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Nexus of Sustainable Development and Tax Laws and Policies under Ethiopian Tax System

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Abstract:

The tax has been engine for development and is still critical for prosperity of every nation beside its contribution to settle budget deficit and executing huge foreign debt. The tax law/policy is expected to integrate the multifaceted concept of the development that includes ecological, social and economic equity. The countries including Ethiopia design tax legislations to use tax as policy instrument to integrate various elements of development. Whether or not the Ethiopian Tax law and policy are effective and adequate to integrate interdependent elements of development is pending research concern on the table. Specifically, author intends to answer three research objectives: adequacy of Ethiopian tax laws to achieve economic growth, sufficiency of Ethiopia tax law to realize social equity and integration of environmental concern under Ethiopian tax laws and Policies. The author uses qualitative method of study utilizing both primary (laws, cases) and secondary (literatures, reports, etc.) data since this approach enables researcher to explain conceptual underpinning of integration of elements of sustainable development under Ethiopian tax law and policy. The analysis of reviewed data reveals three important empirical findings. First, author found inadequacy tax statutes to integrate economic growth dimension of sustainable development. Second, author concluded that tax legislation could not include social justice dimension of sustainable development. Third, the author observed that inadequacy of Ethiopian tax legislations/legal regimes for mainstreaming ecological/green growth component of sustainable development. The author proposes that the refinement of main Ethiopian tax legislations in such a way that economic, social and ecological equity concerns of sustainable development would be adequately mainstreamed.

Keywords: Sustainable development, tax legislation, integration, Environment, social, economic, internalization

1. Introduction

1.1. Background of Study

Role of tax has been engine for ensuring sustainable development and is still critical for prosperity of every nation. Among other things, contribution of tax revenue for controversial development is undisputable in the third world countries particularly least developed countries like Ethiopia. International Financial Institutions like IMF recommends vital role of tax for such countries since these nations encountered with prevalent budget deficit, failure to pay huge foreign debt, socially underdeveloped society (lack of basic social services) and an environmental crisis which is increasing at alarming rate. The need to give solution to these problems compels countries to design effective tax law to generate revenue for expenditure and use tax as policy instrument to achieve all integrating development in a way not only to promote economic growth but also to realize social concern of community and internalize social environmental costs.

In same fashion and for similar reasons Ethiopia has designed various tax laws and policy framework to enable her to generate adequate revenue for economic growth, to provide social services, to eradicate poverty and so on. However, endeavor toward economic growth and eradication of poverty cannot be sustainable at expense of other wings of development. This holds true because the current international development agenda and Ethiopia's development policies and laws including 1995 FDRE constitution indicate interdependence of components of development and recognize the concept of sustainable development which may contain numerous elements including: economic growth sustenance, social development, improvement of standard of living, environmental concern and sufficient job opportunity for nationals. Taking these backgrounds into account, in this article, author assesses Ethiopian tax laws and policies toward promoting economic, social and environmental concerns of the country. Specifically, author would address three general issues: first, whether Ethiopian tax laws are adequate to achieve economic growth and eradication of poverty; second, sufficiency of Ethiopia tax law in mainstreaming the devises to achieve social equity (failure to reduce large gap between poor and rich by missing distribution purpose of taxation) and finally, non-integration of environmental dimension of sustainable development under Ethiopian tax laws and failure to internalize environmental social costs to polluters. Article consists of four sections. Section one introduces main ideas of the work as afro-mentioned. Section two addresses concept of taxation, rationale behind tax laws and policies in general and relation between taxation and sustainable development. Third section deals with main issue of

article and it argues for inadequacy of Ethiopian tax and other relevant laws in promoting economic growth, social concern and environmental costs to society. The last section concludes by restating gist of article and forwarding comments for identified problems.

1.2. Statement of Problem

Ethiopia promotes concept of sustainable development in its laws and policies since 1991 revolution. FDRE Constitution and various policy documents like GTP I and GTP II talks about notion of sustainable development. One means for the realization of sustainable development which includes economic growth, social equity and ecological dimension is through fiscal/tax legislations and policies. However, these concepts have hardly been reflected in various Ethiopian tax legislations, tax policy and industrial policies of country. See 2002, Ethiopian Income tax law, 2016 Ethiopian Income Tax Law, 2002 Ethiopian Valued Added Tax/VAT/. This can be inferred from practices in the country in three dimensions. Primarily, there are some environmental irresponsibility practices observed floriculture farms and other corporations which rarely assume tax duty for internalization of environmental costs. Interview with Mr. Abdalla Milkiso, 2017, Sher Ethiopia floriculture farm supervisor. Secondly, tax laws are expected to ensure social equity by reducing the huge gap between rich and poor. But the Ethiopian tax legislations unable to effectively reduce gab between high and low classes. That is whether income distribution aim of taxation realizable in Ethiopia is controversial. Thirdly, whether Ethiopian tax legislations are adequately financing economic growth is questionable for there is nations high dependence on foreign aid, international loans and other non-tax revenue.

In the review of existing literatures, none of the studies in Ethiopia explored the nexus of tax legislations and sustainable development. Accordingly, Tadasa Lencho (2014), studied the Ethiopian income tax system: policy, design and practice and nexus of taxation sustainable development has not been addressed. Mebrahtom Fitwi (2012), studied need to introduce environmental tax in Ethiopia and he has not addressed trade off sustainable development and taxation. Birhanu Gemule (2017) Category C Tax Payers Tax assessment and relation of sustainable development and taxation has not been treated. Having this into account, this author intends to examine the relation of Ethiopian Tax Legislations and Sustainable Development in Ethiopian Context.

1.3. Research Objectives and Research Questions

1.3.1. Research Objectives

a. General objective

The main objective of study is to examine the Nexus of Sustainable Development and Tax Laws and Policies in Ethiopian Tax system.

b. Specific Objectives

Specific Objectives of study include:

- To examine integration of economic growth element of sustainable development under Ethiopian tax legislations
- To examine integration of social equity element of sustainable development under Ethiopian tax legislations
- To examine the mainstreaming of environmental element of sustainable development under Ethiopian tax legislations

1.4. Methodology of Study

1.4.1. Methods of Study

The researcher has employed qualitative method of study because this article intends to make theoretical and philosophical analysis regarding the integration of sustainable development under Ethiopian Tax Laws. Authors adopted this method for it is purely doctrinal legal research which focuses primarily on gabs of tax legislations complemented by other secondary data. Studying about gabs of law does not need quantitative methods/models.

1.4.2. Types of Data

The researcher has used both primary data (Constitutional law, Tax legislations, regulations, directives and rulings) and secondary data like literatures including books, data base, articles, etc.

1.4.3. Methods of Data Collection

Researcher has collected data from government offices, tax authorities and another stakeholder in Ethiopia.

1.4.4. Methods of Data Analysis

The researcher has used descriptive methods of data analysis to examine gabs of tax legislations for mainstreaming components of sustainable development for betterment of economic, social and ecological welfare of society. In addition, author has used comparative approach of data analysis.

2. Conceptual Underpinnings of Taxation and Sustainable Development

2.1. Genesis of Taxation and Meaning of Tax

Taxation in Africa started long before colonialism. Kings and Chiefs would demand that their subjects submit a portion of their harvest and/or livestock as a form of tax. Messere, K.C., & Owens J.P. (1985). Historical records show that many once power empires

or kingdoms that existed in Africa had a tax system that supported or enabled these kingdoms to expand. Messere, K.C., & Owens J.P. (1985. P.3). there have been various payments imposed by kings on people.

There have been various types of levies collected from subjects in Ethiopia since the times of pre-Axumite period. There were taxes in kind in the form of crop, cattle, services for lords, etc. through territory of former Abyssinia and present part of Ethiopia although it is impossible to discern precise time for beginning of taxation. However, nexus of taxation and development is hardly known until 20th century.

There is uncertainty as to exact time of beginning of tax and meaning of taxation in human history. There is no single universally accepted definition of tax but varied perception of it by different scholars and legal systems. Ethiopian law is silent in this regard as none of Ethiopian tax legislations directly define term tax. However, close investigation of Ethiopian tax laws gives us hint which shows, indirectly, taxes have been defined to be involuntary impositions backed up by sanction. Accordingly, Article 4 of Income Tax Proclamation Number 286/2002 implying that payment of income tax is an obligation, article 7 of VAT Proclamation Number 285/2002 evidencing that tax is imposition, the first paragraph of the preamble of Proclamation Number 307/2002 on excise tax and Article 9, which defines tax payer, describing the mandatory nature of tax, all seem to define tax indirectly that tax is compulsory imposition and unrequited payment to general government. Neither does recent 2016 Ethiopian income tax law comprehensively define concept of tax but simply provides tax is an obligation payable by every person deriving income in accordance with Income Tax Proclamation and the Tax Administration Proclamation of 2016.

Lack of direct meaning of tax under Ethiopian tax law and policy framework compels the researcher to look into other relevant literatures. Accordingly, the word tax comes from the Latin word '*taxare*' which means to estimate.¹ This original source of the word tax indicates the absence of exact amount and the need to imagine an unreal amount. This word does not necessarily have the connotation that the estimate shall be in terms of money. Black's law dictionary defines tax to mean "A monetary charge imposed by the government on persons, entities, transactions, or property to yield public revenue."² This definition represents that the imposed charge shall be in terms of money and imposed on any kind of revenue be it money or in kind revenue. Beside this, according to the same dictionary the term tax includes all governmental impositions on a "person, property, privilege, occupation, and enjoyment of people, and includes duties, imports and excises."³ Tax and charge can be the same, or since charge can be governmental impositions it can be safely concluded that governmental charge is among the taxes according to the definition of the Black's Law dictionary.

The Organization for Economic Cooperation and Development (OECD) defines tax as "compulsory unrequited payments to general government". Messere, K.C., & Owens J.P. (1985. International Comparisons of Tax Levels: Pitfalls and Insights. Retrieved February 23, 2016 from <http://www.oecd.org/tax/public-finance/35589632.pdf>. For others tax refers to unrequited payments in the sense that benefits provided by government to taxpayers are not normally in proportion to their payments or it is a compulsory, unrequited payment to general government. (OECD, 1996).

In the following cases, however, a levy could be considered as "unrequited":

a) Where the charge greatly exceeds the cost of providing the service; b) where the payer of the levy is not the receiver of the benefit (e.g., a fee collected from slaughterhouses to finance a service which is provided to farmers); c) where the government is not providing a specific service in return for the levy which it receives even though a license may be issued to the payer (e.g., where the government grants a hunting, fishing or shooting license which is not accompanied by the right to use a specific area of government land); d) where benefits are received only by those paying the levy but the benefits received by each individual are not necessary in proportion to his payments (e.g., a milk marketing levy paid by dairy farmers and used to promote the consumption of milk).

