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Taxation of Legal Professionals: A Comparative Legal Analysis of Tax Compliance and Administrative Frameworks in Nigeria, Rwanda, and Zimbabwe

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Highlights:

- Evaluating the legal frameworks, administrative mechanisms, and determinants of tax compliance among legal professionals in Nigeria, Rwanda, and Zimbabwe, in order to identify structural gaps, recommend best practices, and optimize legal tax administration.
- Analyzing the distinctive strengths, weaknesses, and lessons from the tax administration models applied to legal practitioners in Nigeria, Rwanda, and Zimbabwe, how they can be optimized for reforms.
- Examining the primary factors and behavioral drivers influencing the level of tax compliance among legal professionals across Nigeria, Rwanda, and Zimbabwe.

Abstract: Despite the vital role of legal professionals in upholding the rule of law, their contribution to national tax revenue in Nigeria, Rwanda, and Zimbabwe remains suboptimal. This underperformance is largely attributed to complexities in distinguishing personal and practice incomes, inadequate enforcement by revenue authorities, and the absence of harmonized tax administration frameworks specifically tailored to the unique operational structures of legal practices. The paper comparatively analyzes and evaluates the legal frameworks, administrative mechanisms, and determinants of tax compliance among legal professionals in Nigeria, Rwanda, and Zimbabwe, to identify structural gaps, recommend best practices, and optimize legal tax administration. It adopts doctrinal research methods that critically analyze primary and secondary legal materials, statutes, and administrative rules governing professional services in all jurisdictions. The questions arising therefrom are: How do the existing personal and corporate tax regimes in Nigeria, Rwanda, and Zimbabwe define, categorize, and regulate

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the legal profession? What are the factors and behavioral drivers influencing the level of tax compliance among legal professionals across these three jurisdictions? To what extent does the tax administrative, auditing, and enforcement frameworks utilized by the Federal Inland Revenue Service (Nigeria), the Rwanda Revenue Authority, and the Zimbabwe Revenue Authority effectively deter tax evasion and capture professional income? What are the distinctive strengths, weaknesses, and lessons from the tax administration models applied to legal practitioners in these jurisdictions? The paper finds that while some jurisdictions adopt its own practices, others take another approach. It may be argued that legal professionals often resist comprehensive tax audits and disclosure mechanisms by citing attorney -client privilege and client confidentiality rules. It concludes that despite all three nations having robust legal provisions for taxing income from professional services, legal professionals especially those in sole proprietorship frequently exploit informal record-keeping, client -attorney privilege, and self-assessment loopholes to under-declare revenue.

Keywords: Taxation, Legal Professionals, Nigeria, Rwanda, Zimbabwe

1. Introduction

Lawyers play vital roles as guardians of the justice system and creators of corporate compliance frameworks. While they are theoretically expected to represent the highest standards of legal adherence, the paper demonstrates that legal professionals themselves frequently engage in severe tax evasion, income under-reporting, and regulatory non-compliance. The complexities surrounding this issue make legal professional's tax obligations a crucial focus for emerging markets. This paper examines and contrasts the regulatory tax frameworks for attorneys in Nigeria, Rwanda, and Zimbabwe. The Nigerian economy is expansive and heavily decentralized, featuring a large number of legal practitioners. The administration of taxes, however, is hindered by the multiplicity of levies and the need for stronger mechanisms to track compliance. Whereas operating through the Rwanda Revenue Authority, Rwanda's advanced and automated tax administration serves as an international benchmark for leveraging technology and rigorous compliance standards to reduce tax evasion. On the other hand, Zimbabwe's unique economic environment significantly impacts liquidity and tax compliance.

Lawyer's representation of client in court commences upon payment of his professional fees as agreed. However, such payment should be adequate for the lawyer to render the legal services to his client. In line with provisions of the LPA and the RPC, such remuneration must be agreed for, charged, paid and received in compliance with the provisions of the enabling Statutes. In this sense, it should be noted that the coming into force by the Remuneration Order, the minimum requirement of professional fees have spelt out and provided binding effects on all Practitioners of law in Nigeria.

Be that as it may, a Lawyer that have competently represented a client who reneges to fulfill the obligations of payment of professional fees, cannot take the law into his hand. Just like his remuneration is regulated along with the procedures for recovery of his unpaid legal service fees also regulated by institutional instruments. The LPA lays down the processes albeit, services of the bills of charges to a client, and applications to the Court on imposed taxes on the legal service fees or concurrent order of the Court. The paper examines the evolving areas in the Legal Practitioners quest for the recovery of his professional fees within the auspices of the LPA. One is the jurisdictional forum convenience in the face of conflict arising between the LPA guidelines and the Rules of High Court as it relates to where a Legal

Practitioner practices law, while the other borders on taxation imposed on the bill of lawyer's professional fees by the Court. Taxation within the provisions of the LPA is circumscribed in meaning and is not 'taxation' in the general note or meaning. It is a judicial process that vets the appropriateness of the charges as per the transactions described and does not imply whether it falls within the regulatory provisions of the Remuneration Order or not. In this regard, it may be argued that it provides ample opportunity for the Taxing Officer i.e., Courts Registrar, to peruse the bill of charges and allows or refuses certain sum(s) as claimed by Legal Practitioner on their clients.

Advancing on this argument, the paper further argued that service charge prepared in line with the provisions of the LPA and Remuneration Order helps for the easy comprehension by the client and the Court in situations of litigation in court. It's appropriate taxation or vetting aids the Court in settling the dispute on certain fees appropriate to be paid to Legal Practitioners in respect of his legal services to his client. Additionally, it must be emphasized that Courts takes into cognizance the amount involved in exercising such discretion in order to reached a fair and adequate service fee for the Legal Practitioner. In order to achieve the desired objective of the paper, the jurisdictions of the court were examined in line with the requisite practice and regulation governing imposition of taxes on the service fees of the Legal Practitioners in Nigeria. This evolving and overwhelming power or Jurisdictions of the Taxing Officer who acts as a Judicial Officer in the assessment of taxes on service charge vis a vis Court's complementary powers are examined in this paper. While the above discourse sounds plausible, it raises rather than settle, several important questions. For instance, how does the existing personal and corporate tax regimes in Nigeria, Rwanda and Zimbabwe define, categorize, and regulate the legal profession? What are the primary factors and behavioral drivers influencing the level of tax compliance among legal professionals across these three jurisdictions? To what extent does the tax administrative, auditing and enforcement frameworks utilized by the Federal Inland Revenue Service Nigeria, the Rwanda Revenue Authority, and the Zimbabwe Revenue Authority effectively deter tax evasion and capture professional income? What are the distinctive strengths, weaknesses, and lessons from the tax administration models applied to legal practitioners in Nigeria, Rwanda and Zimbabwe, and how can these be optimized for reform? Answering these questions form the basis of this paper. By structure, the paper is divided into six sections. Section one is the introduction. Section two examines essential concepts. Section three borders on Recovery of lawyer's professional fees or charges. Section four examines reasons for formal agreement by the legal practitioner engaged in occupational duties. Section five focus on cross-jurisdictional analysis, and section six is the conclusion and recommendations.

