

# IMPACTS:

ISSUES ARISING FROM INVALIDATION OF THE TAXES AND LEVIES (APPROVED LIST FOR COLLECTION) ACT IN UYO LOCAL GOVERNMENT COUNCIL V. AKWA IBOM STATE GOVERNMENT & ANOR (2020) LPELR-49691 (CA)

THOUGHT LEADERSHIP BY:

CHIMEZIRIM ECHENDU



c.echendu@lelawlegal.com

The *Taxes and Levies (Approved List of Collection) Act*<sup>1</sup> (*TAL Act* or *the Act*) is probably one of the most controversial and criticised law in Nigeria's history.<sup>2</sup> A hybrid legislation<sup>3</sup> originally promulgated by the military in 1998 to quench rampaging internally generated revenue thirst by the two subnational tiers of government in Nigeria, it delineated the taxes and levies collectible by the respective tiers.<sup>4</sup>

Though a child of the military, *the Decree* was deemed a law in force (an Act of the National Assembly) by *section 315, 1999 Constitution of the Federal Republic of Nigeria (1999 Constitution)*. The mischief it was promulgated to address has, since the return to democracy in 1999, been at the crux of the judicial interpretation of the provisions of *the Act*.<sup>5</sup>

However, the Court of Appeal (CoA) recently in *Uyo LG Council v. Akwa*

<sup>1</sup> *Cap. T1, Laws of the Federation of Nigeria (LFN) 2004* originally enacted as *Taxes and Levies (Approved List of Collection) Decree No. 21 of 1998 (the TAL Decree)*.

<sup>2</sup> This is borne out by commentaries by learned authors, and also by TAL related case law. See for instance, Abiola O. Sanni, 'Division of Taxing Powers Under the 1999 Constitution,' p.13: <https://ir.unilag.edu.ng/bitstream/handle/123456789/8347/DIVISION%20OF%20TAXING%20POWERS%20UNDER%20THE%201999%20CONSTITUTION.pdf?sequence=1&isAllowed=y> (accessed 16.02.2021); Nduka Ikeyi and Sam Orji, 'How Much Force is Still Left in the Taxes and Levies Approved List for Collection Act?', - *The Nigerian Juridical Review* Vol. 10 (2011 - 2012), p. 73 at p. 87 where the authors questioned the continued application of the TAL Act as a deemed Act of the National Assembly under *section 315 1999 Constitution*. According to them: "the power to legislate on the allocation of the power to collect sundry taxes and levies generally (which is the subject matter of the Act) is not a power that is either vested in the National Assembly or in the House of Assembly of any state. The subject matter of the Act (i.e. the allocation of powers to collect sundry taxes) being a matter on which neither the National Assembly nor the House of Assembly is empowered by the Constitution to make laws, it is arguable that the provisions of section 315 cannot operate to enable the Act to continue to have effect either as an Act of the National Assembly or as a Law of a House of Assembly. It is also arguable that the Act should have ceased to have effect upon the coming into force of the Constitution on 29 May 1999 for the reason that the subject matter of the Act has been covered by Parts I and II of the Second Schedule thereto, read together with the constitutional law principle relating to legislative competence over residual matters"; Rose Ohiamna Ugbe et al., 'Taxes and Levies (Approved Lists for Collection) Amendment Order 2015; Matters Arising', - *Port Harcourt Journal of Business Law* Vol.7 No. 1 (2020), p. 26 at p. 33: [https://www.researchgate.net/publication/342339174\\_TAXES\\_AND\\_LEVIES/link/5f303a4b458515b7291ea33/download](https://www.researchgate.net/publication/342339174_TAXES_AND_LEVIES/link/5f303a4b458515b7291ea33/download) (accessed 16.03.2021) where the authors argued that the amendment to the TAL Act by the Minister of Finance (the Minister) amounted to executive law making and a breach of the doctrine of separation of powers. *Section 1(2) TAL Act* empowered the Minister to amend the *Schedule* and in 2015, the Minister exercised this power by signing *The Schedule to the Taxes and Levies (Approved List for Collection) Act (Amendment) Order, 2015 (The Order)*. *The Order* increased the list of taxes and levies to be collected by the tiers of government. However, in May 2020, the *Federal High Court (FHC)* in *Registered Trustees of Hotel Owners and Managers Association of Lagos v. Attorney-General of the Federation & Anor (2020) 52 TLRN 1*, declared *The Order* null and void. The Court's reasoning was that the power to amend the TAL Act exercised by the Minister was a legislative function and thus, violated the law making powers of the National Assembly as enshrined in the *1999 Constitution*.

