Taxation of the Digital Economy in Nigeria as a Tool for Economic Development: Challenges and Prospect

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Abstract
This paper examines taxation of the digital services under Nigeria's new tax regime as a tool for economic development, with specific focus on the legal, institutional, administrative, and international challenges affecting effective taxation of the digital economy. The growth of digital platforms and cross-border online transactions has transformed commercial activities and created significant revenue opportunities for governments. However, traditional tax rules especially in less developed nations have struggled to capture income generated through digital presence without physical establishment. Nigeria tackled this issue through intermittent Finance Acts and the recent tax reforms, incorporating measures aimed at expanding the tax net to digital service providers. The study aimed at critically analysing taxation of digital services under Nigeria's new tax regime and evaluating the challenges confronting effective implementation. The objectives of the paper include the examination of the legal framework regulating digital taxation in Nigeria, analysis of jurisdictional and enforcement challenges, and assessment of international standards influencing digital taxation in Nigeria. The study adopts a doctrinal research methodology. Primary sources consulted include statutes, international conventions, regulations, and judicial authorities, while secondary sources consulted include textbooks, journal articles, reports, and internet materials. Findings from the paper reveals that Nigeria has so far made significant progress through introduction of new tax legislations and alignment with emerging global tax standards. However, the absence of clear enforcement mechanisms, limited international cooperation, technological limitations, and the historical inconsistencies in tax administration continue to hinder the overall effectiveness of taxation in Nigeria as a tool for development. Clear jurisdictional rules, stronger international cooperation, improved technological capacity for tax authorities, harmonisation of tax administration procedures, and continuous review of digital tax policies are recommended to be put in place in order to reflect evolving technological advancements for optimum performance and development in Nigeria.

Keywords: *Taxation, Digital Economy, Digital Service, Economic Development, Nigeria.*

1.0 Introduction:

The digital economy emerged as one of the major forces shaping global commerce in the 21st century. By 2016, its value was estimated at 11.5 trillion dollars worldwide, representing 15.5 per cent of global GDP.[4] In Nigeria, growth within the sector was even more striking. In 2024, the information and communication technology sector contributed 17.68% to real GDP in

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[4]W. Xu, 'Digital spillover: Measuring the true impact of the digital economy' (2017) *Huawei Technologies Co Ltd & Oxford Economics*. <https://www.huawei.com/minisite/gci/en/digital-spillover/files/gci_digital_spillover.pdf?hl=en-GB> accessed 27 May 2026

Nigeria, surpassing the oil and gas sector for the first time in the economic history of the country.[5] Digital platforms and cross-border online transactions, including streaming services, e-commerce, cloud computing, digital advertising, and fintech services, changed the manner in which people carried on business, consumed services, and generated income. However, this development also exposed a major problem. Many companies earning substantial income from the digital market in Nigeria maintained no physical office in the country, they employed no local staff, and paid little or no tax at all in Nigeria, which was a problem. The legal framework on taxation inherited from the 20th century proved inadequate for this problem. The Companies Income Tax Act and the Value Added Tax Act, both enacted in the 1990s, linked liability to pay tax to physical presence through a fixed base or permanent establishment within Nigeria.[6] In essence, a social media company earning massive revenue from users in Nigeria, a streaming platform receiving subscription payments from households in Nigeria, or a cloud service provider storing business data from Nigeria usually remained outside the reach of tax authorities because they did not maintain a physical presence within the country. According to the Organisation for Economic Co-operation and Development, base erosion and profit shifting caused losses of between 100 and 240 billion dollars annually to developing economies.[7]

Nigeria in turn, followed up through gradual legislative changes. The Finance Act of 2019 amended the Companies Income Tax Act by introducing "Significant Economic Presence" as a basis for taxation of non-resident companies.[8] The Companies Income Tax (Significant Economic Presence) Order of 2020 provided that a non-resident company would be regarded as having significant economic presence in Nigeria where it earned gross income of 25 million naira or more in a year from digital activities such as e-commerce, online advertising, and data services.[9] Subsequent Finance Acts enacted in 2020, 2021, and 2023 expanded the scope of taxation of digital activities. The measures were no doubt serious legislative attempts at repositioning Nigeria, but their implementation remained poor nonetheless, because of limited international cooperation, poor enforcement, and lack of a coordinated institutional framework to execute the complex task. The tax reform signed into law by the President in 2025 was the most radical attempt to address these problems. The Nigeria Tax Act of 2025 merged six existing tax statutes into a single body of legislation and expressly included income from digital services within the corporate tax base. It also retained significant economic presence as the basis for taxation of non-resident providers of digital services.[10] The Nigeria Tax Administration Act 2025 introduced uniform rules for tax administration across different levels of government. The Nigeria Revenue Service (Establishment) Act replaced the Federal Inland Revenue Service with the Nigeria Revenue Service, an agency intended to operate with greater autonomy and stronger technological capacity. These laws came into force on 1 January 2026 and exemplified the strides of Nigeria to align its fiscal system with emerging international approaches to taxation of digital services. It is at the backdrop of this development that this paper examined the legal, institutional, and practical problems connected with taxation of digital services under the new framework. Although the reforms of 2025 addressed several lapses within earlier legislation, major problems still lingers. These include uncertainty over

[5] D. Meshiole, 'NITDA projects 345.43 million profits for Nigeria 's cybersecurity market' *The Guardian* (Abuja, 3 June 2025) <https://guardian.ng/technology/tech/nitda-projects-345-43-million-profits-for-nigerias-cybersecurity-market/> accessed 25 May 2026

[6] CITA 2004 s13(2)(a)&(b) and VATA 2004 s10(1)&(2)

[7] K. Madu, 'Digital Economy & Taxation: Challenges and Opportunities in Nigeria' (2024) *Denny Center for Democratic Governance, Georgetown University Law Center Papers* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4993680> accessed 25 May 2026.