...General government consists of supra-national authorities, the central administration and the agencies whose operations are under its effective control, state and local governments and their administrations, social security schemes and autonomous governmental entities, excluding public enterprises..." Grzegorz Kula, and James, Nobes (1998). It may also mean: a compulsory levy made by public authorities for which nothing is received directly in return. (James and Nobes, 1997).

The Tax Justice Network Africa (TJNA) argue that tax, is "a fee levied by a government or regional entity on a transaction, product or activity in order to finance government expenditure. Tax Justice Network Africa (TJNA). Retrieved December 23, 2016 from <http://www.taxjusticeafrica.net/glossary/all>. Further, according to the Business Dictionary.com, a tax is "a means by which governments finance their expenditure by imposing charges on citizens and corporate entities." Business Dictionary. Retrieved February 23, 2016 from <http://www.businessdictionary.com/definition/taxation.html>

Taxes are, hence, transfers of money to the public sector, but they exclude loan transactions and direct payments for publicly produced goods and services.

Tax has to be distinguished from other compulsory levies. Obligatory levies include taxes, fees for services rendered, customs duties and social security contributions. Taxes are payments imposed on individuals and legal entities according to their ability to pay without any specific consideration in return in order to cover public spending and achieve the economic and social objectives set by the government. French Ministry of Finance and Economic Development PUBLIC FINANCES DIRECTORATE and GENERAL TAX POLICY DIRECTORATE, (2015).

Tax excludes other mandatory payments like fees for services rendered, fees payable for the use of certain public services or for the right to use them because such payments permit the contributor to claim a consideration in return. Customs duties are differentiated

¹<http://freeworking.hubpages.com/hub/Types-of-taxes-which-American-pays>, Accessed July 13, 2017

²Brian A. Garner (2004), Black's Law dictionary, 8th edition, p.167.

³ Ibid.

from taxes by their economic aim that intends to protect the domestic market while social security payments, though mandatory, are not taxes since they are imposed for a specific aim i.e. social protection and benefits are paid in return in the long run.

With regard to relation between tax and charge, Ethiopian tax laws including FDRE constitution specifically Art.97 sub-articles (2), (9) and (10) of the constitution shows that tax can include not only taxes which do not necessarily reflect the service but also charges, fees and rents that reflect the service provided by the government or tax may include royalties paid for forest use or intellectual property rights. This shows that scope of tax is broader under Ethiopian tax law. However, according to OECD, IMF and an academician tax is mandatory payment to the government which may not be proportional to the benefit given to the tax payer by the government narrowing down the scope of tax excluding charges.⁴ All of above definitions also illustrate that tax need not be proportional to the service given to the tax payer. Accordingly, the tax can be arbitrary without reflecting the benefit or service given by the government to society and impliedly, any tax does not necessarily reflect the service obtained from government. The same is true in Ethiopia since none of our tax laws indicates link between tax paid and benefits received by taxpayer of course because it is difficult to establish and measure exact extent of benefit received and who is beneficiary of government services.

2.2. Features and Purposes/Roles of Good Tax system and Laws

2.2.1. Features of Good Tax System

Most literatures provide that good taxation laws and policies have to be characterized by the following specific feature including: raising adequate revenue; repricing of goods and services considered to be wrongly priced by the marketplace such as tobacco, alcohol, carbon emissions etc. and by extending tax reliefs e.g. for childcare; redistribution of income and wealth; raising representation within the democratic process ensuring its accountability to work; and reorganization of the economy through fiscal policy. Messere, K.C., & Owens J.P. (1985).

The need for taxation is asserted in Article 13 of the French Declaration of the Rights of Man and of the Citizen of 26 August 1789: “For the maintenance of the public force, and for administrative expenses, a general tax is indispensable”, adding that “it must be equally distributed among all citizens, in proportion to their ability to pay”. Article 14 of the Declaration states that “All citizens have the right to ascertain, by themselves or through their representatives, the need for a public tax, to consent to it freely, to watch over its use, and to determine its proportion, basis, collection and duration”.

Unlike other mandatory levies, taxes may be assessed and collected only by virtue of an act of the legislature, i.e. Parliament. This principle is enshrined in Article 34 of the Constitution of the Fifth Republic of 4 October 1958, according to which rules concerning the base, rates and methods of collection of taxes of all types are set by statute. The executive is therefore involved only in implementing the tax rules defined by Parliament, stipulating the terms and conditions of their application under the control of the tax courts.

Consequently, the tax administration interprets and comments on provisions of law in circulars that may neither add to nor subtract from the law. Otherwise the circular is unlawful and may be nullified by the French Supreme Administrative Court (Conseil d'État) on an appeal from taxpayers. If that is the case, the unlawful circular is not binding on taxpayers. Conversely, the administration may not argue that a circular was unlawful against a taxpayer who has applied it. This guarantee also applies where the administration has issued a formal ruling on the assessment of a given situation with regard to a tax rule. Thus, tax law provides that where a taxpayer has applied a tax rule according to the interpretation given by the administration through published instructions or circulars and not retracted at the date of the relevant operations, the administration may not order additional payments on the grounds of some other interpretation. French Ministry of Finance and Economic Development PUBLIC FINANCES DIRECTORATE and GENERAL TAX POLICY DIRECTORATE – Bureau, OVERVIEW OF THE FRENCH TAX SYSTEM – Legislation in force as of 31 July 2015, p.6.

2.2.2. Role of Good Tax Law and Policies for Sustainable Development

The following are, inter alia, purposes/roles that taxes can realize notion of sustainable development towards promotion of economic, social and environmental aspects of societal progress.

A. Raising Revenue and Financing Government Expenditure Responsibilities

In many states, together with other revenue sources, tax is meant primarily to raise adequate revenue meet the expenditure of the state incurred in fulfilling its duties either in the form of social security or social amenities/services.⁵ Social welfare may be measured in terms of per capital expenditure incurred by the government on providing public goods in the form of education, health, sanitation, recreation facilities, etc. and social security consist of peace and order maintained by police, military and the judicial machinery.⁶ Whether Ethiopian tax law is achieving this aim would be discussed in section III below.

⁴ Santiago Dichile, (2004), Green tax reform in OECD countries: An Overview, p.7

⁵ Richard M. Bird and Eric M. Zolt, (2003), Introduction to Tax Policy Design and Development, p.4 and Endawke Tsegaw, (2009) Fiscal Federalism Teaching Material, FDRE Justice and Legal System Research Institute, p. 82

⁶ ibid

B. Taxes for Economic Goals and Stabilization

The second goal of tax is to ensure economic goals through the ability of the taxation system to influence the allocation of resources i.e.,⁷ (a) transferring resources from the private sector to the government to finance the public investment program; (b) directing of private investment into desired channels through such measures as regulation of tax rates and the grant of tax incentives to attract foreign direct investment (FDI) into the country; (c) influencing relative factor prices for enhanced use of labor and economizing the use of capital and foreign exchange. In addition to mandate of realizing economic goals, state stabilizes national income by using taxation as an instrument of demand management.⁸ Taxation reduces the effect of the multiplier and so can be used to diminish cyclical fluctuations on the economy. As regards to economic price increases, and economic depression, appropriate tax can reduce or stimulate consumption in two ways. First, taxation, if applied properly, may remove the excessive capacity to pay by the person, which means by retarding inflation.⁹ Thus, a rise in the rates of existing taxes and the imposition of new taxes would control consumption, cut the level of effective demand and thereby stability of price. Second, enhancing the purchasing power of the people through the reduction of personal tax burdens during depression (deflation) may have favorable effects on the level of economic activity and employment. Whether or not the Ethiopian tax law system is designated in a way to achieve these goals adequately would be the issue of section III below.

C. Ensuring of Fairness/Equity Concerns

Third, beside revenue and economic stabilization functions, taxes may be levied to secure equity concern. National governments do not need taxes only to secure funds because they can simply print the money required to fund operations.¹⁰ The tax system can be viewed as a mechanism to take money away from the private sector or rich in as efficient, equitable, and administratively inexpensive way as possible.¹¹ However, equity function of tax is not without problem because vagueness and subjectivity of fairness may favor some and discourage others. Despite critique of fairness role of tax, what is decisive from an equity perspective is, first, to be aware of the different equity implications of tax roles for different groups and, second, to ensure that the actual outcome of tax legislation and policy is consistent with the purposes of tax imposition.¹²

Therefore, albeit fairness is prejudiced from the perspective of social and economic inequality, tax serves the distribution of wealth and income as well as the overall equity implications of any fiscal policy objectives because it helps to reduce inequalities through a policy of redistribution of income and wealth. Higher rates of income taxes, capital transfer taxes and wealth taxes are some means adopted for achieving these ends of fairness.¹³ The position of Ethiopian tax laws in this regard would be seen in section III.

D. Taxation as Tool for Savings/Investment and Capital formation

Fourth, tax assists the state to increase the level of savings and capital formation in the private sector partly for borrowing by the government and partly for enhancing investment resources within the private sector for economic development.¹⁴ For instance, in market economy government designs tax incentive schemes¹⁵ to maximize the use of private investment. Such incentives schemes can be achieved through taxation by introducing exemption, deduction and depreciation and by tax holidays to stimulate the private sector participation in the economy.¹⁶ Tax incentives also plays a guiding position to mobilize private investment towards areas given priority within the economic policy; towards hardship and less developed areas.¹⁷

The idea that good things come to those who tax more has been around for a long time. It was certainly on the mind of the economist Nicholas Kaldor when he wrote:

Whatever the prevailing ideology or political colour of a particular government, it must steadily expand a whole host of [...] services [...] as a prerequisite for the country's [...] development. These services must be financed out of government revenue. Besides meeting these needs, taxes [...] provide the most appropriate instruments for increasing savings for capital formation out of domestic sources (Kaldor, 1963).

Ethiopian case appears to reflect generous tax exemptions and incentives as would be seen in section III below.