2. Methods

This paper is grounded in a thorough literature review, systematically designed to evaluate and consolidate primary sources relating to tax laws, value -added tax statutes, income tax legislation, and related fiscal codes. This methodology was deliberately selected to highlight the variations in tax exemption limits, presumptive taxation for professionals, and formal compliance obligations across the three jurisdictions. Furthermore, this paper utilizes a functional comparative legal approach to investigate the practical application and real-world impact of laws in Nigeria, Rwanda, and Zimbabwe.

3. Results

3.1. Clarifying Essential Concepts

3.1.1 Who is a Legal Practitioner?

It may rightly be said that a Legal Practitioner or a Lawyer is one who is qualified to engaged in legal services either as a Barrister or Solicitor law in line with the regulation of the country he is based. In Nigeria, he must passed qualifying examination, Called to the Bar, and enrollment at the Supreme Court of Nigeria as Barrister and Solicitor. This suggests that a person who practices law as contained in the Legal Practitioners Act is empowered to practice as Barrister and Solicitor of the Supreme Court of Nigeria for the purposes of legal representation of clients in any proceedings in court of competent jurisdictions as legal practitioner.[1] Thus, this foregoing qualification is open to citizens[2] and non-citizens of Nigeria.[3] While the Council of Legal Education[4] carries out the function of educating the intending Legal Practitioners, the Body of Benchers issues successful Law Students with Call to Bar Certificate after the ceremony.[5] The Legal Practitioner is subsequently enrolled in the Supreme Court.[6] Apart from the foregoing academic qualification, character formation and its exhibition per excellence is a compulsory and additional qualification. On this note, a first-class student, who is convicted by any Court of the law or found wanting in any act unbecoming of law student cannot be called to the Bar. For instance, a student caught writing examination for another student is said not to be qualified to be Called, no matter how academically intelligent. Ethically, a Legal Practitioner is enjoined to be above board in his private and professional conducts.

3.1.2 Who is a Client?

The LPA defines a client to mean such a person or persons who are under obligations to pay for the service fees of a legal practitioner.[7] However, Remuneration Order defines Client as: Any individual, group, or entity who seeks and receives professional legal Services from a Legal Practitioner including, but is not limited to, those on whose behalf a Legal Practitioner prepares a land instrument, those who seek Legal advice or consultation, those who are represented in litigation, or those who require any other service a Legal Practitioner is empowered to perform by virtue of being a Legal Practitioner.[8] A client engages the services of a Legal Practitioner and the Professional Service could be paid for or freely (probono) rendered. In the Legal Profession, such service must be professional rendered.[9] Furthermore, a client is an individual, cooperation, trust or estate that employs a professional to advice or assist in the professional line of work. Hence, a client could be a natural and artificial person who employs or retains the services of a lawyer for legal representation in Court, render professional advice, assists and represent

[1] LPA 2004, S. 24, Interpretation.
[2] Ibid, S.4(1). See *Fawehinmi v NBA* (No. 1)[1989] 2 NSCC I.
[3] Ibid, s 4 (2).
[4] See Legal Education (Consolidation etc) Cap LIO, Laws of the Federation of Nigeria, 2004.
[5] LPA 2004, SS. 3 and 4.
[6] Ibid, S. 7. Also, the Case of Benjamin *Wayo v. Engr. George T.A Nduu & Ors* [2019] 4 NWLR (PT 1661) 60 SC.
[7] LPA 2004, S. 19, Supplementary Provisions as to Remuneration.
[8] See Advocates Act of Uganda (Chapter 267 1970, Amended in December 2002, and Tanzanian Advocates (Professional conduct) and Etiquette) Regulations Cap 341, 2018 in Section 3.
[9] LPA 2004, S. 19 (4), Supplementary Provisions as to Remunerations.

him in a pending litigation in court and or in any related matters thereof, inwhich he may or may not be remunerated.

3.1.3 Bill of Charges

The LPA defines charges as 'Any fees either in forms of charges, disbursements or expenditures made in respect of services rendered to the client by his lawyer.[10] This capacity shows that it must be professionally carried out. It also defines Bill of Charges as 'Such charges contained in para. (a) (2) of S. 16 of the Act'.[11] The analysis of the paper shows that Bill of Costs is the amount agreeable to be paid to a lawyer by his client as service charge for the services rendered. It must be emphasized that briefing of a lawyer by a client attracts remuneration for the services. Bill of charges from a lawyer to the Client specifies the detailed and tabulated remuneration for such a service. The Bill of Charges is presented and agreed upon before the commencement of the Legal Service. It is unprofessional for a lawyer to present a bill less than the scale of charges in the Remuneration Order. For the lawyer to be entitled to the fees, the services must be professionally carried out to its agreed conclusion. It must bear the name of the law firm, lawyer, client, date, particulars of the service and detailed financial agreement. Drawing inspiration from the case of *FBN Plc v Ndoma Egba*,[12] it was held that where a Legal Practitioner is yet to receive his professional fees and formal agreement between the parties exists, the legal practitioner in this sense is required to forward his Bill of Charges to his client for necessary actions. The foregoing is an indication that Bill of Charges empowers the Legal Practitioners to recover his professional fees.[13] That said, it represents a proof of an agreement reached for the payment of professional services rendered by the legal practitioner to his client.

3.1.4 Taxation on Bill of Charges

The LPA defines taxation as such taxes prescribed by an accredited office of the Court, along with cognate expressions construed in line with the provisions of LPA.[14] Aside using the concept taxation in the Accounting Profession, taxation of bill of charges or costs for the purposes of remuneration provisions contained in LPA is regarded as the mode by which the Registrars or other Officials of the Courts as appointed by the Chief Judge of the State scrutinized, allowed or disallowed certain amount claimed by a lawyer to be paid to him by his client in the course of recovery his service fees. Though the LPA mentioned Taxing Officer in the various sections on taxation, it did not define it.[15] In this context, the High Court Civil Procedure Rules of different jurisdictions provides what determines the amount to be paid as tax.

Hence, taxation in this context is within the bounds of the Court, Legal Practitioner and his client. Taxation on Bill of charges or cost is the next stage after the Legal Practitioner's bill has been served on the client. On an application made by a client or *suo motu*, the court is obliged to intervene through the

[10] Ibid, S.19(1) , para 3.
[11] Ibid, para 2. Legal Practitioners Act of Ghana, 1960, Section 30.
[12] [2006] All FWLR (PT 307) 1017. See also *AMTI v Bayer* [2003] FWLR (PT 155) 649 at 569.
[13] Kachidubelu John Bielu, 'Recovery of Legal Practitioners Fee in Nigeria: Fees by Agreement and Fees Through Bill of Charges in Perspectives' [2021] (2) (1) *Law and Social Justice Review* (LASRURE) 118.
[14] LPA 2004, S.19, para 6.
[15] Ibid, S. 18 (3a-b) 4. See the Advocates (Remuneration) Order 2014 of Kenya, Rule 10.

