THE IMPACT OF DOUBLE TAXATION TREATIES ON THE DOMESTIC TAX REVENUE GENERATION: THE CASE OF MALAWI

MASTER OF BUSINESS ADMINISTRATION THESIS

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JUNE 2010

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A thesis submitted to the Faculty of Commerce, The Malawi Polytechnic, University of Malawi, in partial fulfilment of the requirements for the degree of Master of Business Administration.

JUNE 2010

Declaration

I declare that this research report is my own, unaided work, except where acknowledged in the text and references. It is being submitted in partial fulfillment of the requirements for the award of Master of Business Administration (MBA) in the University of Malawi, it has not been submitted before for any degree or examination in any other university.

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CERTIFICATE OF APPROVAL

We declare that this dissertation is from the student's own work and effort. Where he has used other sources of information, it has been acknowledged. This dissertation is submitted with our approval.

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Dedication

This work is dedicated to my children Christopher Anthuachino, Maria Magdalena II, Maria Dorotea II, Mikhail Gabriel III and my dear wife and friend Audetta. Together, they have constantly kept me reminded that I can meaningfully honour the souls of my late father Gabriel I, late brother Thomas and late son Gabriel II by continuously working hard in class. It pains me though, to visualize and accept the hard fact that the three departed souls will never ever have a chance to see, witness and enjoy the fruits of my academic achievements. I however, comfort myself in the belief that one day we will reunite in heaven.

May their souls rest in eternal peace.

Acknowledgement

I was set to achieve my goal with a sense of excitement, adventure, confidence, faith, hope and above all joy and dedication. As a fulfillment to this dream I had to undertake this academic challenge, putting my strength on trial and wallowing in self struggle without losing sight of my goal. Matching towards its realization I met some discouragements, but such negative influences never made any lasting impact on me.

In order of merit, I sincerely thank Almighty God for having given me a chance to undertake the studies in the master of business administration, my mother Gogo Nadishi Valentina Mzowa for the life she gave me, all the lectures who devoted their time to perfect my understanding of the course materials, my friends Sungani Mwale, Samuel Kamkosi, William Yafete and the entire MBA class of 2005. My supervisors, Mr Bentry Mkwara and Dr James Buliani, who spared their precious time coaching me to come up with an academically acceptable document inorder to graduate, I will always be indebted to them.

Mr Kelvin Nyirenda a man who helped me in proofreading this document is greatly thanked too. All the participants to the study survey are adorably thanked for their input. My editor, Mrs Karen Butao is massively thanked for her hand in the thesis.

Above all, I sincerely wish to thank my dear wife Audetta, a lady of immerse understanding who allowed me to be left alone during my studies.

Abstract

This thesis analyses the impact of double taxation treaties on the domestic revenue generation in Malawi. The thesis systematically compares and contrasts Malawi with other developing countries with the view of establishing practical experiences and pieces of evidence. Direct foreign investment benefits theory has been used to guide this research. This theory has further aided in establishing a comparative understanding of the benefits and detriments that come with double taxation treaties in developing countries in general.

Primary data collection through questionnaires was conducted in the six tax advisory firms and the Malawi Revenue Authority (MRA). This was done through closed and open-ended structured questions. The methods used included self administered questionnaires and focus group discussion. An average of 85.5% of the tax specialists contacted responded to the survey giving an average response rate of 85.5%.

The results of the study faults the relevance of double taxation treaties in Malawi as the findings show a MK0.306 billion annual tax revenue loss during the years under study. In view of the study's findings, Malawi needs to seriously rework on its double taxation treaties currently in force to comparatively match the advantages which come with the much sought capital inflows.

The study concludes by suggesting that double taxation treaties effects on domestic employment, foreign direct investments, immovable property, technical fees, royalties, interest etc in terms of tax inflow and outflow remain of interest for future researches.

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List Of Acronyms And Abbreviations

MRA: Malawi Revenue Authority.

FGD: Focus Group Discussion.

OECD: Organization of Economic Cooperation and Development.

UNESOC: United Nations Economic and Social Council.

UN: United Nations.

UNCTAD: United Nations Conference on Trade and Development

IFA: International Fiscal Association

Chapter 1 - Background Information To Taxation

1.0 Introductory Background Of Taxation

Taxation started in Mesopotamia around 3500BC-1200BC when the written records first began to be compiled. In his study, Hudson (2000) points out that during these times, societies did not find it natural to finance public activities by taxing the privately held land and other sources of wealth. He further observes that such behaviour was largely because rent yielding lands and workshops were not yet privatized, and popular taxation came into being after the communities' subsistence holdings and public rent yielding estates were taken over into the private hands.

Although the oldest tax records were in cuneiform, the Sumerian writing, Adams (1993) acknowledges that the properly documented tax system was first introduced and administered in the Egyptian civilization by the Pharaohs as crop tax. This was during the time of Joseph of the Bible who was made in charge of the surplus corn gathering in Egypt. He further observes that the crop tax was successfully used during the seven year famine period in Egypt when distributing the corn to its citizens.

Coffield (1970) however, notes that the modern taxation was first implemented in the Great Britain under the leadership of William Pitt the Younger in his budget of December 1798. He affirms that this true income tax system was designed largely to generate revenues to pay for weapons and equipment in preparation for the Napoleonic wars.
The subject of double taxation treaties on the other hand is rather new. Its history is traced to the League of Nations after the income taxes became important during the First World War. The emergence of income tax complexities forced some European countries to seek

the intervention and guidance on taxation of cross border economic activities from the League of Nations. This was largely to avoid taxing same income twice in the hands of the same person by two different governments on the premise of crossing the border.

Double taxation treaties which are sometimes known as double taxation conventions, are international taxation agreements entered into by countries to avoid international double taxation. Woolf et al (1985) observe that double taxation arises where a person is in one country and his/her wealth/income is in another country and both countries levy tax on the same wealth such that it bears two bites. Grego (1947) on the other hand refers double taxation to a situation whereby business profits are taxed both at the corporate and shareholders' levels. Thuronyi (1998) likewise observes that international double taxation which is also known as juridical double taxation means the application of the same type of tax in two or more states on the same taxpayer, the same taxable base or matter and in the same period. Joint Committee on Taxation (2006) on the other hand argues that double taxation treaties came into being as a measure of ensuring some administrative cooperation between countries caught up in issues of double taxation. They assert in affirmative manner that double taxation treaties provide mechanisms of resolving double taxation problems that arise between countries and facilitate consultations between tax officials of the governments involved.

1.1 Taxation History In Malawi

Unfortunately, there is no clear documented history about Malawian tax origins. Zimba (1980) observes that legend has it that it started in around 1891 when the British were trying to defend Malawi from the Portuguese who wanted to colonize the country. Zimba further observes that in the beginning, tax was being charged on the basis of one's dwelling place as hut tax, then poll tax. In complementing Zimba's observations, Brake (1975)

asserts that bicycles, radios were once bases for the owners to pay taxes to government. Brake argues that like in many other countries, tax in Malawi was based on wealth, social position and ownership of the means of production in the society. Sadly, he observes that due to poor orientation about taxation, the indigenous Malawians did not see any logic in funding the government ran by the white foreigners. This resulted into stereotyping taxation which brought heavy resistance and resentment by Malawians. He further asserts that the general belief during that time was that Malawians had nothing to do with foreign wars and public activities were believed to best be handled collectively by the communities in the areas where such wars and public activities were taking place and not through taxation.

Likewise, double taxation treaties in Malawi were negotiated and initially signed by the colonial government (Income Tax Manual, 1970). It asserts that realizing the cross border trading problems during the partition of Africa, the British government in Malawi entered into double taxation agreements with some of its trading partners. Upon attainment of self rule and independence, the Malawi government only ratified and continued with the double taxation treaties which were previously signed by the colonial government. There is little or no post independence input in most of our double taxation treaties currently in force (Brake, 1975).

1.2 Types Of Taxes

Income Tax Manual (1970) outlines that taxes are mostly classified as either direct or indirect. The Tax Manual states that direct taxes are levied on peoples' incomes while the indirect taxes are levied on their consumptions. Because of the charge imposed on consumptions, indirect taxes are usually known as sales tax. Taxes like Value Added Tax and Customs Excise Duty fall under this category. This is because such taxes are charged on goods and are usually experienced by the final consumer of such goods. In agreement to

the above observations, Hudson (2000) asserts that taxes like income tax, property tax, capital gains tax, wages tax and any other taxes that are levied directly on one's income are commonly referred to as direct taxes.

It is clearly outlined by the Income Tax Manual (1970) that both direct and indirect taxes exist in Malawi and are enforced by the Malawi Revenue Authority, the country's taxing body.

1.3 Tax Regimes

Reuven (2005) observes that there are two tax regimes widely followed throughout the world. These regimes are the source based and the resident based. Reuven further notes that resident based tax regime is a tax system that levies tax on persons, businesses and corporate bodies regardless of their country's boundaries. Bird and Oldman (1975) on the other hand observe that a resident based tax regime, levies tax from the residents' incomes regardless of the source of such incomes. This tax regime levies tax on the residents' worldwide income. A source based tax regime on the other hand, levies taxes on incomes that are generated from within a country's territorial boundaries regardless of the residence of the persons generating such incomes (ibid, 1975). This tax regime is based on the income's source.

Thuronyi (1998) on the other hand observes that the differences in the tax regimes however, have created numerous problems on how cross border incomes are taxed. He notes that the biggest problem in some instances is that same income is taxed twice upon crossing borders. This creates double taxation on the part of the taxpayer. He argues that the complication of the double taxation problem is that taxing jurisdictions do not follow one common principle of taxation. One taxing jurisdiction, may tax income at its source, while another jurisdiction will tax it based on the residence or nationality of the recipient.

He further argues that the consequence of double taxation is that certain activities are taxed at higher rates than similar activities located in a different jurisdiction. This leads to unnecessary relocation of economic activities in order to lower the incidence of taxation and other forms of tax avoidance come into play.

Merwe (2005) in agreement with Thuronyi notes that the problems presented by double taxation have long been recognized. He observes that with the growing integration of domestic economies into the world economy, countries have undertaken several measures to reduce the problem and impact of double taxation. An individual country for example, can offer tax credits for foreign taxes paid or outright exemptions from taxation of foreign source income. He further observes that double taxation treaties have therefore been negotiated between states to address the double taxation problem.

To avert the problems that come with double taxation, Government Notice No.150 (1971) acknowledges that Malawi has signed double taxation treaties with some countries, like United Kingdom in 1948, Zambia in 1949, Zimbabwe in 1949, Kenya in 1958, France in 1967, Switzerland in 1967, the Kingdom of the Netherlands in 1970 and the Republic of South Africa in 1971. Zimba (1980), Brake (1975) and Income Tax Manual (1970) however, note that Malawi does not tax foreign earned income as it is a source based regime. This posses a challenge for source based countries like Malawi to realize tax from all its residents that have invested elsewhere in the world (Bond and Samuelson, 1989).

1.4 The Historical Development Of Double Taxation Treaties

The United Nations (1979) reveals that it was the finance committee of the League of Nations that began to work on the issue of double taxation treaties in 1921. It notes that this was done in response to a requirement of the Brussels International Financial Conference of 1920 which was later joined by the Organization of Economic Cooperation Development (OECD), an all European grouping. The OECD became the first basis for double taxation treaty model. Grego (1947) asserts that the OECD double taxation treaty model was designed specifically to serve developed countries only and not the developing countries. He further points out that a thorough review of the OECD model shows no articles that reflect the economic problems faced by the developing countries, especially those in Africa.

