

AN ACADEMIC INQUIRY INTO THE CONTROVERSIAL TAXATION PARADIGM OF CHURCHES

*Azanya Abraham Maslow*³⁴

ABSTRACT

As churches play a pivotal role in shaping societal values and norms, the question of their fiscal contribution to the nation's development becomes crucial. The immunity granted to religious institutions has been open to questioning due to the present business orientations in churches featuring an unorthodox model of accumulating wealth. A painstaking look at the growing commercial activities and financial investments of churches, suggests that taxing these institutions aligns with the principles of fiscal equity and social responsibility.

This article delves into the contentious issue of taxing churches in Ghana, shedding light on the evolving economic landscape and the increasing reliance on capitalistic tendencies within religious institutions. It also examines the historical context of tax exemptions for religious entities and explores the changing dynamics that warrant a reconsideration of this traditional stance. The article also navigates the winding and serpentine intersection of faith and finance, aiming to unravel the discourse on whether churches should be subjected to taxation, particularly in light of their growing exploitative inclinations. Additionally, it discusses potential benefits such as increased government revenue and the promotion of transparency within religious organizations.

³⁴ Azanya Abraham Maslow; University of Professional Studies (Law school); Azanyamaslow@gmail.com

INTRODUCTION

One of the cardinal principles of every tax system is equity.³⁵ By this it means the taxpayers, who are subject to the authorities of the state contribute to its upkeep in proportion to their income and ability. By extension, the principle of equity posits that taxpayers, depending on their level of income, are treated equally by the law without any preferential treatment granted to any category of people. In the heart of Ghana's vibrant cultural tapestry lies a complex debate surrounding the taxation of churches, institutions that not only serve as spiritual pillars but also increasingly exhibit characteristics reflective of capitalistic endeavours. The historical tradition of granting tax exemptions to religious entities, rooted in the respect for freedom of worship, is now facing scrutiny in the wake of evolving economic paradigms.

Ghana, like many other countries, has long upheld the principle of separating church and state, extending tax exemptions to religious organizations as a means of safeguarding religious freedom.³⁶ However, as the country witnesses a change in economic activities within churches and an embrace of capitalist principles, the need to reconsider these exemptions becomes evident.

TAXATION: EXPLORING ITS ESSENCE AND PURPOSE

More than two centuries ago, Benjamin Franklin, a distinguished Founding Father of the United States, astutely observed that amidst life's uncertainties, only death and taxes remain inevitable. Strikingly, this observation retains its relevance in our contemporary context, underscoring the enduring nature of these certainties across time.

³⁵ Taiwo Ojoye, 'Legal Perspectives on Taxing Churches, Mosques, NGOs' *Punch Newspaper* (Nigeria, 29th June 2017).

³⁶ Beni, Alphonsus, Juliet Banoeng-Yakubo, and Bernard Oduro-Amankwaah, 'Philosophy of Taxation and Tax Exemptions of the Churches in the Ejisu Municipality of Ghana' (2021) 10(2) *International Journal of Innovative Research and Development* 1-17.

A tax denotes a mandatory monetary imposition or an alternative form of assessment levied upon a taxpayer, whether an individual or a legal entity, by a governmental body. This imposition serves the collective purpose of financing government expenditures, public outlays, or functioning as a regulatory measure to mitigate and diminish adverse externalities.

One primary rationale for tax imposition is to fund government spending. Taxes serve as a vital revenue source for governments to finance essential functions such as public infrastructure, education, healthcare, and defence. According to renowned economist John Stuart Mill, in his seminal work said that, “**taxes are indispensable for maintaining public order and ensuring the provision of public goods.**”³⁷

Taxes play a crucial role in supporting public expenditures, and contributing to the welfare of society. In the work of Alan Bindler, Richard Abel Musgrave emphasizes the role of taxes in facilitating equitable distribution of resources for public services, thereby enhancing social well-being and reducing economic disparities.³⁸

Taxes are regulatory tools used to address negative externalities, as highlighted by Nobel laureate Arthur Pigou³⁹ Taxing activities that generate harmful externalities, such as pollution or overconsumption of certain goods, is a means to internalize the societal costs associated with these activities. Thus, taxes are essential instruments employed by governments to fulfil critical functions, ranging from funding public initiatives to regulating detrimental externalities.