E. Taxation and Growth

Fifth, although effects of taxation on sustainable development are controversial and uncertain, together with above aims, vital role of tax in financing growth could not be denied. This is because the societies in which resources are distributed more alike by tax will do better in the long term to grow and countries can devise policy designs that are fully compatible with achieving both more growth and more

⁷Kassim Kuffa, (2014), Concepts, Functions of Tax and Issues of Fiscal Federalism in Ethiopia, (unpublished), , p.2, and see also Endawke Tsegaw, supranote 5 and infra note 21, p.82

⁸Richard M. Bird and Eric M. Zolt, (2003), supra note 5, p.26

⁹Endawke Tsegaw, (2003), supranote 5 and infra note 21, p.83

¹⁰Kassim Kuffa (2014), supra note 7, p.3

¹¹ Ibid

¹²Richard M. Bird and Eric M. Zolt, (2003), supra note 5 p.5

¹³ Ibid

¹⁴D. Mume Waidyasekera, (2007), Role of Taxation in Development Strategy, P. 1

¹⁵Endawke Tsegaw, (2009), supranote 5 and infra note 21, p.83

¹⁶ Ibid

¹⁷ ibid

equity.¹⁸ While role of tax depends on a country's definite circumstances, the current situation in many developing countries offers at least in principle positive relation between tax and sustainable development so many opportunities for improvement that some countries may be able to have their fiscal cake (growth) and eat it too (redistribution).¹⁹ Accordingly, some countries with high tax burdens have high growth rates and some countries with low tax burdens have low growth rates as can be observed from the case of U.S which has had its greatest periods of economic growth during those years where the tax rates were the highest and African Countries whose level of taxation and growth are lower.²⁰ Hence, there is inconsistency of evidence of regarding the relationship between taxation and growth rates/sustainable development. What is link between Ethiopian tax laws on one hand and growth and sustainable development on other hand? This has been discussed in section III below.

F. Taxation Encourages Income Distribution

Sixth, tax serves as income distribution mechanism. The government distributes income and wealth among citizens through the mechanism of tax policy. For instance, companies are required to pay high rate of corporate taxes on their own behalf and the dividend received by shareholders from the companies are subject to income taxes while, excise tax, high custom duty in luxurious goods, surtax, capital gains tax and progressive rate of income tax are some among other taxes to reduce the incidence of socio-economic inequality thereby to ensure sustainable development.²¹ In this way the abundantly part of wealth is taken away from high class and distributed to low class through taxation by the government so that the rich may not become richer and the poor, poorer.

G. Using the Tax System for Non-Tax Objectives: Internalization of Cost

Seventh, the tax system can be used to encourage or discourage certain activities i.e. to correct market failures such as positive or negative externalities which exist when market prices fail to mainstream all the benefits or costs associated with an activity.²² On one hand, firms which produce positive externalities should be given tax incentives. On the other hand, firms that pollute environment outside the market mechanism should avoid such effect by bearing environmental tax liability and remedy is a tax on pollution²³ which may correct market failure by requiring polluting firms to bear the cost of pollution. Environmental tax is rationalized because it makes negative externality cost internalized, results in national dividend, bring distributional justice, its role of avoiding social cost, improves ineffectiveness of market to modulate environmental externality, transaction cost and negative externality and public good nature of environmental goods.²⁴ This is true because when there is environmental pollution people may get sick and pay for medication, the government may be required to clean the environmental pollution, the society may suffer from health problems and these all are among the indications of the social costs.

Paradoxically, it is believed that since the market can itself solve the problem of social cost there is no need for environmental tax and the justification against environmental tax relies on the role of the three institutions: property right, contract and liability regime.²⁵ Proponents of this position believe that giving property right, facilitating transaction and holding liable to those who inflict damage can correct the market failure owing to externality.²⁶ However, this appears untenable position because environmental goods are public goods which cannot be governed by the property right regime because public goods are victim to non-excludability and non-rivalry problems.

Even apart from market failures, policymakers could use the tax system to encourage or discourage certain activities²⁷. Countries use tax provisions to encourage larger families, retirement savings, capital investment, home ownership, and a host of other activities that may or may not have elements of market failures.²⁸ Tax can also be used for social purposes such as discouraging certain activities which are considered undesirable. For instance, the excise taxes on liquor and tobacco, the special excise duties on luxury goods, betting and gaming levy are examples of such taxes, which apart from being lucrative revenue sources have also goals to reduce the use of these products by imposing additional costs.²⁹

Furthermore, for question why has taxation (re-)established itself recently as a priority issue in the international debate after decades of living in the shadows of other? EU has disclosed five reasons for re-establishment of taxation. These include the potential benefits of taxation on state-building; long term independence from foreign assistance and the shifting aid paradigm; trade liberalization; the increased prominence of fiscal issues in the "West" due to the financial and debt crisis; and the continued acute financial needs of

¹⁸Richard M. Bird and Eric M. Zolt, (2003), supra note 5p.26

¹⁹ Ibid

²⁰ Ibid

²¹Endawke Tsegaw, (2009), p. 82

²²Richard M. Bird and Eric M. Zolt, (2003) supra note 5p.33 and Kassim Kuffa (2014), supra note 7, p.4

²³ Ibid

²⁴Jacqueline Cottrell, et al, (2016), Environmental tax reform in developing, emerging and transition economies, German Development Institute, p.11, and Mebrahtom Fitwi, (2012), Environmental taxation under Ethiopian law: internalization of social costs-Case of Mesobo Cement Factory, Mekelle university unpublished thesis, p.44

²⁵Jacqueline Cottrell, et al, (2016), p.12.

²⁶Jacqueline Cottrell, et al, (2016), and Mebrahtom Fitwi, (2012),p.59.

²⁷Jacqueline Cottrell, et al, (2016), p.23.

²⁸ Ibid

²⁹ Ibid

developing countries. EU Parliament DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION, (2014), TAX REVENUE MOBILISATION IN DEVELOPING COUNTRIES: ISSUES AND CHALLENGES.

Detail due consideration would be given to Ethiopian tax laws' position in relation to integration of sustainable development concern under tax laws in section III below.

H. Efficiency Role of Taxes as Policy Instruments

Compared with regulatory instruments (standards, quotas, product bans) the other main role of taxes is efficiency of private sector. Pollution taxes, for example, induce each polluter to reduce the pollution up to the point where the marginal cost of pollution avoidance is equal to the tax.³⁰ Moreover, polluters have more flexibility to choose the level and the method of abatement. Taxes are also effective instruments to change the consumers' behavior to a more sustainable direction because they provide price signals that change the relative prices of dirty and clean consumption goods and induce consumers to choose environmentally-friendly goods.³¹ The revenues raised through environmental taxation also could be used in other ways for the benefit of the environment, the economy or both which may include:³² (1) the governments could allocate part of tax revenues for specific environmental purposes, such as financing ecosystem-efficiency or economic-innovation investments by environmental fund;(2) tax revenues could also be used to compensate the households, community and businesses, who suffer disproportionately from economic growth through investment.

To sum up, taxes play key roles as fiscal instruments to achieve one or all of the above objectives albeit critiques against role of tax for sustainable development are unavoidable. Do Ethiopia tax laws reflect or intend to achieve above objectives adequately? This and other similar questions raised in this section would be answered in the next section.

2.3. Concept of Sustainable Development in the Taxation Perspective

Sustainable development is about reconciling and reinforcing various aspects of economic, environmental and social policies. This is achieved by taking into account the full value of natural capital and recognizing its essential role in economic growth. OECD, p.10.

Sustainable development embodies the following three main components: Economic, Environmental and Social dimension. The economic dimension of sustainable development includes an increased and more equitably distributed GDP – production of conventional goods and services, an increased production of unpriced ecosystem services prevented, economic diversification, i.e. improved management of economic risks and innovation, access and uptake of green technologies, i.e. improved market confidence. Environmental dimension of sustainable development includes increased productivity and efficiency of natural resource use, natural capital used within ecological limits, other types of capital increased through use of non-renewable natural capital, reduced adverse environmental impact and improved natural hazard/risk management. OECD 2012, p.10.

The social dimension of sustainable development includes: increased livelihood opportunities, increased income and/or quality of life, notably of the poor, creation and perpetual decent jobs that benefit poor people, improvement of social, human and knowledge capital of society and minimization of large gap of inequality between rich and poor. OECD 2012, p.10.

There are opportunities for synergies between environmental and economic sustainability, especially for developing countries which can factor environmental issues into their investment decisions on infrastructure and can further develop agriculture and other natural resources to improve livelihoods, create jobs, and reduce poverty. Green growth provides an opportunity for emerging-market economies and developing countries to leapfrog unsustainable and wasteful production and consumption patterns. While advanced economies are somewhat constrained by the path dependency of sunk capital, adequate financing and capacity would offer developing economies the opportunity to build the infrastructure and networks needed to support sustainable development. OECD 2012, p.10.

Developing countries are the key to achieving global green growth in two major ways. Firstly, the potential economic and social impacts of environmental degradation are particularly important for developing countries. They are the most vulnerable to climate change and tend to be more dependent than advanced economies on the exploitation of natural resources for economic growth. In addition, many developing countries face severe economic, social and ecological threats from energy, food and water insecurity to climate change and extreme weather risks. They also face risks from premature deaths due to pollution, poor water quality and diseases associated with a changing climate. All of these factors undermine their development. Secondly, although today most developing countries contribute only minor shares to global greenhouse gas (GHG) emissions compared to the OECD and major emerging economies, they will increase their emissions if they follow conventional economic growth patterns. Increasingly, developing countries are becoming sources of global economic growth, emissions and, with these, more intensive use of natural resources. OECD 2012, Green Growth and Developing Countries: A Summary for Policy Makers, p. 6

OECD defines green growth as a means to foster economic growth and development while ensuring that natural assets continue to provide the resources and environmental services on which our well-being relies. Ibid, p.7

Developing countries have diversity of political positions concerns about the concept of green growth from enthusiastic to cautious devoid of consistent practice. For example, emerging economies describe the opportunities offered by green growth in the most enthusiastic terms, and many of them have access to relevant funds and technologies that can realize these opportunities. By 2008, China had already become the largest producer of clean technology in financial terms, accounting for 1.4% of its GDP. By comparison, there is caution on the part of many low-income countries (LICs). LICs are only just beginning to assess the opportunities, threats and indeed meaning of a green economic pathway. However, the policy ideas and technologies are neither easily

³⁰ Ibid

³¹ Ibid

³² Ibid

accessible nor entirely relevant to their national developmental needs. There is a strongly adverse political reaction against the green growth concept in only a few countries. Developing countries also have some concerns about the specificities of green growth. Some issues relate to the international dimensions of green growth such as the risks of green protectionism and green conditionality for Official Development Assistance. Other critical issues include: Will green growth help address poverty and other development priorities? The green growth policy recommendations being discussed – with their emphasis on low-carbon and high-technology – do not obviously tackle equity problems at either the national or global level, notably the problem of the lack of inclusion of many poor countries and people within the informal economy in economic decision-making and in major economic opportunities. Not enough attention has been paid to the potential of more efficient use of natural capital. Furthermore, a number of governments are concerned that the focus on green growth could undermine the Rio Principles, particularly the principle of common but differentiated responsibilities. Will green growth efforts be impeded by high-cost barriers? The high initial costs for the transition to green growth appear to be beyond the reach of many developing countries, e.g. solar power for rural communities. Even basic technologies are still lacking in most developing countries, particularly in the fields of wastewater treatment, household and hazardous waste management, energy efficiency and integrated water resource management. In addition, there is a concern that developing countries' own technologies, including indigenous approaches, will not be able to compete, and they will need to import technologies from other countries: exchange of scientific and technical knowledge and removing the barriers constituted by intellectual property rights are of great importance if a genuine transfer of green technologies is to take place between developed and developing countries. OECD, 2012, P. 8.