<sup>3</sup> Unlike all other tax legislations in Nigeria which impose taxes and provide for the collection/administration of the tax, the TAL Act delineated the powers of the different tiers of Government to collect taxes and in some instances (such as Business Premises and Development Levy), stated the amount to be so collected.

<sup>4</sup> *The Decree* was made superior to the *Constitution* and every other legislation. Its *section 1(1)* provided that: "Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria 1979, as amended or in any other enactment or law, the Federal Government, State Government and Local Government shall be responsible for collecting the taxes and levies listed in Part I, Part II and Part III of the Schedule to this Decree, respectively." Emphasis supplied. However, *section 1(1) and (3) 1999 Constitution* (in *pari materia* with *section 1(1) and (3) 1979 Constitution*) provides thus: "This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria." Even more importantly, *section 1(3)* states that "If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall to the extent of its inconsistency be void."

<sup>5</sup> *Eti-Osa Local Government v. Jegede (2017) 28 TLRN 10; MTN v. Abia State Government & Ors (2019) LPELR-46652(CA); and Imo State Transport Company Limited v. Attorney General of Abia State & Ors Appellate No. CA/OW/394M/2013, Judgment of 21.11.2016 (Unreported)*.

**Ibom SG & Anor<sup>6</sup> (ULGC)** nullified **the Act** for offending the supremacy clause of the **1999 Constitution**. This article examines the impact of the decision in the **ULGC case** on the taxing powers of the different tiers of government in Nigeria. It argues that although the **TAL Act** was used as a protective cloak to collect taxes and levies not imposed by law, the new found freedom for States and even Local Government Councils vide **ULGC case** may come at a greater cost to citizens.

### **Uyo LGC v. Akwa Ibom SG: Facts and the Appellate Decision**

The Appellant, ULGC, was until the second half of 2013, collecting park fees/levies from commercial vehicles in ULG, and after reviewing its **Bye-Law<sup>7</sup>** to allow the collection of revenue from tricycles, the second Respondent went public to declare it a nullity. Subsequently, the 2<sup>nd</sup> Respondent (Akwa Ibom State Commissioner of Transport), set up a committee to manage tricycle operations in ULG, and then assumed the collection of daily tolls/levies from commercial tricycles operators.

The Appellant instituted an action at the High Court of Akwa Ibom State seeking for the interpretation of provisions of the **1999 Constitution, TAL Act, Akwa Ibom State Road Traffic Law<sup>8</sup> (RTL)** and the **Akwa Ibom State Local**

**Government Administration Law<sup>9</sup> (AKLGAL)** as it relates to her right to control, charge and collect park fees and levies from commercial motor vehicles including tricycle motor vehicles in ULG.

The Respondents asked the trial court to declare the **TAL Act** null and void by reason of its **section 1(1)** which purports to make it superior to the **Constitution**; the trial court found for the Respondents. On appeal, the Appellant contested that by virtue of **section 1(3) 1999 Constitution**, which renders null and void any law inconsistent with the provisions of the **Constitution**, only the ouster clause should be declared null and void, and not the entire **Act**.

Dismissing the appeal, the CoA ruled unanimously that “nothing can operate to save any part of the Act”, as it begins “with a clause that undermines the supremacy of the Constitution.” “... The virus in the introductory clause of the Act has infested the entire Act and thereby rendering it unconstitutional”. The CoA in reaching this decision took time to distinguish the present case

from its decision in **Etio-Osa LG v Jegede (supra)** on the constitutionality of rooting taxes through the Joint Tax Board.