³⁷ Mill, John. Stuart., Laughlin, Principles of Political Economy. (, J. L., ed.: (1884)

³⁸ BLINDER, A. N. S., SOLOW, R. M., BREAK, G. F., STEINER, P. O., & NETZER, “*The Economics of Public Finance*” D. (Brookings Institution Press. 1974). (pp. i–vi).

³⁹ Pigou Arthur Cecil, “*The Economics of Welfare*” (London: Macmillan 1877-1959. (1924).

GENESIS OF TAXATION

Taxation has its historical roots in the first years of record-keeping: the earliest signs are recorded on clay tablets found in Sumeria in southern Mesopotamia, part of modern-day Iraq. Tax records their date from around 3300 BC. Archaeology confirms that Egypt employed one of the first tax systems: between 3000 and 2800 BC, Egyptian pharaohs employed collectors or scribes to impose levies on a range of goods and produce, such as cooking oil. Tax was collected twice a year and provided revenue primarily to fund government activity, to support the head of state and to finance the conduct of wars.

Ancient Greece and Rome are often cited, too, among the earliest regimes attempting to raise taxes in an effort to generate funds for government expenditure. Greek city state-imposed taxes on commodities when wars were fought or when there was an emergency, but (where some form of democracy applied) usually direct taxation only applied to the part of the population entitled to vote. In times of peace, the state governors sometimes paid back revenue no longer required for military conflict

In the early 20th century, about one million people in Britain were subject to income tax. Lloyd George raised tax rates in the 1909 People's Budget, establishing Liberal social policies that laid the foundation for the Welfare State. Public expenditure increased significantly during the First World War, the Great Depression, and the Second World War. The burden on taxpayers was partly offset by the government taking out large loans but also by significantly raising taxes. In 1944, **'pay-as-you-earn' was introduced, allowing income tax to be deducted directly from wages, a legacy that remains from the Second World War.**

TAX EXEMPTIONS FOR RELIGIOUS INSTITUTIONS AND OTHER ORGANIZATIONAL ENTITIES.

The importance of taxes in the functioning of society cannot be overstated. Taxes are essential for the provision of public goods and services, infrastructure development, and the overall welfare of the populace. Without the systematic imposition and collection of taxes, governments would struggle to meet their obligations to society, leading to deficiencies in public services and potentially hampering the development of a country.

Given this critical role, it is logical to assume that all institutions generating income should contribute to the tax pool. This would include businesses, non-profit organizations, and other entities that engage in economic activities yielding revenue. The rationale behind this is straightforward: every entity that benefits from the public infrastructure and services financed by taxes should, in principle, contribute to their maintenance and development. However, the tax codes of many countries carve out exceptions for certain types of institutions, rendering them exempt from paying income tax. One example of such institutions is churches. The exemption of churches and, by extension, other religious organizations from income tax obligations is rooted in various considerations. These can range from the recognition of the social and charitable contributions of religious institutions to historical precedents and the desire to maintain a separation between state and church. Churches often provide community support, social services, and charitable aid, activities that align with the public good and might otherwise require government funding.

This exemption, while practical in some respects, raises questions about fairness and the distribution of the tax burden among different sectors of society. The debate surrounding this

issue often hinges on the balance between acknowledging the unique contributions of religious and certain other non-profit organizations to society and the need for a broad and equitable tax base that does not disproportionately burden other institutions and individuals.

The church is seen as an avenue for believers to worship and praise God. Thus, it has become quite disconcerting that recent observations highlight a shift towards more capitalistic endeavours by some religious institutions which are supposed to be a place of worship. This evolution raises eyebrows among the general populace, particularly among those who diligently fulfil their tax obligations. The crux of the matter lies in the perception that churches, accumulating significant financial resources annually, should contribute to the national coffers, especially considering the developmental needs of a developing nation like Ghana.

