

³⁰ ibid.

Chapter 4

Legal Framework

4.1-Introduction

Tax evasion occurs in all countries, but it is a more severe issue in developing countries like Bangladesh. Bangladesh is losing potential taxes each year, tax evasion by individuals and corporations has a significant impact, approximately Tk 41,800 crore to Tk 223,000 crore. To maintain economic development, it's crucial to increase income tax collection and avoid tax evasion. This is not a sign of self-evasion, but rather a government's attempt to collect revenue through increased indirect tax, imposing equal burdens on the rich and poor.³¹ The Income Tax Act 2023 in Bangladesh is a crucial legislation that regulates the taxation of income earned by individuals, businesses, and other entities, and has been revised to adapt to the nation's evolving economic landscape.

The NBR is the top authority responsible for managing indirect taxes like VAT and customs duty, as well as direct taxes like income, gift, and travel tax. The Income Tax Ordinance, 1984 (XXXVI of 1984) and the Income Tax Rules, 1984 are the tax laws that govern income tax administration in Bangladesh.³²

4.2- Relevent Laws and Penalties In Bangladesh Regarding Tax Evasion

Income Tax Ordinance, 1984

- > Section 93 states that, the evasion of tax can be effectively managed through the following methods. -
 - 1) The DCT may issue a notice to an assessee if they believe a sum payable has escaped payment in an assessment year, requiring them to file a return of income and pay the escaped payment before filing the return.
 - 2) The DCT may issue a notice under section 82BB if the return for the relevant assessment year was filed or completed under any other Ordinance provision, requiring written approval from Inspecting officers.
 - 3) The DCT can issue a notice if no assessment or return was filed for the relevant year, or within six years if the assessment was finished but no return was filed.
 - 4) Tax offices must implement four enforcement measures to combat tax evasion: administrative penalty, raising risk points, criminal prosecution, and interruption.

³¹ 'Income Tax in State Coffers' (*New Age* | *The Most Popular Outspoken English Daily in Bangladesh*) https://www.newagebd.net/article/188092/income-tax-in-state-coffers accessed 7 January 2024.

³² 'National Board of Revenue (NBR), Bangladesh' (n 17).

If a court halts an assessment or proceedings, the time period is excluded. If a taxpayer is identified for tax evasion, a fresh assessment is conducted, a taxpayer hearing is held, and a new demand and assessment order is sent.

- ➤ Section 124A states that, a maximum penalty of Tk. 20,000 for the use of fake tax-payer's identification numbers.
- ➤ Section 124AA states that, a penalty of Tk. 50,000 for non-refund of taxpayer's identification number.
- > Section 127 states that, failure to pay tax on the basis of return can result in a maximum delinquent tax of 25% of the total tax or unpaid amount.
- Section 128(1) states that, if someone would have avoided paying taxes, the income tax authorities will impose a 15% penalty. This penalty will increase by 15% for each previous assessment year if concealment is discovered more than a year after the first tax assessment. Thus, those who evade tax must pay the 15% penalty.
- ➤ Section 166 states that, individuals who conceal or intentionally provide inaccurate income information are guilty of an offense punishable by imprisonment, fine, or both, with a maximum sentence of five years.

Income Tax Act 2023

The Income Tax Act 2023 (ITA 2023) replaces the 1984 Income Tax Ordinance, modernizing the taxation system to attract foreign direct investment. It expands the tax net, introduces tax holidays for new industries, and strengthens revenue collection. It also includes provisions for Taxpayers Identification Numbers.³³The Income Tax Act 2023 aims to ensure fair tax distribution, encourage voluntary tax compliance, discourage tax evasion, stimulate economic growth and investment through incentives, and improve transparency and reduce tax law complexities.³⁴ In this Act to combat tax avoidance and evasion by allowing tax authorities to investigate transactions and imposing penalties for non-compliance with tax laws. Following-

- Provision for whitening black money states that, black money can buy land, plots, and flats, with taxes based on areas. Multiple land-flats require a 20% additional tax Black money is tax-free when investing in high tech or economic zones. Black money can be converted into white for stock market shares, renovations, modernization, and industrialization.
- Punishment for tax evasion, concealment, late submission states that, A person who intentionally evades tax can face imprisonment ranging from 6 months to maximum 5 years, a fine, or both.