Muhammed Lawal Shaibu, JCA, delivering the judgement of the CoA opined thus:

*“The issue in contention here is not that of rooting the taxes of Uyo Local Government through the Joint Tax Board, but whether in view of the supremacy of the Constitution, the provision of Taxes and Levies (Approved List for Collection) Act which commenced with the phrase ‘Notwithstanding’ anything contained in the Constitution is void by reason of Section 1(3) of the 1999 Constitution. I dare say that the facts and circumstances of the two cases are not mutually the same. Had the issue of hierarchical positions of the Taxes and Levies (Approved List for Collection) and the 1999 Constitution been canvassed in the case of Eti-Osa Local Government vs Jegede (Supra), this Court would have arrived at the conclusion that in so far as the provisions of the Constitution are made subordinate to that of the Act,*



<sup>6</sup> (2020) LPELR-49691 (CA).

<sup>7</sup> Uyo Local Government Council (Motor Park) Bye-Law No.8 of 2013.

<sup>8</sup> Cap. 115, vol.5, Laws of Akwa Ibom State [2000].

<sup>9</sup> Sections 1(1)&(3), 4(7), 7(1)&(5) and 315, Paragraphs (Paras) 9 and 10, Part II, Second Schedule and Para 1(d), Fourth Schedule 1999 Constitution; section 12 AKLGAL, Items 9 and 16, Part III, Schedule TAL Act, and sections 1 - 10 RTL.



such provisions of the Act are to the extent of its inconsistency be void.”

With the nullification of the provisions of the **TAL Act**, cases such as **MTN v. Abia SG & Ors** (*supra*) and **Imo State Transport Company Limited v. A-G Abia State & Ors** (*ITC case, supra*) which limited the law making powers of the State Government to the provisions of **Part II, Schedule TAL Act (The Schedule)** can no longer stand. It is important to note also that the decisions of the CoA in both the **ITC** and **ULGC cases** were delivered by **Muhammed Lawal Shaibu, JCA**.<sup>10</sup>

### ‘Hybrid’ Nature of the TAL Act

Imposition of tax and collection of tax are not one and the same. The power to impose tax connotes a legislative function while the power to collect tax is an administrative function and flows from the law imposing the tax.” Taxation is statutory and without any law imposing a tax, there is no authority to collect same. Understanding the difference between the two functions is apposite in helping us properly dissect the impact of the nullification of the **TAL Act** on the tiers of government. Thus, in the absence of a primary tax legislation

providing for imposition, assessment, collection and accounting of the tax or levy a revenue authority cannot lawfully collect any tax.”<sup>12</sup>

**Item D7, Part II, Second Schedule 1999 Constitution** provides that: “The National Assembly in exercise of its powers to **impose any tax or duty on**

- (a) Capital gains, incomes or profits of persons other than companies; and
- (b) Documents or transactions by way of stamp duties, may provide that **the collection of any such tax or duty or the administration of the imposing law be carried out by the state or an authority of the state.**”<sup>13</sup>

Curiously, the CoA in the **ITC case per Mohammed L. Shuaibu, JCA** opined thus:

“I have held elsewhere in this judgment that **Item D, Paragraph 7, of the Concurrent Legislative List has**

provided a platform for delegation by the National Assembly to States of the power to collect the specified taxes. Thus, the enactment of the **Taxes and Levies (Approved List of Collection) Act** is one of such platform (sic) and a State House of Assembly cannot by virtue of **Part II of the Schedule to the Act** enact any law empowering a State to impose development or taxation other than those specified in **Paragraph 8, Part II of the 1999 Constitution** as well as **Part II of the Schedule to the Taxes and Levies (Approved List for Collection) Act.**”