According to Thomas (1994) the 1960s marked the era when the United Nations started showing some renewed interest in the problem of double taxation. He observes that this was largely due not only to the continued increase of developing member states but as part of the measures directed at promoting the flow of investment into poor countries. Thomas observes that the United Nations Economic and Social Council (UNESCO) considered it advisable to promote comprehensive bilateral double taxation treaties between developed and developing countries. Gravelle (1988) acknowledges that this was manifested in the UNESCO's resolution 1273(XL111) of 1967 by which it asked the Secretary General of the United Nations to set up a special working group. He further notes that the special working group that comprised tax experts established the United Nations (UN) double taxation model agreements between developed and developing countries. This group of experts eventually finished examining the draft agreements in 1979 based essentially on

the structure of the OECD model of 1963 but with more changes introduced (Broomhead, 1998).

Figueroa (2005) defines such agreements that countries sign to ensure that incomes do not suffer double taxation as double taxation treaties/agreements/conventions. He notes that such agreements may be bilateral or multilateral, depending on the choice of the parties involved.

1.5 Problem Statement And Rationale For The Study

This study investigates the impact of double taxation treaties on the tax revenue generation in Malawi. The researcher has been motivated to undertake the study because of the insufficiency in the local taxation literature on double taxation issues in general and on the effects of double taxation treaties on the tax revenue generation in Malawi in particular.

It is common knowledge that, the priority of any tax system will always be to tax the domestic income of the resident taxpayers. With the increasing internationalization of economic relations, however, even this goal means that attention must be given to international income issues (Thuronyi, 1998). He acknowledges that the globalization of the world economy impinges on developing and transition countries such that it is impossible for one country to isolate itself or its tax system. If a country operates the source tax principle he argues, then it becomes very necessary for such a country to have robust rules for the source of income to ensure that the source based tax is not avoided. Malawi follows the tax principle of source and as such needs to strike a difficult balance which ensures that income generated within its borders is properly taxed while at the same time ensuring that there are enough tax incentives to encourage foreign investors.

While the efficacy of tax incentives in attracting increased foreign investment may be doubted, any attempt to tax foreign direct investors effectively involves formidable problems of drafting the law and administering it (Brake, 1975). The investment choices for portfolio foreign investors and the tax avoidance techniques available to them mean that provisions of withholding tax on passive and employment income or collection by assessment on business income are not adequate at all (Woolf et al, 1985). They argue further that the requirements of the rules in the domestic tax law on transfer pricing, thin capitalization and tax havens can by no means cover the tax avoidance strategies available for the multinationals.

As way forward to best deal with these international economic activities, Malawi has on top of offering tax incentives opted to have double taxation treaties with some of its trading partners. Double taxation treaties assist in determining the taxing powers on specified incomes between two countries which are a party to the double taxation treaty. What is not clear however, is whether these double taxation treaties ratified have assisted Malawi government realize more tax revenues or not.

Bird and Oldman (1975) argue that most developing countries are unable to establish the exact tax revenues foreign income earners generate annually. They further argue that the inability noted, makes it difficult for developing countries to fully realize the benefits of international double taxation treaties. It is therefore important as noted by Thuronyi (1998) that lack of properly laid down principles that guide the operations of double taxation treaties in developing countries' tax statutes result into failure to benefit from such agreements. It is therefore imperative for the tax bodies and tax professionals in developing

countries to fully understand and appreciate the dilemma that disorients their countries on cross border incomes (Adams, 1998).

The studies by Osoro (1993) on Tanzania's tax revenue productivity and Kusi (1998) on Ghana's tax reforms do not have any direct bearing on double taxation treaties' impact on revenue generation. Mkwara (1999) on the other hand explains that Malawi's failure in developing aggressive tax policies on the revenue generation might have been caused by the tax surpluses that were experienced in the 1970s.

Recognizing the knowledge gap in Africa on double taxation treaties, Kaka (2004) notes that although more research has been done on taxation in general, not much is written on the impact of double taxation treaties on revenue generation in particular.

The absence of comprehensive local taxation literature that clearly explains the effects of double taxation treaties and the complexities involved in double taxation negotiations puts the underlining taxation principle of source at stake in Malawi. The agony created by the realization that the Malawi government may not be able to tell the exact magnitude of the effects of double taxation treaties ratified, justifies the intention of the researcher to embark on an investigation that establishes the impact of double taxation treaties on the revenue generation in Malawi.

1.6 The Research Question

In order to establish the true impact of double taxation treaties on revenue generation in Malawi, the following question is posed:

"Has Malawi's ratification of double taxation treaties with some of its trading partners resulted into tax revenue losses or not?"

1.7 The Objective Of The Study

The singular objective of this study is to investigate the impact of double taxation treaties on the tax revenue generation in Malawi. This objective will be met by answering the above research question.

1.8 The Limitations Of The Study

The countries that are party to double taxation treaties with Malawi refused to release data to the researcher. Their refusal was based on the fact that the double taxation treaties which such countries signed with Malawi do not have clear articles that allow exchange of information. The foreign earned income disclosures' data was also unavailable at the offices of the Malawi Revenue Authority. The absence of a clear statute in the Taxation Act that makes residents of Malawi disclose taxes levied/paid on their foreign earned income compulsory resulted into the data's unavailability at the tax office. The absence of such data will to an extent affect the comparative completeness of the data analysis and the findings of this study.

1.9 Organization Of The Thesis

Chapter 2 of the study critically reviews the literature that has a bearing on double taxation treaties in general and revenue generation in particular. It also endeavours to critic the relevant experiences on the impact of double taxation treaties in developing countries.

Chapter 3 focuses on outlining the methods and tools used in the data collection and analysis. It explains the methods used in the data collection and justifies their usage in the study in the overall attempt to answer the research question.

Chapter 4 dwells on presenting and discussing the parameters and the findings from the data collected and its analysis. The findings and the results have been presented with the aid of tables and figures.

Finally, chapter 5 presents the conclusions, recommendations and future areas of interest for further research from the study.

Chapter 2 - Literature Review

2.0 Introduction

This chapter critically discusses the literature that has some bearing on the impact of double taxation treaties on revenue generation in general. This is done by looking at reasons that lead countries into ratifying double taxation treaties in the first place. It then examines the purposes and benefits of double taxation treaties including the experiences of treaties in different developing countries. In the process, this chapter further discusses the Malawi revenue generation and the direct foreign investment promotion theory, inhibiting impact of double taxation treaties and the issues of transfer pricing. It closes with the chapter summary.

2.1 Purposes And Benefits Of Double Taxation Treaties

United Nations (2001) acknowledges that the General Assembly and the Economic and Social Council of the United Nations as well as the United Nations Conference on Trade and Development (UNCTAD) have been the champions on double taxation treaty issues. During their 1964 and 1965 meetings, they separately observed that greater inflows of foreign investments to the developing countries are encouraged by the prevalence of double taxation treaties. This observation is further clarified by pointing out that foreign investment largely depends on conditions that are politically, socially and economically acceptable to all players in the market. The IFA Fiscal Report (1998) points out that the United Nations Conference on Trade and Development of 1995 supports the above thinking by affirming that private capital flows and foreign investments are indeed very important complementary for any economic development process in developing countries.

Recognizing the importance of foreign investors' participation in the development process in developing countries started in 1963 (United Nations, 1979). In this year members at Paris Conference observed that development process can be achieved particularly through the transfer of resources. Such resources in nature include the technological as well as managerial from the developed countries to the developing countries. The conference agreed that such transfers are possible when countries sign double taxation treaties with their trading partners.

Broomhead (1998) while agreeing with what was discussed at the Paris Conference observes that meaningful foreign investment is possible when international double taxation is prevented or eliminated. Hamada (1966) supporting Broomhead's observation notes that international double taxation effects, when left unchecked, are harmful as they discourage the exchange of goods, services and the movement of capital from one country to another. Hamada's observations agree with the sentiments the OECD Fiscal Report (1998) previously recorded. The report observes that the general objectives of most double taxation treaties today must be seen to be protecting foreign investors against any attempts of double taxation. The report further reveals that the prevention of double taxation through double taxation treaties provides free flow of international trade, investment and transfer of technology. The report also views double taxation treaties as tools used in preventing discrimination on investors in the international field by providing reasonable elements of legal and fiscal framework.

In support of the report's sentiments, Williams (1975), Thuronyi (1998), Davies (2003) and Figueroa (2005) confirm that double taxation treaties benefit both the taxpayer as well as the governments involved. They argue that double taxation treaties set out clear ground

rules that govern tax matters relating to trade and investment between the countries involved. They agree that double taxation treaties mesh tax systems of the countries involved in any trade or investment activities. They further observe that such a mesh removes the potential for disputes regarding the amount of tax that may be paid to each country by the investor caught in a taxation web. This thinking finds further support from Sasseville (1996), Papke (2000) and Markusen and Maskus (2001) as they observe that the goal of any double taxation treaty is to ensure that taxpayers do not end up being caught in the middle between two governments, each claiming taxing rights over their incomes. Sasseville for example, observes that a double taxation treaty with clear rules that address the most likely areas of disagreements, minimize the time taxpayers and governments involved spend in resolving international disputes they may find themselves in.

Weber (1996) like the other authors above notes that double taxation treaties provide certainties to taxpayers regarding the threshold question with respect to international taxation on cross border activities. He points out that double taxation treaties answer the question of threshold by establishing the minimum level of economic activities that must be engaged within any country by a non-resident. Rajan and Marwah (1998), Sinn (1993), Terra and Wattle (1997) further compliment the above assertions by observing that double taxation treaties protect taxpayers from real and potential double taxation through the allocation of the taxing powers between the countries concerned. They emphatically stress that double taxation treaties have mechanisms for resolving the issues of residence in a case that a taxpayer may otherwise be considered a resident of two countries. With respect to each category of income, they argue that double taxation treaties assign the primary taxing right to one country. They however, confess that this is usually, but not always the country in which the income arises (the source country) that gets the right. They further

observe that the residual taxing right is given to the other country of residence of the taxpayer. Krabbe (1996) agrees with the above observations and asserts that double taxation treaties provide the rules for determining which country fits to be treated as the source for each category of income. He further agrees with the United Nations (2001) report that double taxation treaties provide rules limiting the amount of tax that the source country can impose to eliminate double taxation that otherwise would arise from the exercise of concurrent taxing jurisdictions by the countries involved.

As a complement to these substantive rules regarding allocation of taxing rights, Hamada (1966) Hines and Willard (1992) also observe that double taxation treaties provide mechanisms for dealing with tax disputes. They argue that double taxation treaties help designated tax authorities of the involved countries to consult and reach agreements under which taxpayer's income is allocated on a consistent basis. Angus (2006) likewise affirms this observation by stating that double taxation treaties prevent the double taxation that might otherwise have resulted in absence of a treaty. In addition to reducing potential double taxation, Gordon (1992) notes that double taxation treaties also prevent potential excessive taxation by reducing withholding taxes that may be imposed at source. Under the Malawi taxation law, payments to non residents are subject to non resident tax at the final rate of 15% for any nature of service rendered (Taxation Act, 1998).

Although the popular view is that double taxation treaties promote foreign investments in developing countries as argued above, Bond and Samuelson (1989) and Carr et al (2001) have opposing views. They observe that quite contrary to the belief that double taxation treaties permit countries to exchange information, evidence shows that this belief only worked in isolated cases. They further argue like Dailey (1997) that currently double

taxation treaties have become mere tools used by clever international tax consultants to deny source based tax regimes their hard won revenues. In support of the views echoed above, Davies (2003) in his findings bemoans the fact that the unilateral fiscal sacrifices imposed by double taxation treaties on developing countries are not offset by the investments that come from the developed countries. This observation is affirmed further by Bird and Oldman (1975), Thuronyi (1998), Wilson (1999) and Angus (2006) who argue that some developing countries have in fact managed to attract significant shares of foreign investment without necessarily signing any double taxation treaties with the developed countries. The above authors individually assert that when a developing country's tax system is aligned with the rest of the world, foreign investment is achievable without double taxation treaties. Figueroa (2005) likewise concurs with them by noting that favourable climate for foreign investment arise from political, social and economical factors other than double taxation treaty conditions. He stresses that non tax factors carry far more weight in decisions of investment than tax oriented factors. This is contrary to the belief promoted by the proponents of foreign direct investment theory.