Registrar to tax the bill. This means scrutinizing it by allowing or disallowing certain sums or calculations therein. [16] To this end, taxation remained a process by which the Court examines a Bill of Costs presented by a lawyer and what determines the amount payable to the legal practitioner by his client. In this regard, having made the presentation by the legal practitioner, a certificate will be issued to him by the Registrar of Court indicating certain amount prescribed by the taxing officer along with the amount to be paid by his client to him for the services rendered. The above suggests that the Lawyer and his client in this sense will agree on certain amount to be taxed by the Court or make an application for an Order of Court for a prescribed tax on the bill, which whittles down litigation. The paper revealed that non-definition of a Taxation Officer in the LPA has been major impediment as different States are at liberty to adopt a subjective and overwhelming powers of designating such responsibilities to an officer of the court who will be in charge of fixing taxes on bills of charges for the Legal Practitioners.

3.2. Recovery of Lawyers Professionals Fees

The paper's finding reveals that legal practitioners in Nigeria is solely responsible for fixing an amount as professional service fee to be paid by his client. This finding, grounded in an extensive review of several tax statutes and related fiscal codes indicates that legal practitioners, are either paid in advance upon named fees or may agree on terms with his client when his service fee will be paid. In a similar vein, the paper finds that where there was no prior agreement with his client on what should be his service fee, he is required to present his service fee. In this sense, where it becomes necessary to sue to recover his service fee, he is obliged to do that in strict adherence to the provisions of Section 16 of LPA with evidence that the said service fee demanded is legitimate. Moreso, it should be noted that an action by a legal practitioner to recover his service fee from his client must be filed in a properly constituted court having jurisdiction over the matter. By so doing, he may have forwarded his service fee to his client and must contain an explanatory note of the items attached or have taken into account by his client. Much as these are necessary steps in the recovery process, it must be emphasized that the Bill of Charges must disclosed the nature of the service provided by the legal practitioner upon which his claims lies and such claim must be signed either by the legal practitioner or any other lawyer in his law office. Furthermore, this service of recovery of service fee from his client must be a personal service or service at his client last place of residence as the case may be.[17]

However, in the context of instituting an action against his client to recover his service fee, it is clearly provided in LPA that the legal practitioner give month notice to his client before bringing such an action in court which such notice shall commence upon the date of the service of the bill on his client upto the due date. It should be stressed that the essence of this action could be as a result of his client failure to comply with his demands as provided in the Bill of Charges. Conversely, where the legal practitioner made an application to the court that his client has complied with his demands, the one month notice earlier served on his client will be reduced by the Court where the Court is satisfied that the Bill has been paid and while the charges therein is fair and reasonable.[18] Another important aspect the Court took into consideration while reducing the time is a situations where a debtor-client appears to exhibit a

[16] *Savannah Bank Nigerian PLC v. Opanubi* [2004] ALL FWLR (PT 222) 1587.
[17] LPA 2004, S.16 3(a) and 3 (a).
[18] Ibid, S. 16 2(b).

fraudulent act showing his unwillingness to pay his bills to his lawyer or exhibit certain behavior which may be construed as a tactics to delay the payment of the bills.

Furthermore, the paper highlights that where there is a pending action in Court, the defendant has the right to raise preliminary objection on the basis that his lawyer is yet to deliver his service charge along with other material documents to him prior to the institution of the action. The paper also finds that, where his client gives a security for payment, the Court stays the proceedings.[19] In *Bakare v Okenla*[20], it was considered by the Supreme Court of Nigeria that since such claims are for service fees of the legal practitioner, he ought to have forwarded his Bill of Costs to his client prior to the institutions of actions as contained in the LPA and as he did not comply with the provisions of LPA, it is for this reasons that he cannot recover his service fees or charges. Recognizing the challenges in the recovery of the professional fees or charges of the legal practitioner, this paper presents notable guidelines for the application in line with Section 16 of the LPA as follows:

3.2.1 The Bill of Charges to be Explicit, Precise and Elaborate

In this context, the Bill of Costs prepared by the lawyer should be clearly presented in such a manner that it will be explicit and lucid for better understanding and assessment by the Tax Officers who has the responsibility of fixing fair and appropriate fees to be earned for services duly performed.[21]

3.2.2 Form and Content of Bill of Charges should contain Basic Requirements

The provisions of S. 16(2) of LPA provide that Bill of Charges should comprised of the basic requirements needed for a particular to be sustained in court of law. In Nigeria however, the analysis of the paper shows that no distinction exists between controversial and non- controversial issues as it relates to the content of the Bill of Charges. The above provisions suggest that there is a prescribed guidelines for the form and content of Bill of Costs which shall include:

a. Such Bill of Charges must be properly captioned to contain the subject matter. In other words, where it is meant for filing in court, the particulars of the court, cause of action as well as the necessary parties to the action should be clearly provided for better clarity.[22]
b. Such Bill of Charges must contain prescribed fees, professional disbursements upon which the claims are dependent on. In this sense, professional disbursements comprised of payments made by the lawyer in the course of his occupational duties or assignments arising from payment of filing fees in court, fees paid to witnesses or monies spent in getting records of proceedings of Court.[23]
c. Specificity of Charges/ Fees. In this sense, the underlisted are necessary conditions to complied with:
    - Documents should be properly scrutinized before any legal adice.

[19] Ibid, S.16 (3c).
[20] [1988] ALL NLR at 327. See *Abrurime v NPA (Nig) Ltd* [1989] 3 NWLR (PT 108) 213 at 230 – 232.
[21] LPA 2004, S. 17-18.
[22] Ibid, S. 16(3). See *Onyekanmi v NEPA* (1978) 4 SC III.
[23] *MC Cullie v. Buttler* [1961] 2 ALL E. R 554; *Malari & Others v. Richmond Sison Leign* (2019) 3 NWLR (PT 1659) 33 SC.

- Preliminary investigations need to be conducted or where necessary engaged the service of an accredited agent from other jurisdictions for that purpose.
- Drafting of Writ of Summons and Statement of Défence.
- Provisions of number of persons who may be witnesses in court and the date fixed.
- Presentation of evidence of assignments performed in court with an indication of some of the difficult tasks performed in court in the course of the proceedings which will give an insight to his client on the nature of the tasks performed on behalf of his client in court. This will form the basis of his claims for payments.[24]

d. Sufficient information is required from the lawyer in his Bill of Costs to enable his client to be in the know of the services he rendered as well as for the tax officer to know the proper tax required to be paid.[25]

e. Secondly, there is a compelling need to attached against each of the document detailed explanatory note as provided in the Bill of Costs a particular amount considering the status, the legal practitioner's experience, along with the time and efforts made. Given the relevance of the above-mentioned issues, these was strongly argument in court in the Matter of *Oyo v. Mercantile Bank (Nigeria) Ltd*[26] where the Court held as follows:

- A legal practitioner, in this sense, has to show that his client engaged his services, and he rendered such services given his years of experience as a practicing lawyer; and his professional service fee is in conformity with the amount he charged as well as the level of skills required to do the matter. In this regard, the professional service fee charged does not exceeds what is reasonable having regards to his skills, and labour needed to render such services, and all other conditions demands by the case.