Falsifying income, assets, liabilities, expenses, or omitting tax file information to reduce taxes is punishable, and any attempt to avoid paying income tax will result in punishment.

³³ juralacuity, 'Income Tax Act 2023 & Taxation: A Summary of Income Taxation in Bangladesh' (*Jural Acuity*, 30 August 2023) https://juralacuity.com/income-taxation-in-bangladesh/ accessed 8 January 2024.

³⁴ ibid.

4% of the tax due penalty, up from 2%, will be assessed for filing income tax returns after the deadline. A fine of TK 1,000, or 10% of the last income due, will be assessed for failure to file. The DTC may charge an extra Tk50 per day in penalties if the delay continues.

- ➤ Penalty for finding wealth abroad states that, if a person with unreported assets abroad can result in a significant penalty, including a fine equal to the property's fair market value, and the DCT can investigate if necessary.
- Expanding scope of penalties states that, Tax authorities have increased penalties for non-compliance with tax regulations. Businesses must provide proof of return submission at the business center, with fines ranging from Tk5,000 to 20,000. Fake TINs and audit reports can result in fines of Tk 20,000 to Tk 2 lakh. The DCT has the authority to levy penalties equal to the amount owed if taxes are unpaid or in arrears. Obstructing income tax authorities can result in imprisonment or fines.

Income Tax Act 2023 Bangladesh has been drafted in Bangla to improve accessibility and comprehensibility, with new sections introduced to eliminate complexities and replace interdependencies, aiming to enhance understanding and compliance with tax laws. The audit process for tax files has been clarified and time-bound, allowing taxpayers to defend themselves³⁵.

4.3- Relevent Laws and Penalties In India Regarding Tax Evasion

The Income-tax Act, 1961, includes terms like tax planning, avoidance, and evasion. However, tax evasion is illegal and penalties are outlined in Chapter XXII. The Act introduces penalties for individuals attempting to evade paying income taxes. Here is a summary of several common types of tax evasion that, according to the Income Tax Act of 1961, might result in penalties-

Income Tax Act 1961

- ➤ Section 139 states that, non-filing of income tax returns can result in a penalty of up to Rs 5,000.
- ➤ Section 271(C) states that, taxpayers who conceal original earnings or income face penalties ranging from 100% to 300% of the tax evaded.
- > Section 44AB states that, a taxpayer must undergo an audit or provide an audit report, or face a penalty of 0.5% of total sales, turnover of gross receipts, or Rs 1,50,000.
- ➤ Section 93(E) states that, The taxpayer is required to submit an accountant's report, if no which may result in a penalty of Rs 1,00,000 or more.

³⁵ 'New Income Tax Law to Be Hard on Evaders, Simplifies Rules for Businesses' (*The Business Standard*, 6 June 2023) https://www.tbsnews.net/nbr/new-income-tax-law-be-hard-evaders-simplifies-rules-businesses-645202 accessed 8 January 2024.

Section 276(C) states that, a taxpayer who willfully evades or under-reports income with the amount exceeding Rs 25 lakh may face imprisonment for six months to seven years, along with a fine.

Mid East Port Folio Management ... vs Deputy Commissioner Of Income Tax ³⁶and Dillu Clive Enterprises (P) Ltd. vs Addl. Cit³⁷ are relevent tax evasion case in India where people are not obeying the tax rules and laws, and continuously evade the tax.

4.4- Relevent Laws and Penalties In US Regarding Tax Evasion

Tax evasion is a serious offense that can result in substantial financial penalties, imprisonment, or both in US.

Internal Revenue Code

➤ Section 7201 states that, if a person who willfully evades or defeats tax imposed by this title or its payment will be guilty of a felony and may face a fine of \$100,000 (\$500,000 in corporation cases) or imprisonment of 5 years or both, along with prosecution costs.