Irrespective of the levels of economic development and to some extent of their political position, the majority of developing country governments have recently embarked on domestic processes to identify and develop particular areas of opportunity and comparative advantage. These domestic actions include carbon taxes, green energy funds, payment for ecosystem services schemes, renewable energy initiatives, sustainable public procurement initiatives and natural resource management initiatives. However, there are few holistic or system-wide “green growth” policies, strategies and institutional systems in place. Some developing country strategies stand out, including Cambodia's Green Growth Road Map and Ethiopia's National Development Plans. For most countries, however, national sustainable development strategies go some way to forming an integrated green growth policy framework, though green growth has rarely been addressed in mainstream economic, budget and fiscal policies. Ibid, P11.

A range of instruments are employed to raise revenue for governments, while furthering environmental goals when managing natural resources. They include taxes or royalties on natural resource extraction, user charges for services such as water supply and waste management to recover costs, and environmentally-related taxes such as pollution charges. These instruments often form part of a package of reforms, making it difficult to distinguish the impact of the tax. Environmental taxes can increase efficiency in environmental management and use of natural resources. The resulting improvements in environmental quality can support those productive activities which rely on environmental inputs, for example clean water provision, and build up human capital through positive impacts on health. These instruments raise revenue which can be used for environmental and poverty reduction programmes and/or to reduce the taxes imposed on labour and capital which have more negative distorting effects – the so-called double dividend. Existing case studies show that the context in which the environmental tax is introduced and the package of accompanying reform measures are extremely important. Thus, in Cameroon, forest fiscal reform provided revenue to support enforcement and implementation of measures to promote sustainable forest management, but accompanying measures are needed to ensure that a share of the revenues actually reaches local communities. Also, Blackman (2006) argues that the reduction in water emissions in Colombia may have had more to do with the improvements in permitting, monitoring and enforcement that accompanied the introduction of the pollution charge, than the charge itself. OECD, 12, p.16

Green growth policies in action Many developing countries have implemented policies and taken actions to implement various elements of the green growth framework.

Costa Rica's Payments for Environmental Services programme, created by law in 1996 and financed through taxes on fuel and water, discourages deforestation by paying forest owners for the environmental services that the forest produces, such as watershed and biodiversity protection and greenhouse gas mitigation. The programme has paid out over USD 230 million since its inception. OECD, 2012, p.20.

In Karachi, Nairobi, Pune, and many other cities, federations of ‘slum’ dwellers are working with local governments to improve housing conditions and reduce risks from disasters. They have demonstrated to governments their capacity to design and build housing and infrastructure that is cheaper and better quality than if governments engage contractors, as well as their capacity to undertake the enumerations and mapping of informal settlements needed for planning upgrading. Where local governments come to work with them, the scale of what can be achieved has increased greatly (Satterthwaite, 2011).

Ghana is the largest per capita consumer of charcoal in West Africa. Toyota manufactures and sells cook stoves which are 40% more efficient than the traditional models, to date supplying 35 000 households, offsetting 15 000 tonnes of carbon dioxide emissions and employing over 200 employees. The business model is easily replicable in many countries. OECD, 2012, p.20.

Azerbaijan - Half of Azerbaijan's population was in poverty in 2001, but the oil industry has helped the country to achieve middle-income status today. Azerbaijan formally signed up to the Extractive Industries Transparency Initiative (EITI) in 2003, and in 2009 became the first country to achieve full member status. All oil, gas and gold mining companies are obliged to report on how much they pay to government, while government reports on how much it receives. OECD, 2012P.21.

Nepal - Forests account for almost 40% of the land in Nepal. The Forest Act and Forest Rules recognise Community Forest User Groups as “self-governing autonomous corporate bodies for managing and using community forests”. Community forestry generates employment and income from forest protection, tree felling, log extraction, and non-timber forest products and has contributed to

restoring forest resources, turning an annual rate of decline in forest cover of 1.9% during the 1990s into an annual increase of 1.35% over the period 2000 to 2005. OECD, 2012, P.21

Sri Lanka - Brandix, Sri Lanka's largest clothes manufacturer, has been widely recognised for its high social and environmental standards. The restructuring of its showcase Eco Centre factory brought a reduction of 80% in carbon emissions, 46% energy saving, 58% reduced water consumption, earning it the highest rating ever awarded under the US Green Building Council's LEED rating system.

Bangladesh – Waste Concern, a social enterprise founded in 1995 in Bangladesh, transforms roadside organic waste into agricultural compost. Waste Concern calculates that from 2001 to 2006, USD 1.24 million in foreign currency were saved by avoiding the import of chemical fertilizer. 124 400 tonnes of waste was processed, 986 direct jobs were created annually, and USD 1.10 million was raised in compost sales. Based on its success, Waste Concern is now assisting 10 Asian and 10 African cities in replicating its model. OECD, 2012P.21.

3. Analysis and Discussion on Mechanisms of mainstreaming Components of Sustainable Development under Ethiopian Tax Laws

East Africa in general and Ethiopia in particular is dynamic region characterized for embryonic economic growth, natural resource, diversity, and good weather condition but simultaneously challenged with persistent poverty, environmental degradation, inequality and relative exposure terror.

Normally sustainable tax policy or law can only achieve sustainable development if and only if, it integrates multi-facets of development that include poverty eradication or increase of GDP, social equity, capacity to exercise freedom, human resource development, improvement of standard of living and environmental concerns since development is cumulative effect of all and sustainable development may not be realized at expense of its other wings. This section focuses only to give high light on the incorporation of above purposes of tax law under Ethiopian tax laws and role of Ethiopia tax laws in promoting economic growth, social concerns and environmental matters briefly.

3.1. Mainstreaming of Economic Growth in the Ethiopian Tax Legislation

Promotion of economic growth is the main goal of Ethiopia economic and fiscal policy. This is clearly recognized in past developmental plans (SDPRP and PASDEP) and current GTP (Gross Transformation Plan in which all of them give priority to eradication of poverty. Accordingly, GTP indicates the Ethiopian economy has shifted to a higher growth flight since 2003/04 and has been sustained, and during the last two consecutive five years, overall real GDP has grown rapidly at an average of 11% per annum.³³The GTP intends to achieve broad-based, accelerated and sustained economic growth so as to eradicate poverty has been and is a key objective of the Government of Ethiopia and as well it indicates industrial sector plays key role to realize goal of poverty eradication.

To achieve this core goal, the Ethiopian government has designed tax policy and various tax laws. These tax laws under their preamble primarily focus on revenue generating role of taxation which would be spent to by government on activities that would eradicate poverty and increase GDP. No doubt tax can support for increment of GDP. However, how can tax eradicate poverty and faster economic growth? The issue here is, can we say tax law is economically efficient and economic growth is sustainable while none of Ethiopian tax laws incorporate scheme to eradicate poverty disregarding issue of social equity (interest of poor to be relieved from poverty) and environment degradation are not solved? For authors response would be negative since Ethiopian tax law seems to be one directional i.e. it seems to increase GDP by collecting more tax revenue from poor and attracting more foreign investors to obtain hard currency at expense of all the rest. The following scenario can illustrate unsustainability and inadequacy of role of Ethiopian tax laws for economic growth. First, tax laws are not designated to redistribute wealth from rich to poor nor they are designated to reduce inflation by imposing high tax rate during inflation so that inflation is skyrocketing and even employed ones have failed to meet basic needs. This is frequently observed during 2010, 2014 and 2016 civil servants wage increment which went to pocket of business men due to inflation. Second, Ethiopian taxlaw gives more generous tax exemptions or wholly days to encourage foreign investors hoping that such investors would bring foreign currency and create employment opportunities for citizens which might eradicate poverty.³⁴ Accordingly, Art.23 (1) of Investment proc.No.769/2012 and Art.5 (1) of investment incentives regulation No.270 provides investor who: engages in new manufacturing activity or expansion/upgrading of the existing firm, investors who conduct commitment of capital in marginalized regions, exports or supplies 60% of products/service producer shall be eligible for income tax exemption. Similarly, Arts.5-15 of regulation No.270/2012provides broad exemption and incentives packages from custom duties on many imports. Such a tax policy that is oriented towards incentives and exemptions is a base for revenue loss and from the development perspective the lost revenue is lost development opportunity. Aniyie Ifeanyichukwu Azuka, (2015), ACHIEVING SUSTAINABLE DEVELOPMENT THROUGH TAX HARMONIZATION: POTENTIALS, PARADOXES AND POLICY IMPERATIVES, p.273. Such incentives may attract foreign investor and bring hard currency.

However, Ethiopian tax and investment laws fail to consider the following negative effects of generous tax exemptions and custom duties. First, benefits obtained from foreign hard currency, meager technology transfer, employment opportunity and intended economic growth may not compensate tax revenue the country loses as opportunity cost because fiscal incentives are less effective in

³³ Federal Democratic Republic of Ethiopia, Growth Transformation Plan, 2010/11-2014/15, Volume I, Main document, p.4.