However, Radaelli (1997), Gravelle (1988) and Dagan (2000) while agreeing with Figueroa, admit that double taxation treaties play an important role in reducing tax evasion. They argue that multinationals for example, pose an exceptional ability to evade domestic taxes by manipulating internal prices. They further observe that through transfer pricing, related multinationals inflate costs in high tax locations and shift profits to low tax locations. They observe that such practices by the multinationals are checked by double taxation treaties. Vann (1996a), Doernberg (1997) and Eden (1998) on the other hand observe that by addressing issues of internal price calculation of subsidiary firms to multinationals, double taxation treaties reduce the level of foreign direct investment. They

further argue that contrary to the commonly shared views that double taxation treaties promote exchange of information between party countries, evidence show that countries like Germany and Switzerland maintain taxpayer secrecy and cause serious problems in information flow.

2.2 Elimination Of Double Taxation

IFA Fiscal Report (1998) points out that due to the harmful effects of double taxation, substantial progress towards its elimination is made through unilateral relief measures. The report further notes that although this is the case, up until 1965 only a relatively small number of treaties had been concluded between developed and developing countries. Likewise, Gresik (2001) notes that the small number of double taxation treaties concluded between developed and developing countries is probably due to the fact that the OECD double taxation treaty model never commends itself to the plight of the developing countries. Gresik views the OECD double taxation treaty model as only concerned with the mutual benefits enjoyed between developed countries of Europe, with no hope of benefiting developing countries. This observation is further affirmed by Gelband (1997) who laments that experiences of double taxation treaties between developed and developing countries show that double taxation treaties are valuable and profitable to capital exporting countries only. Gelband's observations are supported by Feldstein and Hartman (1979) and Doernberg (1997) that existing double taxation treaties between developed and developing countries more often require the developing countries to give up their revenues. This is because most developing countries are source based tax regimes while their counterparts are resident based tax regimes. Broomhead (1998) also admits that this pattern is harmful, as it encourages large income outflows from developing countries to developed countries. He further laments that this trend result into revenue sacrifices,

with developing countries losing out their hard won domestic revenues to the developed countries. Thomas and Sellers (1994) on the other hand notes that there are however, some provisions in most existing double taxation treaties that have positive effects between capital exporting and capital importing countries. He agrees with the observations of Ault and Bradford (1990), Caves (1993), Altshuler and Grubert (1996) that although double taxation harms international traders, residents of countries that use territorial source principle do not suffer the harmful effects of double taxation. To this effect he observes that income from external sources is excluded from the scope of taxation in source jurisdictions and as such issues of double taxation do not rise.

2.3 Double Taxation Treaty Experiences In Developing Countries

The number and significance of the international tax problems that confront the income tax are reasons why developing and transition countries do well to rely on alternative tax bases in addition to the income tax as a major source of tax revenue (Thuronyi, 1998). He argues that because of the sophistication of international tax planning and its frequent combination of domestic tax law, tax havens and double taxation treaties, the taxation of nonresident direct investors by developing and transition countries is not an easy task. Acknowledging Thuronyi's argument, Wilson (1986) however, observes that in a developing country, it is rare if not unheard of for anybody to propose unrestricted grants in aid from his/her country to a developed country yet double taxation treaties aids exactly that. Ault and Bradford (1990), Vann (1996b) and Wilson (1999) admit that the practical effect of the present network of double taxation treaties between developed and developing countries is infact aid in reverse. In their admission of serious aid reversal effects of double taxation treaties, they argue that substantial amounts of tax revenues to which the developing countries have a strong legitimate and equitable claim are being shifted from their

treasuries to the treasuries of the developed countries. Hines and Willard (1992) and Altshuler et al (1995) affirm the above observations by noting that double taxation treaties indeed result into a very considerable and unnecessary loss of the badly needed foreign reserves for developing countries. They agree with the other authors, that the monstrous thing however, is that the present system of double taxation treaties has indeed created the anomaly of aid in reverse from the developing to the developed countries. They further argue that this anomaly has arisen because the double taxation treaties currently in force generally give the residence tax regimes exclusive and substantial rights to tax incomes against the countries in which such incomes arise. This pattern is also further admonished by Summers and Heston (1991) who argue that the insistence by resident tax regimes of eliminating tax on direct dividends of foreign investors is deliberate. He observes that the intention of such insistence is to deprive the source based tax countries their hard won domestic tax revenues. Malawi is on the hand a source based tax regime. This practice he further argues makes a source country give up a potential source of revenue which would otherwise be applied ideally towards one or more developmental goals.

Ward (1995), Weichenrieder (1996) and Radaelli (1997) like Summers and Heston above, observe that in trying to attract foreign capital for example, the developing countries allow their tax revenues to be collected by the treasuries of the residence tax regimes. They further argue that the incentives that are given up by the developing countries to entice the foreign investors are at the same time snatched away by the developed capital exporting countries through the ratification of double taxation treaties. They conclude their observations by acknowledging that double taxation treaties do not only leave developing countries poorer but also technically eliminate the power of the incentives granted to the foreign investors from the developed countries.

Drabek (2000) however, observes that double taxation treaties are usually used by a variety of countries with the view of boosting foreign investment activities. He argues that this is the reason why almost all double taxation treaties attempt to remove tax barriers to investment. Contrary to the earlier observations of anti double taxation treaties, Drabek stresses that the ultimate effect of double taxation treaties in developing countries is to increase foreign direct investment. Gravelle (1988) getting much of his support from the OECD Fiscal Report (1965) agrees with Drabek's assertions. He points out that when the harmful effects of double taxation are removed through double taxation treaties, foreign direct investment increases. He notes that any increase in foreign investment, increases levels of domestic employment, thereby increasing the domestic tax revenues from the employment tax. He condemns as faulty reasoning to allege that double taxation treaties result into revenue losses in developing countries. He instead argues that the increase in volume of consumption tax as well as employment tax revenues experienced when there are double taxation treaties, contradicts the anti double taxation treaty campaigners' views. This view is also shared by Jones (1996), who when defending the benefits of double taxation treaties for the Australian government reminded his colleagues on the mutual benefits that are enjoyed by the two parties to a double taxation treaty. Jones further reaffirms that contrary to the views of anti double taxation treaties, double taxation treaties bring sanity to the complex world of international taxation by setting rules and procedures to be followed. He on the other hand admits that indeed in the process of having double taxation treaties, developing countries experience losses to their domestic tax collections. He however, quickly qualifies this revenue loss as not necessarily coming because of double taxation treaties per se. He clarifies that such losses are largely experienced because most of the tax authorities in developing countries are ill equipped to deal with

international taxation. He further asserts that poor training of tax officials, poor remuneration and lack of technological advancements by most tax authorities in developing countries, result into their tax regimes failing to administer double taxation treaties to their advantage.

Baker (1994), Borro and Lee (1996), Blonigen and Davies (2003) while acknowledging the strength in Jones' arguments, observe that empirical evidence provides little support to his assertions. They confirm that studies carried out on the impact of double taxation treaties in America suggest that double taxation treaties have either zero or negative effect on foreign investment in developing countries. Similarly, Hartman (1985) notes that double taxation treaties have no influence on a decision to expand investment in a mature subsidiary for example. He argues that this is because the reduction in withholding taxes has no effect on an investment plan in a mature subsidiary. He observes further that instead, double taxation treaties encourage tax evasion by multinational enterprises operating in developing countries through tax pricing. Hartman however, agrees with Dagan (2000) that double taxation treaties which hinder tax avoidance, end up reducing both foreign investment and domestic revenue generation.

Dailey (1997) when analyzing double taxation treaties on the other hand, discovers that economists often times focus on efficiency enhancing properties of these double taxation treaties. He asserts that according to economists, double taxation treaties increase investment. He agrees with the economists' view that double taxation treaties work to offset the double taxation of foreign earned income. This observation is supported by Figueroa (2005) who argues that the increase in investment is done due to the fact that double taxation treaties govern the double taxation relief methods. Figueroa stresses that

the governing is done by reducing the withholding taxes and coordinating taxation definitions across border jurisdictions. This he argues, is in addition to the double taxation treaties' property of reducing tax uncertainties. In agreement, Jones (1996) points out that even a double taxation treaty that merely codifies the current practice reduces uncertainty for investors by lowering the likelihood that a government, party to the treaty will unilaterally change its tax policy. Jones further observes that double taxation treaties reduce uncertainty by providing rules dealing with tax conflicts between governments and firms. Supporting Jones' argument, Markusen and Maskus (2001) observe that since uncertainty can be a major barrier to investment, the reinforcement and formalization of the tax environment through the signing of double taxation treaties, certainly encourages foreign investment. They argue further that this investment is enhanced through the use of tax deductions, credits and exemptions. Under deductions, they observes that a home government treats host taxes as costs and taxes the after host tax level of the overseas profits. Under credits, the home government calculates the firm's tax obligation using the pre-host tax level of overseas profits, they observe. The home government then offers a limited tax credit in the amount of the host tax bill, they further assert. Markusen and Maskus extend their observation by noting that under exemptions, the firm pays no home tax on its overseas profits. Davies (2003) in agreement, observes that without any tax reliefs as explained by Markusen and Maskus above, the cumulative taxes can be substantial. He argues that with no tax relief or double taxation treaty provisions, a host subsidiary company paying dividends from its income would face double taxation in the home country and this may discourage further investments in foreign lands.

On the tax reliefs, Owens (1996) observes that since home country causes double taxation, it can reduce it just as easily and unilaterally as it can for a bilateral agreement. He argues

that since most countries offer tax credits and exemptions even in absence of double taxation treaties, manipulating double taxation treaties proves to be very easy. He notes further that with this practice in place, no significant role for double taxation treaties in changing tax relief methods can be displayed. In support, Hufbauer (1992) observes that double taxation treaties may only assist in reducing the host country's withholding taxes and enhancing international cooperation in reducing tax evasion and nothing else.

Hartman (1985) and Sinn (1993) however, note that while it is expected that a reduction in withholding taxes of host countries may increase foreign investment, literature shows no linkages between withholding taxes and investments in developing countries. They observe that if the dividends by a host subsidiary are reinvested, no tax is paid by the subsidiary to the home country until at the time of repatriation. They further argue that since repatriation taxes are eventually paid either way, they cancel out in the reinvestment decision thereby rendering the double taxation treaty without any effect. Like Hartman and Sinn above, Hines and Willard (1992) also observe that double taxation treaties that reduce taxes have no impact on foreign investment and only diminish domestic tax revenues. Empirical evidence by Grubert (1998) on the other hand confirms the observations of Hines and Willard in their findings. His study proves that indeed withholding taxes do not significantly affect foreign investment decisions. Altshuler et al (1995) also discovered that permanent changes in withholding taxes do not even affect repatriation patterns in American firms. They however, admit that only transitory changes in withholding taxes affect repatriation patterns. These observations are consistent with those made by Louie and Roussalang (2002) reported earlier on that double taxation treaties have no effect on foreign direct investment apart from reducing the domestic tax revenue base. In search of finding the marginal tax rate between countries, Davies (2003) discovers that taxes are awash in world income and that global income is maximized under capital export

neutrality. He observes that this happens when capital is allocated without regard to international tax differences. He however, admits that capital export neutrality fails in equilibrium since foreign direct investment represents a taxable base for the host country in the absence of the home taxation.