In US, the projected gross tax gap for 2017-2019 is \$41 billion for nonfiling, \$433 billion for underreporting, and \$66 billion for underpayment.³⁸

Walter Anderson, an American entrepreneur, was convicted of the largest tax evasion case in U.S. history for evading over \$200 million in taxes. In 1998, he paid \$495 in taxes on \$67,939 of income, allegedly hiding \$126 million using offshore corporations. Anderson was sentenced to nine years in federal prison.³⁹

4.5-Notable cases regarding tax evasion

Dr Muhammad Yunus Case

Nobel laureate Dr. Muhammad Yunus was ordered to pay the National Board of Revenue approximately Tk12 crore after the High Court found him guilty of tax evasion. The NBR had demanded around Tk15 crore tax on donations under the Donations Tax Act, 1990. Dr. Yunus

³⁶ 'Mid East Port Folio Management ... vs Deputy Commissioner Of Income Tax ... on 14 August, 2003' https://indiankanoon.org/doc/935626/ accessed 8 January 2024.

³⁷ 'Dillu Clive Enterprises (P) Ltd. vs Addl. Cit on 27 September, 2001' https://indiankanoon.org/doc/1346775/ accessed 8 January 2024.

³⁸ 'The Tax Gap | Internal Revenue Service' https://www.irs.gov/newsroom/the-tax-gap accessed 9 January 2024.

³⁹ 'UNITED STATES v. ANDERSON (2008)' (*Findlaw*) https://caselaw.findlaw.com/court/us-dc-circuit/1021856.html accessed 9 January 2024.

contested the legality of these notifications, arguing that the NBR was not authorised to tax donations. The High Court now ruled in favor of the NBR.⁴⁰

A New Jersey man, Jonathan D. Michael case

Tax evasion and neglecting to file personal income tax returns have been found as convictions for D. Michael. Michael made a fraudulent claim to be exempt from federal income tax withholding from 2014 to 2018 while working as a mechanic at the Port Newark Container Terminal. He lost almost \$375,000 in taxes as a result of his failure to file tax returns. On October 23, 2023, Michael is scheduled to get a punishment that includes a possible five-year jail sentence for tax evasion and a one-year sentence for intentionally failing to file a tax return.⁴¹

Ai Capone Case

Alphonse Gabriel Capone, a notorious Chicago gangster, was convicted of murder, extortion, and bootlegging in the early 20th century. He was later found guilty of tax evasion, serving 11 years in 1931 for not paying \$215,000 in taxes. Capone retired in Florida⁴².

Currently, 13,000 foreign workers file tax returns, although this is less than the yearly amount of external remittances paid to India from Bangladesh. This demonstrates the enormous amount of money the nation is losing as a result of Indian workers evading taxes.⁴³

After overview all the laws and cases of Bangladesh, India and US we find Bangladeshi laws as well as India and US laws are not sufficient to prevent the tax evasion. All countries citizen including Bangladeshi citizens are persistently evading tax through various means such as false tax submission, donations, hiding interest, non-payment, and submitting fake documents, putting themselves at risk of punishment. Increased penalties could boost tax compliance by reducing the risk-reward concept of evaders. Higher stakes of being caught would discourage individuals and companies from committing to tax evasion. Increased cases specific to foreign transactions would diminish evasion effects. This also affects enforcement efforts, increasing the probability of detecting evaders. However, the issue lies in government spending, as Bangladesh would have to increase prosecuting tax offenders, which may not outweigh the benefits of prosecution.

⁴⁰ 'HC Finds Dr Yunus Guilty of Tax Evasion, Orders Him to Pay over Tk12cr' (*The Business Standard*, 31 May 2023) https://www.tbsnews.net/bangladesh/court/dr-yunus-found-guilty-tax-evasion-ordered-pay-over-tk12cr-hc-641274 accessed 31 December 2023.

⁴¹ 'Office of Public Affairs | New Jersey Man Found Guilty of Tax Evasion | United States Department of Justice' (6 June 2023) https://www.justice.gov/opa/pr/new-jersey-man-found-guilty-tax-evasion>.