³⁴ Federal Democratic Republic of Ethiopia, Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulations No. 84/2003, Article 4 (1-8).

attracting foreign investors. For instance, in Ethiopia employed more than 10,000 workers. But the wage is too low which average monthly payment is 40USD. This level of wage could not afford cost of basic needs like food, shelter and clothing let alone transforming economic status of household. This is true because Ethiopia has tax sparing³⁵treaty with none of countries nor it has included clause in investment and double taxation treaties concluded so far, which recognizes deduction of tax exemptions when investors are taxed at their home country. So that tax incentives may not meet its aim to attract foreign investor and stimulate economic development since it goes to the treasure of home country investor reducing Ethiopia tax revenue. Second, even if economic benefits of foreign investment exceed tax revenue forgone such merits would be obtained at cost of other wings of development like social and equity concerns because economic growth cannot be sustainable devoid mechanism to internalize social costs and compensate the poor who evicted by investment. Worst of all foreign investors may fly for their homeland at end of period of tax wholly days leaving host economy without benefit of employment and adequate tax revenue which is highly reduced owing to tax exemption. This in turn reduces tax revenue and hinders achievement of economic growth and eradication of poverty, which cannot be achieved without revenue that can be utilized for infrastructure development for the poor.

In addition to tax and custom duty exemptions, generous tax deductions included in the Ethiopian tax laws may potentially affect economic growth by reducing tax revenue. This is, for example, substantiated by Art.21 (3) of our Income Tax Proclamation No.280/2002 which allows deduction of interest paid as expense to extent that the loan or advances in respect of which the interest paid does not exceed on average during tax period four times the amount of share capital. Similarly, Art.23 of new Income Tax Proclamation 2016 allows deduction of interest expense. However, allowing huge use of debt capital with which in turn implies reduction of interest as cost without doubt goes against tax revenue being room for tax avoidance for rich. This provision also indicates banks and insurance companies are at liberty to request reduction of interest paid to shareholders who extend debt capital provided they do not exceed interest rate threshold used between national Bank of Ethiopia and Commercial Bank of Ethiopia. Such loophole of law permits generous deduction from tax revenue, had it been collected, which could have been expended to eradicate poverty and promote economic growth. Such loss or reduction of tax revenue together with other disregarded matters, in turn compels this author to conclude that Ethiopian tax system hardly mainstream promotion of economic growth dimension of sustainable development ineffective and sufficient manner since tax collected is inadequate and may not bring radical sustainable economic growth. In addition, narrow tax base and inadequate revenue hindered by tax incentives, can be other reason that hinders integration of economic growth because Ethiopia does not have inheritance, wealth, and environmental taxes.

3.2. Social Impact of Tax: Would poor benefit from Adoption of Tax Laws?

Tax system should reflect purposes of tax author discussed in section II above and it has to be socially efficient, equitable and distributive in terms of reducing large gap between poor and rich. Accordingly, Ethiopia has introduced various direct and indirect tax laws. Do these tax laws reflect above multi-dimensional concerns of society? For instance, do Ethiopian tax laws contain adequate tax incentives, subsidies and exemptions which intend to encourage low income class and thereby to reduce gap between poor and rich? One may answer affirmatively holding that Ethiopia tax law has integrated various aspects of societal development describing some exemptions, deductions and exclusions indicated in various tax laws under pretext of social equity. However, author of this article argues that answer is negative because although tax is supposed to achieve social justice Ethiopian tax law does not have enough room to promote social justice which is achieved when living standard of all people is improved by reducing large gap between poor and rich at minimal cost to the environment and tax law does not encourage job creation industries/labor intensive firms. The author not mean that there are no tax legislations provisions which talk about social dimension of society but in author's view the existing tax law is inadequate to promote social justice because priority is not given to poor. Instead Ethiopian tax legislations and policy framework seems to stand on side of big fishes (investors) who would continue to be richer and richer. This can be inferred from 2016 Ethiopian Income Tax legislation schedule 'E' and Investment Reg.No.270/2012 which gives more generous tax exemptions or wholly days to encourage rich investors while poor employees, traders and other low-income classes pay taxes without any favor or incentives. Tax injustice, excessive tax imposition on category 'C' tax payers and lack of equity in tax administration is one of cause of 2015 to 2017 Ethiopian public protest. Among tax laws, for instance, designation of surtax seems to encourage rich for two reasons: first, Art.5 of Sur-Tax Council of Minister Regulation number 133/2009 allow broader tax exemptions including: petroleum, lubricants, motor vehicles for freight and passengers, aircrafts, space craft and capital goods although these goods are supposed to generate more revenue but go to hand of rich; second, it is imposed with low tax rate only (10%) though such tax is expected to be imposed with high rate to redistribute wealth from high income class to low income class. Incentive is made to encourage investment and accumulate capital in the hands of private investors but there is no mechanism to reallocate this capital under Ethiopian tax laws since there is more tax evasion and avoidance by rich companies and importers. Category 'C' tax payers perceive that they are equally treated with category A and Category B since latter two are paying less taxes conspiring with tax administrators.

³⁵See Brain J. Arnold and Michael J McIntyre, Kluwer International, 1995, p.139. Tax sparing refers to the allowance of a credit for the amount of foreign taxes that were not paid because of tax incentive or holiday in the foreign country and country usually conclude tax sparing treaty or include clause for same purposes in investment and tax treaties made between them to let tax incentive or holiday in the foreign country, goes pocket of investors and so that they encouraged to invest in state which give such benefit. So far Ethiopia does not have such treaty.

Furthermore, even the farmer, dominant and poorest class, who is supposed to be main beneficiary of Ethiopia development plan, has no any tax incentives or social tax subsidy or tax wholly days. Art.11 of Oromia Rural Land Use Payment and Agricultural Activities Income Tax Amendment Proclamation No. 99/2005 provides a government organization or non-government organization or a private investor who develops forest upon directives of the Oromia Investment Commission shall be exempted from rural land use payment. However, this law fails to give any tax incentives or subsidy to farmers. The same is true with tax laws of other regions of Ethiopian Federation.

The promotion of social concerns of poor through imposition of tax that facilitates economic growth which may lead to social development relies on assumption that poor obtain more benefits or services of public expenditure like education and health that arise from spending of tax revenue than rich. However, in practice one study depicts that for primary education, the average benefits of public expenditure accrue more heavily to the rich than poor not only at national level, but also in rural and urban areas.³⁶ The departure in benefits between the poor and non-poor is especially great in the rural areas because the lower enrollment ratio for the poor, especially the rural poor, is correlated with the high opportunity costs of sending a child to school³⁷ and given an increase in primary education access, the non-poor are expected to benefit considerably more than the poor as there is no mechanism to exclude the rich from such service. This study further indicates providing better access to the poor in utilizing the benefits of primary education service would involve not only establishing building capacity in the rural and remote areas of the country, but also creating greater incentives for the poor families to send their children to school.³⁸ These incentives could be tax exemptions or wholly days for poor institutional arrangements to supplement this pro poor spending which would include engaging with the civil society to track and monitor public expenditure. Ethiopia tax law does not have such pro poor tax incentives or similar other subsidies.

However, the same study by IFM reveals public expenditure on health facilities gives larger benefits to the poor than the non-poor.³⁹ Although empirical evidence of IMF shows the poor are more beneficiary of public health services, likely, produced by taxes collected from public, this position cannot be taken for granted because Ethiopian tax laws do not accommodate environmental and health risks imposed on poor albeit such environmental pollution being caused by firms owned by rich. Furthermore, fairness concern is serious in Ethiopia because Ethiopia does not have taxes intended to reduce gap between poor and rich nor do other types of tax address social and equity aspect of taxation so that the divergence between poor and rich is getting wider and wider.

Other relevant issue is that, does Ethiopian tax law/policy mainstream equity (both horizontal and vertical equity) as component of sustainable development? Of course, they may not and taxes affect equity in many ways. They may treat people who are in essentially the same economic position differently (horizontal equity) because, for example, tax payer under schedule A shall be taxed heavier than tax payers under schedule B and C who may be under taxed due to impossibility of tax avoidance by former and possibility of tax avoidance by latter two cases using hole/gab left by the law. Taxes may also differ in their effects on income distribution (vertical equity). Ethiopian VAT law seems to tax the rich relatively less (regressivity) than the poor who bear more burdens. Moreover, Ethiopian income tax imposes heavier income tax on poor employees while other rewarding informal sectors like irrigation linked agricultural incomes are being disregarded by Ethiopian income tax laws.

To determine the fairness of a tax regime, one must consider the economic incidence of taxation and who has the liability to pay the tax. Tax burdens fall on individuals in their roles as consumers, producers and factor suppliers, not on corporations or other institutions.⁴⁰ Coming to Ethiopian law, for example, although the VAT law may require firms to pay VAT to the government, it is likely that the real economic incidence of the VAT falls on the ultimate consumer who can be the poor. Not only VAT but also it is still not clear who bears the cost of the corporate income tax in Ethiopia as companies may shift burden to consumers who could pay higher prices. Such practice may contradict principles of equity and ability to pay which are pillar to evaluate effectiveness and goodness of tax system and mainstreaming of sustainable development for in fiscal policy. Hence, Ethiopian tax law cannot be considered sustainable because it fails to determine who bears tax incidence or it could not ensure horizontal and vertical equity and so that it could not redistribute wealth from rich to poor. The 206 Ethiopian Income tax proclamation itself does not have mechanisms to ensure sustainable development by instrumentality of tax.

3.3. Mainstreaming of Environmental Concerns and Internalizing of Environmental costs under Ethiopian Tax Law and Policy

3.3.1. Mainstreaming of Sustainable Development in the Environmental Policy of Ethiopia

The Growth and Transformation Plan (GTP) does not show whether environmental tax is part of the policy though there are ways by which environmental taxation can be employed to implement the Growth and Transformation Plan. The GTP policy in its revenue clause does not, for example, consider environmental tax as one source of revenue. The GTP rather aims at strengthening tax administration and collection at State and Federal level.⁴¹ And also environmental tax is not a specific concern of revenue policy of the

³⁶Sonia Munoz and Stanley Sang-Wook Cho, 2003, Social Impact of a Tax Reform: The Case of Ethiopia, IMF Working Paper (Fiscal Affairs Department), p.4

³⁷Ibid, p.5

³⁸ Ibid and OECD, (2012), Green Growth and Developing Countries A Summary for Policy Makers, p.14.