Thus, to state the obvious, the above provisions of the court make bill of charges to be more concise, succinct and summarized for a better comprehension.

3.2. Reasons for Formal Agreement by the Legal Practitioner Engaged in Occupational Duties

A very important finding of the paper in this section revolves around several reasons for formal agreement by the legal practitioner engaged in occupational duties on behalf of his client. The paper reveals that it is a mandatory requirement for a legal practitioner to have a formal agreement in respect of any occupational services rendered by him to his client with evidence of agreeable amount for the services. Essentially, the above provisions are statutorily provided in S. 15(3) (d) of LPA.[27] In other words, this written agreement holistically should be fair, reasonable and ought to have been made in good faith devoid of any form of suspicious behavior by the legal practitioner aimed at extorting money from his client. Furthermore, the paper finds that in the recovery of his claims from his client, a legal practitioner must ensure that any action for the recovery of his claims upon a Bill of Charges, he has duly complied with the underlisted three fundamental requirements as follows:

[24] D. K Oye, 'Documenting Clients Instructions and Transactions' [2012]11 *Nigerian Law and Practice Journal*, 39; Re – A Solicitor [1955] 2 ALL E.R. 283.
[25] LPA 2004, SS. 17 and 18.
[26] [1988] 3 NWLR (PT 108) 213 at 223.
[27] See Legal Practitioner's Remuneration (for Business, Legal Services and Representation) Order 2003 as per Section 15(3) (d) of the LPA.

a) A Bill of Charges prepared specifically mentioned the basis of his claims.

b) A copy of his Bill of Charges has been duly served on his client, and

c) A statutory period of one month served on his client has elapsed.[28]

In addition to the above provisions, it should be noted that the jurisprudential basis of Bill of Charges does not conform with the provisions of the LPA and this does not pose any threat to the recovery of claims by the legal practitioner. Whereas a detailed Bill of Charges as provided in S. 16 of LPA is preferable. That is to say, it is not simply a question of choice, but a mandatory requirement as non-compliance with the above provisions by the legal practitioner rendered the Bill of Charges null and void. Furthermore, the paper highlights that a convenient forum is a determinant factor in the taxation of legal practitioner's bill of costs in Nigeria. The analysis reveals that forum convenience in this regard refers to jurisdictional powers of Courts as it applies to Taxing of Bill of Charges of the practicing lawyer who is engaged in professional services to his clients. This revolves around the Court and its Judicial Officers, and the Taxing Officers. Additionally, the findings show that the strengths and weaknesses as manifested in the substantive and adjectival applications made by the legal practitioners in the pursuit of their claims in courts determines the outcome of the matter. These and others highlighted in the paper as follows:

3.2.3 The Court

The forum convenience or jurisdiction of Court for the recovery of the lawyer's professional fees also applies to the taxes on Bill of Charges in Nigeria. It is settled law that the nature of the Plaintiff's claims determines the jurisdiction of the Court to hear the matter filed. On the recovery of Lawyers professional fees along with the taxes on Bill of Charges, the provisions of the LPA are expressly clear on such Court that has jurisdiction to entertain it. It provides thus: A Court in this context is High Court of a State where a lawyer in question performed his legal services on behalf of his client for professional fees to be paid by his client for the services rendered. In other words, a court is any official tribunal presided over by one or several judges in which legal issues and claims are heard and determined.[29] A look at the foregoing shows that the LPA gave a wide and balanced blanket of jurisdiction covering the Legal Practitioners place of business and residence with his client. It is pertinent to juxtaposed the jurisdictions as provided by the LPA and the High Court Rules. Take for instance, in Niger State High Court (Civil Procedure) Rules 2018, it provides thus: Every pending suit on specific performance, or that resulting from breach of contractual obligations shall any commenced and determined in the judicial division where such contract was made or ought to have been made or at the place of residence of the defendant or at his place of work.[30]

In practice, however, the above applies to several State High Court Rules in Nigeria, and as well captures the position of the plaintiff as contained in the LPA.[31] The question is where the LPA and the High Court Rules conflict on forum convenience, which one takes precedence? The answer is explicit noting that

[28] LPA 2004, s16 (1) and (2).
[29] LPA 2004, S.19 para 5.
[30] See Niger State High Court (Civil Procedure) Rules 2018, Order 2 Rule 3.
[31] See Abia State High Court (Civil Procedure) Rules 2014, Order 2, 3, 4(5); Adamawa State High Court (Civil Procedure) Rules 1991, Order 2(1), 2(3), 5; Akwa Ibom State (Civil Procedure) Rules 2009, Order 2(1), 2(3), 2(4); Anambra State (Civil Procedure) Rules 2019, Order 2, 3, 4(1).

LPA[32] is an act of the National Assembly while the High Court Rules are made by the Chief Judge of a State.[33] Hence, the former takes precedence in the event of conflict as the High Court Rules do not pass the State Legislative Arm. Not only that, National legislation supersedes State legislation. It is important to note that notwithstanding the force of precedence, both Statutes complement each other. This complementarity is a gap in the process as it promotes subjectivity due to differences arising from the provisions of the States High Court Civil Procedure Rules (HCCPR) of different jurisdictions.

3.2.4 The Taxing Officer

The findings of the paper shows that the LPA, RPC and the Remuneration Order did not define 'Taxing Officer', though, Section 18 of the LPA provides brief roles of a Tax Officer with regards to the Bill of Charges of a Legal Practitioner.[34] The LPA making reference to the Rules of Court implies that one should adverts his mind to the provisions of the HCCPRs of the States. This remains a big lacuna because States can independently make different descriptions and definitions of a Taxing Officer. Advancing on the above positions, it should be noted that the High Court Civil Procedures Rules of Niger State 2018 defined 'Taxing Officer' as 'a Chief Registrar or such other personnel of the Court who may be appointed by the Chief Judge of a State to handle tax matters as they arise. [35]

The above shows that the powers of the Registrar or such other persons exceed taxing Legal Practitioners bill of charges as it has powers to tax other costs before the Court. It went further to define Registrar as a 'Chief Registrar, Deputy-Chief Registrar, Assistant-Chief Registrar; Principal Registrar; Higher Registrar; Senior Registrar, or any other officer in acting capacity or performing the function of a Tax officer.'[36] While the Registry means the registry of the High Court of Niger State in the appropriate judicial division.[37] This shows that in a recovery of Legal Practitioner's Fees, the Court relies on the Civil Procedure Rules applicable to determine who is a Taxing Officer. Worst, also the roles and functions of the Taxing Officer are not adequately provided in the LPA and non at all in the RPC and Remuneration Order. This puts his complementary judicial functions of a Taxing Officer sitting to tax Bill of Charges in quandary with the roles of the Court in respect to taxation same. This could be seen in the provision of section 18 of the LPA where the Taxing Officer sitting as a Judicial Officer to Tax Bills could refer the Matter to Court and the role of the Court to act and refer back to the Taxing Officer to continue. The dichotomy between the functions of the Taxing Officer and the Court lie helplessly at the discretion provided in various Civil Procedure Rules of States, notwithstanding issues bothering on recovery of professional fees of Legal Practitioners is a prerogative of national legislation, i.e. LPA binding generally all Lawyers in Nigeria simultaneously.