[8] Finance Act 2019, s4

[9] Companies Income Tax (Significant Economic Presence) Order 2020, para 1(1)(a)

[10] Nigeria Tax Act 2025, s 17

jurisdiction, problem with enforcement against non-resident companies, limited technological capacity within Nigeria's revenue authorities, and the seeming conflict between unilateral municipal measures and multilateral frameworks such as the Two-Pillar Solution of the Organisation for Economic Co-operation and Development. This paper thus considered whether the present framework provides a workable basis for taxation of the digital economy in Nigeria or whether stronger reforms are still required.

2.0 Conceptual Clarifications:

2.1 Digital Economy and Digital Services:

The digital economy refers to economic activities carried out through digital technology, internet platforms, electronic networks, data systems, and online communication. Unlike the traditional economy, which depends largely on physical offices, factories, and face-to-face transactions, the digital economy operates mainly through intangible assets such as software, algorithms, intellectual property, and user data. A business can provide services to millions of people in different countries without maintaining any physical office or employees in those countries. Digital services form part of the operational side of the digital economy. They include electronic commerce, online advertising, cloud computing, streaming services, social media platforms, search engines, online gaming, fintech services, and other services delivered through digital means without requiring physical contact between the provider and the consumer.[11] The Organisation for Economic Co-operation and Development identified some common features of digital services. These include dependence on intangible assets, reliance on user participation and data, mobility of business activities, and the ability to serve users across several countries from a limited physical location.[12] In Nigeria, the digital economy has expanded rapidly. Platforms such as Netflix, Amazon, Google, Meta, and X, alongside many fintech and electronic commerce operators, provide services to millions of users in Nigeria every day. These companies earn large amounts of revenue from users in Nigeria. But for many years, however, most of them paid little or no tax at all in Nigeria on that income. One major reason for this problem was the traditional concept of permanent establishment, which developed during a period when business activities were tied mainly to physical locations.
Under that system, a company generally became taxable in a country only where it maintained a fixed place of business there. Digital companies could structure their activities in a way that allowed them to earn income from users in Nigeria without meeting this requirement. The primary issue therefore became how a tax system designed around physical business activities could tax value created through digital services.

2.2 Digital Taxation

Digital taxation refers to the legal and administrative measures used by governments to tax income, profits, or transactions connected to digital activities. It is not a separate form of tax like company income tax or value added tax. Rather, it describes the different methods adopted to bring digital economic activities within the scope of municipal tax laws.[13] These methods include rules on significant economic presence, value added tax on cross-border digital services, digital services taxes imposed on turnover from certain online activities, and

[11] O. Shado, 'Taxation of Digital Activities and Cross-Border Transactions: An Appraisal of Nigeria's Strategy Vis-A-Vis Global Perspective' (LLB Project, Faculty of Law, Obafemi Awolowo University 2024)
[12] Organisation for Economic Co-operation and Development, 'Addressing the Tax Challenges of the Digital Economy, Action 1: 2015 Final Report'(2015) 16 *OECD Publishing* <https://share.google/MJZMXncQ4C9YCYUqL> accessed 27 May 2026
[13] O. Erimwinorosee and P. Abe-David, 'Regulatory Framework for Taxing the Digital Economy in Nigeria: Challenges, Compliance Strategies, and Reform Prospects' (2025) *LASJURE* 1-27 <https://www.nigerianjournalsonline.org/index.php/LASJURE/article/view/2586>accessed 25 May 2026.

withholding taxes on payments made to non-resident providers of digital services.[14] The growth of digital taxation as an area of study in law followed the difficulty and or problem faced by traditional tax rules in dealing with digital business activities. Existing international tax rules were developed mainly around the ideas of residence and source of income.[15] Those rules assumed that profits from business were generated through physical operations carried out within physical locations. Digital businesses however changed this framework because they could earn substantial income from a country without any physical presence there. The approach of Nigeria to digital taxation developed gradually through legislations starting from the Finance Acts enacted between 2019 and 2023. The Nigeria Tax Act 2025 came, retained and expanded the existing provisions of the Finance Acts by expressly including income from digital services within the company income tax base and by imposing value added tax on non-resident suppliers of digital services to consumers in Nigeria.[16] Digital taxation in Nigeria can therefore be said to have developed as a response to loopholes within the earlier tax regime.

2.3 Tax Jurisdiction

Tax jurisdiction is the legal authority of a state to impose and enforce taxes on persons, property, income, and transactions. The writer believes that under international law, the power to tax unequivocally forms part of the sovereignty of a state, although that power is subject to certain limitations. Two main principles fundamentally guide the allocation of the right to tax between states. These are the residence principle and the source principle.[17] The residence principle allows a state to tax the worldwide income of persons or companies regarded as resident within its territory, while the source principle allows a state to tax income generated within its territory, even where the taxpayer is not resident there.[18] These principles operate together, while double taxation agreements and model conventions help in determining which state has the stronger right to tax a particular form of cross-border income. A major issue in source-based taxation is what is known as the nexus or connecting factor. A state cannot impose tax on income without showing a sufficient connection between that income and its territory. In relation to profits from businesses, this connection has traditionally been expressed through the concept of permanent establishment.[19] Under this rule, the profits of a foreign company may be taxed in the source state only where the company maintains a fixed place of business through which its activities are carried out. The idea of permanent establishment developed during a time when international trade was based mainly on physical movement of goods between clear-cut locations. It was not created for a system in which companies can earn huge amounts of revenue from users in another country without owning any physical office there.[20] The digital economy exposed the lapses of this traditional approach. The question now has become where the income is truly generated. The traditional position treated the income as arising where the company maintained its offices or servers, but that position is now antiquated and no longer reflects the commercial reality of digital business activities. The adoption of the

[14] Ibid
[15] O. Shado, 'Taxation of Digital Activities and Cross-Border Transactions: An Appraisal of Nigeria's Strategy Vis-A-Vis Global Perspective' (LLB Project, Faculty of Law, Obafemi Awolowo University 2024)
[16] Nigeria Tax Act 2025, ss17 & 151
[17] E. Reimer and A. Rust (eds), 'Klaus Vogel on Double Taxation Conventions' (5th edition, Wolters Kluwer 2022) p25
[18] Ibid
[19] P. Baker, *Double Taxation Conventions and International Tax Law* (2nd edn, Sweet & Maxwell 1994) p88
[20] M.Umenweke, 'Taxation of Non-Resident Companies in the Digital Economy: A Review of the Legal Frameworks and Enforcement Challenges in Nigeria' (2025) (3)(1) *Chukwuemeka Odumegwu Ojukwu University Law Journal* <https://journals.ezenwaohaetorc.org/index.php/coou/article/view/3447>accessed 25 May 2026.