This excerpt shows the difficulty, even in the judiciary, with drawing the fine distinction between the power to impose tax and the duty to collect tax. It is also not quite clear why the CoA cited **Para 8, Part II, Second Schedule 1999 Constitution**, as that paragraph merely talks about preventing double taxation. **Paras 7 and 8, Concurrent Legislative List of the**

<sup>10</sup> It might be argued that the decision of the CoA in the **ULGC** case conflicts with its previous decisions limiting the taxing powers of the tiers of government to the taxes and levies listed in the **TAL Act**, as such previous decisions can be viewed as impliedly validating the constitutionality of the **TAL Act**. However, in previous cases before the CoA, the constitutionality of the **TAL Act** was not directly in issue, neither was the trial and appellate Courts minded to raise same, *suo motu*. We submit that if the constitutionality of the **TAL Act** had been considered in the earlier cases and the **Act** interpreted as constitutionally valid by the CoA, the Akwa Ibom SHC, pursuant to the unflinching doctrine of *stare decisis*, would have been bound by previous decisions that favourably interpreted the **Act**. As a general rule, where there are two or more conflicting appellate decisions, the lower court is bound by the latter or last decision, but where there is no discernible *ratio decidendi* common to the decisions, a lower court is at liberty to follow the one it believes is correct or applicable to the case at hand – **Osakue v. Federal College of Education (Technical) Asaba & Ors** [2013] 10 NWLR (Pt. 1201), 1.

<sup>11</sup> For a detailed discussion, see Prof. Abiola O. Sanni, ‘Division of Taxing Powers under the 1999 Constitution’, <https://ir.unilag.edu.ng/bitstream/handle/123456789/8347/DIVISION%20OF%20TAXING%20POWERS%20UNDER%20THE%201999%20CONSTITUTION.pdf?sequence=1&isAllowed=y> (accessed 16.02.2021).

<sup>12</sup> **Polaris Bank v. Abia State Board of Internal Revenue** (2019) 46 TLRN 29.

<sup>13</sup> Emphasis supplied.

1999 Constitution as well as **Part II** of **The Schedule** all deal with collection of tax; a power that ranks below the power to impose and flows from the statute imposing the tax. In essence, saying the States cannot impose tax, because it does not fall under taxes they are allowed to collect is a classic case of setting the cart before the horse.

We respectfully submit that the **TAL Act** does not impose tax, but merely allows for the collection of taxes. Support for this is found in the titles (captions) for **Part I, II** and **III the Schedule** respectively: “Taxes to be collected by the Federal Government” “Taxes and Levies to be collected by the state Government” and “Taxes and Levies to be collected by the local government”. This position finds support in the decision of the Tax Appeal Tribunal (TAT) Enugu Zone in **Polaris Bank (supra)** where the Tribunal held that “The **TAL Act** is not a primary tax legislation like Personal Income Tax Act (PITA), Companies Income Tax Act (CITA), and Petroleum Profits Tax Act (PPTA). It has no charging section in the manner of section 3 of PITA.”

The nullification will hopefully put an end to the illegal levying /collection of taxes by States and Local Government Councils

(LGCs). On the flip side, States that have enacted laws providing clearly for the imposition and collection of those taxes within their legislative competence will not be affected by the nullification.

### **Uyo LG v Akwa Ibom SG: Effect on Taxing Powers of the Tiers of Government**

#### *i. Federal Government (FG)*

**Part 1, The Schedule** titled “Taxes to be collected by the Federal Government” lists eight (8) taxes. A look at the provisions of the respective Acts show that the nullification of the **TAL Act** by the CoA has no impact on the revenue of the FG. The laws imposing the taxes expressly provide for their administration and collection.<sup>14</sup>

#### *ii. State Governments (SGs)*

As already stated above, **Item D7, Part II, Second Schedule 1999 Constitution** empowers the National Assembly to delegate the collection and administrative powers of taxes on income, profits, gains and duty on documents to the States. This power to delegate to States seems to have been exercised by the National Assembly in the primary tax laws and also in the **TAL Act**.<sup>15</sup> However, it is the fate of the other taxes listed in **Part II,**

**the Schedule (to TAL Act)** that we shall turn our attention to now. It is important to note that not all items listed in **Part II** qualify as tax in the strict sense.