Unarguably, the procedures for the taxation of bills generally are provided in the HCCPRs in Nigeria. However, taxing of Bill of Charges on legal practitioners remained a prerequisite for the LPA vide its

[32] See CAP L11, LFN 2004.
[33] See Niger State High Court (Civil Procedure) Rules 2018, Section 274 of the CFRN, 1999 (as amended), Section 116(1) of the Niger State High Court Law 1 Cap 53 1989 Revised Laws of Niger State.
[34] They are: determination of default of an Advocate to attend taxation after notice, extension of time, conduct of taxation proceedings, disallowing costs, issuing certification on taxation, recording consents an agreements on amount of cost among others.
[35] Ibid, Interpretation Section.
[36] Ibid, Interpretation Section
[37] Ibid, Order 2 Rule 3.

provisions. Being a statutory provision of the National Assembly, it has the force of law all through the Country Nigeria unlike the Rules that are State bound. In this sense, High Court Rules of States recognized this by exempting such taxation from their jurisdiction.

In light of the above, the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules of 2018 provides as follows: All Bills of costs, aside bills presented by a lawyer to his client that was not taxed under the LPA, should be referred back to the Registrar for taxing either by himself or any other person who may be appointed by the Chief Judge to perform such duty.[38]

Aside the above procedures in taxing of Bill of Charges as provided in the LPA made reference to the Taxing Officer and the Court and to the Rules of the Court also. This means that the LPA and the High Court Rules are complementary to each other. Any provision or issue not covered by the LPA can be assessed from the HCRs or at the discretions of the Taxing Officer and the Judge as provided in Section 15 of the LPA. It is pertinent to analyze the form and guidelines for taxes on Bill of Charges as contained in LPA. Notwithstanding it's complementary nature, the High Court Rules disrobing itself of jurisdiction on taxation of Lawyers bill of Charges on the reason of it being provided in a national legislation i.e. LPA, and the latter referring to the High Court Rules to fill ups any gap occasioned in the LPA vide section 15, requires a retouch of absolute handing off of the High Courts of jurisdiction. This several references are not germane to the development of the jurisprudence of taxation of bills as it can engender dis-similarities in the processes as per States independent applications via their High Court Rules.

3.2.5 By the Client Within Time

In this context, a client reserves the right during the period of one month upon service on him the Bill of Charges to apply to the Court for it to be taxed. Upon receipt of the above, the Court is obliged to make an order for the bill to be taxed along with necessary actions for recovery of the service charge by the Legal Practitioner until the completion of the taxation.[39]

It is important to note that except an order for security is given under section 16 sub 3 of the LPA and it is not complied with, before the above procedure can go on. To this end the client cannot bring an application for taxation of charge after one month. The LPA is silent on whether a Legal Practitioner can on its motion apply that the bill be taxed by the Court within the one-month period. The word shall as used by the LPA[40] makes it compulsory for the Court to tax the bill on presentation by the client. It is a lacuna to leave it open to the Court's overwhelming discretion to tax, even at objection of the Legal Practitioner as per the compulsory construction 'shall'. This is unlike the LPA of Ghana that used the acronym 'may'. It states thus: Where a party to be charged applies to Court during the one month period as contained in Section 30 of the Act, the Court is obliged to defer such bill and demands that the Lawyer's Bill of Charges be taxed and resolved by Taxing officer appointed by the Court.[41]

The above is specific that it may be referred to the Taxing Officer to take action, though it did not also provide for the security of the charge as provided in the LPA. The usage of the compulsory word 'shall' as be provided in the LPA and the exclusion of the Legal Practitioner's right to apply that his bill be taxed within the period of one month are major gaps.

[38] Order 56 Rule 14.
[39] LPA 2004, S. 172(a).
[40] Ibid, S.18(1).
[41] LPA 1960 Ghana, SS. 31-33.

3.3. By the Legal Practitioner and the Client out of Time

The position in this regard is that the legal practitioner and his client reserve the right to make necessary applications to the Court upon expirations of the one-month notice prescribed for such Bill of Charges submitted to the Court to be taxed irrespective of the time lapsed. Upon looking at the merit of the matter and the Court thinks it proper, can order for the bill be taxed and until it is carried out, no action shall begin and any proceeding begun is stayed till the determination of taxation.[42] It is important to note that the foregoing shall not be carried out by the Court if the underlisted conditions are complied with:

- The bill has been paid within 12 months.
- Where the 12 months elapsed within the period of transmission of the Bill of Charges and Court finds reasons to grant it.
- If Judgment has been given in the matter of recovery of professional fees.[43]

It is important to note that with respect to the Remuneration provisions, Bill of Charges shall be transmitted to the client when it is left or sent to him as per service of processes in the High Courts.[44] This can be done by way of applications to a law firm of Lawyers in partnership as it applies to natural persons. An understanding of a legal practitioner in this sense applies to such a person within the contemplations of the provisions of LPA at the time of such transactions.

3.4. Form, Content and Procedure for Taxation of Bill of Charges

Essentially, taxes on Bill of Charges is within the statutory provisions of the LPA or any other instruments empowered to do so like the HCCPRs of the States.

3.5. Form and Force

In light of the provisions of S.15 LPA, Remuneration Committee shall make provisions for the order to be followed in taxing of bill of Charges. However, in the absence of the above, or where such an item to be taxed are not taken care of as required, such charges should be treated in respect of the skills, labour, tasks performed and other prevailing conditions.[45] In Nigeria for instance, taxing of Bill of Charges is contained only in LPA. To this end, the Court's forum convenience bears much responsibility for taxing of Bill as the LPA may not have much substantial and procedural provisions for the above. It is a gap where the Court does not have any provision for taxation or have different provisions in its Rules and Practice Direction. The above makes the whole process subjective as the different provisions in the Rules may apply to the Taxation of bills Legal Practitioners in the various States in Nigeria.

3.5. Fair Hearing

[42] LPA 1960 Ghana, S.32. Compare LPA 2004 Nigeria, S. 17(2).
[43] LPA 2004, S.17(3).
[44] Ibid, S.18.
[45] LPA 2004 Nigeria, S. 18(2); LPA 1960 Ghana, S. 34.

Giving Legal Practitioner and the client fair hearing during the taxation procedure is a paramount provision of the LPA. However, if any of the parties have due notification and refuses to appear, the Taxing Officer in line with the Rules of the Court can go ahead to tax the bill. He can also adjourn to afford an opportunity for the other party to appear for the trial on special reasons. On this note hearing notice shall be served the absent party. Flexibility at this stage is necessary since the taxation before the Taxation Officer or Registrar appears like an ADR process. A lacuna that exists at this stage is the issue of preliminary applications which the Taxing Officer cannot handle.