Contrary to the views of the proponents of foreign direct investment theory that double taxation treaties increase foreign direct investment and increase domestic tax revenue, studies show a mixed bag, (Saunders, 2001). Carr et al (2001), using data on inbound and outbound United States of America foreign direct investment from 1966 to 1989 found that an increase in double taxation treaties decreases foreign investment. They found that such increases in foreign direct investment inflows shrink the domestic tax base. Acknowledging their findings, they concluded that with a shrunken tax base, the investor's host government loses tax revenue to the investor's home government.

Using a different approach, Louie and Roussalang (2002) find very little support for the claim that double taxation treaties promote foreign direct investment. In their paper, using the 1990s income tax returns' data for the American multinational enterprises, they discovered that an increase in double taxation treaties decreases both the foreign direct investment and domestic tax revenue. They further noted that double taxation treaties have no quantifiable significant effect on foreign direct investment woes. Instead, they admit that it is in fact good governance that attracts foreign direct investment to any country. Likewise Papke (2000) confirms that, while the empirical evidence on double taxation treaties is limited, most studies contain information that contradicts and contrasts sharply with the views of economists about the role double taxation treaties play on foreign direct investment and the impact felt on domestic revenue generation.

2.4 Tax Revenue Generation In Malawi

Malawi is a source based tax regime and as such it ensures that incomes whose source is within Malawi or deemed to be from within Malawi is properly taxed (Taxation Act, 1998). Section 11 of the said Act defines income of a person to include the total amount in cash or otherwise including any capital gain, received by or accrued to or in favour of the person in any year or period of assessment from the source within or deemed to be within Malawi. It is this type of income that the government of Malawi has the legal right to levy its taxes from. The word person means an individual, a partnership, a company, a corporation, a trust, a club, a society, an organization, a public authority and an association (Taxation Act, 1998).

Malawi follows a scheduler tax structure on personal incomes and not global. A scheduler tax structure is the one which separates taxes imposed on different categories of income (Thuronyi, 1998). A global income structure on the other hand is the one in which a single tax is imposed on all incomes, whatever their nature.

Malawi has in the past generated bulk of its tax revenues from the indirect taxes, principally on imports and surtax, (Income Tax Manual, 1970). In the 1970s to 1980s the Malawi government experienced tax surpluses in its tax generation that even led it to relax to carry out serious tax reforms (Mkwara, 1999).

After some reforms starting late 1980s, Malawi now generates tax revenues from import duties, excise duties, corporate tax, pay as you earn/employment tax, withholding tax, nonresident tax, value added tax and fringe benefits tax. The bulk of tax revenue generation in Malawi comes from the corporation and employment taxes. Almost 40% of

the budgetary operations of the central government in Malawi are financed by the tax revenues (Ministry of Economic Planning and Development, 2007). However, Malawi has been un able to realize full potential of tax revenues from some permanent establishments, residents with investments outside Malawi, immovable properties, business profits, international transport, associated enterprises, dividends, interests, royalties, technical/professional fees, capital gains directors fees, entertainers and sportspersons fees because of the double taxation treaties in force (Income Tax Manual, 2005). The manual however, observes that Malawi fails to accumulate maximum benefits from the double taxation treaties because it follows source tax principles.

2.5 Chapter Summary

The chapter has discussed the general climatic conditions of international trade and its double taxation linkage. The purposes and benefits of double taxation treaties are also discussed. The chapter further discussed the fallacy that double taxation treaties bring foreign direct investment, fight tax evasion and prevents double taxation on international incomes all by itself. It has been demonstrated that only good governance attracts foreign investment and that double taxation treaties have no quantifiable effects on the foreign direct investment. It has also been discussed that reduced tax rates on foreign investors only assist in repatriating domestic revenues from the treasuries of developing countries to those of developed countries. The chapter has also given a picture on how Malawi generates tax revenue. Evidently, the chapter has laboured to discuss the dilemma that engulfs double taxation treaties' negotiations.

Chapter 3 - Research Methodology

3.0 Introduction

This chapter outlines the methods which were used in conducting the study. It broadly presents a descriptive picture of the study area, sample size, research design, questionnaire design, data sources and the non-probability sampling methods and techniques which have been used. It further looks at the validity and reliability of the measuring instruments, and focus group discussions and tools used in the data collection. It has also looked at the analytical approaches and generalizations used in the data interpretation.

3.1 Study Area

Blantyre city was chosen as the study area for the research. The choice was based on the fact that Blantyre houses the headquarters of the tax authority in Malawi (the Malawi Revenue Authority) and the tax advisory firms as well. In addition the researcher resides in the same city and this eased the communication and the organization of the focus group discussions. The tax advisory firms mentioned above are KPMG Malawi, Deloitte & Touché, Ernst & Young, PriceWaterHouseCoopers, Graham Carr and AMG Global Malawi. All these tax advisory firms have their head offices in Blantyre. The senior employees of the tax authority and the tax advisory firms were the target participants in the study.

The target participants were the senior tax professionals/specialists with broad knowledge and clear understanding of the taxation complexities from the Malawi Revenue Authority and the advisory firms. The technical nature of the study made it imperative to have

participants who have a very clear understanding of taxation both in theory and practice. The choice of practicing tax specialists as participants in the study was deemed the only practical way of ensuring that the questionnaires are competently responded to and that the focus group discussions are objectively done.

3.2 Research Design

Leedy (1997) defines research design as a strategy, plan or a structure of carrying out a research project. The study's research design involved preparing the instruments that have been used in gathering information from the participants. The data gathered were later analyzed to find answers to the research's question and objective.

Structured questionnaires and focus group discussion questions were the methods used to accomplish the study's singular objective. The questionnaires were sent to the participants to be completed within a period of a month of receipt. The focus group discussion questions were used to foster a face to face technical discussion of the subject matter. It also helped the researcher to explain and simplify some areas perceived by the participants as too technical and ambiguous. Such clarifications encouraged the participants to fully deliberate the subject matter.

Secondary data on the actual tax revenue collection were obtained from the Malawi Revenue Authority's Annual Fiscal Reports. Such reports outline the tax revenues collected and lost while adhering to the demands of double taxation treaties Malawi signed with other countries. This data was plotted on graphs that demonstrate the the impact of having double taxation treaties with other countries as regards domestic revenue generation.

3.3 Non-Probability Sampling

Data for this study were sourced from the six tax advisory firms and the Malawi Revenue Authority. To get the data, the non-probability sampling technique was used to identify the participants. This therefore means that the sample size was purposively selected. As observed by Dallal (2001) and Saunders (2003) respectively, the technical nature of the study, made other sampling methods inappropriate and unpractical to assist in finding answers to the objective of the study. The technical nature of this study meant that desirable information can only come from the participants who are well versed tax specialists. It was therefore deemed necessary to confine all participants in the study to come from a tax profession only. This decision of using a purposive sampling method was hatched out of a deep consideration and appreciation about the technical nature of the study. In line with the observations of Neuman (1997) and Saunders (2003), a purposive sampling method was used to allow the researcher use his judgment to select participants that would best answer the research questions and meet the researcher's objectives. In agreement with the observation of Dallal (2001) on the merits of purposive sampling method, the technical nature of the study prompted the researcher to adopt a purposive sampling method to ensure that desirable results on the objective of the study are obtained.

Research questionnaires were sent to senior staff members at management level of the Malawi Revenue Authority and the tax specialists of the six tax advisory firms as of 30th June 2006. The staff members at management level were deemed senior enough to comprehend the complexities of international taxation to qualify for participation.

3.4 Sampling Techniques And Sample Size

Malawi has six tax advisory firms and two questionnaires were sent to each firm's tax specialists. The tax advisory firms collectively had twelve (12) tax specialists in their employment at the time of study. As of the 30th June 2006, Malawi Revenue Authority had only 20 officers at the management level. The questionnaires were therefore sent to the twelve tax specialists in the six tax advisory firms and to the twenty senior officers within the designated ranks of management of the Malawi Revenue Authority. The sample size was therefore thirty two (32).

The sample was homogeneous because the sample members given the questionnaires are all senior tax specialists/professionals. As Saunders (2003) argues, homogeneous sampling allows a researcher to study the group in depth. The selection of the participants had to include tax specialists only in order to ensure that the questionnaires are tackled and responded competently to meet the study objective. The comprehensive taxation knowledge and experiences of these specialists is of great importance to the success of this study.

3.5 Focus Group Discussions (FGD)

Dallal (2001) and Saunders (2003) state that in a focus group discussion, the researcher should have a list of themes and questions to be covered. They further argue that questions may vary from discussion to discussion. In the case of this study, the themes and questions for the focus group discussions were prepared and pre-tested in advance. The inclusion of the focus group discussion technique was to ensure that the questionnaires are adequately complimented in the process of the data collection. The participants were served with the themes and the questions two weeks prior to the discussion date. This was deliberately

done to ensure that each participant gets enough time to study and understand the subject matter and prepares him/her self for a meaningful participation.

The focus group discussion was conducted after the responses from the questionnaires were received. Most of the comprehensive qualitative data on the impact of double taxation treaties on revenue generation came from this discussion. The group discussion outlined and explained both the theoretical as well as the practical merits and demerits facing Malawi because of the double taxation treaties' policy being followed.

Although ten tax managers were invited for this discussion, only eight showed up for the discussion. Two tax managers came from the Malawi Revenue Authority and the six came from the tax advisory firms representing an 80% response rate.

3.6 Validity And Reliability

Leedy (1997), states that validity focuses on the soundness and the effectiveness of the measuring instruments used in the study. He further observes that reliability on the other hand, is concerned with the quality of the measurement method that suggests that the same results would be obtained each time, in a repeated observation of the same phenomenon. Validity again covered the end results of the measurements on the impact of double taxation treaties on the revenue generation.

Perfect validity is impossible but as Neuman (1997) argues, it is an ideal that researchers strive for. Likewise, perfect reliability is rarely achieved. However, the pre-testing of the measurement instruments greatly assisted in achieving a higher degree of reliability in this study. The validity problem was dealt with by pilot testing the questionnaires prior to administering them to the participants.

3.7 Generalization And Data Analysis

Although the use of small number of respondents creates problems in a qualitative paradigm, Saunders (2003) notes that where in-depth, rigorous and thorough examination is done, the contexts can be transferable. He observes further that it is possible for a researcher to demonstrate that the findings have a broader significance than the cases that form the basis.

The responses on the questionnaires were properly coded to ensure that the qualitative data obtained become measurable. The coding of the responses assisted in computing comparable responses from participants as shown by tables in Chapter 4. Only data obtained from the Annual Fiscal Reports from the Malawi Revenue Authority were used in plotting graphs in Chapter 4. A Microsoft Excel package was used for plotting the graphs. As the study focused on answering the research question and not proving any hypothesis, no specific tax model was used in the data analysis.

The data analysis of the study dwelled much on establishing the tax revenue trends in both actual collections as well as actual revenue losses experienced. Data of lost revenue based on the Non Resident Tax Clearance certificates issued during the period covered by the study were used. Analysis on such data demonstrated graphically the trend on revenue losses that come with double taxation treaties. The comparison of the revenue data on actual collection and that of revenue losses showed the magnitude of the revenue lost. The significance in the volume of the lost revenue becomes an interesting area for the policy recommendation on double taxation treaties. This is because the loss in tax revenues represent loses of physical public developmental projects that are financed by tax revenues.

3.8 Chapter Summary

The chapter has described the methodology of the study and the process that was used in gathering data. The study gathered primary data through the use of questionnaires and focus group discussion. Another source of data collection was from literature on tax remittances to Malawi government for six years ending 30th June 2006. This second source gave the researcher the actual tax revenue collections and actual tax revenue losses Malawi experienced between the period 2000 and 2006.