Significant Economic Presence test by Nigeria constituted a radical departure from the traditional requirement of physical presence. Under this approach, a non-resident company that earns substantial revenue through digital interaction with users in Nigeria is treated as having a sufficient economic connection to justify taxation in Nigeria. This position is clearly valid under the municipal tax law of Nigeria. However, it exists alongside international tax treaties that still allocate the right to tax mainly on the basis of physical presence. And this conflict between the municipal position of Nigeria and the existing frameworks of treaty is one of the major issues examined by the writer in this study.

2.4 Economic Development:

Economic development is a broad term that encompasses qualitative improvements in the structure and capabilities of an economy, including rising per capita income, diversification of production, technological advancement, institutional stability, and improved human welfare.[21] It is, as Meire understands it, a process whereby the real per capita income of a country is increased and sustained over a long period, subject to the caveat that the benefits of growth are broadly distributed and that the underlying productive capacity of the economy is transformed.[22] A country may experience growth in its GDP driven by a single extractive sector (Nigeria's oil-driven growth for much of the post-independence period is the classic example) without achieving genuine economic development.[23] Development requires structural transformation, it requires the movement of labour and capital from low-productivity to high-productivity activities, the creation of backward and forward connections across sectors, and the accumulation of technological and institutional capabilities.[24]

3.0 Legal Framework on Taxation of the Digital Economy in Nigeria:

3.1 Constitution of the Federal Republic of Nigeria 1999 (as amended):

The Constitution of the Federal Republic of Nigeria 1999 (as amended) is the supreme law from which all laws including those on taxation derive their authority.[25] The constitution does not contain detailed provisions on the taxation of digital services. Its role however is to provide the foundational framework within which any other laws including those on tax may be enacted and enforced. First and foremost, section 4 of the CFRN vests legislative powers in the National Assembly and authorises it to make laws on matters contained in the Exclusive Legislative List.[26] Item 59 of Part I of the Second Schedule places taxation of incomes, profits, and capital gains within the Exclusive Legislative List, subject to the provisions of the constitution.[27]

This provision is the constitutional basis for the Nigeria Tax Act of 2025 and other tax laws that have been enacted in the past. Since the taxation of digital services relates mainly to taxation of income and profits, the power to legislate on the subject belongs to the federal government rather than the states.[28] Item 59 has also caused disputes, especially in relation to

[21] Michael Todaro and Stephen Smith, *Economic Development* (12th edn, Pearson Press 2015) p16.

[22] Gerald Meire and Robert Baldwin, *Economic Development*, (1st edn, Wiley Press 1957) p103

[23] Promise Green et al, 'The Ecological and Economic Toll of Oil Theft in Nigeria: A Case in Ecocide and Stagnation' (2025) 2(2) Nnamdi Azikiwe University Journal of Law and Clinical Legal Education 149, 149-150.

[24] Dani Rodrik, *Industrial Policy for the Twenty-First Century in One Economics, Many Recipes: Globalization, Institutions, and Economic Growth* (1st edn, Princeton University Press 2007) p99; see also M.O Izunwa et al, 'Climate Change and Energy Transition in the Global Economy: A Legal Examination of the Shift from Oil Dependency in Nigeria to a Diversified Energy Mix' (2025) 9(2) African Journal of Law and Human Rights 70, 80-81.

[25] CFRN 1999 (as amended) s 1(1) see also Attorney-General, Abia State & Ors v Attorney-General, Federation (2002) 6 NWLR (Pt. 763) 264 (SC).

[26] Ibid s 4(2)

[27] Ibid Second Schedule, Part I, Item 59.

[28] See Attorney-General, Ogun State v Aberuagba (1985) 1 NWLR (Pt. 3) 395 (SC).

value added tax and the extent of federal legislative power over taxes levied on consumption.[29] Another important provision is section 24(f) of the CFRN, which imposes a duty on every citizen to declare their income honestly to lawful authorities and to pay their tax promptly.[30] This provision presupposes that a constitutional duty is imposed on everyone including the providers of digital services earning income from Nigeria to declare their income and pay their taxes accordingly. Section 251(1)(a) and (b) of the CFRN gives the Federal High Court exclusive jurisdiction over matters relating to federal revenue and taxation of companies and other bodies carrying on business in Nigeria.[31] The implication of the provision is that disputes arising from taxation of non-resident providers of digital services under the Nigeria Tax Act 2025 would by logical and legal necessity fall within the jurisdiction of the Federal High Court alone. The state high courts have no authority whatsoever over such matters. This structure, it can be argued, would help promote consistency in decisions relating to tax disputes, although the downside of the structure is that it also places additional pressure on a court system that is already congested.