3.6. Referrer to Court by Taxation Officer

The Taxing Officer is a judicial officer but not the Court as per when circumstances warrant applications to be responded by the Lawyer and the client in the process of taxation of bill before him, he can refer the matter to the Court. The Court may on its powers exercise the right of taxes on Bill of Charges and inform the officer in charge of taxes the amount prescribed. It can also make references to the taxing officer upon instructions to him on what to do in such situations.[46] This process of referrer is not so clear as the there is need to dichotomized such inherent powers of the Court along with the Taxing officer.

3.7. Certificate of the Taxation Bill

The LPA gives the Taxation Officer wide and overwhelming powers upon completion of the taxation to declare the final amounts due as per the Bill of Charges in context. He duly issues a certificate signed by him as well as being filed in the records of Court. Having done this, the applicants are deserving duplicate copies of the applications without pay. On this note the Registrar has the powers to end taxing process of bill and issue certificate[47] on his table in Nigeria. The question that demands answer is whether the Court can issue certificate also? If yes on what situation and condition in the practice? The above still revolves on the slim division between the Court's powers and the overwhelming powers of the judicial Taxing Officer appointed by the Chief Judge of the State High Court.

v. Appeal

In this sense, Courts exercises discretions upon applications made within 21 days upon determination review on appeal any approval of taxation made by the Taxing Officer. It must be emphasized that for an applicant to make a successful appeal, he should be able to provide evidence showing the sum presented by the Court as contained in Section 18 (3) of the LPA as being exempted, but must comply with the provisions of Section 18 (2) of the LPA.[48] The above appeal does not nullify the notification of the Court. The above shows that Courts cannot review its decisions when not in issue. The twenty-one days lapse of time for review as provided in the LPA supersedes any provision for judicial review. This whittles down the powers of the Taxing Officer in respect of Certificate issue after taxation of bill of charges.

[46] LPA 2004, S. 18(3).
[47] Ibid, S. 18(4).
[48] ibid, S. 18 (5 and 6).

vi. Conclusive Certification

It is provided in the LPA that evidence of the Taxing Officer on Bill of Charges or it's variations on Appeal remains a conclusive document stating the amount payable by a client. Notwithstanding the above development, LPA empowers both lawyers and their clients the right to either prove or disproved otherwise the contents of the Certificate. It provides thus:

> …But nothing in this subsection shall be construct as relieving a Legal Practitioner of any obligation to prove that a client is liable to pay Bill of Charges, or that which makes it impossible for a client admit his culpability over an alleged offence.[49]

The foregoing provisions gives leeway for more controversies on the Bill of Charges. This because if the Certificate is the final document presented to the parties by the Taxing Officer, allowance of its proof is a call for further evidence by the Legal Practitioner and the client.

vii. Payment of Cost for the Taxation

The LPA mathematically provides for who pays the cost for the taxation process. Subject to Section 17 (3) it provides thus:

> ….. if such amounts provided in the certificate as contained in this section relates to or at variance with the one presented on appeal, showing that it is lesser than the amount on the bill prior to taxation, while the difference is equivalent to one sixth or greater than the amount on the bill prior to taxation. Then, It is the responsibility of the legal practitioner to make such payment, while his client shall pay the cost. [50]

The above calculation seems dry and complicatedly mathematical in nature. In this sense, for one to comprehend the literal meaning of the above, the language should be simplified.

5. Cross-Jurisdictional Analysis

a. Rwanda

The finding of this paper centres on a well-established fact that many legal practitioners have long been classified as administrators within the justice system. This classification alone serves to qualify legal practice as non-business activity. However, within the Rwandan legal system, taxation is applied only to three legal professional practitioners: namely, advocates (lawyers), professional court bailiffs and private notaries.

i. **Advocates**

[49] Ibid, S.18(6).
[50] Ibid, S.18(7).

The paper shows how Advocates in Rwanda can collect fees from different services from representing and assisting clients in the courts and other decision-making organs to drafting legal documents as according to the *Rwanda Bar Association Regulation N° 01/2014 Fixing the Scale of Fees for Advocates*. According to these instructions the advocate must comply with the applicable tax laws; all notes relating to fees, expenses and disbursements must include the advocate's tax identification number; the lawyer registered for Value Added Tax (VAT) must include the amount of VAT in the invoice for fees as required by the applicable law; and the advocate registered for VAT must, where practicable, inform the client that payment of the fees must be made as soon as possible to enable the advocate to comply with the tax declaration and payment requirements.[51] Since these regulations obligate the respect of tax laws, it is also of paramount importance to visit the *Law N° 051/2023 Of 05/09/2023 Amending Law N° 027/2022 Of 20/10/2022 Establishing Taxes On Income.* According to this law:

> persons who carried out taxable income generating activities is obliged to prepare annual tax Declaration in line with the guidelines provided in the tax administration and presents such Declaration along with books of account, and its annexes compiled in accordance with the guidelines generally acceptable under the accounting procedures and any other relevant documents needed by the tax administration on or before the 31st day of March preceding the tax period, unless otherwise stated in this Legislation.[52]

This particular law then obligates an advocate or an association of advocates[53] a responsibility to make tax declaration from their incomes. The income tax in Rwanda amounts to 30 per cent of the total income per annum.

ii. **Private Notaries**

There are two types of notary service providers in Rwanda, public notary and private notary. The public notary is a public servant whose duties involve notary service among others. All fees collected by public notary are not subject to taxes because they are in nature state services. However, a private notary is required by the presidential order to pay tax.[54] Although there is no law preventing a private notary to pay income tax of 30% a private notary service is a considered as a business and therefore adhere to tax charged on trading licence.[55]

iii. **Professional Court Bailiffs**

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[51] Art.1 of the Rwanda Bar Association Regulation N° 01/2014 Fixing the Scale of Fees for Advocates.

[52] See art. 1 *the Law N° 051/2023 Of 05/09/2023 Amending Law N° 027/2022 Of 20/10/2022 Establishing Taxes On Income*. (-Corporate partners must pay corporate tax, while individual partners pay personal income tax.
-If obligations under paragraph 2 of this Article aren't met, both the partnership and its members are liable.).

[53] Article 52 of the Law N° 027/2022 Of 20/10/2022 Establishing Taxes on Income, this address Taxation of income from Partnerships

[54] Article 9 of the Presidential Order No100/01 of 24/02/2017 *determining fees paid for notarial services Registration in the Authority in charge of revenues A private notary is required to be registered in the Authority in charge of revenues and get a Tax Identification Number.*

[55] Article 27 of the Law n° 048/2023 of 05/09/2023 *determining the sources of revenue and property of decentralized entities Person liable for the trading licence tax the trading licence tax is paid by any person that opens a business activity within a district.*

In Rwanda, like the notary service, court bailiffs come in two categories, professional and non-professional. The non-professional court bailiffs are public servants and ask no fees over the provision of the bailiff services. However, professional court bailiffs set prices over their services.[56]The income tax law technically applies even though all their fees are recorded as honorary fees, clients with Tax Identification Number will always get their invoice as per VAT law[57] which can in return be controlled by the Rwanda Revenue Authority.

b. Zimbabwe

To understand Zimbabwean legal practitioners and the manner in which their services are taxed, a general understanding of the legal profession is required. The paper notes that legal practitioners are generally understood as individuals learned in the law, licensed to practice law, and who, for a fee or reward, prosecute or defend cases in courts of record[58]. However, as noted by authors such as S.H. Bailey, Peter F. Smith, and Michael J. Gunn, this does not imply an easy description of work: several persons who are not lawyers discharged legal tasks, some engaged in full-time, and likewise, many tasks that legal practitioners performed are not limited to legal matters[59]. Hence, in discussing what a legal practitioner is in the Zimbabwean context, it is necessary to appreciate the laws that govern their registration, as well as the privileges and obligations that set them apart from non-lawyers.