According to the **National Tax Policy 2017 (NTP)**, “a tax is any compulsory payment to government imposed by law without direct benefit or return of value or a service whether it is called a tax or not.”<sup>16</sup> Thus, any compulsory payment backed by law and for which there is no direct benefit will qualify as a tax the cognomen or nomenclature notwithstanding.<sup>17</sup>

Hence, in our analysis we shall restrict ourselves to Personal Income Tax (PIT), Capital Gains Tax (CGT), Stamp Duties (SD), Pools Betting and Lotteries (PBL), Gaming and Casino Taxes (GCT), Road Taxes (RT), Business Registration Fees (BRF), Development levy (DL) and Market taxes (MT). With the nullification of the **TAL Act**, States can no longer rely on its protective cloak as authority for collecting these taxes. Instead, reference must now be made to the primary legislation imposing the tax. Looking at the PBL, GCT, BRF, RT and DL, the power to collect still enures in States which have laws imposing same.<sup>18</sup>

<sup>14</sup> Sections 65 Companies Income Tax Act, Cap. C21, LFN (CITA); 35 Petroleum Profits Tax Act, Cap. P13, LFN 2004 (PPTA); 7 Value Added Tax Act Cap. V1, LFN 2004 (VATA); 2 Tertiary Education Trust Fund (TET Fund) Tax Act, No.16 of 2011; 43 Capital Gains Tax Act (CGTA), Cap. C1, LFN 2004; 4 Stamp Duties Act (SDA), Cap. S8, LFN 2004; and 2(2) Personal Income Tax Act, Cap. P8, LFN 2004 (PITA).

<sup>15</sup> See sections 2 PITA; 43 CGTA; 4(2) SDA; and Part II, the Schedule.

<sup>16</sup> Federal Ministry of Finance, ‘National Tax Policy’. 01.02.2017, p.1: <https://www.firs.gov.ng/wp-content/uploads/2021/01/National-Tax-Policy-Revised-2017.pdf> (accessed 24.02.2021).

<sup>17</sup> For a detailed discussion on this issue, see Abiola Sanni, ‘Policy, Legal and Administrative Imperatives in the Quest for Eradicating Multiplicity of Taxes in Lagos State,’ Paper delivered at the 1<sup>st</sup> Annual Lecture of Lagos State (endowed) Professor of Tax and Fiscal Matters at University of Lagos on 28.11.2017, p.14: <https://abiolasanniandco.com/wp-content/uploads/2017/papers/Policy-Legal-Administrative-Imperatives-in-the-Quest-for-Eradicating-Multiplicity-of-Taxes-in-Lagos-State.pdf> (accessed 16.02.2021).

<sup>18</sup> For instance see: Special Development Levy Law, Cap. S8, Laws of Lagos State 2015; Business Premises Law, Cap. 144, Laws of Abia State 2015 and Kaduna State Registration of Business Premises Law No. 5 of 2019.



On the issue of whether any of the levies above are taxes in the strict sense, it is further submitted that the collection of other levies listed by the **TAL Act**, and which are not backed by law, will now also be illegal. This is because the rule that pecuniary burdens must be imposed clearly by law is not restricted to taxes *stricto sensu*.