3.2 The Nigeria Tax Act 2025

The Nigeria Tax Act introduced one of the widest tax reforms in the history of Nigeria. The Act repealed and consolidated several tax laws, including the Companies Income Tax Act, the Personal Income Tax Act, the Petroleum Profits Tax Act, the Value Added Tax Act, the Capital Gains Tax Act, and the Stamp Duties Act. The reform clearly aimed to simplify compliance, widen the tax base, and update the tax system in response to changes, including those within the digital economy. One major feature of the NTA is the retention of the Significant Economic Presence principle as the basis for taxing non-resident persons carrying on digital business activities in Nigeria. Section 17 of the NTA provides that a non-resident person is regarded as having significant economic presence where the person directly or indirectly transmits signals, sounds, messages, images, or data to Nigeria in relation to any activity.[32] Activities that are covered under the provision include electronic commerce, application stores, high-frequency trading, cloud computing and electronic data storage, online advertising, participative network platforms, supply of user data, search engines, digital content services, online gaming, and online teaching services.[33] The NTA differs from the earlier framework introduced under the Finance Acts, because under the earlier regime, Significant Economic Presence covered digital services together with management, consultancy, technical, and professional services.[34] In *FBIR v Halliburton (WA) Ltd*, the Court of Appeal in fact held that a non-resident company deriving income from transactions carried out in Nigeria through its local affiliate was liable to tax in Nigeria.[35] The Nigeria Tax Act has instead narrowed the focus mainly to digital services. This change is such that clearly provides a structured guidance on the activities capable of creating tax obligations for non-resident companies. In *Aderawos Timber Trading Co Ltd v FBIR*,[36]the Supreme Court emphasised that liability to tax must be determined from the clear words of the applicable taxing statute. The NTA also introduced rules on controlled foreign companies as it permits taxation of undistributed profits earned by foreign entities

[29] See Attorney-General, Lagos State v Eko Hotels Ltd & Anor (2018) 36 TLRN 1 (SC).
[30] CFRN 1999 (as amended) s 24(f)
[31] Ibid s 251(1)(a)-(b)
[32] Nigeria Tax Act 2025, s 17(9)(b)
[33] Ibid
[34] Ernest and Young LP, 'Nigeria Tax Act, 2025 has been signed: highlights' (30 June 2025) *EY Global Tax News* <https://globaltaxnews.ey.com/news/2025-5016-nigeria-tax-act-2025-has-been-signed-highlights> accessed 26 May
[35] (2016) 4 NWLR (Pt. 1501) 53 (CA).
[36] (1969) 1 All NLR 247 (SC).

controlled by Nigerian companies.[37] The writer believes the purpose is to prevent profit shifting to low-tax jurisdictions through foreign subsidiaries holding digital assets or intellectual property. Another important provision is the top-up tax, which applies to companies that are constituent entities of an MNE group and any other company with an aggregate turnover of twenty billion naira and above in the relevant year of assessment.[38] The section imposes additional tax where the effective tax rate paid by the group falls below 15% in any jurisdiction.The Nigeria Tax Act also expanded the framework of the value added tax in relation to providers of digital services as non-resident suppliers providing digital services to consumers in Nigeria are now required to register for VAT, charge VAT on taxable supplies, and remit the tax to the Nigeria Revenue Service.[39]

3.3 The Nigeria Tax Administration Act 2025

The Nigeria Tax Administration Act 2025 provides the procedural framework for the Nigeria Tax Act. The NTAA was enacted to create a uniform system for tax registration, assessment, collection, enforcement, and refund across the different levels of government.[40] Before the enactment of the NTAA, many administrative tax provisions were spread across different statutes, which created inconsistency in tax administration. A major part of the NTAA concerns the allocation of tax powers between federal and state authorities. The Nigeria Revenue Service is given exclusive authority to administer taxes relating to companies, non-residents, persons serving in the Nigerian Armed Forces outside civilian employment, and value added tax. Sections 87 and 88 of the NTAA also require every state to create a State Internal Revenue Service with authority to assess and collect taxes such as personal income tax and pay-as-you-earn from residents within the state.[41] State tax authorities are expressly prohibited from taxing non-residents and cross-border transactions. This limitation is important for taxation of digital services because it confirms that taxation of non-resident providers of digital services falls entirely within federal authority. The NTAA also requires the use of electronic fiscal systems for issuance of invoices and transmission of tax information.[42] The purpose is to reduce tax leakages, limit the incidence of fraud, and improve efficiency in tax administration. In relation to digital services, the electronic fiscal system makes it easier for the Nigeria Revenue Service to track online transactions and monitor compliance by digital platforms operating within Nigeria. The NTAA further requires all taxable persons, including non-resident providers of digital services, to register for tax purposes.[43] It also fixes timelines for filing returns, payment of taxes, and objections to tax assessments.[44]The introduction of these procedures are intended to reduce delays and prolonged disputes that affected the previous tax administration under the defunct legal framework.

[37] NTA 2025 s6(2)
[38] Ibid s57
[39] Ibid s151
[40] S. Adisa, 'Policy Analysis Of The 2025 Tax Reform Acts Pt.2: The Nigeria Tax Administration Act 2025' (14 October 2025) *Mondaq* < https://webiis08.mondaq.com/nigeria/tax-authorities/1691552/> accessed 26 May 2026.
[41] Nigeria Tax Administration Act 2025, ss 87 & 88
[42] Ibid s23
[43] Ibid ss 4 & 6(1)
[44] Ibid ss 11, 14 & 22

3.4 The OECD/G20 Two-Pillar Solution (Pillar One and Two)

The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting developed the Two-Pillar Solution pursuant to the tax problems created by the digital economy.[45] The framework was adopted by 137 countries and jurisdictions representing about 94% of global GDP and is regarded as one of the largest reforms in international tax law in recent times.[46] Pillar One focuses on the redistribution of part of the profits of large multinational companies from the country where the company is headquartered to countries where users and customers are located.[47] The aim is to allow market jurisdictions to tax part of the profits generated from economic activities within their territories, even where the company has no physical presence there. Pillar One mainly targets large digital and consumer-facing multinational companies. Amount A under Pillar One is expected to redistribute taxing rights over more than 125 billion dollars in profits from some of the world's largest multinational enterprises.[48] Although the Multilateral Convention on Amount A was signed by 138 members of the Inclusive Framework in October 2025, ratification has so far remained pending in many countries.[49] Pillar Two introduced a global minimum effective corporate tax rate of 15% for multinational groups with annual revenues above 750 million Euros.[50] The rules operate through a top-up tax system. Where profits are taxed below the minimum rate in one jurisdiction, another jurisdiction may impose additional tax to bring the effective rate up to 15%. The purpose is to reduce profit shifting to low-tax jurisdictions. Several countries, including members of the European Union, introduced municipal laws implementing Pillar Two between 2024 and 2025.[51] The position of Nigeria within the Inclusive Framework has so far differed from that of many other countries. Nigeria was among the four countries that refused to adopt the Two-Pillar Solution.[52]