However, the paper also notes that the registration of legal practitioners practicing in Zimbabwe is governed by Zimbabwean Legal Practitioners Act [Chapter 27:07]. This Act sets out the requirements for an individual to be registered as a legal practitioner, which primarily includes strict adherence with the guidelines provided in the by enabling legislations, possession of the relevant certificates laid down by the Zimbabwean Council of Legal Education, regular residence in Zimbabwe, being of or above the age of 21, and being fit and proper person[60]. In other words, this concept of "fit and proper" person is not expressly defined in the Act, it is a crucial element in the registration of legal practitioners[61], as all privileges and obligations associated with legal practitioners are founded upon the expectation that they possess qualities such as dignity, integrity, and responsibility. The Act also establishes the Law Society of Zimbabwe[62], the professional body that all legal practitioners are entitled to join, and requires all legal

[56] Ministerial Order Nº023/Moj/Ag/2017 Of 23/10/2017 *Determining the Scale of Fees For Professional Bailiffs*
[57] All Rwandan Taxpayers Registered for VAT are required by Article 24 of VAT Law No. 37/2012 of 09/11/2012 to purchase and use EBM in order to issue tax invoices to their customers for each transaction they carry out. Failure to do so is a tax offence with consequences.
[58] Henry Campbell Black, *Blacks Law Dictionary Revised 4th Edition* (St Paul Minn. West Publishing Co 1968) page 1033
[59]S.H Bailey, Peter F.Smith, Michael J Gunn*, Smith, Bailey and Gunn on the Modern English Legal System, (*London Sweet & Maxwell 1996) p*age. 113*
[60] Section 5 of the Legal Practitioners Act [Chapter 27:07]
[61] Re Chikweche 1995(1)ZLR 235 (S)
[62] Section 51 of the Legal Practitioners Act [Chapter 27:07]

practitioners to possess and renew a practicing certificate annually[63]. These provisions set out the requirements for an individual to be regarded as a legal practitioner in Zimbabwe, without expressly defining who legal practitioners are. Instead, the Act provides privileges for persons registered as legal practitioners and penalties for non-legal practitioners, from which the nature of a legal practitioner in Zimbabwe is revealed.

i. The Exclusive Rights and Privileges of Legal Practitioners in Zimbabwe

As previously mentioned, the Legal Practitioners Act of Zimbabwe provides for the rights and obligations exclusive to legal practitioners in Zimbabwe. Section 8 of LPA in its Chapter 27(7) sets out certain privileges of registered legal practitioners in possession of valid practicing certificates. These privileges include the right of audience in any court in which persons are entitled by law to legal representation, the ability to attest or authenticate documents that only notaries public may attest, and the right to be registered as a conveyancer capable of preparing legal documents to be registered at the Zimbabwean Deeds Registry. These privileges are intrinsic to the role of legal practitioners in Zimbabwe and are the primary reason the profession is held in high regard, as has been emphasized by several judges in disciplinary matters involving suspension or disbarment[64]. The penalties for non-lawyers exercising any of the responsibilities exclusive to legal practitioners are steep[65] and demonstrate how crucial these privileges are to the identity of legal practitioners in Zimbabwe.

ii. The *Defacto* Bar of the Legal Profession in Zimbabwe

A unique feature of the Zimbabwean legal profession is the de facto bar between attorneys and advocates. Prior to 1981, Zimbabwe had a divided legal profession inherited from Rhodesia, which provided for legal practitioners (attorneys) who exclusively dealt with clients and, in some cases, drafted legal documents. Legal practitioners with specific qualifications (advocates) had an exclusive right of audience to appear before superior courts upon receipt of a brief from attorneys. The legal profession was fused via the LPA Chapter 27(7), which granted every legal practitioner's rights of audience at Superior Courts of records. Zimbabwean scholars such as Professor Lovemore Madhuku, in *Introduction to Zimbabwean Law* [66] , argued that this change was politically motivated to ensure African legal practitioners had an equal right of audience with the predominantly white male majority of advocates. While attorneys in Zimbabwe are now able to appear before superior courts without briefing advocates,

[63] Section 75 of the Legal Practitioners Act [Chapter 27:07]
[64] Bushu v Grain Marketing Board and Othrs HH326-17
[65] Section 9,10,11,12 of the Legal Practitioners Act [Chapter 27:07]
[66] Lovemore Madhuku, *An Introduction to Zimbabwean Law* (Weaver Press Box A1922, Avondale Harare, 2010) Page 85

a de facto bar remains a key feature of the profession, as the role of advocates and their exclusive bar remains.

iii. Legal Fees and their Taxation in Zimbabwe

In regard to taxation for their legal services, legal practitioners in Zimbabwe are considered self-employed individuals and are required to pay tax on their services. Taxation is an essential consideration for any entity operating in Zimbabwe and providing goods and services, and legal practitioners are generally no exception. The Zimbabwe Revenue Authority (ZIMRA), established in terms of the Revenue Authority Act [Chapter 23:11], is responsible for assessing, collecting, and accounting for revenue on behalf of the Ministry of Finance. Legal practitioners are subject to several taxes, such as VAT (Value Added Tax) and social security contributions through the National Social Security Authority. However, the primary focus here is on Income Tax, as it directly correlates with the provision of legal services. Legal Practitioners in Zimbabwe earn income through fees charged on their services, based on Tariffs published by the Law Society of Zimbabwe which provide flat legal fees for certain services such as conveyancing[67] as well as limits on rates legal practitioners can charge clients on based on their level of experience[68], to ensure some uniformity in legal fees throughout the country. Section 6 of the Income Tax Act [Chapter 23:06] provides for a levy on income, and Section 8 of the Act outlines the amounts a person is deemed to have accrued in a year of assessment that are not of a capital nature. Thus, income earned from legal fees is subject to income tax. Legal practitioners may qualify for deductions on income tax under Section 16 of the Income Tax Act for expenditures incurred from practice, such as employee salaries and the renewal of practicing certificates. As integrity is a critical aspect of the legal profession, due diligence in fulfilling tax obligations is an essential part of legal practice in Zimbabwe.

In this perspective, Zimbabwean legal practitioners are individuals registered in terms of the Legal Practitioners Act, whose role within the legal profession is to carry out exclusive tasks that are both revered and protected by statute and the judiciary. All legal practitioners in Zimbabwe have the right of audience before the superior courts, namely the High Court, Supreme Court, and Constitutional Court. However, a de facto bar still remains for advocates, who require briefs from legal practitioners to represent clients in the Superior Courts. While the profession entails certain exclusive rights, legal practitioners are still subject to taxation, particularly income tax, and must comply with Zimbabwean taxation authorities to maintain the reputation and standing of the profession.