In **Williams v. Lagos State Dev. & Property Corp.**,<sup>19</sup> the Supreme Court (SC) ruled that:

*“The rule of law that no pecuniary burden can be imposed upon the subjects of this country, by whatever name it may be called, whether tax, due, rate or toll, except upon clear and distinct legal authority, established by those who seek to impose the burden, has been so often the subject of legal decision that it may be deemed a legal axiom, and requires no authority to be cited in support of it.”*

Re-echoing this sentiment, the CoA in **Ahmadu v. Gov of Kogi State**<sup>20</sup> in ruling on the failure of the Appellant to pay a fee before instituting an action under the **Kogi State Chiefs (Appointment, Deposition and Establishment of Traditional Councils) Law No. 7 of 1992** opined that:

*“The law in question is, in its nature, a law which imposes pecuniary*



*burden and is under the rules of interpretation, subject to the rule of strict construction. It is a well settled rule of law that all charges upon the subject must be imposed by clear and unambiguous language because in some degree they operate as penalties; the subject, is not to be taxed unless the language of the statute clearly imposes the obligation.”*

Hence, States that seek to place any sort of pecuniary burden on its citizens must ensure that the levy is imposed in clear and unambiguous language.

### iii. Local Government Councils

**Part III, The Schedule** just like **Part II**, has a long list of levies to be collected by the LGCs, but all these “levies” do not qualify as taxes.<sup>21</sup> Thus, in considering the impact of the nullification of the **TAL Act**, we shall restrict our analysis to tenement rates, market taxes and levies and cattle tax. To exercise its tax collection powers, it is imperative that the States enact

laws imposing these taxes and delegate the power to collect the taxes to LGCs in accordance with **Item D9, Part II, Second Schedule 1999 Constitution**.

This is because the LGCs do not seem to have express legislative powers as can be distilled from **section 4 1999 Constitution**.<sup>22</sup> However, they can make **Bye-Laws** in furtherance of the delegated duty to collect taxes within their purview.<sup>23</sup> LGCs that have State laws imposing these taxes and delegating tax collection powers to them are in their right to collect same.<sup>24</sup>

In 2015, Lagos State enacted the **Local Government (Approved Collection) Law**<sup>25</sup> (**LGAC Law**) in exercise of its power in **Item D7, Part II, Second Schedule 1999 Constitution**. Notwithstanding, the **LGAC Law** just like the now nullified **TAL Act**, merely allocates collecting powers, hence, it cannot be the sole basis for collecting tax in Lagos State. The **LGAC Law** introduced wharf landing fees as a tax based on the nullified amendment to the **TAL Act**, and delegated the collection power to the LGCs. Importantly, the fee is backed by the **Wharf Landing Fees Law**.<sup>26</sup>

<sup>19</sup> *Williams v. Lagos State Development & Property Corporation 2 All NTC 365, at 370.*

<sup>20</sup> [2002] 3 NWLR (Pt. 755), 522.

<sup>21</sup> Some of the levies to be collected are fees and charges for services rendered by the Government; for a levy to qualify as a tax is must be imposed by law and without any benefit or return to the tax payer.

<sup>22</sup> See the decision of the CoA in *Abuja Municipal Council v. Planned Shelter Ltd & Ors, Suit No. CA/A/536/2018*: where it held that the FCT Area Councils have the constitutional power to make bye-laws prescribing tenement rates. Also see, *Eti-Osa Local Government v. Jegede (supra)* where the CoA ruled that the LGCs power to make bye-laws is subject to the enabling law which gives it power to collect taxes.

<sup>23</sup> *Item D9, Part II, Second Schedule, 1999 Constitution.*

<sup>24</sup> For example, see *The Trade Cattle Tax Law, Cap. 153, Laws of Ondo State 2006.*

<sup>25</sup> *Law No. 4 of 2010.*

<sup>26</sup> *Law No. 5 of 2009.*

## Impact on Tax Payers

The **TAL Act** was enacted to curb the rising incidence of multiplicity of taxes in Nigeria. It was promulgated to delineate in as clear terms as possible the collection powers of the different tiers of government. However, the fine difference between imposition and collection of tax was clearly not appreciated. In a long line of cases interpreting the **TAL Act**, the mischief which it was enacted to cure has been at the fore. The TAT, State High Courts (SHC), and the CoA have at great pain maintained that the powers of the different tiers of government to impose tax is restricted to matters for which it has jurisdiction to collect under the **TAL Act**.<sup>27</sup>