⁴² 'Famous Tax Evasion Cases' (*Findlaw*) https://www.findlaw.com/tax/tax-problems-audits/famous-tax-evasion-cases.html accessed 31 December 2023.

⁴³ 'Illegal Foreign Workers and Tax Evasion Hurting the Bangladesh Economy' (*Dhaka Tribune*)

https://www.dhakatribune.com/bangladesh/bangladesh-others/142399/illegal-foreign-workers-and-tax-evasion-hurting accessed 31 December 2023.

4.6-Effects of Tax evasion in Bangladesh

In Bangladesh, an inefficient tax system can negatively impact the government's ability to spend on public service delivery and development programs, as tax revenue is a significant portion of the total revenue⁴⁴. Tax evasion hinders development activities, social welfare, and economic growth. The private sector in capitalist and mixed economies is crucial for investment and development, but tax evasion and avoidance can hinder government funding. Effects of tax evasions are-

- A significant portion of tax revenue is lost because of tax evasion. As a result, the government is unable to meet the basic necessities of a large population.
- Tax evasion leads to illegal gains, resulting in the rich becoming wealthier and the poor suffering due to inadequate government assistance due to insufficient tax collection, resulting in significant losses for the poor.
- > Tax evasion unfairly burdens taxpayers who consistently pay their taxes, leading to a bias towards avoiding taxes.
- The government raises tax rates annually to increase income due to tax evasion, resulting in a higher tax burden for those who pay taxes on time.
- > Increases corruption.
- ➤ The government must take various plans for economic development, but lack of funds prevents the implementation of these plans. Tax evasion also hampers structural development, such as roads, bridges, transportation, and industrial development. Social security cannot be fully provided by the government due to lack of funds.
- > Tax evasion negatively impacts social welfare by forcing the government to borrow loans, which in turn impacts economic development.
- The government is unable to provide employment opportunities due to tax evasion. since tax evasion reduces the amount of money collected in taxes. Funding is required by the government to develop job opportunities.
- ➤ Insufficient tax rules can lead to a culture of evasion, creating a vicious cycle of tax evasion. Tax evaded incomes are used for conspicuous consumption, resulting in honest taxpayers finding methods of evasion and tax avoidance. This can threaten society's stability and weaken the economy.
- Economic growth is linked to a government's large budget, which can accelerate a country's development. However, tax evasion can lead to a lack of revenue collection, causing the government to shortcut the budget.
- Tax evasion results in a significant loss of tax revenue, preventing the government from providing basic needs for mass people. Development expenses also fall due to tax evasion, affecting the distribution function of wealth and adversely affecting a country's economic development.

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⁴⁴ 'Effective Ways to Raise Tax-GDP Ratio in Bangladesh' (n 9).

➤ The lack of transparency and accountability in government spending in Bangladesh can significantly impact taxpayers' morale, leading to a decrease in their willingness to pay their taxes.⁴⁵

Current Situation of Tax in Bangladesh

Bangladesh has the lowest tax-to-GDP ratio among every South Asian country, and only 33% of taxpayers having taxpayer certificates submit their taxes appropriately⁴⁶. Indirect taxes disproportionately impact the poor, despite decreasing poverty rates. For fairness, equality and income redistribution to lessen this burden, progressive tax distribution is essential. ⁴⁷ For economic stability and social cohesion progressive taxation is essential. Bangladesh's income tax system is regressive, increasing proportionally with income until reaching a stagnant 30% rate, suggesting a more progressive structure with higher tax rates. The country's per capita income is approximately BDT 200, with individuals earning around 2 USD. If their income falls within this range, they must pay 15% VAT, affecting their earnings. ⁴⁸ A VAT is widely regarded as the most economically efficient consumption tax. ⁴⁹ Tax policies aim to boost indirect tax revenue, particularly through VAT collection, but digitizing the VAT system will be challenging due to few people of the population paying income tax. ⁵⁰

The NBR achieved a 92% VAT collection in fiscal 2022-23, with the Value Added Tax (VAT) division earning Tk1.25 lakh crore, a 17% growth from the previous year. The NBR's VAT department reported a Tk17,004 crore increase in VAT collection compared to FY22.⁵¹

Bangladesh's tax-to-GDP ratio is among the lowest in South Asia, which caused economists and international lenders to recommend raising revenue collection to improve the nation's ability to finance spending. Current Bangladesh's tax-to-GDP ratio is 7.9%, considerably lower than the recommended threshold of 15%. To increase the ratio to 12 percent, the nation must raise an additional Tk 145,000 crore in tax income, and to reach 15 percent, an additional Tk 250,600 crore⁵².