4. Conclusion

[67] Statutory Instrument 104 of 2024 Law Society of Zimbabwe (Conveyancing fees) By laws 2024
[68] General Tariff of Fees for Legal Practitioners May 2020

The findings of the paper revealed that the nature of judicial taxation on Bill of Charges by a Taxing Officer of the Court as well as per the recovery of Lawyers Professional Fees in Nigerian Civil Procedure legal system is really advancing and remained untapped till date. This is unlike in Rwanda and Zimbabwe where the practice on taxation of costs in relation to Legal Practitioners tax charges have developed tremendously. The observations and analysis of the paper further revealed that under the Rwandan legal system, taxation is applicable only to three categories of legal professionals such as the advocates, professional Court bailiffs and private notaries. In this sense, the income tax legislations of Rwanda is a legislation of general application even though all the fees charged are recorded as honorary fees. This analysis shows that all notes relating to fees, expenses along with disbursement includes the advocates tax identification number and lawyer's value added tax (VAT). According to the relevant legislations on tax charges in Rwanda, an advocate or association of advocates are under obligations to make tax declarations from their incomes. The findings suggests that income tax in Rwanda amounts to 30% of the total income per annum. Also, in Rwanda, two categories of notaries exist. The paper also reveals that there are variations between the two categories of notaries, private and public in terms of tax charges. While all fees received by public notary are not taxable, private notaries are required by the Presidential Order to pay tax of 30% as they are engaged in private business.

In a similar vein, the analysis further showed that legal practitioners in Zimbabwe are considered self-employed practitioners that are required to pay tax on their services. In this context, they are meant to pay several taxes, such as Value Added Tax along with Social Security contributions through the National Social Security Authority. However, Section 6 of the Income Tax Act Chapter 23(6) of Zimbabwean Tax Law provides for levies on all incomes, while Section 8 of the Act outlines the amounts a person is deemed to have accrued in the year of assessment. This suggests that income earned from legal fees is subject to income tax. In Zimbabwe, the analysis of the paper therefore shows that legal practitioners may qualify for deductions on income tax under Section 16 of the Income Tax Act on expenses incurred from practice arising from employee salaries along with the renewal of practicing certificates.

It could easily be argued that given the above analysis, the processes in Nigeria appears dry as provided in Sections 17 and 18 of the Legal Practitioners Act (LPA). Case laws are slim in this aspect, as many Chief Judges have not appointed Taxing Officers and many Registrars, Judicial Officers and Lawyers do not know who is a Taxing Officer nor taxation of Bills of Charges in the recovery of professional fees.

Thus, while much has been written in this regard, it must be remembered that many legal procedurals along with substantive issues arose when issues of taxation of bills are in question. It appears there is no clarity between the matters to be handled by the Court itself and its Judicial Officer (i.e.) the Taxing Officer. The jurisprudence on the jurisdiction and powers of a Taxing Officer seem hazy and contestable. To this end, for taxation proceedings to be determined expeditiously, the powers of the Taxation Officer vis a vis the Court should be clear. The judicial process should be developed by the Court vis a vis advocacies and seminars on the process as provided by the LPA to show case its content, form and practice.

To this end, the legal activities between a lawyer and client must be within the purview of the professional duties as enshrined in the legal frameworks such as the LPA, RPC, Remuneration Order, among others guiding the ethical standards of the profession. It is an unprofessional conduct when a

Legal Practitioner breaches the above and will not be able to recover his charges from the client. As was decided in the case of incorporated trustees of NBA v Ezeagu on whether Lawyers are estate agents or property managers, the Court ruled thus:

Lawyers are not estate agents and property managers, neither can they act as commission agents. This is a service incompatible with the profession and prohibited as a result. Any Lawyer engaging in incompatible and prohibited activity in the name of legal services is certainly guilty of infamous conduct and deserving of sancta for bringing the profession into disrepute. In the circumstance. The respondent having accepted a brief as property manager is therefore is guilty of infamous conduct and deserving of sanction. Accordingly, the respondent Charles Chikwuike Ezeagu, be suspended for 2 (two) years from the roll of Legal Practitioners in Nigeria.

In conclusion, the paper notes that while Nigeria boasts comprehensive statutory frameworks, disjointed tax administration and compliance enforcement create wide gaps for legal practitioners. Rwanda demonstrates a high level of voluntary compliance driven y its highly digitized tax administration, whereas Zimbabwe's legal practitioners face severe macro economic volatility, which dictates that capacity to comply and drives the need for flexible, progressive administrative frameworks rather than punitive measures. While legal profession demands high ethical standards, systemic administrative and structural bottlenecks in Nigeria, Rwanda, and Zimbabwe frequently hinder voluntary tax compliance. The paper put forward a number of recommendations as measures aimed at addressing the challenges on bill of charges. It is understandable that the recommendations made by the paper is capable of tackling the troubling trends of bill of charges in Nigeria.

References

Direct quotations from another author's work should be cited as footnote. For publications that are Accepted or submitted or in preparation, please just add a note at the end of the corresponding reference.

Journal Articles

Journal references must include the author names, abbreviated journal title, year of publication, volume (optional) and page range. For more than five authors, the name of the author should be given followed by *et al*. A collaborative group of authors or by a corporate body is accepted.

[1] There is need for a Uniform Practice Direction by the Nigerian Bar Association to complement the provision of the LPA on the recovery of legal practitioner professional fees.

[2] The taxation of bill of charges should be specifically and independently provided as per Section 18 of the LPA.

[3] The provisions of the LPA where the above is not in force yet on the taxation of bill of charges should be complemented by the Rules of the High Court of States. Also the provision of the High Court Civil Procedure Rules that exempts its of jurisdiction to handle taxation of Bills of Charges of Legal Practitioners because of it being provided in the national legislation ie the LPA, should provide a complementary clause curing when the LPA has a gap in its provision.

[4] The LPA and the Remuneration Order of Nigeria should define ‘Taxation Officer’.

[5] The functions of the Taxation Officer should be explicitly provided and pronounced.

[6] The provision in Section 19 (3) of the LPA that the Remuneration provision shall apply to a firm consisting of Legal Practitioners in partnership as they apply to a legal practitioner should be explicitly

explained.

[7] There should be a clear dichotomy of the jurisdiction of the Taxation Officer and the Court in the course of taxation of bills.

[8] Just like Rwanda and Zimbabwe, the Jurisprudence of taxation of bill of charges should be developed in Nigerian legal system by applying concerted advocacy, conference and seminars on it in Nigerian judicial system and NBA.

[9] For expedition's taxation of bill of charges, ADR should be encouraged by the Court.

[10] Legal Practitioners should develop the skill of writing comprehensive and clear bill of charges. The Lawyer is bound to fail in the recovery of professional fees when the foregoing is lacking.