According to the CoA in the **ITC case (supra)**:

*“... a State House of Assembly cannot by virtue of Part II of the Schedule to the Act enact any law empowering a State to impose development or taxation other than those specified in Paragraph 8, Part II of the Constitution as well as Part II of the Schedule to the Taxes and Levies (Approved List for Collection) Act. To hold otherwise is to allow arbitrary imposition of*

*taxes by the States and thereby creating monumental chaos in the society.”*

In **Eti Osa v. Jegede**<sup>28</sup> the CoA, per Dongban Mensem, JCA in ruling that the LGCs have no power to legislate and demand taxes and levies outside the provisions of the **TAL Act** opined that: *“to leave taxation at large at the whims and caprice of the different tiers of government would expose the entire citizenry to undue multiple and overlapping taxes and levies.”*<sup>29</sup>

However, with the nullification of the **TAL Act** and barring a *volte face* by the apex court, a proliferation of taxes by the States is a huge possibility. States seeking expansion of their tax base will place reliance on the Hotel Occupancy and Restaurant Consumption Tax and Wharf Landing Fees successfully imposed by Lagos State<sup>30</sup> to spread their revenue tentacles.

## Conclusion

Loans and taxes are the two key funding sources for governments; considering the impact of Covid-19 on public finance, an insatiable desire to raise revenue is obvious. The impact of the nullification of

the **TAL Act** means that States which do not have laws imposing levies can no longer collect same unless they have enacted laws which expressly impose pecuniary burdens on their residents.

The CoA especially, in a long line of cases, had battled to ensure that the exercise of taxing powers outside the **TAL Act** is fettered. However, law trumps policy always and the right of States to impose taxes on matters that fall into the **Residual List** is sacrosanct. It is hoped, however, that States will resist the urge to tax themselves to prosperity at the expense of the well-being of residents.

On a final note, the courage exhibited by ULGC in challenging the Akwa Ibom SG is both commendable and uncommon. The suit created room for the CoA to revisit the **TAL Act**, and for the first time to also consider its constitutionality, and thereby furthering Nigerian tax jurisprudence. It is hoped that the tiers of government will explore judicial means of settling disputes relating to their rights, duties, powers and privileges more frequently because these cases contribute richly to our jurisprudence. 

<sup>27</sup> See *Mobil Producing Nigeria Unlimited v Tai LGC*, 5 All NTC 241; *Mobil Producing Nigeria Unlimited v. Ibenu LGC* 13 All NTC 501; *Project Masters Limited v Eket LGA* 13 All NTC 461; *Fast Forward Sports Marketing Company Limited v The Port Harcourt City LGA* 7 All NTC 183; and *Thompson & Grace Investment Ltd v. Government of Akwa Ibom State* 7 All NTC 199.

<sup>28</sup> (2017) 28 TLRN 10, at 27.

<sup>29</sup> See also, Afolabi Elebiju and Ayo Fadeyi, ‘Tussles: A Review of Attorney-General of Lagos State v. Eko Hotels & Anor (2018) 36 TLRN 1’, LeLaw Thought Leadership, May 2019, p. 8: “To further support the SC’s position, Item 8, Second Schedule, Part II 1999 Constitution provides that where an Act has provided for the collection of tax or duty on capital gains, incomes or profit or the administration of any law by an authority of a State, it is that Act that will regulate such tax or duty to ensure that same is not levied on the same person by more than one tax authority. 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: *Eti – Osa LG v Jegede* [2007] 10 NWLR (Pt. 1043), 537; (2007) LPELR-8464 (CA). There, the CA held that Local Governments have no inherent powers to legislate or create and impose taxes outside the scope of the 4th Schedule, 1999 Constitution (which provides for functions of LG Councils).”

<sup>30</sup> See Lagos State’s *Hotel Occupancy and Restaurant Consumption Law, No. 11 of 2009* and *Wharf Landing Fees Law No. 5 of 2009*.

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