⁴⁵ ibid.

⁴⁶ 'Progressive Taxation in Bangladesh Why and How?' (*The Daily Star*, 16 June 2023)

https://www.thedailystar.net/roundtables/news/progressive-taxation-bangladesh-why-and-how-3347631 accessed 31 December 2023.

⁴⁷ ibid.

⁴⁸ ibid.

⁴⁹ Carnahan (n 8).

⁵⁰ 'Effective Ways to Raise Tax-GDP Ratio in Bangladesh' (n 9).

⁵¹ 'NBR Earned Highest Tk1.25 Lakh Crore from VAT in FY23' (*The Business Standard*, 27 July 2023)

https://www.tbsnews.net/nbr/nbr-earned-highest-tk125-lakh-crore-vat-fy23-672622 accessed 31 December 2023.

⁵² Report (n 15).

4.7-Conclusion

Every country has its own tax laws and procedures, and every country has its own set of laws governing taxes. Tax evasion significantly impacts a country's economic development, as a significant amount of government income is collected through tax revenue. Tax evasion and avoidance are common issues in developing countries' tax administrations. The current revenue administration is aware of these issues and is committed to addressing them. The National Board of Revenue (NBR) is expected to implement necessary reforms in domestic and international taxation rules to combat these issues. Income tax is essential for enhancing dignity and facilitating development. Previously, foreign grants were a significant part of the budget, but now domestic revenue collection provides much of it. Many people try to pay as little as possible but voluntary tax payment and timely return submission are crucial for ensuring proper tax compliance.⁵³ The Income Tax Act 2023 in Bangladesh governs income taxation, aiming to foster economic growth, equitable tax burden distribution, and efficient revenue collection. It requires taxpayers to understand its provisions for compliance and potential penalties.

⁵³ 'Income Tax in State Coffers' (n 31).

Chapter 5

Findings

Causes of Tax Evasion

Understanding the various reasons behind tax evasion and avoidance is crucial for developing effective methods and instruments to combat these issues effectively. Causes of tax evasion are given below-

Poor service quality in exchange for taxes

Citizens expect advantages from taxes, but if the government doesn't deliver essential public goods or services, they can be unwilling to pay, which could result in tax avoidance and evasion.

Poor enforcement

Poor enforcement refers to actions not implemented even when taxpayers pay less than their actual obligations or do not file their income tax returns.⁵⁴Tax compliance depends on tax authority actions, and legal enforcement reduces tax evasion. In developing countries like Bangladesh, political legacy may lead to failure to take legal action against tax evaders.⁵⁵

The perception of justice and the tax system

As they raise taxes and reduce taxpayer discretionary income, high tax rates can encourage tax evasion. However, people's decisions to pay taxes are also influenced by the way the tax system is set up as a whole. For example, people may feel that a low corporate profit tax rate unfairly imposes them with a high personal income tax burden, thus they decide to disclose just a small portion of their income. Large companies may take advantage of tax breaks as well, which adds to the system's apparent unfairness. As a result, tax rates and the overall design of the tax system have a significant impact on the tendency to evade and avoid paying taxes.

The public institutions' lack of transparency and accountability

Tax evasion is more likely when there is a public mistrust of the government and the tax system as a result of the lack of transparency and accountability in the use of public funds.

The level of corruption is high

⁵⁴ Md Harun Ur Rashid, 'Taxpayers' Attitude towards Tax Evasion in a Developing Country: Do the Demographic Characteristics Matter?' (2020) 9 International Journal of Applied Behavioral Economics 1.