³⁹ Ibid

⁴⁰ Ibid, p.6

⁴¹ Federal Democratic Republic of Ethiopia, 2015, Growth and transformation Plan, supra note 33, p 25

GTP even though broadening the base can be one way of including environmental tax. In the objectives to achieve GTP, an emphasis has been specifically made to development of industrial sector without adequately considering environmental concerns.⁴²

However, the fact that Ethiopia development policy gives less concern to internalizing of environmental problems by environmental tax does not mean that environmental issue is totally rejected in Ethiopia. This is true because both PASDEP in the form of cross-cutting issues and the GTP in the form of green economy⁴³ have provided certain concerns about environment, along with strategic directions; especially the latter seems to create carbon free economy. The problem with GTP is it gives much stress for economic growth while policy document in environmental issues shows that more concern is on industrialization than environment. It put much reliance on foreign aid to reduce green gas emission because it does not explicitly indicate that there will be environmental tax as either means of revenue generating or regulatory mechanism to internalize environmental social cost. Nevertheless, the Growth and Transformation Plan document has provided flexibility through which environmental taxes can be one of the action plans, laws, manuals by which the climate change can be enhanced.⁴⁴ This is true because documents state policies, laws, strategies and action plans will be put in place to address climate change mitigation albeit its failure to call term environmental tax.

In addition to GTP, the environmental policy of Ethiopia specifically deals with the need for the mainstreaming of environmental externalities. The specific objective of the policy is ensuring ecological balance, sharing from the benefit of the exploitation of natural resources to the present and future generation, discouraging underutilization of resources, incorporating environmental overall positive and negative externality costs in planning, improving the suitability of environment, preventing pollution efficiently, conserving of diversity of culture, raising public awareness and empowering the public.⁴⁵ Thus, at policy level there is a need for environmental protection, internalizing of environmental social cost and realizing efficiency and that it requires environmental tax as one means to keep environment.

The key guiding principles of environmental policy of Ethiopia includes the environmental right, sustainable development, using renewable resource, using appropriate and affordable technologies, incorporating full environmental and social cost into the public and private sector planning, correcting market failure through the assessment and establishment of user fees, taxes, tax reductions or incentives, social equity and regular and continuous accurate assessment and monitoring of environment.⁴⁶ This apparent inclusion of environmental taxes in environmental policy shows that environmental tax is one of fiscal instrument for correcting market failure, enhancing the use of affordable technologies, and incorporating social cost in planning social equity demonstrates the need for environmental tax in addition to the other regulatory environmental protection mechanism.⁴⁷ Environmental tax is, therefore, a well-recognized means of internalizing social costs and enhancing environmental wellbeing and sustainable development according to the environmental policy of Ethiopia.

The next issues would be; does Ethiopia have environmental tax or do Ethiopian tax laws include provisions which govern environmental tax? or does Ethiopian tax law have provision which give tax exemption to entities which use environmentally friendly technology or materials which reduce carbon emission? Is there room for reduction of costs expended to avoid or reduce environmental damages? These and other similar questions would be answered in the coming section.

3.3.2. Mainstreaming of Sustainable Development Vis-a-Vis

3.3.2.1. Environmental Taxation in Different Tax and Other Legislations of Ethiopia

Internalization of environmental social costs is one of the role or purpose of taxation under other jurisdictions' law. The taxes which serve for this purpose are environmental tax. Environmental taxes can be imposed, either independent of other taxes or along with other taxes like value added tax, turnover tax, sales tax, excise tax, and other taxes. Environmental taxes with certain purpose, be it revenue, regulation or social justice, can be structured in different taxes through different ways and this can be made through increasing, decreasing, or exemption of taxes imposed on certain commodity or tax base.⁴⁸

3.3.2.2. Environmental Tax within VAT

Value added tax is among the possible taxes, where environmental taxation can be imposed. According to Ethiopian VAT Proclamation 285/2002 Article 7 value added tax, at the rate of 15 % is imposed on taxable transaction. The rate of 15 % is applicable for all taxable transactions without any difference on taxable transactions which may have and may not have environmental impact

⁴² Ibid, p.57

⁴³ A Green economy in the context of sustainable development, 2013, What are the implications for Africa? Prepared Jointly with United nations Environmental Program page 1 and Mebrahtom Fitwi, 2012. Green economy is an economy, which causes improvement of well being of the society by reducing inequalities and protecting the interest of the future generation and ecological equilibrium by using renewable energy and environmental taxation as tool.

⁴⁴ Federal Democratic Republic of Ethiopia, Growth and transformation Plan, supra note 33, p 121

⁴⁵ Environmental policy of Ethiopia, 2017,

<http://www.epa.gov.et/Download/Proclamations/ENVIRONMENT%20POLICY%20OF%20ETHIOPIA.pdf>, Accessed, on July 17, 2017, p 4

⁴⁶ Ibid, p.5

⁴⁷ Ibid

⁴⁸ Sonia Munoz and Stanley Sang-Wook Cho 2003, p.22 and Mebrahtom Fitwi, 2012, Environmental taxation under Ethiopian law: internalization of social costs-Case of Mesobo Cement Factory, p.57

(Art.7 of VAT Proc.No.285/2002. Neither the definition offered to taxable transaction does show any special treatment for taxable transactions which are harmful to environment⁴⁹because taxable transactions defined under Article 6 of VAT proclamation can be the activities, which are environment responsive or indifferent.

Among the areas where environmental tax can be reflected in the VAT law is within the zero VAT transactions, where VAT is not really required to be paid. This is because, if it is needed to encourage environmental responsive transactions, they can be addressed under the zero rated transaction to relieve such transaction from payment of tax.⁵⁰Article 7 (2) of VATcode provides rate of zero percent taxable transactions like export of goods and services provided in the regulation, rendering of transportation or other services related to international transport of goods and services, lubricants and consumable technical supplies, transfer of almost all parts of a taxable transactions, and supply of Gold to the National Bank of Ethiopia. However, all those do not recognize the purpose of internalizing the environment as component of sustainable development and getting environmental externalities internalized through the instrumentalities of taxes.

Beside the zero-rated transactions, the exemptions included in VAT code are not again designed in a way they serve sustainable development in view of environmental tax for internalizing negative externalities of bad consumed. Article 8 of the proclamation provides a number of exemptions none of which aim at environmental purpose. Most of the exemptions are related to commercial, rental establishments, residential accommodation, different kinds of leases of houses, and apartments are exempted from VAT. None of these transactions exemptions does have the environmental considerations for ensuring sustainable development.

Moreover, exemptions are one means of internalizing environmental costs in environmental tax. Under Ethiopia VAT code exemption on sell of used dwelling house, rendering of financial services, supply or import of currency, import or supply of prescription drugs specified in directives, rendering of educational services, child care services for pre-school institutions, humanitarian related services, rehabilitation related imports by Ethiopian or public organizations, supply of electricity, kerosene, and water, import of exempted goods by law or agreement, supply by the post office, provision of transport fees related to permits, license, the import of goods to limited to the provision of schedule 2 of Customs Tariffs regulations, supply by disabled employing workshops, supply of books and other printed materials are also exempted from VAT.⁵¹However, these exemptions do not again have aim of integrating the environmental externalities of activities since the lists do not show that the exemptions are to encourage environmental friendly transactions and to get externalities internalized by using tax law.

The worst setting in the VAT code is the supply of kerosene and provision of transport are some of the taxable transactions, which are under the exemption while they are environmentally unfriendly.⁵² These transactions could have been taxed if environmental tax were intended to be included under the VAT code. Hence, we can safely conclude that despite the presence of a number of zero rated transactions and tax exemptions, there is no single exemption for the sake of internalizing environmental costs in Ethiopian VAT proclamation to mainstream sustainable development by using taxation. This discloses that VAT is not responsive to environmental aspect of development and its role is lower in internalizing social costs as it does not discourage harmful transactions.

3.3.2.3. Mainstreaming Ecological component of Sustainable Development under Ethiopian Excise Tax Legislation

In addition to value added tax, excise tax can also be used as one means of correcting environmental pollution. This seems to be reflected in Ethiopian Excise Tax Proclamation Number 3007/2002 in its preamble which says whereas, it is believed that imposing the tax on goods that are hazardous to health and goods which result in social problems will reduce the consumption thereof and the excise tax proclamations of regional States have identical connotation in their preamble and content (Oromia Regional State 2004 Excise Tax law). This shows that one of the purposes of excise tax is discouraging the consumption of goods, which are hazardous to health, not externality and, which bring problem to the society. The preamble of Excise Tax law is more concerned about the impact of the products themselves on the health of human beings and the problem they create on the society which may lead to believe that it is more human centric in trying to protect the environment.⁵³That is this proclamation's wording is problematic focusing only on effect of product on human health disregarding means of producing product which can be more devastating to environment than effect of product to humans health and safety.

The other purpose to impose excise tax would be to discourage consumption of luxury goods, and collect revenues from basic goods which are demand inelastic and hazardous goods which cause social problems.⁵⁴ Its concern in the hazardous goods shows the positive impact of the excise tax on environment and concern of inelastic goods shows need to generate more revenue instead of mainstreaming of ecology as element of sustainable development via taxation.

The schedule on both the Federal Proclamation 307/2002 and Regional Excise Tax Proclamations, which lists a number of activities and shows the kind of products on which excise tax is imposed, also indicate that excise tax is imposed to avert the environmental problem, which may potentially be caused by the product. Most of the products can serve the purpose of environmental tax. For

⁴⁹Sonia Munoz and Stanley Sang-Wook Cho2003, p.22.

⁵⁰ Ibid

⁵¹Article 8 (2) (a-p) of Federal Democratic Republic of Ethiopia Value Added Tax Proclamation No.285/2002. *Federal Negarit Gazeta*, 8th Year, No. 33, pp,1832-1866, 1840.

⁵²Sonia Munoz and Stanley Sang-Wook Cho2003, p.7 and Mebrahtom Fitwi, (2012), Environmental taxation under Ethiopian law: internalization of social Costs-Case of Mesobo Cement Factory, supra note 24, p.58

⁵³ See Preamble of Excise Tax law 2007.

⁵⁴Preamble of Federal Democratic Republic of Ethiopia Excise Tax Proclamation No. 307/2002, *Federal Negarit Gazeta*, 9th Year, No. 20, p.2011

example, excise on alcoholic drinks, tobacco, fuel-super benzene, regular benzene, petrol, gasoline and other motor spirits, textile and textile products, motor passenger cars, station wagons, utility cars, land rovers, jeeps pickups and other similar vehicles, carpets, asbestos and asbestos products⁵⁵ seems to be in a position of serving the purpose of environmental tax and affect the health of human beings by themselves either as externality or simply because of being consumed.

The others products in schedule can be dangerous because of their polluting effect at the time of consumption. For instance, using fuel-super benzene, regular benzene, petrol, gasoline and other motor spirits, motor passenger cars, station wagons, utility cars, land rovers, jeeps pickups and other similar vehicles do not by themselves affect the health of human beings.⁵⁶ One may argue such products consumption results in pollution and excise tax on these products can be justified as an integration of environmental dimension of sustainable development via taxation because the preamble of proclamation indicates the environmental purpose and some of the tax bases of excise tax also shows potential danger to the environment either in themselves or their effect.