The main reason was that the domestic digital tax measures of Nigeria were expected to generate more revenue than the proposed multilateral arrangement.[53] Another issue was that the revenue thresholds under Pillar One would exclude many multinational companies operating within Nigeria.[54] Nigeria therefore retained its unilateral approach to taxation of digital services while still implementing Pillar Two through the top-up tax provisions of the Nigeria Tax Act 2025, specifically Section 57 of the NTA, which provided a 15% domestic minimum top-up tax framework, and Section 6(3) of the NTA, which levies a top-up tax on Nigerian parent companies with low-taxed foreign subsidiaries

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[45]G. Katona, 'Global Tax Reform: The Two-Pillar Solution and Emerging National Approaches' (6 October 2025) *Katona & Partners*<https://www.lexology.com/library/detail.aspx?g=662c6acd-5f24-46c6-a0e6-252a6e1a5550> accessed 28 May 2026.

[46]Chartered Accountants Ireland, 'G20 leaders endorse Two-Pillar solution on digitalisation of the economy' (5 June 2025) *C.A.I* <https://www.charteredaccountants.ie/taxsourcetotal/taxpoint/newdev/2021/12/international/2021-12-international-3.html> accessed 26 May 2026.

[47] G. Katona, 'Global Tax Reform: The Two-Pillar Solution and Emerging National Approaches' (6 October 2025) *Katona & Partners*<https://www.lexology.com/library/detail.aspx?g=662c6acd-5f24-46c6-a0e6-252a6e1a5550> accessed 28 May 2026.

[48] Ibid

[49]Malta Institute of Taxation,'CFE Tax Top 5: 20 October 2025' (7 November 2025) *CFE Tax Advisers Europe* <https://taxadviserseurope.org/project/cfes-tax-top-5-20-october-2025/> accessed 26 May 2026.

[50]G. Katona, 'Global Tax Reform: The Two-Pillar Solution and Emerging National Approaches' (6 October 2025) *Katona & Partners*<https://www.lexology.com/library/detail.aspx?g=662c6acd-5f24-46c6-a0e6-252a6e1a5550> accessed 28 May 2026

[51] Ibid

[52](n39) J. Banfo and V. Lamidi, 'Taxation of Digital Services: OECD's Two-Pillar Approach vs Nigeria's Approach' (1 March 2022) *Andersen Nigeria*<https://ng.andersen.com/taxation-of-digital-services-oecds-two-pillar-approach-vs-nigerias-approach/> accessed 26 May 2026.

[53] Ibid

[54] Ibid

3.5 The UN Model Tax Convention 2021

The United Nations Model Double Taxation Convention between Developed and Developing Countries was updated in 2021 with the introduction of Article 12B on income from automated digital services.[55] The provision was introduced to address taxation of digital services within the relationships of treaties, especially from the perspective of developing countries that serve mainly as market jurisdictions for foreign digital companies. Article 12B emphasizes the right of market countries to tax income earned from digital services such as online advertising, supply of user data, online search engines, digital platforms, social media services, online gaming, cloud computing, digital content services, and standardized online teaching services.[56] The Article defines automated digital services as services provided through the internet or an electronic network with minimal human involvement from the service provider. The Article provides two methods of taxation. Under paragraph 2, a contracting state may impose withholding tax on payments made to a resident of another contracting state for automated digital services.[57] The rate of tax is to be agreed upon by both states through bilateral negotiation. Paragraph 3 allows the beneficial owner of the income to choose taxation on a net basis through a predetermined formula.[58] This approach in the writer's view differs from the traditional principle of arm's length usually applied in international taxation. Paragraph 6 provides that the source of the income is to be determined by the residence of the payer of the digital service.[59] For Nigeria, Article 12B is clearly another legal justification for taxation of digital services within treaty relationships. The provision promotes source-based taxation and is closely in tandem with the rules on Significant Economic Presence under the municipal tax laws of Nigeria. The United Nations Tax Committee is also considering a multilateral instrument that could allow several bilateral treaties to be amended at once.[60] Most bilateral tax treaties entered into by Nigeria were negotiated before the growth of the digital economy and still rely mainly on the rule of physical permanent establishment. Therefore, Integrating Article 12B into Nigeria's double taxation treaties is essential to give full force to the municipal rule on Significant Economic Presence, which are currently neutralized by older treaties that still rely strictly on physical presence.

4.0 Challenges Facing Taxation Of Digital Services Under Nigeria's New Tax Regime

4.1 Jurisdictional and International Law Challenges:

The Nigeria Tax Act provides that a non-resident company with a significant economic presence in Nigeria is liable to pay tax on the income attributable to that presence. The difficulty inherent in this position arises when this assertion of taxing jurisdiction is tested against the obligations contained in the bilateral double taxation agreements concluded by Nigeria with fifteen countries, including Belgium, Canada, China, France, the Netherlands, Singapore, South Africa, and the United Kingdom.[61] Those treaties were negotiated between

[55] United Nations 'Tax Consequences of Digitalized Economy' United Nations Financing for Development (2022) *UN Tax Committee* <https://financing.desa.un.org/what-we-do/ECOSOC/tax-committee/thematic-areas/tax-consequences-digitalized-economy> accessed 26 May 2026.
[56] Ibid
[57] UN Model Tax Convention (2021) Art 12B, para 62
[58] Ibid para 3
[59] Ibid para 6
[60] (n70) United Nations 'Tax Consequences of Digitalized Economy' United Nations Financing for Development (2022) *UN Tax Committee* <https://financing.desa.un.org/what-we-do/ECOSOC/tax-committee/thematic-areas/tax-consequences-digitalized-economy> accessed 26 May 2026.
[61] C. Nwagbute, 'Nigeria - Individual - Foreign tax relief and tax treaties' (29 September 2025) *PwC Tax Summaries* <https://taxsummaries.pwc.com/nigeria/individual/foreign-tax-relief-and-tax-treaties>accessed 30 May 2026