⁵⁵ Md Harun Ur Rashid and Afzal Ahmad, 'Business Students' Perceptions of Tax Evasion: A Study in Bangladesh' (2020) 10 International Journal of Accounting and Finance 233.

High corruption levels can lead to citizens being less willing to pay taxes and more likely to evade their tax liabilities. This is especially true if there is less potential gain from tax evasion than there is from bribing a tax auditor.

Weak fiscal jurisdiction and a lack of the rule of law

To protect taxpayer rights and avoid arbitrariness, we need strong fiscal courts. Without rule of law, citizens face fear of discrimination, unequal court attendance, and reduced transparency. This distrust can lead to citizens avoiding tax financing and evading liabilities, thereby reducing transparency and fostering distrust in the legal system.

Poor tax morale

Globally, taxpayers' tax-paying willingness varies, not only according to the amount of taxes they must pay. Global taxpayers pay more in taxes than audits, penalties, and risk aversion are responsible for, according to empirical studies. The strong tax morale in society, which promotes self-enforcement, is the cause of this high tax compliance. Establishing tax morale, however, is difficult, especially in nations without a strong tax culture.

High compliance costs

High compliance costs might result in tax avoidance and evasion since they require obtaining relevant information and filling out tax forms. The 2008 World Development Indicator, released by the World Bank, shows notable variations in the amount of time that nations have to prepare and file their taxes. Because of this, companies are now more concerned with administrative than with actual tax obligations. The likelihood of taxpayers complying with a wide range of taxes is low, and compliance costs are considerable. Acquiring expertise in paperwork to adhere to tax laws discourages businesses from making the proper tax payments.

Insufficiencies in tax collection

Bangladesh has difficulties in collecting taxes, especially in locating and managing the people and businesses that must pay taxes. The organizational structure and the ministry of finance's relationship could lead to insufficient capacity. It may be necessary to reorganize the tax administration due to inefficiencies and tax losses caused by unclear roles. It is thought that an organizational strategy centered on tax administration functions is more effective than one that follows other tax and revenue kinds. Tax administration's capabilities affect how taxes are implemented, and tax policy directly affects the organization and expenses of tax administration. Tax administration as well as tax policy must be taken into consideration when designing effective tax reforms. The tax system ought to conform to the administrative and legal requirements of the nation. Tax officials that are qualified, motivated, and well-trained are essential to both tax performance and collection. Income and other incentives should be taken into consideration in order to incentivize tax authorities and reduce their attraction to corruption.

Insufficient capacity to identify and prosecute unlawful tax schemes

Tax investigation is essential for identifying and combating tax fraud; yet, insufficient resources in tax administrations lower the probability of detection, which affects taxpayer choices. A legal structure is necessary for enforcement as penalties for tax evasion are correlated with compliance with the law. There are opportunities for tax avoidance due to complex tax legislation and constant modifications that confuse taxpayers and tax administrators. Although tax evasion may not be intentional, it is unavoidable in extreme situations where tax law becomes too complicated or contradictory to understand. As a result, efficient tax enforcement depends on an effective tax investigative system.

According to the report, individual taxes, including business taxes, make up 36.8% of overall tax income, whereas everyone pays the same 15% VAT amount, or 36.5% of total tax revenue. This disparity results from the majority of people having to pay VAT, which raises the burden.⁵⁶

Corruption can hinder tax revenue collection, making it crucial for Bangladesh to address irregularities and maintain high morale to achieve comparable tax revenue levels. It is illegal to evade taxes, and doing so can have serious financial repercussions. Working with professionals to prepare your taxes can help you avoid more than just fines and jail time when it comes to lowering your tax liability.

⁵⁶ 'Progressive Taxation in Bangladesh Why and How?' (n 46).