Chapter 4 - Research Results And Discussions

4.0 Introduction

This chapter presents the findings of the study from the analysis of the data that were collected. It also discusses the results through the interpretation of the research findings and the literature reviewed.

The primary data were collected from a sample of thirty-two (32) specialists in the field of taxation through the usage of questionnaires. Secondary data on the other hand were collected from the 1999/2000-2005/2006 Annual Fiscal Report on collection and tax clearance certification by the Malawi Revenue Authority. The primary data was supported by focus group discussions (FGD).

4.1 Questionnaires And Responses

The data in Table 4.1 disaggregates the total number of questionnaires that were sent out and the responses that were received from both the Malawi Revenue Authority and the six tax advisory firms. Table 4.1 in fact records the response rate achieved by the study.

Table 4.1: Response Rate on the Survey

Name of Institutions	Number of Institutions contacted	Questionnaires sent	Questionnaires Received	Response Rate (%)
Malawi Revenue Authority	1	26	23	88
Tax Advisory Firms	6	6	5	83
Total	7	32	28	85.5

Table 4.1 above indicates that on average, 85.5% of the tax specialists contacted responded to the survey. This is an impressive response rate given the technical nature of the study.

In order to get general feelings amongst tax specialists on how they feel about double taxation treaties on whether such treaties operate as economic tools suppressing poor countries, a questionnaire was used. Table 4.2 below therefore contains data that shows the total number of questionnaires which were sent out and the responses which suggest that double taxation treaties operate as tools for economic suppression in poor countries.

Table 4.2: Response Rate on Treaty Economic Suppression

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	17	53
No, Responses	8	25
Not sure, Responses	3	9
Questionnaires not responded	4	13

Table 4.2 above indicates that 53% of the respondents suggest that double taxation treaties indeed operate as tools for economic suppression created by the rich countries and are imposed on poor countries. These findings agree with the observations of Figueroa (2005) who argues that indeed substantial amounts of tax revenues are shifted from the treasuries of poor countries to those of rich countries. While this may be true, about 25% of the respondents disagree with the concept of economic suppression. They suggest that double taxation treaties are not tools for economic suppression created by rich countries and are never imposed on the poor countries. Likewise, 9% of the respondents were unable to tell as to whether the double taxation treaties are indeed tools of economic suppression created by rich countries and imposed on poor countries or not.

The data in Table 4.3 has been obtained from the participants' responses on the questionnaires sent. The questionnaires largely focused at establishing the rationale behind poor countries' decision for signing double taxation treaties. Therefore, Table 4.3 below shows the responses which suggest that double taxation treaties are signed by poor countries in anticipation for capital inflows from capital exporting countries.

Table 4.3: Response Rate on anticipated Capital Inflow

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	20	62
No, Responses	0	0
Not sure, Responses	8	25
Questionnaires not Responded	4	13

Table 4.3 above indicates that, 62% of the respondents believe that double taxation treaties are signed by poor countries in anticipation that capital will flow from the capital exporting countries to the poorer countries. This finding supports the observations of Drabek (2000) that double taxation treaties are expected to boost foreign investment activities in poor countries. But like Louie and Rousslang (2002), who admit that double taxation treaties do not have quantifiable effect on direct foreign investment woes, 25% of the respondents could not clearly tell whether poor countries indeed sign double taxation treaties in anticipation of any capital inflows from capital exporting countries or because of other reasons.

As part of trying to find an answer to the research question, a questionnaire was sent specifically to establish the revenue impact double taxation treaties have had on Malawi revenue generation. The participants' views have been recorded in Table 4.4 such that Table 4.4 below contains data which shows the total number of questionnaires sent out and the responses which suggest that double taxation treaties are responsible for the revenue losses in Malawi.

Table 4.4: Response Rate on the Revenue Losses

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	20	62
No, Responses	0	0
Not sure, Responses	8	25
Questionnaires not Responded	4	13

The table above shows that, 62% of the respondents agree that double taxation treaties signed are indeed responsible for the revenue losses in Malawi. These findings support the earlier findings of Carr, Markusen and Maskus (2001) who observed that an increase in direct foreign investment inflows shrink the domestic tax base. They observed further that with a shrunken tax base due to double taxation treaties, host governments lose tax revenues to the home governments of the taxpayers protected by the treaty. And about 25% of the respondents were unable to tell whether double taxation treaties are indeed responsible for the revenue losses in Malawi or that there could be other reasons leading to the revenue losses. As has been the case, thirteen percent of the questionnaires were absconded.

The study's investigation also wanted to establish if there are any justifications in the revenue losses which come with double taxation treaties. The data in Table 4.5 were therefore obtained from the questionnaires' responses by the tax specialists who participated in this study to shed some light. Table 4.5 below consequently records the total number of questionnaires which were sent out and the responses which indicate that the revenue losses that come with double taxation treaties are justifiable and acceptable.

Table 4.5: Response Rate on Justification of Revenue Losses

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	14	44
No, Responses	12	37
Not sure, Responses	2	6
Questionnaires not Responded	4	13

Like Jones' (1996) findings that tax revenue losses can not squarely be blamed on double taxation treaties, about 44% of the respondents in Table 4.5 above indicate that the revenue losses that come with double taxation treaties are justifiable and acceptable. However, 37% of the respondents suggest that the revenue losses that come with double taxation treaties are not justifiable or acceptable. And about 6% of the respondents were not so sure whether the revenue losses which come with double taxation treaties are justifiable and acceptable or not. Thirteen percent of the questionnaires were not responded to.

This study also had a curiosity to establish whether Malawi would have been better off without the double taxation treaties already signed. To satisfy the curiosity, questionnaires were sent to participants whose views are recorded in Table 4.6. Clearly therefore Table 4.6 below shows the total number of questionnaires sent out and the responses indicating that Malawi should not have signed the double taxation treaties in the first place and should immediately do away with them.

Table 4.6: Response Rate on Treaty Experiences in Malawi

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	17	53
No, Responses	8	25
Not sure, Responses	3	9
Questionnaires not Responded	4	13

Table 4.6 above shows that 53% of the respondents agree that Malawi should not have signed the double taxation treaties in the first place. They suggest that Malawi should in fact do away with the double taxation treaties. However, about 25% of the respondents disagree with the others and instead suggest that Malawi did well by having double taxation treaties and should keep them. The 25% of the respondents appear to be supporting the assertions of Broomhead (1998) who observed that harmful impact of double taxation must always be checked through the creation of double taxation treaties. But 9% of the respondents were not very sure whether Malawi should not have signed the treaties in the first place or whether Malawi should do away with them.

Imbedded in the study's motive is the intention to establish some of the reasons which entice poor countries to sign double taxation treaties. Participants' views on such reasons have been recorded in Table 4.7. Therefore Table 4.7 contains data which shows responses indicating that poor countries sign double taxation treaties under political as well as economic duress.

Table 4.7: Response Rate on Political and Economic Duress

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	17	53
No, Responses	8	25
Not sure, Responses	3	9
Questionnaires not Responded	4	13

A total of 53% of the respondents indicate that poor countries indeed sign double taxation treaties under political and economic duress. These findings support the observations of Feldstein (1979), Doernberg (1997) and Eden (1998) who argued that most double taxation treaties between rich and poor countries require the poor countries to give up their domestic tax revenues. But 25% of the respondents indicate that there could be other reasons for signing double taxation treaties for poor countries such as encouraging international trade. The 25% indicates that political and economic pressures may not necessarily be the reasons leading poor countries into signing double taxation treaties. About 9% of the respondents were not so sure whether poor countries really sign double taxation treaties under political or economic duress or because of other reasons.

In trying to get some clues on the exact double taxation treaties impact on revenue generation in Malawi, questionnaires were sent to some tax specialists. These technical participants made varying observations in their responses. The data obtained from such questionnaires are contained in Table 4.8. Table 4.8 below therefore shows the total number

of questionnaires sent out and the responses indicating that Malawi does in fact benefit from the double taxation treaties signed.

Table 4.8: Response Rate on double taxation treaty benefits for Malawi

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	12	37
No, Responses	16	50
Not sure, Responses	0	0
Questionnaires not Responded	4	13

Table 4.8 above indicates that 37% of the respondents feel that Malawi has infact benefited from the double taxation treaties signed with different countries. The respondents ranked employment as the biggest benefit of double taxation treaties to Malawi. This suggestion supports the observations made by Gravelle (1998) that foreign investment that comes with treaties increases the domestic employment rate. The above findings are in sharp contrast with the 50% of the respondents who indicate that Malawi has not benefited that much from the double taxation treaties. The results above indicate that almost all the respondents are aware as to whether Malawi has benefited from the double taxation treaties or not.

Realizing that revenue generation in Malawi may not necessarily be affected by the double taxation treaties' influx alone, data were obtained from tax specialists involved in the survey to gauge the personnel caliber of the Malawi's tax authority. The data in Table 4.9 below therefore shows the total number of questionnaires sent out and the responses indicating that

the Malawi Revenue Authority does not currently have the right personnel to deal with the complexities of double taxation treaties.

Table 4.9: Response Rate on Malawi Revenue Authority's Challenges

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	21	66
No, Responses	7	21
Not sure, Responses	0	0
Questionnaires not Responded	4	13

Table 4.9's data above shows that 66% of the respondents believe that the Malawi Revenue Authority does not currently have the right personnel to deal with the complexities of double taxation treaties. These findings support Jones' (1996) admission that revenue losses in most developing countries come largely because the taxing bodies are ill equipped to deal with international taxation. Jones blames it on the poor training and remuneration given to the tax officials in developing countries as the major cause of the revenue losses. In addition, Jones further states that lack of technological advancements too result into failure to administer international taxation by tax officials in developing countries. However, 21% of the respondents indicate that the Malawi Revenue Authority currently has the right personnel to deal with double taxation treaty complexities.

Implicit in the study is its intention to test the interest of Malawian politicians in discussing taxation issues, specifically those concerning double taxation treaties. To address this interest, questionnaires were sent to tax specialists to find out from them whether Malawian politicians have in the recent years tackled double taxation issues. The data to that effect are recorded in Table 4.10. Consequently, Table 4.10 below shows the responses indicating that Malawian Parliamentarians have never discussed double taxation treaty rules in the National Assembly, for the past twenty years.

Table 4.10: Response Rate on Double Taxation Treaty Political Will

Description	Totals	Percentages
Questionnaires Sent	32	100
Yes, Responses	21	66
No, Responses	7	21
Not sure, Responses	0	0
Questionnaires not Responded	4	13

The data in Table 4.10 above shows that about 66% of the respondents feel that Malawian parliamentarians have never discussed double taxation treaty rules in the National Assembly for the past twenty years. This is against the views of 21% of the respondents who indicate that parliamentarians in Malawi might have ever discussed double taxation treaty rules in the National Assembly but can not exactly remember the dates that might have happened.

The data in Table 4.11 below has been obtained from the Malawi Revenue Authority literature and it is this data which has been used in plotting the graphs. Courteous approach

and respect given to the participants in the study contributed to the 85.5% response rate in the participation of the focus group discussion.

Table 4.11 shows the actual tax revenues which were collected by the Malawi Revenue Authority and the tax revenues that were not collected domestically because of the double taxation treaties Malawi has signed with other countries. The table further shows the aggregate tax revenues which would have been collected had Malawi not signed double taxation treaties with other countries. It also shows the respective fiscal years in which each tax revenues were actually collected or lost by the government of Malawi. The lost revenue column infact shows the tax revenues which were actually collected by Malawi's double taxation treaty partners.