Under the current legislative framework, specifically referencing *Section 97 of the Income Tax Act*, there exists a pathway for churches to be recognized as charitable organizations, thereby exempting them from tax obligations. This exemption is contingent upon the fulfilment of specific criteria, including the institution's commitment to charitable or religious activities of a public nature, adherence to a constitution that bars political affiliations or benefits, and the prohibition of private benefits outside their charitable purpose. This legislative provision ensures that churches, as long as they operate within the outlined charitable scope and do not engage in profit-driven business ventures, remain tax-exempt. The rationale behind this policy is ostensibly to encourage and support the philanthropic and societal contributions of religious organizations.

However, this stance becomes contentious when considering the substantial revenues some churches generate, which could arguably support national development through taxation.

In the past, churches were perceived as public institutions dedicated to promoting the welfare of society. The capitalist inclinations of churches have become increasingly evident, particularly in the opulent lifestyles of their leaders, often self-styled as prophets, bishops, archbishops, and various other titles to garner attention.

In a recent interview with DW, an international media group, Daniel Obinim, the founder of **International God's Way Church**, claimed that he received over 20 houses, eight Range Rovers, five SUVs, and three Chryslers from Jesus. This supports the conspicuous idea that taxing the churches will promote transparency and accountability in the conduct of these so-called shepherds.

The author's contention in this paper is not to scrutinize the church's income sources or pass judgment on its utilization. Instead, the focus is on establishing that churches in Ghana are amassing significant wealth, sometimes to the detriment of their congregants. In light of this, it appears illogical not to subject churches to taxation. Taxing churches could contribute to society's welfare, benefiting all citizens. The author advocates for a scenario where, even if individual congregants do not directly reap the rewards of their contributions to the church, they can indirectly benefit when the government taxes these churches and allocates the funds for societal improvement.

The concept of taxing churches is not entirely novel, as several jurisdictions across the length and breadth of the globe have implemented policies aimed at taxing the incomes generated by religious institutions. Notably, countries like Denmark, Switzerland Iceland and various European nations have set precedents in this regard. Considering this, it wouldn't be entirely alien for a country like Ghana to follow suit and implement taxation on churches, especially given recent trends

indicating that some religious institutions in Ghana are adapting capitalistic tendencies contrary to their altruistic fundamentals.

Drawing from the experiences of these developed countries, it becomes evident that taxing churches is not an unprecedented or radical idea. For Ghana, a country with a rich religious landscape, considering such a move might be a pragmatic step towards ensuring fiscal responsibility and promoting transparency within religious institutions.

Recognizing the potential implications of taxing churches, it is evident that various challenges could arise, with one prominent concern centring on the impact such taxation would have, particularly on smaller churches.

Smaller and non-profit religious organizations may encounter difficulties in fulfilling tax obligations, which could, in turn, restrict their capacity to engage in charitable activities. It is imperative for any taxation framework to take into account the varied characteristics of religious institutions and proactively address unintended consequences. Consequently, the author argues that, to safeguard smaller and non-profit churches from undue financial strain, the basis for taxing churches should be solely contingent on the total number of congregants a specific church has at a national level. The proposal suggests that only when a church's congregation surpasses the threshold of 8000 on a nationwide scale should it become subject to taxation. This approach aims to strike a balance by targeting larger congregations that may have the financial capacity to contribute while alleviating the burden on smaller religious entities focused on charitable endeavours.

It must be noted that the population of a church is not the determinant of taxation in churches, but the rate at which churches generate their wealth, what they acquire, and how well they manage their properties for the benefit of the people at a commendable level.

JUSTIFICATION FOR THE IMPOSITION OF TAXES ON CHURCHES

In Ghana, churches, typically known as charitable faith-based organizations, take on an interesting legal status. They are registered as limited companies by guarantee, a classification suggesting that their primary purpose is not profit-making. Consequently, these churches are exempted from paying income taxes on their core operations.