1987 and 2018 and they allocated taxing rights over profits from business through the traditional idea of permanent establishment. None of the existing treaties contained the rule of significant economic presence. They did not also contemplate taxation based solely on revenue generated from digital interaction with users located in Nigeria. The conventional position based on Nigeria's dualist approach is that a treaty acquires the force of law only after it has been domesticated.[62] Where inconsistency arises between two statutes, courts generally apply ordinary principles of statutory interpretation, including the rule that a later enactment may prevail over an earlier one. As noted earlier, some commentators have argued that this approach does not fully resolve the problem. It is said that the double taxation agreements contain detailed provisions governing the taxation of profits from business through the concept of permanent establishment.[63] The rules of significant economic presence introduced an entirely different basis of taxation. What is necessary to ask in this case, is whether a general municipal tax provision can implicitly override a treaty that was enacted as a comprehensive framework for allocating taxing rights between contracting states. Some Banfo and Lamidi have taken the view that, in most situations, the double taxation agreements would prevail and prevent the application of the significant economic presence rules.[64] The NTA tried to address the profit-allocation challenge under Section 17(6) by assessing a non-resident digital company based on its own global profit margin applied to its Nigerian turnover. However, the writer is of the opinion that while the said provision may reduce opportunities for profit shifting, it does not remove the apparent conflict with the treaty. Because it is possible for a taxpayer to still argue that the relevant treaty grants no taxing right to Nigeria in the absence of a permanent establishment, and if that argument succeeds, the question of profit margins becomes absolutely irrelevant again. The position of Nigeria within the OECD Inclusive Framework brings up another side of the issue. As noted earlier, Nigeria declined to endorse the Two-Pillar Solution. One reason was that the revenue thresholds under Pillar One, which require global turnover above €20 billion and profitability above 10%, would exclude many multinational enterprises operating in developing economies.[65] The OECD framework also required participating jurisdictions to withdraw unilateral digital services taxes and refrain from introducing new measures of that nature.[66] Nigeria concluded that the expected revenue under the proposed framework would be lower than the revenue obtainable through municipal measures. Officials of the then Federal Inland Revenue Service rightly stated that the country-specific impact assessment prepared by the OECD did not accurately capture the likely benefits for developing countries and that a substantial share of the revenue would accrue to developed economies.[67] From the perspective of municipal generation of revenue, that position is understandable, but the problem is that it increases the possibility of double taxation. The writer believes in this regard, two remedial steps are mission-critical: The first is the negotiation of bilateral protocols that introduce provisions similar to Article 12B of the United Nations Model Tax Convention. Such provisions would allow source-state taxation of income derived

[62] CFRN s12(1) See also Abacha v Fawehinmi (2000) 6 NWLR (Pt. 660) 228 (SC)
[63] S. Adu, 'Why Nigeria's significant economic presence rules will not override the provisions of existing double tax agreements' (2021) *PwC Nigeria Tax Bites* <https://share.google/sTtdddQCUZWL1fNza> accessed 27 May 2026.
[64] ibid
[65] J. Bamfo and V. Lamidi, 'Taxation of Digital Services: OECD's Two-Pillar Approach vs Nigeria's Approach' (1 March 2022) *Andersen Nigeria* <https://ng.andersen.com/taxation-of-digital-services-oecds-two-pillar-approach-vs-nigerias-approach/> accessed 27 May 2026.
[66] U. Usim, 'Why Nigeria ditched global deal to reallocate $125 billion tax profits – FIRS' *The Sun Nigeria* (Abuja, 30 November 2021) <https://thesun.ng/why-nigeria-ditched-global-deal-to-reallocate-125-billion-tax-profits-firs/> accessed 27 May 2026.
[67] Ibid

from automated digital services through a withholding mechanism. The second then is active participation in the development of the multilateral instrument currently being considered by the United Nations Committee of Experts on International Cooperation in Tax Matters. Such an instrument would allow multiple bilateral treaties to be amended at the same time.

4.2 Administrative and Enforcement Challenges

The reforms introduced in 2025 have expanded the administrative tools available for the taxation of digital services in Nigeria. The Nigeria Revenue Service has also undergone massive important restructuring. Electronic invoicing is being introduced across the tax system. Data from different government sources is gradually being linked as well, but it is still arguable whether the administrative capacity so far can support the magnitude of the reforms. What we have seen so far from early events is instructive. Under the e-invoicing programme, large taxpayers became subject to the Merchant Buyer Solution platform in August 2025.[68] By January 2026, only about 1,000 of the more than 5,000 large taxpayers expected to integrate had begun the process.[69] Specialists on tax technology observed that integration was difficult for businesses that still relied on older systems.[70] Medium-sized businesses with annual turnover between one billion and five billion Naira are expected to comply by July 2026, with proper enforcement beginning in January 2027. A phase by phase approach in this case could reduce disruption, but it also means that the infrastructure intended to capture transactions in real time will have to take time to achieve full coverage. There are also concerns about the design of the system itself, because under it, an invoice that has not been validated through the Merchant Buyer Solution platform is automatically treated as invalid for tax purposes.[71] In such circumstances, the purchaser loses the right to claim input VAT. On another angle, the digital platforms operated by the Nigeria Revenue Service have been faulted. Tax practitioners have reported recurring system outages, failures in authentication, payment validation problems, difficulties in uploading schedules, and delays in the generation of receipts. According to Kabiru, taxpayers who wish to comply often struggle to obtain assistance when technical problems arise.[72] Obligations as to filing and payment deadlines continue to run even when access to the relevant systems is unavailable. The monumental size of the taxpayer population is itself an additional challenge. Estimates suggest that only about 1.2 million people actively pay tax out of approximately 69 million economically active Nigerians, and participation in electronic filing and digital compliance is even lower.[73] At the same time, the Nigeria Revenue Service has set a revenue target of 40.71 trillion Naira for 2026, which represents a 44% increase over the 28.3 trillion Naira collected in 2025.[74] Meeting that target in the writer's view requires much more than legislative reform. It requires accurate data, proper monitoring of compliance, and broader participation in the tax system.