Provision of tax law on garments and textile as well show deliberate or accidental provisions, which aim at protecting the environment⁵⁷ because the production of textile products and garments might result in environmental pollution and excise tax imposed on them can serve environmental purpose. However, the tax rate of this sector seems to be less when it is compared with the other products. The excise tax rate for textile and garment is 10% while the tax rate for perfume, other types of alcohol is 100%, cigarettes 75%, fuel 30% and soft drinks 40%.⁵⁸ This shows that the emphasis given to environmental protection and getting environmental externalities internalized through excise tax is less than the emphasis given to discouraging consumption of luxuries goods, and harmful consumptions. Hence, author concludes that even though excise tax deals with environmental matter it is not adequate to internalize environmental costs of production by tax because lower tax rate is imposed on environment remote/few products compared to luxury and hazardous products higher tax rates. Thus, excise tax law does not adequately mainstream green growth as component of sustainable development.

3.3.2.4. Mainstreaming of green Growth within Income Tax Legislations

This part addresses if there is room for integration of green growth within various income laws of Ethiopia. At the outset, income tax hardly includes environmental tax as its purpose is certainly dissimilar from the purpose of environmental tax and two taxes are inversely related because income tax is expected to be reduced because of the revenue generated from environmental taxes. Nonetheless, income imposed on environmentally dangerous activities and on corporations like that of super fund of USA can be used to serve environmental purpose.⁵⁹ Accordingly, taking into account environmental tax's effect on discouraging investment- corporate taxation, tax on fringe benefits and bonuses given by polluting firms can also be one way of either discouraging environmental pollution or generate fund like super fund and use the fund for different activities of protecting the environment and averting the pollution thereby to ensure sustainable development included FDRE Constitution and GTP.

Returning to the case of Ethiopia law, however, the income tax proclamation has not been designated in a way it serves environmental purpose. This results from the fact that all the income taxes are taken to the federal or regional finance bureaus and custom authority without forming a kind of fund which resembles super fund and there is no corporate tax, tax on fringe benefit and bonuses for the purpose of environment.⁶⁰ In certain occasions it could have been also possible to dishearten environmentally unfriendly economic activities by imposing higher taxes and encourage environment friendly economic activities by giving income tax exemptions. For example, legislature can impose less tax burden or rates on firms which produce only positive externalities avoiding social cost and vice versa on other companies which produce at expense of environment and society. However, Former Federal Income Tax Proclamation Number 286/2002, Income Tax Regulation 78/2002, Regional State of Oromia Income Tax 2004, Regional State of Oromia Income Tax regulation of 2004 and other Regional states' income tax laws do not show any way by which environmental friendly economic activities can be encouraged and unfriendly ones can be discouraged. Worst of all, current 2016 Federal and Regional Income Tax proclamations do not have provisions for integrating environment as element of sustainable development. That is none of income tax rates, deductions or exemptions included under schedule E of 2016 Income Tax proclamation is responsive to mainstream environmental dimension of sustainable development.

In addition to absence of environmental fund from income tax revenue, the income tax exemptions in investment laws do not again show noticeable environmental purpose. The Investment Proclamation shows the possibility of specifying incentives and their extent by Regulation provided by the council of ministers as it can be read from Article 23 of Proclamation Number 769/2012. Council of Ministers Regulations No.270/20 provides certain income tax exemptions on desired kinds of investment activities. Articles 5 and 15 of the same Regulation reveal most of exemptions are export and economic growth driven kind of exemptions. That is our income tax laws both proclamations and regulations allow not only generous tax exemptions but also tax deductions for tax payers for certain social reasons. However, neither tax exemptions nor deductions are allowed for sake of preventing environmental degradation and air and water pollution albeit irreplaceable are disregarded relying on wrong assumption which states enormous economic growth and technological advancement to be stimulated by investment can cure environmental damage to waters and air. In author's view, this

⁵⁵Ibid, schedule attached to Excise Tax proclamation, p.2023

⁵⁶ Ibid

⁵⁷schedule attached to Excise Tax proclamation, p.2023 and Mebrahtom Fitwi, (2012), Environmental taxation under Ethiopian law: internalization of social costs-Case of Mesobo Cement Factory, supra note 24, p.61

⁵⁸ Schedule of Federal Democratic Republic of Ethiopia Excise Tax Proclamation No. 307/2002 supra note 54

⁵⁹Carter (2013) Tax revenue mobilisation in developing countries: issues and challenges and Mebrahtom Fitwi, supra note 24, p.61

⁶⁰ Ibid, p.62

wrong premise is causing grave environmental crisis and not only putting interest of future generation at stake but also endangering food security, sanitation and health concern of present generation. Hence, the income tax exemptions are unresponsive in encouraging environmental friendly investments and in causing externalities internalized.

3.3.2.5. Environmental Tax within Turnover Tax (TOT)

Like VAT and other kinds of taxes turnover tax can be used as a means of regulating environmental tax through different mechanisms. Accordingly, the preamble of turnover tax proclamation Number 308/2002 indicates that turnover tax is provided to complement Value Added Taxes because taxable transactions involving less than 500,000 are excluded from the VAT kingdom on account of administrative feasibility and other policy consideration. As it has been discussed in section 3.3.2.1, VAT is not responsive to environmental matter since neither zero rated transactions nor allowed exemptions mainstream sustainable development discarding environmental cost internalization purpose. The same is true with turnover tax as neither its zero rated transactions nor allowed exemptions integrate green growth aspect of sustainable development. This enables author to conclude that the legislative malfunction to consider environmental tax in value added tax also exists in turnover tax. This is self-evidenced by Article 2(1) of TOT proclamation No.308/2002 which makes the cross-reference to VAT proclamation No.285/2002 terminologies lacking green growth integrating provisions..

Article 3 of the TOT proclamation shows that turnover tax shall be paid on taxable activity carried out by those of them, who are registered to pay such tax. According to the Turnover Tax Proclamation, taxable transaction is provision of goods and services at the time of taxable activity.⁶¹ When one person provides goods and services to some other person, there will be Turn over Tax provided that the other conditions are fulfilled.

In addition, Art.4 of TOT proc.No.308/2002 shows the tax rates are 2% for goods and services provided locally, for contractors, grain mills, tractors, and combine harvesters, and 10 % for the other taxable transactions. This is indication of the differential treatment of taxable transaction by imposing different rates. However, the differential treatment of the taxable transactions by different tax rates does not show any purpose of environmental tax for integrating sustainable development. Neither the taxable transactions under the 2% rate of turnover tax show less potential danger to the environment nor the unspecified ones, which are under the 10%, are again kind of transactions, which have potential harm to the environment being incompatible with goals of sustainable development. As a result, author, argues that there can be environmentally damaging and helpful transactions which can together be under the 10% and 2% tax rates irrationally without due concern to environmental cost and effect of transaction disregarding sustainable development.

Furthermore, the exemptions do not again portray environmentally responsive purpose of sustainable development. This can be inferred from the Turnover Tax Proclamation 308/2002 under its Article 7 which provides a number of exemptions, which do not show environmental tax purpose. Tax exemptions, under Turnover Tax proclamation: related to transfer of buildings, rendering financial services, supply of currency, religion, child care, humanitarian, and education related services, supply of prescribed drugs specified in directives, supply of goods or services to workshops 60% of whose employees are disabled persons, supply of books, electricity, kerosene, and water supply, provision of transport service, fees related to permits and license⁶² do not serve any particular ecological purpose of sustainable development. Similar to the VAT, the turnover tax proclamation under these exempted taxable transactions lists electricity, kerosene, and water supply, provision of transport service as exempted transactions. Nonetheless, as it has been formerly argued in section 3.3.2.1, supply of kerosene, and provision of transport service may more possibly bring about certain environmental contamination contradicting values of sustainable development. Exempting of such environmentally harmful activities from tax bases and taxable transactions can be said to be against ecological dimension of sustainable development and shows inadequate role of TOT in promoting environmental concern.

In relation to incorporation of ecological interest under TOT proclamation, TOT does not include provisions, which aim at regulating environmental harm nor does it rectify possible tax distortion by shifting tax base from labor to environment unfriendly business tax bases.⁶³ That is to mean like VAT and other taxes either deliberately or due to poor draftsmanship, the turnover tax does not take into consideration the environmental aspect of sustainable development and hence, its role is low in integrating environmental wing.

3.3.2.6. Environmental Tax under Other Laws of Country

A. Environmental Tax under Environmental Law

Environment Protection Authority Establishment Proclamation No. 295/2002 does not clearly show integration of green growth that either the Federal or Regional Environmental Authority or Agency can utilize environmental tax to realize sustainable development included in Article 43 of the 1995 FDRE Constitution. Beside this, the tax power allocation clause of the FDRE constitution left mainstreaming of ecological dimension of sustainable development through fiscal policy categorizing environmental tax under Art.99 undesignated taxes to be determined by decision joint session of House of People Representative and House of Federation. Environmental legislation does mainstream taxation as tool for internalizing environmental costs failing to establish environmental fund to be used to rectify environmental damages. However, proclamation No. 299/2002 shows the opportunity of imposing environmental tax in different context. Article 10 of the same proclamation shows that incentive for the introduction of environmental

⁶¹ Article 2 (3) of Turnover Tax Proclamation Number 308/2002, *Federal Negarit Gazeta*, 9th year No.21, pp.1832-1866, 1840

⁶² *Ibid*, Article 7 (1) (a) (I), this provision exempts many transactions from turnover tax but none of exemption is environmentally responsive because even environment unfriendly activities like kerosene are exempted.

⁶³ Mebrahtom Fitwi, *supra* note 24, p.63

friendly technologies can be determined by regulations of council of Minister. Article 10 (2) of same adds lucidity that incentive may include customs duty exemptions when such technologies are imported. Even though this can be one of the environmental taxes, this has been provided as an incentive included in customs duty although disincentive is not included.⁶⁴ The jurisdiction of exemption of customs duty is determined by the jurisdiction of that customs duty not the jurisdiction of environmental tax. Nonetheless, it is dubious if regulation, which provides other exemptions including environmentally friendly technology, without being included in other taxes or charges, can be enacted.