Table 4.11: Fiscal M.R.A data between 1999/00 to 2005/06 fiscal years

YEAR	ACTUAL REVENUE	LOST REVENUE	COMBINED REVENUE
1999/00	6,587,848,551	188,715,213	6,776,563,764
2000/01	8,897,293,127	243,735,228	9,141,028,355
2001/02	9,149,038,835	269,654,218	9,418,693,053
2002/03	12,070,879,968	267,956,117	12,338,836,085
2003/04	15,784,611,264	293,362,112	16,077,973,376
2004/05	21,631,958,825	364,102,433	21,996,061,258
2005/06	26,031,985,975	516,350,746	26,548,336,721

Data Source: Malawi Revenue Authority 1999/00-2005/06 Fiscal Years' Collection & Tax Clearance Certification Report

Table 4.11 above shows that for a seven year period between 1999/2000 and 2005/2006, Malawi generated average annual tax revenues of about MK14.307 billion. The table also shows that Malawi has been losing an average of about MK0.31 billion of the tax revenues annually due to the double taxation treaties that it has signed with other countries. This

represents a 2.1% annual revenue loss on the gross tax revenues collected. The significance of the 2.1% annual tax revenue loss as Hines and Willard (1992) and Altshuler et al (1995) earlier on argued, should be seen not from its nominal value view point but from its representation of the foregone developmental projects like construction of rural health centres, primary schools, bridges, boreholes, gravel roads, rural electrification, rural irrigation schemes and many more other public projects that are financed by the Malawi government.

4.2 Data Analysis On The Domestic Tax Revenues

In analyzing the data, a graphical presentation has been adopted in the thesis in order to demonstrate the impact of double taxation treaties on the revenue generation. The Thesis has used linear graph of combined revenue, bar graph of combined revenue, pie graph of actual revenue, pie graph of lost revenue and a pie graph of combined revenue to determine whether or not Malawi has lost or gained revenue as a result of double taxation treaties.

The data in Table 4.11 of combined revenues, the actual revenues and the lost revenues constitute the variables which have been used in plotting the graphs below.

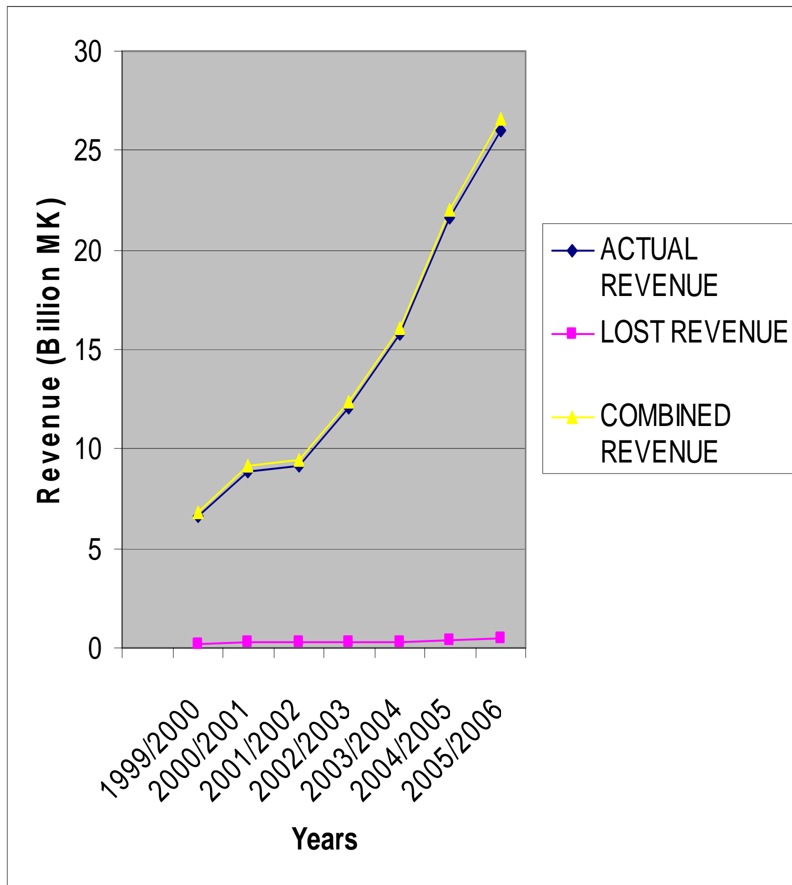

Figure 4.1: Combined Revenue Linear Graph for the seven year period

Figure 4.1 above shows the tax revenue collection experiences which were prevalent in Malawi during the years under study of between 1999/2000 and 2005/2006 fiscal years. The graph shows that there have been general upward trends in the way actual tax revenues were being collected internally. The graph also demonstrates that much as Malawi experiences growth in the tax revenue inflows, it equally experiences growth in the revenue losses. The lost revenues are as a result of the double taxation treaties Malawi has signed with different countries. The increase in the revenue lost shown above is infact the increased loss of public developmental projects that would have been financed by the lost revenues. The graphical analysis in the above figure agrees with the earlier observations of

Figueroa (2005), Vann (1996), Summers and Heston (1991) who admitted that double taxation treaties result into revenue shifting from poor countries to rich countries.

The gap between the actual revenue line and combined revenue line practically illustrates the revenue losses experienced by Malawi because of the double taxation treaty arrangements in anticipation of capital inflows. This graphical illustration on the revenue losses confirms the observations made by Ward (1995) and Angus (2004) that source tax regimes allow their tax revenues to be collected by the treasuries of resident regimes each time they enter into double taxation treaty agreements.

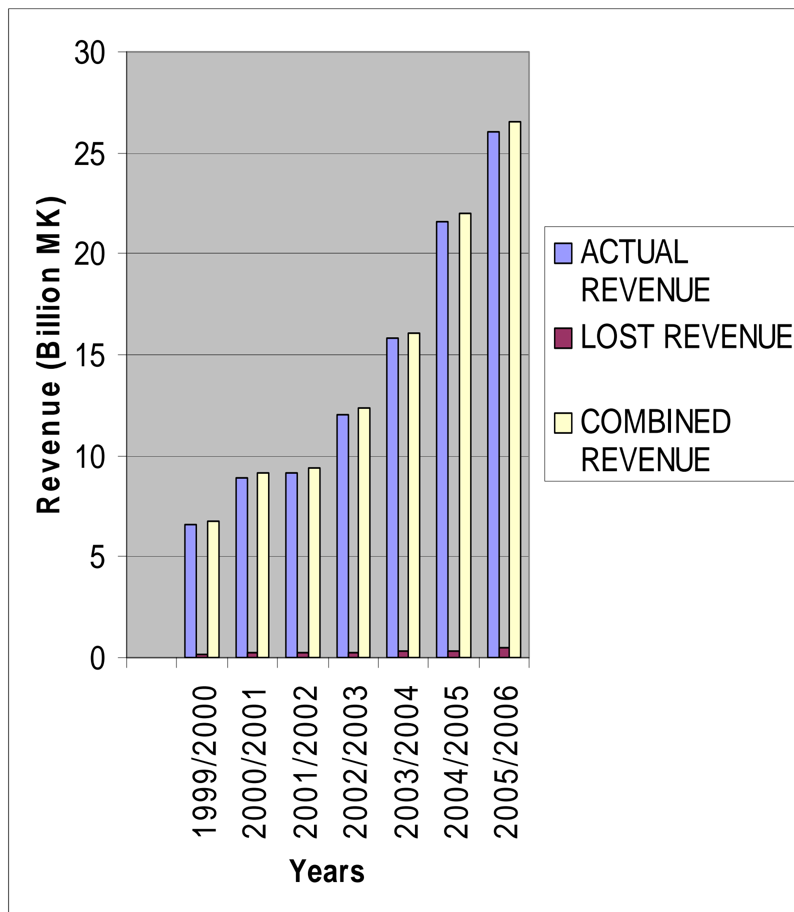

Figure 4.2: Combined Revenue Bar Graph for the seven year period

Figure 4.2 above clearly shows an upward trend in increase both in the actual revenue collected and revenue lost over the period under the study. Although the lost revenue bars appear to be insignificant, but should always be remembered that they represent government socio-economic projects which can make a lasting impact on the lives of poor people of Malawi. The revenue lost was due to the uncollected tax revenues going out to the double taxation treaty party countries. The treaty restrictions governing the rules of taxing rights as outlined in such treaties tie Malawi to tax only the profits made from within the country before being repatriated. Clearly, the graphical analysis above gives little support to the assertions of Gravelle (1988) and Drabek (2000) that double taxation treaties increase foreign direct investment thereby increasing employment that expands the tax revenue base. In the case of Malawi, Figure 4.2 clearly disputes the reasoning that double taxation treaties increase tax revenue collections. The graphical analysis above strongly points to the observations made by Hartman (1985) and Dagan (2000) that on top of discouraging foreign investment, double taxation treaties also reduce domestic revenue generation. The figure above further confirms that indeed revenue is shifted from a treasury of a developing country (Malawi) to developed countries as some authors like Davies (2003) observed in their working papers. A revenue shifting situation as depicted by Figure 4.2 above may one day persuade Malawi to terminate some of the double taxation treaties as did Honduras with the United States of America in 1970s (Davies, 2003).

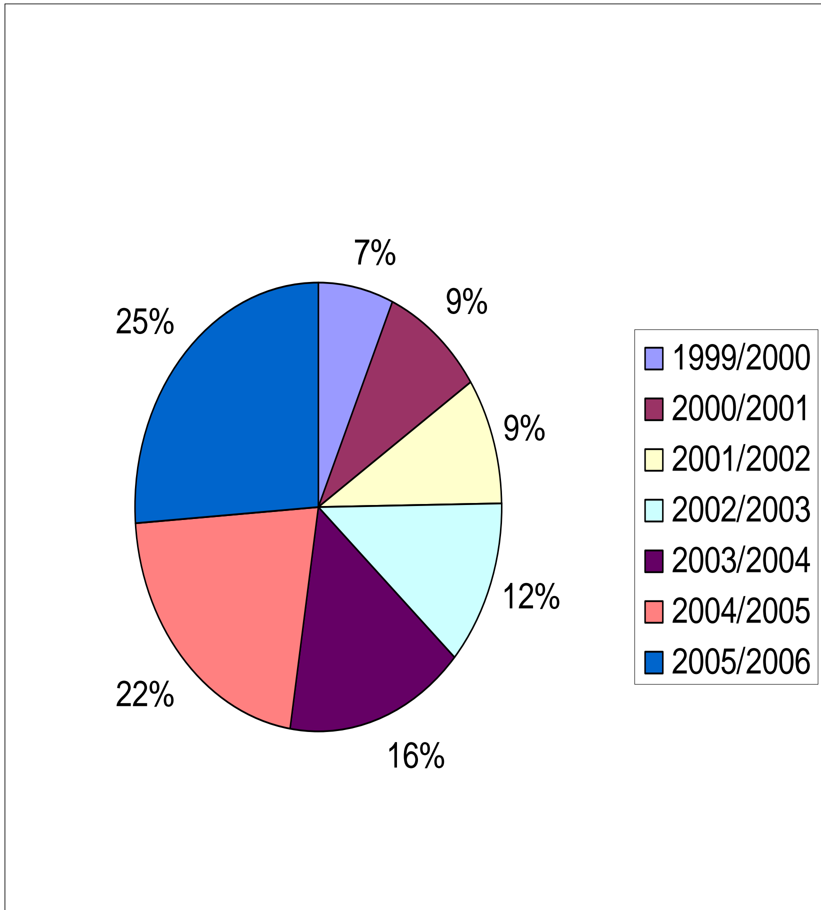

Figure 4.3: Actual Revenue Pie Graph for the seven year period

Figure 4.3 above shows that Malawi's tax revenue generation was growing at an average rate of 3%. The highest revenue growth rate was experienced between the 2003/2004 and 2004/2005 fiscal years. During this period the tax revenues grew by 8% from just one year to another. The graph also demonstrates that Malawi experienced a very insignificant revenue growth during the fiscal years 1999/2000 to 2002/2003.