In the bureaucratic world of legal designations, churches in Ghana opt for the status of limited companies by guarantee, signalling a commitment to prioritize their charitable and community-oriented initiatives over financial gains. This classification allows them to operate without the burden of income taxes on their essential activities.

The question of whether churches should be subject to taxation has been a topic of ongoing debate, with prevailing exemptions based on the assumption that religious institutions do not engage in profit-oriented ventures. The prevailing contention suggests that churches are exempt from taxes as long as they refrain from engaging in businesses that generate income or profit. This exemption, however, merits a closer examination when considering the diverse commercial activities churches are involved in. Contrary to the notion of complete exemption, it becomes evident that certain church practices, such as the sale of paraphernalia, consultation fees, and the marketing of religious items like holy water, anointing oil, charms, talismans, rings, handkerchiefs, DVDs, holy stickers, and even Bibles, can be construed as commercial transactions that bring direct financial benefit to the church.

Central to the argument is the ambiguity surrounding the definition of "business" within the religious context. While the traditional view holds that non-profit activities should be exempt from taxation; the multifaceted nature of contemporary church activities challenges this perspective. Selling religious items and charging fees for pastoral consultations may not align with the traditional understanding of a church's philanthropic role. The need for a refined definition of business activities becomes apparent as these practices contribute directly to the financial coffers of the church.

The legal landscape further complicates the matter. Though churches are generally perceived as non-profit entities, the definition of business activities may vary. This situation prompts a **consideration of legal scholar HLA Hart's perspective, which posits that “*taxes can serve not only revenue purposes but also act as a deterrent against certain activities*”**. In this context, taxing churches engaged in profit-oriented ventures could be seen as a means to discourage the exploitation of religious sentiments for personal financial gain, aligning with broader legal principles.

The financial model where churches pay their pastors directly from their earnings raises pertinent questions about the essence of church operations. This point focuses on the paradox inherent in churches being seen as beacons of hope and philanthropy, yet their leaders are compensated from the financial contributions of the congregation, if churches are indeed altruistic entities existing solely to aid society, the practice of paying pastors from congregation contributions challenges this fundamental assumption. This is prevalent among Nigerian churches whereby pastors acquire edifices for their living and for business purposes to their benefit, and also build institutions that seven percent of the members of the church cannot afford to attend.

Additionally, by imposing taxes, authorities may discourage individuals from founding churches solely for personal enrichment. This aligns with HLA Hart's perspective on the purpose of taxes, emphasizing that they can be imposed not only for revenue purposes but also to deter specific activities. Taxation serves as a safeguard, preventing the exploitation of religious sentiments for personal gain without explicitly criminalizing such activities.

Drawing on HLA Hart's "The Concept of Law," this point provides a legal foundation for the use of taxation as a means of deterrence. It expands on the idea that taxes can discourage certain activities even without express indications that these acts are to be abandoned as criminal offenses. HLA Hart's concept posits that taxes can act as a deterrent, discouraging activities without explicitly deeming them criminal. Taxing churches engaged in potentially exploitative practices aligns with this legal principle, providing a justification for using taxes as a preventive measure to maintain the integrity of religious institutions and curb financial exploitation.

Taxing churches in the Ghanaian landscape can play a pivotal role in economic redistribution and social development. As tax revenues are collected from churches engaging in commercial activities, these funds can be strategically reinvested by the government to address critical societal needs. This includes funding education, healthcare, infrastructure projects, and poverty alleviation programs.

By implementing a fair and transparent tax system for churches, the government can enhance its capacity to address pressing issues such as inadequate healthcare facilities, underfunded schools, and insufficient infrastructure. This, in turn, fosters a more equitable distribution of resources and promotes social development across various sectors.

CONCLUSION

The contention that churches are entirely tax-free may require reconsideration in light of the diverse commercial activities in which they engage. The sale of religious items and charging fees for services, while aligned with their spiritual mission, also raises questions about financial practices and transparency. As debates on church taxation persist, there is a pressing need for a nuanced approach that considers both the philanthropic and commercial aspects of contemporary church operations, ensuring that tax policies align with the evolving nature of religious practices in Ghana.