Chapter 6

Recommendations

Tax is the primary financial source utilized for public expenditure and development. Tackling tax evasion and harmful tax competition are particularly essential in the current context. After all our discussion and research, we have come up with some steps that-

- The tax payment system should simplify.
- The Income Tax Ordinance should be amended and add some provision regarding tax evasion.
- The penalty rate structure should be designed to be anti-evasive, with a progressively higher penalty rate reflecting the amount of tax evaded and the current market conditions.
- Regular taxpayers should be rewarded for timely tax payments, with the highest taxpayers receiving a tax card granting civilian VIP status in state programs and public facilities.
- The government must intensify efforts to boost tax revenue and promote increased tax compliance to bridge the projected and actual tax revenue gap.
- Corruption is prevalent in Bangladesh's government agencies, including the National Board of Revenue (NBR). To ensure public compliance, the NBR must establish sincerity and undergo capacity building. Bangladesh's over-reliance on trade taxes and VAT necessitates increased direct taxes.
- The tax authority should conduct a thorough review and evaluation of their assessment and collection procedures.
- There should be more cooperation from tax collectors.
- The tax authority is advised to review tax rates across various income categories and sectors.
- Taxpayers should be informed that tax avoidance and evasion violate their moral obligation to obey the law.⁵⁷
- Implementing deterrence measures can prevent malpractices by making cheating costly for taxpayers and collection agents, as shown by the following equation-

Rate of penalty * Probability of detection = cost of cheating.⁵⁸

- The proposal aims to introduce a tax system that is both just and beneficial to the poor.
- The government should shift its focus to other taxation areas and consider reducing VAT to prioritize the welfare of lower-income citizens.
- Increase direct taxes

⁵⁷ Mohabbat, Rahman and Darda (n 22).

⁵⁸ 'Why Is Bangladesh so Bad at Collecting Taxes?' (*The Business Standard*, 11 February 2022)

https://www.tbsnews.net/thoughts/why-bangladesh-so-bad-collecting-taxes-369271 accessed 8 January 2024.

- The VAT system necessitates adequate invoicing, record-keeping, and rigorous tax authority monitoring to prevent tax evasion.
- Make the process of filing taxes simple.
- Increase the NBR's capabilities.
- To show that taxpayer funds are being used appropriately, to encourage compliance, and to build confidence in the tax system, transparency is essential.
- Parliamentary watchdogs are crucial in Bangladesh's tax policy formulation and monitoring, but inadequate discussion and debates are needed, emphasizing the need for enhanced capacity and empowerment of the Public Accounts Committee.
- The ITDB has held an annual income tax fair since 2010, promoting voluntary compliance among taxpayers by facilitating easy submission and payment of returns without harassment, resulting in positive reactions.

Conclusion

This thesis gives an overview of the causes of tax evasion and its impact on the development in Bangladesh. In any nation, taxes are the main source of funding for the national budget. However, tax evasion has had a major effect on Bangladesh's government revenue. Bangladesh corporate taxpayers are more involved in tax evasion than individual taxpayers, leading to a double-digit inflation rate. Despite government efforts to motivate tax payers to pay the correct amount, unethical taxpayers continue to exploit loopholes in the current tax policy. The current tax system, and the poor performance of governmental managers, such as NBR, The situation is getting worse due to dishonest government personnel, a lack of audits, and a lack of transparency. Raising penalties or lowering the tax rate won't be the only thing done to stop tax evasion because some taxpayers will always attempt to avoid paying taxes, no matter how high the rate. The government and NBR should work together to apply a comprehensive strategy that will help people understand that paying taxes is part of their responsibilities for the nation's economic progress. Given that the government has the ultimate control over how to use tax money collected for the benefit of the population, they ought to be open, truthful, honest, and law-abiding individuals. To increase tax collection, NBR must exercise extreme caution with regard to tax rate, flexible tax structure and procedure, frequent audit facilities, and ethical elements of officials. To reduce tax evasion in Bangladesh, it is finally advised that the the government and NBR should assume their fair share of responsibility and be held accountable for their actions. In exchange for collecting taxes from the public, this paper would like to recommend that public administrators and NBR be extremely transparent and accountable for their services. It also suggests they should take significant legal action against tax evaders and the assessment and collection processes should be carefully reviewed and assessed by the tax authority. Prosecution efforts and enforcement could be the best way to alleviate the damage caused by tax evasion. This could be achieved by creating new laws or editing existing ones, and imposing stricter penalties on evaders to reduce overall tax evasion.

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