Although it was not the study's intention to establish the reasons for the slow growth followed by the rapid growth in revenue collection, the survey came across some revelations that pointed to some of the reasons. The study for example, learnt that the period between 1999 and 2002 fiscal years were characterized by the reorganization

activities on the departments of Income Tax and Customs & Excise. These two departments were the ones which were initially entrusted by the law with the responsibility of collecting the domestic taxes. The coming of the reorganization meant reallocating officers, delinking some activities from others and emerging similar activities. The reorganization activities caused a number of hiccups and disorientation in the smooth running of the tax collection works and all that resulted into the revenue collection decline.

The merging of the two departments, that of Income Tax and Customs & Excise bore the current taxing body, the Malawi Revenue Authority. The creation of the Malawi Revenue Authority has resulted into the tax revenue improvements in the later years under the study as shown in the figure.

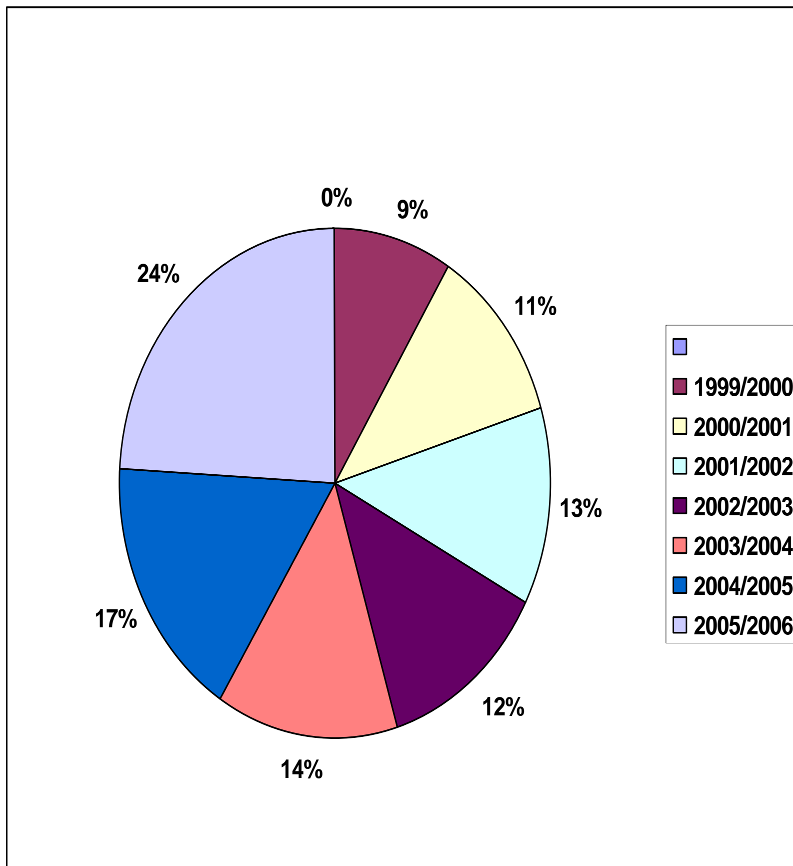

Figure 4.4: Lost Revenue Pie Graph for the seven year period

The pie graph in Figure 4.4 above shows that Malawi has been experiencing an upward growth in the revenue losses. The revenue loss growth rate evolved around an average rate of 2.1% with the highest rate of 5% between the 2004/2005 and 2005/2006 fiscal years. A comparison between the average growth rates of the revenue growth of 3% in Figure 4.3 with the revenue loss growth rate in the above figure shows a net positive growth of 0.9% in revenue inflows. The revenue losses generally represent the price Malawi has been paying for having signed double taxation treaties with other countries. The study on the other hand encountered mixed reactions from the respondents in support of the treaties as well as against them. It was however, not the intention of this study to establish whether double taxation treaties have been beneficial or not for the Malawi economy.

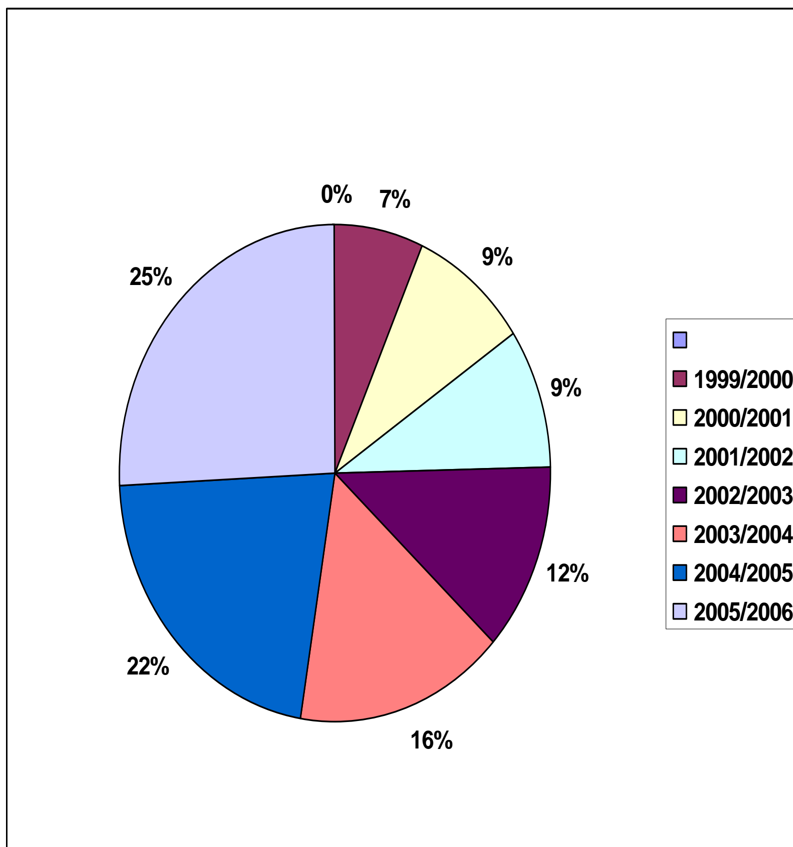

Figure 4.5: Combined Revenue Pie Graph for the seven year period

Figure 4.5 above further illuminates the loss Malawi experiences in as long as it sticks to double taxation treaty arrangements. In its combined analysis, Figure 4.5 shows that in terms of revenue generation, Malawi stands to lose in the face of current double taxation treaty environment. When the combined revenue percentages are compared with those of actual revenues collected, the difference does not appear very significant taken on the face value. Although the comparable revenue losses appear insignificant from revenue view point, the social obligations that have not been met by the Malawi Government due to such revenue losses are very significant. Since it has not been the intention of this study to examine the social costs of double taxation treaties against revenue costs in Malawi, the area remains of interest for future research.

4.3 Malawi's Experience On The Double Taxation Treaty Benefits

The study findings indicate that Malawi has not significantly benefited from the double taxation treaties. Although there may be several reasons leading to Malawi's inability to extract real benefits from the double taxation treaties, its being a source tax regime counts most. It was noted during the study and the FGD that Malawi's failure to get maximum benefits from the double taxation treaties ranges from a number of problems. The FGD sighted poorly trained and ill equipped tax officials currently working at the taxing body as one of the major reasons. Backwardness in the technological advancements faced by the taxing body especially in the areas of information technology and data collection and its interpretation were also mentioned as some of the bad experiences in the treaty arrangements. Malawi's inability to have extensively skilled personnel in taxation at the helm of the Malawi Revenue Authority particularly in cross border taxation has resulted into the country's failure to change some treaties and take advantage of the ever changing trading climate. The study through the FGD also noted that lack of political will in Malawi

puts the country in a situation that is devoid of benefiting from double taxation treaty arrangements.

4.4 Malawi's Inability To Identify Double Taxation Treaty Needs

The procedural aspects of negotiating a double taxation treaty include the identification of the need for a treaty, the establishment of contracts with potential treaty partner, the appointment of a delegation, the preparations for negotiations, the conduct of and procedures for bringing the treaty into force (Treaty Negotiation Manual, 1979). It was clearly noted during the FGD discussion that Malawi has double taxation treaties that are not only archaic but also those that never accommodated the above outlined aspects. The study noted that Malawi has never determined whether a need exists to have a double taxation treaty with any particular country before signing it. This is largely because almost all the double taxation treaties Malawi has were signed before or immediately after attainment of self rule. Because of this historical background, Malawi has double taxation treaties with countries that are devoid of any analysis of the nature and extent of the existing economic relationships between itself and such party countries. It was also noted during the FGD that even issues of potential and desire for growth in such relationships are hardly examined by Malawi before treaty issues are tabled. The study findings further indicate that the extent to which the interrelationships of the tax systems between Malawi and the other party countries that may inhibit the economic relationships are never examined prior to entering the treaties. The end result is the unbalanced double taxation treaty benefits Malawi finds herself in, observed the FGD. The study through the FGD also noted that the inadequacy of double taxation reliefs in the Malawi tax statutory is also part of the problem. It was further noted that Malawi lacks desire to determine the need, extent

and reasons that would ensure that its tax system results into actual or virtual double taxation with the other party countries.

4.5 The Impact Of The Double Taxation Treaty Policy In Malawi

The study findings indicate that Malawi losses quite a lot of revenues that would have been used in developmental projects due to the double taxation treaties in force. The study has noted that currently Malawi lacks relevant competencies in areas of international taxation, hence the revenue losses experienced. The absence of sufficiently skilled personnel in the field of international taxation at the Malawi Revenue Authority result into Malawi's failure to account for numerous transactions that siphon revenues out of the country. The focus group discussion indicated that Malawi also loses revenues through internal pricing for multinationals and subsidiary companies. It was further noted that Malawi again loses revenue and forex through the allocations of profits as well as through research schemes going to parent companies whose subsidiaries are operating in Malawi. It was likewise noted during the FGD that schemes of this nature are beyond the current capabilities of the Malawi Revenue Authority. The findings also indicate that while the Malawi Revenue Authority may eventually acquire skilled personnel for cross border taxation, it may be impossible for it to catch up with the complex new schemes being employed by tax defaulters. Lack of technological advancements in the country's taxing body also impinges on their eventual corrective measures. This resource constraint on the Malawi Revenue Authority will continue posing a real challenge to improving the revenue retention in the presence of double taxation treaties.

4.6 Double Taxation Treaty Communication Hurdles In Malawi

In negotiating double taxation treaties for the avoidance of double taxation and tax evasion, the competent authorities (taxing bodies) usually make provisions in the treaties for the exchange of information (Treaty Negotiation Manual, 1979). The study findings indicate that Malawi's double taxation treaties contain no clear articles on exchange of information on cross boarder transactions. Where the treaty contains such articles, the article is either too vague or too summarized to be relied upon in times of requesting foreign tax information. As a result of this anomaly, Malawi is unable to exactly establish the quantities of cross border transactions with the aid of information supplied by the countries that are parties to its double taxation treaties. The absence of specific provisions in the double taxation treaties Malawi signed on exchange of information is coupled with the lack of will and the absence of the infrastructure specialized for the cross border economic activities.

4.7 Chapter Summary

The chapter has discussed the findings of the study in depth. The study findings discussion was based on the analysis of the data collected. The chapter further discussed the analysis of the research results and the responses from the questionnaires. The chapter through the questionnaire responses and the FGD discussions has demonstrated that revenue is lost in the process of implementing the double taxation treaties. Some of the reasons leading to such revenue losses have also been discussed.