Since the above problems are pending, Proclamation No.299/2002 does not seem to accommodate the revenue purpose and environmental pollution mainstreaming dimension of sustainable development. There are two choices either to allow license or refusal to undertake certain project according to Article 4 of proclamation 299/2002. For instance, Article 4 (2) of the proclamation 299/2002 shows that in assessing the environmental impact and benefit of certain project, error is preferred in the side of caution to benefits of the project. This provision shows that the benefits and impacts shall be considered in determining impact assessment and if the benefit is more than the impact, the project will be approved. However, since negative externalities would not be known at time of assessment so far there is no mechanism to integrate sustainable development to avert externalities in the form of tax on firm.

Unlike the above laws, pollution control proclamation number 300/2002 seems to show flexibility to mainstream sustainable development by which environmental tax can be one mechanism of controlling pollution. One of the ways by which pollution is controlled is making the polluter cover the cost of cleaning in addition to other administrative measures. Article 3 of the pollution control proclamation number 300/2002 orders that cost of cleaning is to be determined by the authority. The authority may then determine the cost of pollution and this can be imposed in the form of charge or fee. Moreover, Article 4 of the Pollution Control Proclamation shows that permit is mandatory to dispose wastes. It does not, however, show the need for the consideration of environmental tax in deciding whether license has to be given or not. The precondition of license does not seem to allow environmental tax, even though charges for services related to license permit process can be imposed.⁶⁵ The fee paid as license fee does not seem to aim at internalizing environmental externality even though it might have regulatory role because fees would go to tax authority as there is no environmental fund. Hence, role of pollution control proclamation number 300/2002 is inadequate in internalizing environmental externalities.

Other laws, which aim at regulating the environment and which could have been designed in a way they include environmental tax, do not again use environmental taxation as one means of regulating the environment and to mainstream sustainable development. For instance, water resource management council of minister Regulation No.115/2005, which deals about a permit to use water, does not provide the possibility of imposing environmental tax. Article 11 of the regulation shows there is a need of water discharge permit and Article 3 (e) shows that pollution of water may result in termination of water usage permit. Moreover, the regulation provides different obligations including fees and charges attributable to license according to the attached schedule.⁶⁶ However, payments do not consider the extent of externality because payment for the process of giving permit related to service and payment for environmental externality are different issues.⁶⁷ Thus, environmental laws seem to play more regulatory role compared to tax above tax laws but they are not adequately responsive to internalize environmental costs by using environmental taxes.

B. Environmental Tax under Regional States' Laws

Generally, there are proclamations and regulations, under regional tax or environmental laws which pave a way to subsume environmental taxes directly or indirectly to mainstream sustainable development in the regional states' which are member of Ethiopian Federation. For instance, Oromia regional State Sanitation proclamation 1990, Article 8(9) empowers the municipality to take any measure to keep the sanitation of cities. Environmental Pollution Proclamation of 1996 of the same region can also be exercised to impose environmental taxes and regulate the environmental pollution. Other regional states have their own comparable laws to regulate the environment on the same area. Data analyzed for study reveals that such opportunities have not been used so far.⁶⁸ However, there are certain provisions, which seem to be environmental tax laws like penalties, land use fees, royalties' and soon under agricultural tax laws but they do not have the direct purpose of making environmental pollution internalized.

4. Conclusion and Recommendation

4.1. Conclusion

There is no consensus among authors or literatures on blue print definition of tax. Neither international organizations like OECD or IFM exactly defines what constitute tax nor do Ethiopian tax laws provide acceptable definition of tax and its scope which may in turn affect role of tax in promoting all-rounded developmental concerns of society.

Looking at purposes of Ethiopian tax laws, inter alia, they aggressively give primacy to collect more tax revenue and achieve economic growth- mere accumulation of growth i.e. albeit inclusion of aim to discourage consumption of hazardous and luxurious goods by some of Ethiopian tax legislations, main rationale of Ethiopian tax laws seems generation of revenue to cover expenditures made to increase economic growth. The analysis of rules, policies and practices reveal that Ethiopian tax legislation does not

⁶⁴ Ethiopian Environmental Protection proclamation No. 299/2002 Ethiopian Customs Duty Administration Proclamation No.622/2009

⁶⁵ water resource management council of minister Regulation No.115/2005

⁶⁶ water resource management council of minister Regulation No.115/2005

⁶⁷ water resource management council of minister Regulation No.115/2005

⁶⁸ water resource management council of minister Regulation No.115/2005

sufficiently mainstream the three dimensions of sustainable development owing to the following reasons. Primarily, role of taxation for stimulation of economic growth is inadequate, inoperative and inefficient because: (1) tax fails to have pro poor tax incentives and tax law lacks device to avert inflation and redistribute wealth from rich to poor; (2) contrary to pro poor policy to eradicate poverty tax laws give incentive to rich class, for example, investment law (both new Investment proclamation No.769/2012 and its Implementation Regulation No.270/2012) gives foreign investors generous tax incentives, which go to treasure of foreign country failing to attract investor because Ethiopia does not have tax sparing treaty which recognize reduction of tax incentives to foreign investors, that may reduce tax revenue which can be used to facilitate economic growth and social services because sovereign developmental state that compromise revenue is lost development.

Secondly, Ethiopian tax law is not criticized only for inadequacy to realize sustainable economic growth but also it does not have enough room to promote social justice for tax legislation failure to reduce large gap between poor and rich through provision of public goods financed by taxation from capable class and tax bases harming society. Analysis of data reveals that inadequacy of Ethiopian tax law to integrate social concern dimension of sustainable development owing tax legislations failure to give tax incentives, exemptions and subsidies to poor farmers or other lower income class; (2) benefits of public expenditure accrue more heavily to the rich than poor owing to non-exclusiveness of social services or infrastructure like roads, utilities, etc. because there is no mechanism to make poor beneficiary of public services and non-exclusionary nature of public goods; (3) Ethiopia does not have taxes intended to reduce gap between poor and rich nor do other existing types of tax laws address social and equity aspect of taxation, e.g. there is no wealth and corporate tax with high tax rate; (4) failure to design tax in a way that identify exact person, who has liability to pay the tax and who bears tax incidence that may in turn lead to imposition of unfair tax burden violating principle of equity and ability to pay.

Thirdly, beside inadequacy of Ethiopian tax laws and policies to integrate economic growth and social dimension of sustainable development, taxes in different tax legislations fail to mainstream green growth and to internalize environmental social costs leaving society in disadvantaged position. That is although country's policy is pro green growth, the zero rated transactions and exception in the VAT and Turnover Tax do not respond to sustainable development failing to impose environmental tax and internalize environmental externality.⁶⁹ The different tax rates in the Turnover Tax do not again show any observable and intended environmental tax connected purpose to internalize environmental social cost.⁷⁰ The income tax does not once more illustrate either the purpose of correcting distortionary taxes or internalizing environmental externality. There is no corporate income tax, tax on bonuses and fringe benefits which aim at enhancing environmental wellbeing targeting tax bases contradicting green economy.⁷¹

However, this does not signify that none of Ethiopia tax laws provisions demonstrate environmental taxes purposes and deny roles taxes can play in this regard. There is law which regulates environmental concern, for instance, the excise tax has provisions that prohibit consumption of hazardous products and luxury goods. There are also provisions which discourage the use of polluting inputs like petroleum and thereby regulate environmental pollution through taxation. All the same the problem is, none of the excise tax provisions seem to be intended to protect the environment because more stress is given to the inelastic kinds of commodities to collect revenue and luxurious goods to discourage consumption of such goods and the revenue collected in excise tax is taken to the general revenue because there no environmental fund under Ethiopian fiscal policy and legal system. Neither environmental law provides promising solution to mainstream ecological component of sustainable development allows the environmental authority to propose tax incentive or disincentive to be enacted. That is not only tax laws fail to integrate sustainable development including growth, social dimension and green economy but also environmental laws themselves to seem to be insufficient to solve environmental matters and other components of sustainable development intended by Ethiopia's Growth and Transformation Plan. Thus, Ethiopian tax and ecological legislations are still inadequate to tackle environmental matter which is integral part of sustainable development.

4.2. Recommendation

The author has proposed the following general recommendations with regard to the problems identified above in relation to economic growth, social concern and integration of environmental matter under tax laws to mainstream three components of sustainable development addressed by this article:

- Amendment to Ethiopian VAT, Excise Tax, 2016 Income Tax, and Turnover Tax proclamations which should incorporate more tax exemptions, deductions, tax wholly days and tax subsidies in favor of poor in way to integrate the promotion of sustainable economic growth and social concern dimension of sustainable development. The revision to tax legislations should also include clauses which help to regulate inflation and reallocate the wealth by using tax.
- Law maker should redesign VAT and corporate tax in a way which may not lead to the shift of tax burden or incidence from rich to poor and thereby ensure social equity of people by taxation i.e. impose such taxes distinguishing bearers of tax incidence and tax payer law intends to feel tax liability.
- Policy maker and legislature should broaden tax base by introducing new tax bases agricultural income taxes, and bonuses taxes with high tax rates, inheritance and wealth transfer taxes, environmental taxes and others to generate sufficient revenue for economic growth instead of imposing more tax burden on few tax payers from lower class.
- Finally, coming to the disregard of environmental concern and non-integration of internalization of environmental externalities under Ethiopian tax and other laws, legislator has to either come up with new independent all integrating environmental tax or amend existing tax laws like VAT, Excise Tax, Income Tax, and Turnover Tax proclamations and

⁶⁹VAT Proclamation, 2002, and Turnover Tax Proclamation 2003

⁷⁰ Ibid.

⁷¹ Birhane Gebreigzabiher, Fringe Benefits Taxation under Tigray Income Tax Law (unpublished thesis),2012, p.3

environmental laws including adequate provisions to internalize environmental social costs to firms who pollute the environment and thereby improve their efficiency. Such independent environmental tax law and environmental tax provisions under existing tax laws should be introduced in a way they regulate the environment, give discretion of employing different technologies that avoid environmental pollution, generate revenue for different environment related expenses and ensure social justice by avoiding disincentive effects of taxes on tax payers. Revenue collected from such taxes should be saved at independent fund established for protection of environment. Exemption and Zero-rated taxes in the Value Added Taxes and Turnover Taxes should include environmental friendly taxable transactions like sale of wastes, sale of environmental friendly technologies and machines. Exemptions which encourage environment friendly activities should be included in excise taxes and the rate differences shall reflect environmental purpose. There should be tax incentives for environment friendly activity and tax disincentives for environment aloof activities. Finally, there must be shift from taxation of older tax bases like labor, businesses, goods, etc. to the taxation of bads like natural resource consumption including water, soil, and air to mainstream economic, social, and ecological/green growth dimension of sustainable development.

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