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[68] E. Ujah,'Nigeria: Pillarcraft Launches RegTech Platform To Drive E-Invoicing Compliance In Nigeria' (6 January 2026) *Vanguard Newspaper* <https://share.google/Y0oRusZmDq6WcdogJ> accessed 30May 2026.

[69] A. Odunlami, 'Tax reform: Assessing the first month of implementation' *BusinessDay* (Lagos, 12 February 2026) <https://businessday.ng/business-economy/article/tax-reform-assessing-the-first-month-of-implementation/> accessed 27 May 2026

[70] Ibid

[71] O. Akinsola, 'The N3.4 trillion question: Why e-invoicing is bigger than compliance' *BusinessDay* (Lagos, 6 May 2026) <https://businessday.ng/opinion/article/the-n3-4-trillion-question-why-e-invoicing-is-bigger-than-compliance/> accessed 30 May 2026.

[72] A. Abimaje, 'Tax Expert Raises Issues In Nigeria Digital Tax Administration' *Leadership Newspaper* (Abuja, 15 May 2026) <https://share.google/weukcF7nB5k6wXU0q> accessed 27 May 2026.

[73] A. Odunlami, 'How data will reshape Nigeria's tax enforcement map' *BusinessDay* (Lagos, 13 February 2026) <https://businessday.ng/business-economy/article/how-data-will-reshape-nigerias-tax-enforcement-map/> accessed 30 May 2026.

[74] Ibid

A large share of economic activity still takes place outside formal reporting structures in Nigeria. And logically, any system that depends heavily on digital reporting will face limitations if substantial commercial activity remains outside those channels. The writer believes, firstly, Nigeria needs to achieve the stabilisation of its digital platforms before further expansion of compliance requirements. Secondly, a flexible approach to onboarding should be adopted. Businesses facing genuine problems of integration should be given adequate time and technical assistance to complete the process. There should also be investment in the education of taxpayers so that they can better understand the requirements of compliance. Attention should also be given to the treatment of claims on input VAT. For example, if a purchaser has acted in good faith, the consequences of non-compliance by a vendor should be approached with caution. Penalties should also primarily fall on the taxpayer responsible for the default.
Lastly, Nigeria should prioritize the integration of the records of taxpayers. Information linked through the National Identification Number, Bank Verification Number, records of the Corporate Affairs Commission, and tax databases would be necessary to improve the accuracy of compliance monitoring and enforcement. A unified taxpayer profile would also place administration on a stronger footing than fragmented datasets spread across multiple institutions.

4.3 Economic and Commercial Challenges

The taxation of digital services affects more than government revenue, it also affects consumers, businesses, and investment decisions within the digital economy. The design of the tax determines where the burden falls and how economic actors would respond to it. One of the first issues in this segment is the cost of compliance. A non-resident digital service provider that is required to register for VAT, file tax returns, maintain records of Nigerian transactions, and comply with unfamiliar tax rules would necessarily incur additional expenses. For large multinational platforms such as Google, Meta, and Amazon, these costs may be insignificant. But for smaller companies, this can be discouraging. In such circumstances, the cost of compliance may exceed the commercial value of remaining in the market. Some providers may simply decide that continued participation is not worthwhile and then choose to exit.
Obligations as to VAT imposed on foreign digital service providers also affect consumers directly. For example, if a foreign platform is required to charge VAT on supplies made to users in Nigeria, the platform may absorb the cost or transfer it to customers through higher prices. Taiwo Oyedele rightly acknowledged in 2022 that the taxation of digital services supplied by foreign companies would mean that Nigerians purchasing goods and services through platforms such as Amazon would bear VAT on those transactions.[75] Competition within the digital economy is another issue. The provisions of the Nigeria Tax Act 2025 sought to address the imbalance affecting small local digital services providers, by extending tax obligations to foreign digital businesses. But as shown earlier, this would not hold water if the foreign company succeeds on the ground of a treaty agreement. Attention should also be given to the effect of the reforms on smaller participants in the digital economy. The technology sector in Nigeria includes software developers, content creators, digital freelancers, remote workers, and startup businesses operating through online platforms. And section 4(1)(j) of the Nigeria Tax Act 2025 by implication treats profits or gains derived from digital or virtual assets as chargeable income. This provision widens the tax net incredibly, but some necessary reforms would help in many respects. Firstly, a simplified compliance framework for small digital businesses should be in place. Presumptive tax arrangements based on turnover could reduce administrative burdens for taxpayers with limited resources. Another thing Nigeria can do is

[75]W. Upke, 'Tax on international e-commerce may force companies to pass cost to customers - Taiwo Oyedele' *Nairametrics* (Abuja, 17 January 2022) <https://share.google/VwvkCX67ULrCbTu97> accessed 27 May 2026.

faster renegotiation of bilateral tax treaties. Reform of the existing treaties would reduce the competitive distortions that arise when foreign businesses benefit from protections under a treaty while local businesses remain fully taxable.