It has further been discussed by the chapter, that although double taxation treaties bring several benefits to party countries, Malawi has not been able to significantly enjoy such benefits. The chapter has also discussed communication hurdles, ill equipment and lack of

technological advancements by the Malawi Revenue Authority (the country's taxing body) as some of the major reasons that result into Malawi's failure to get the maximum benefits from double taxation treaties.

The chapter has clearly discussed and demonstrated that Malawi losses valuable revenues in her quest for double taxation treaties.

Chapter 5 - Conclusions And Recommendations

5.0 Introduction

This chapter presents and discusses the conclusions and recommendations of the study. It further discusses the vital ingredients to double taxation treaty negotiations as well as interesting taxation areas for future researches. Under conclusions, the chapter discusses the underlying study principles by outlining the guiding assumption on the foreign direct investment, sampling method used and the achievement of the research objective. On recommendations, the chapter discusses some of the steps and ingredients that Malawi government needs to take into consideration and incorporate when negotiating for double taxation treaties. The chapter closes with suggestions on different areas within the field of taxation, double taxation treaties in particular for further research works.

5.1 Conclusions

This study was guided by a common assumption that double taxation treaties increase foreign direct investment thereby increasing tax revenues. Many authors and researchers have argued at length in support of this common theory. While acknowledging the existence of this theory, the study has revealed that Malawi has in fact lost revenues in her quest for double taxation treaties signed. Although the study did not carry out a direct investigative comparison on double taxation treaty benefits, Figures 4.1, 4.2 and 4.4 in chapter 4 have demonstrated that Malawi has indeed lost some revenues because of the double taxation treaties signed. Figure 4.4 in particular, has vividly demonstrated that, Malawi has indeed been losing quite a lot of tax revenues through the double taxation treaties signed.

The purposive sampling method used given the technical nature of the study, has greatly assisted in getting the intended results. The technicalities and complexities associated with taxation in general were ably understood, deliberated and responded to through the questionnaires and the FGD by the participants.

The research objective of analyzing the impact of double taxation treaties in the domestic revenue generation has been met through the numerous Tables and Figures available in the study. The results of the study shown in Tables 4.4, 4.5, 4.7 and 4.8 suggest that Malawi's benefits from the double taxation treaties signed have been at the very minimum. The analyses from Figures 4.1 and 4.2 further confirm that Malawi indeed lost its own wealth to the outside world through the double taxation treaties signed. The two Figures have clearly demonstrated the extent to which Malawi has actually lost tax revenues due the current double taxation treaty agreements in force. Table 4.11 has shown that for a period of seven years, between 1999/2000 and 2005/2006, Malawi was losing about MK0.306 billion in tax revenues every year. The single objective of this study has been met as the study findings have indeed confirmed that Malawi does lose a significant amount of 2.1% of the annual tax revenues due to the double taxation treaties currently in force. This is a worrisome economic contraction which the Malawi economy is subjected to annually, and as such, it should not be allowed to continue being left unattended.

5.2 Recommendations

It is recommended that a decision to pursue double taxation treaties as a national tax policy must be based on comprehensive understanding of treaty impacts on the domestic revenue generation. It is further recommended that Malawi nation must seriously adhere to the

procedural aspects when negotiating double taxation treaties. Through the Ministry of Finance, Treasury and the Malawi Revenue Authority, Malawi ought to seriously appreciate the importance of understanding the need in scrutinizing double taxation treaties before signing. The failure to examine the nature of double taxation treaties and the economic disadvantages attached to such treaties has led Malawi to massive revenue losses in the area of income tax. A clear understanding on treaty intricacies by treaty negotiation team may greatly assist Malawi arrest the revenue losses. The Ministry of Finance through the Treasury is urged to ensure that extensive consultations are done when negotiating double taxation treaties to minimize the revenue losses. The Ministry together with the Treasury must see to it that treaty negotiation teams include very senior officials with tax policy responsibilities and authority to make independent policy decisions. It is equally imperative upon the Finance Ministry to ensure that treaty negotiation teams have members with the following skills:

- Familiarity with the administrative aspects of double taxation treaties and international aspects of internal laws of the party countries. A person with such skills would competently represent the tax authority on the delegation.
- A lawyer, who is very familiar with the Malawi tax laws and with abilities to draft treaty provisions.
- An economist, with a broad understanding of the economic relationships between Malawi and the other contracting countries. Such an economist must have the ability to assess the economic impact of the decisions being made in the course of the double taxation treaty negotiations.

The Treasury or Ministry of Finance may also find it useful to issue press releases or other public statements that double taxation treaty negotiations are about to begin with any

particular country. Such public statements are meant to solicit comments from all interested parties in the treaty. Government ought to realize that this procedure serves in bringing to light issues that tax officials may not have previously been aware of. This procedure further helps those in the private sector appreciate the opportunity of participating in the treaty process.

The Malawi Government must however, at all times treat treaty proceedings as confidential until the treaty is signed. The confidential handling of such proceedings helps in avoiding locking double taxation treaty negotiations into tentative negotiation positions. It also prevents subjecting negotiators to pressures from parties directly affected by the tentative decisions.

It is further recommended that Malawi should learn to use the staff at the embassy in the party country when handling double taxation treaty negotiations. Putting embassy staff members on treaty negotiation teams helps in cutting initial treaty costs to minimum. This practice assists at the same time in maintaining high levels of goodwill between the delegations due to the social contacts already in existence.

5.3 Vital Ingredients To Double Taxation Treaty Negotiations

It is recommended that Malawi should seriously ensure that double taxation treaty negotiation teams understand and follow treaty steps. The negotiation teams must have enough time to study the tax systems and existing double taxation treaties of the party countries to the treaty before such negotiations start. The understanding of such existing treaties provides indications to the range of positions acceptable by those countries in the negotiation. The study results unfortunately, indicate that Malawi's negotiation teams

hardly study the other countries' tax systems and their existing treaties. This anomaly ill equips Malawi's treaty negotiators and puts the plight of the nation at stake. This tendency has led Malawi into losing out in accessing the advantages accrued to double taxation treaties. It is further recommended that teams for double taxation treaty negotiations must consult or include other stakeholders in the economy to benefit from their experiences. Stakeholders like the business community in the country, the country's subjects who may be in the party country (at embassies) who can further the negotiation processes, other government agencies like investment agencies, government marketing boards or chambers of commerce must be consulted. Malawi should know that it is very beneficial when one member of the negotiation team is familiar with the United Nations guidelines, the OECD model convention, the Mexico and London draft model conventions and any relevant regional model double taxation treaties. It is therefore expected that the Malawi Government must in this regard take a new and keen interest in the way double taxation treaties are prepared, negotiated, drafted and implemented if the accrued benefits from treaties are to become realizable. It might even be more beneficial if Malawi adopts the UN treaty model as opposed to pursuing the treaties that are modeled from the OECD. This is because the UN treaty model favours source tax regimes whereas the OECD treaty model emphasizes residence based taxation (Owens, 1996).

5.4 Areas Of Further Research

While relatively very little has been written about double taxation treaties, let alone its impact on revenue generation in Malawi, its examination raises many interesting questions. In particular, a search for a convincing rationale on the non-revenue benefits of double taxation treaties in Malawi is a topic of interest both to researchers as well as to policy

makers. If such benefits are not found, it then calls into question the traditional rationale assigned to double taxation treaties of boosting foreign investment. While the study's overview has been limited in scope and length, it nevertheless serves as a useful entry point for more research in future.

Although double taxation treaties have brought massive capital inflows in Malawi and economic development, the findings of the study on the other hand suggest that they can not just be wished away. The study clearly shows that double taxation treaties have not necessarily been beneficial in terms of revenue generation in Malawi. It is however, important to note that although the findings appear to fault the double taxation treaties in Malawi, not every effect of double taxation treaty has been examined. The study was limited in some areas due to data limitation especially on data from the countries that are in treaty partnership with Malawi. Such countries could not release any data needed in the study sighting the vagueness on the information exchange clauses in their treaty agreements with Malawi as reasons for their refusal. It is therefore recommended that further studies be undertaken in future to come up with quantifiable results in areas like:

- Double taxation treaty impact/effects on domestic employment levels.
- Double taxation treaty impact/effects on foreign direct investments and domestic tax base.
- Double taxation treaty impact/effects on revenue generation in terms of revenue tax inflows and outflows based on residence, permanent establishment, immovable property, business profits, international transport, associated enterprises, dividends, interests, royalties, technical/professional fees, capital gains, directors' fees, entertainers and sportspersons payments, pensions and annuities, government services, students and apprentices incomes;

and many other potential areas in double taxation treaty agreements. It is also recommended that another research on a similar subject as the one under study should be conducted under the auspices of the Malawi Revenue Authority or the Treasury or the Ministry of Finance. Conducting such a research would be in the interest of the Malawi nation as its results would be put into the formulation of a comprehensive double taxation treaty policy for the nation.

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7.0 Appendix

The Impact Of Double Taxation Treaties On The Domestic Tax Revenue Generation: The Case Of Malawi

Questionnaire

Note:

The respondent to this questionnaire must not disclose his / her name and the answers given will only be used for the intended use only, nothing else.

Respondent's organization name…………………………………………………
Work division / department of respondent………………………………………
Work section of respondent……………………………………………………....
Work title of the respondent………………………………………………………

Instruction:

Circle what you think are right or close to right answers below.

Q1 Do you know the meaning of the term, double taxation treaty?
(01)……..yes (02)……..no

Q2 Double taxation treaties that are in use in this country were not created by the local tax experts but inherited from colonial masters.
(01)……..yes (02)……..no

Q3 Double taxation treaty is a tool of economic sabotage created by rich economies imposed on poor economies.
(01)…….yes (02)…….no

Q4 Double taxation treaties specifically benefit resident tax regimes.
(01)…….yes (02)…….no

Q5 Source tax regimes ascribe to double taxation agreements in anticipation of capital inflows from capital exporting countries.
(01)…….yes (02)…….no

Q6 The intended capital inflows anticipated when signing double taxation agreements hardly reach the source tax regimes.
(01)……yes (02)……no

Q7 Poor countries sign double taxation agreements under economic and political duress from rich countries.
(01)……yes (02)…….no

Q8 Third world parliamentarians do not like discussing tax issues concerning their countries.
(01)…….yes (02)……..no

Q9 Malawian parliamentarians have never discussed double taxation treaties Malawi has signed with other countries for the past ten years.
(01)……yes (02)…….no

Q10 Tax issues are not discussed by a lot of people in Malawi because taxation is resented by Malawians.
(01)…….yes (02)……no

Q11 Do you think Malawi Revenue Authority (MRA) officials fully understand and appreciate the role of double taxation treaties in our economy?
(01)……..yes (02)…….no

Q12 Do you think MRA has the right personnel right now to deal with complex international tax issues like double taxation treaties?
(01)…….yes (02)…….no

Q13 Do you think Malawi benefits by having signed double taxation agreements?
(01)…….yes (02)……..no

Q14 Do you think double taxation treaties improve domestic tax revenue generation?
(01)…….yes (02)…….no

Q15 Do you think the double taxation treaties signed play a role in the Malawi tax revenue losses?
(01)……yes (02)…….no

Q16 Can a creation of a department responsible for foreign income earners within MRA improve the revenue loss currently experienced?
(01)…….yes (02)……no

Q17 Would the tax revenue losses experienced justify the pursuance of the double taxation treaties policy currently in use in Malawi?
(01)…….yes (02)……no

Q18 Would Malawi be better off in terms of revenue generation by doing away with the signing of double taxation treaties?
(01)……yes (02)…….no

Q19 In your own words, how do you think double taxation treaties have benefited Malawi?
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Q20 Given a chance, what would you propose as a way forward in the usage of the double taxation treaties to ultimately benefit the Malawian poor voters?

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