4.4 Technological and Data Privacy Challenges

The taxation of digital services depends heavily on technology. Tax authorities anywhere in the world must be able to identify transactions, to verify reported income, monitor cross-border payments, and enforce compliance against businesses that may have no physical presence within the country. The Nigeria Tax Administration Act requires the use of electronic fiscal systems for invoicing and the transmission of tax information.[76] The Nigeria Revenue Service has introduced electronic invoicing, expanded data integration initiatives, and entered into international arrangements for the exchange of tax information. While these measures are necessary, more still needs to be done. A recurring problem is the scattered nature of public databases. Records connected to the National Identification Number, Bank Verification Number, the Corporate Affairs Commission, federal tax authorities, state tax authorities, financial institutions, and payment service providers have remained only partially integrated.[77] What we have seen is the duplication of records, gaps in information, increased administrative costs, and problems in verification. The digital tax framework assumes a degree of coordination that has not yet been fully achieved. In fact, one study observed that the main challenge is less a question of policy design than the ability of public institutions to collect, reconcile, and verify economic data on a national scale in real time.[78] There are also critical questions of privacy and data protection. Section 12 of the Nigeria Tax Act subjects Nigerian residents to tax on worldwide income, regardless of where that income is earned or whether the funds are brought into Nigeria. The writer believes that enforcing this provision depends partly on information obtained through international exchange mechanisms such as the Common Reporting Standard, under which participating jurisdictions exchange information relating to offshore financial assets and accounts. The Nigeria Revenue Service also entered into a Memorandum of Understanding with the Direction Générale des Finances Publiques of France in December 2025 for technical cooperation and capacity development.[79] The reaction that trailed this development was not positive. The Northern Elders Forum first criticised the arrangement and argued that it could expose sensitive economic information to foreign influence.[80] Secondly, The African Democratic Congress called for termination of the agreement and questioned its implications for sovereignty and protection of personal data.[81] Officials of the revenue service rejected those criticisms. They maintained that the agreement was limited to technical cooperation, and that no taxpayer information would be transferred to French authorities under the arrangement, and that all applicable laws relating to protection of data and cybersecurity remained fully in force.

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[76] Nigeria Tax Administration Act 2025 s23

[77] B. Garba, 'Why technology, not enforcement, will determine success of Nigeria's tax reform 2025' *BusinessDay* (Lagos, 14 May 2026) <https://businessday.ng/bd-weekender/article/why-technology-not-enforcement-will-determine-success-of-nigerias-tax-reform-2025/> accessed 30 May 2026.

[78] T. Babatunde, 'Nigeria's fiscal reform agenda runs into a digital infrastructure problem' *BusinessDay* (Lagos, 29 April 2026) <https://businessday.ng/opinion/article/nigerias-fiscal-reform-agenda-runs-into-a-digital-infrastructure-problem/> accessed 30 May 2026.

[79] E. Uzor, 'FIRS kicks as Northern elders condemn tax data deal with France' *The Guardian* (Abuja, 15 December 2025) <https://guardian.ng/news/firs-kicks-as-northern-elders-condemn-tax-data-deal-with-france/> accessed 30 May 2026.

[80] Ibid

[81] C. Okocha, 'ADC: Tax MoU Strengthens Tinubu's French Connection, Not Nigeria's Interests' *ThisDay* (Abuja, 15 December 2025) <https://www.thisdaylive.com/2025/12/15/adc-tax-mou-strengthens-tinubus-french-connection-not-nigerias-interests/> accessed 27 May 2026.

Sections 142 and 143 of the Nigeria Tax Administration Act 2025 imposes duties of confidentiality on tax officials.[82] The disclosure of taxpayer information is permitted only in limited circumstances, including criminal proceedings, double taxation agreements that provide for exchange of information, and Tax Information Exchange Agreements.[83] The Nigeria Data Protection Act of 2023 also imposes further obligations. Public authorities involved in the processing of personal information must identify a lawful basis for processing, limit collection to what is necessary, and conduct Transfer Impact Assessments before transferring data across borders.[84] Obviously, there is no conflict between these statutory frameworks. The problem instead is in implementing them. The enforcement of tax requires extensive access to personal and financial information. Protection of privacy conversely requires that such access should always be proportionate, transparent, and subject to clear limits. In *Incorporated Trustees of Digital Rights Lawyers Initiative & Ors v NIMC*[85]the Court of Appeal recognised that the constitutional right to privacy extends to personal information and personal data. Presently, public information concerning the collection, storage, sharing, and protection of taxpayer data remains poor. Information relating to major digital enforcement initiatives has not always been accompanied by publicly available data protection assessments or detailed explanations of the safeguards. In this regard, it would be necessary for the Nigeria Revenue Service to publish a comprehensive policy that explains what categories of taxpayer information are collected, the legal basis for collection, the purposes for which information is used, the circumstances in which information may be shared, and the safeguards applied to protect confidentiality. Transfer Impact Assessments should also be conducted and published before taxpayer information is shared with foreign authorities under international reporting arrangements or any bilateral cooperation agreements. The further integration of taxpayer identity systems should also be prioritised, because the integration would reduce reliance on manual transfers of information between institutions and improve the accuracy of verification processes. Lastly, the National Assembly may also exercise closer oversight by requiring a periodic reporting on compliance with obligations relating to protection of data and by providing an independent avenue through which complaints concerning misuse of taxpayer information can be investigated.

5.0 Conclusion and Recommendations:

This study has argued and established that Nigeria now possesses at least in principle a workable legal basis for taxation of digital services. The 2025 reforms addressed the weakness of the physical-presence regime through significant economic presence and taxation of non-resident suppliers. However, older double taxation agreements, weak digital infrastructure, incoherent data on taxpayers and privacy concerns still prevent the framework from fully translating expanded taxing rights into sustainable revenue for development. Accordingly, Nigeria should renegotiate existing double taxation agreements to incorporate rules similar to Article 12B of the United Nations Model Tax Convention, stabilise electronic tax platforms and integrate relevant databases of taxpayers. The Nigeria Revenue Service should also simplify compliance for smaller digital businesses and ensure that collection and sharing of taxpayer information complies with the Nigeria Data Protection Act. These measures would improve revenue mobilisation without discouraging participation in the digital economy or eroding the rights of taxpayers.

[82] Nigeria Tax Administration Act 2025, ss 142 &143.
[83] Ibid s143
[84] NDPA 2023 ss24 & 25
[85] (2021) LPELR-55623(CA).