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**Masters of Laws (LL.M) in Business Law**

**CRITICAL ASSESSMENT ON THE ENFORCEMENT OF RENTAL INCOME  
TAX ON THE ETHIOPIAN ORTHODOX *TEWAHIDO* CHURCH IN ADDIS  
ABABA: LEGAL LOOPHOLES AND PRACTICAL CHALLENGES**

**A Thesis Submitted in Partial Fulfillment of the Requirements for the Award  
of Master of Laws (LL. M) in Business Law at School of Law, College of Law  
and Governance Studies, Addis Ababa University**

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**December, 2019**

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## Declaration

I, Haleluya Tesfaye, hereby declare that the thesis titled ‘Critical Assessment on the Enforcement of Rental Income Tax on the Ethiopian Orthodox *Tewahido* Church in Addis Ababa: Legal Loopholes and Practical Challenges’ is my original work and that it has not been submitted for any degree or examination in any other university. I also pledge that all sources used in any form are duly acknowledged.

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### ***Dedication***

*This paper is dedicated to in loving memory of my mom Agignche Belay who sacrificed a lot to up bring me, my brother and sisters.*

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## Abbreviations and Acronyms

Art.	Article
Civ .C	Civil Code
Comm. C	Commercial Code
EOTC	Ethiopian Orthodox <i>Tewahido</i> Church
ECIS	Ethiopian Standard Industrial Classification
FDRE	Federal Democratic Republic of Ethiopia
FITP	Federal Income Tax Proclamation No. 979/2016
FTAP	Federal Tax Administration Proclamation No.983/2016
GTP	Growth and Transformation Plan
GDP	Growth Domestic Product
ITP	Income Tax Proclamation No 286/2002
IRC	Internal Revenue Code of the United States of America, 1954
PDRE	Peoples' Democratic Republic of Ethiopia
PLC	Private Limited Companies
RO	Religious Organizations
S.C.	Share Company
Sec.	Section
TIN	Tax Identification Number
TOT	Turn over Tax
UBIT	Unrelated Business Income Tax
VAT	Value Added Tax

## Abstract

*Despite a given government's existence is relied on an effective tax enforcement and administration, this is difficult with respect to religious institutions. This paper tries to see the challenges that Addis Ababa City Government Revenues Authority faces during the implementation of rental income tax on the EOTC. The paper has investigated the scope of rental income tax, whether the income accrued from the rental of buildings of the Church falls under the ambit of Schedule B, and the respective legal provisions governing rental income tax. Although there are very few attempts to collect tax from the Church, the study shows that the enforcement is not vigourously undertaken by the Authority. This paper submits that tax laws related to rental income taxes need to be revisited so as to properly enforce rental income tax on the Church. Finally, it concludes with providing recommendations and conclusions.*

Key Terms: Enforcement, EOTC, Rental income tax, UBIT



# CHAPTER ONE

## 1. GENERAL INTRODUCTION

### 1.1. Background of the Study

In the epoch of modern government, tax has become the flesh and blood of any government. To establish and maintain a strong government, tax needs to be collected in an effective and efficient manner. However, due to various reasons there might be some organizations or institutions that might be exempted from tax. What come at the forefront when tax exemption is raised are those of religious and charitable institutions.

Churches' exemption from taxation has been dominant in the entire history of western civilization.<sup>1</sup> However, with the advent of the enactment of the Internal Revenue code of 1954 religious institutions have become within the spectrum of taxation, though they are principally remained exempted.<sup>2</sup> The regulation of the income of charities and religious institutions is one of the difficult areas of tax even in those countries who have a developed tax system.<sup>3</sup> The Internal Revenue Code, however, clearly indicated that earnings accrued from 'unrelated business activities' are taxable.<sup>4</sup>

The Ethiopian Orthodox *Tewahido* Church (EOTC) (the Church, hereinafter, unless the context implies otherwise), which is known for its influential power during the ancient, medieval and

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<sup>1</sup>Unknown, 'Religion in Politics and the Income Tax Exemption' (1973) 42 Fordham L. Rev. 397

<sup>2</sup> Ibid. See also Internal Revenue Code (IRC) of 1954 Sec 501(c) (2)

<sup>3</sup> Taddese Lencho, 'The Ethiopian Income Tax System: Policy, Design and Practice' (Dphil. Thesis, University of Alabama 2014) 390 <[www.acumen.lib.ua.edu/content/u0015/0000001/0001504/](http://www.acumen.lib.ua.edu/content/u0015/0000001/0001504/)> Last accessed on 11 March 2019.

<sup>4</sup> James R. Hines Jr., 'Non-Profit Business Activity and The Unrelated Business Income Tax,' (1999) 13 Tax Policy and the Economy 57-84., available at <<https://www.journals.uchicago.edu/doi/pdfplus/10.1086/tpe.13.20061867>> accessed 11 March 2019

modern history of Ethiopia, has put its most pressure on the role of governments. It was also established as the state religion of Ethiopia as per Article 126 of the 1955 Constitution.<sup>5</sup>

There was a popular saying called “*siso larash siso lekedash siso langash*” roughly it means one-third to the peasant, one third to the priest and the remaining one third is to the crown, which literally favors the Church, the priests and other clergy men.<sup>6</sup> Up until 1974, the EOTC has been placed at bonanza and there is no any payment demanded from the Church.<sup>7</sup> The Church has regained its prominent place after the collapse of the Derg Regime. Currently, the Church owns buildings that have been leased for various commercial purposes and it also engaged in business activities.

## 1.2. Research Problem

The EOTC is national, historical and universal and lays, and continues to lay, irreplaceable foundation for the flourishment of national unity and consensus in Ethiopia. Apart from this, it is known for its contribution in literature, architecture and science. Despite such contributions, currently there are rumors against the Church blaming that it fails to pay rental income tax accrued from leasing of buildings. In fact, historically the Church owned many resources including large tracts of land and forests up until the 1970s. However, with the coming into power of Derg it lost many of its holdings. After the collapse of Derg, it began to regain its properties as well as engage in the construction of buildings for rent. According to my informant from the Ministry of Finance, the rental of buildings by the Church and other religious institutions is becoming immense in that they have acquired a fairly large sum of money and he indicated that it has to pay tax.<sup>8</sup> It is important to consider, however, there are churches that struggle for financial support and oftentimes fails to pay salary for priests and deacons.

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<sup>5</sup> The 1955 of the Constitution of Ethiopia, available at <https://chilot.files.wordpress.com/2011/04/1955-revised-constitution-of-ethiopia1.pdf> , last accessed 04 March 2019

<sup>6</sup> Taddese, The Ethiopian Income Tax System n (3) 391

<sup>7</sup> *ibid*

<sup>8</sup> An interview conducted with Ato Wassie H/ Micheal, Director, Legal Directorate, Ministry of Finance, on 06 March 2019.

The FITP has separately regulated rental and business income taxes. Even though the Orthodox Church has conducted its core activities like spiritual one, it has also involved in unrelated business activities, if we for that matter considered 'rental' as 'business' though they are separately treated in the law. However, the FITP is clearly excluded the rental of buildings from the definition provided what business is as per Article 2(2) (a).

The issue of unrelated 'business' or 'rental' income tax with respect to rental of Church's buildings can only be raised in cases where the building is used not to the extent used by the church for religious services, to the extent not used for priests or other individuals who in one way or another performs religious services.<sup>9</sup> And to the extent not used by the church and leased for commercial and business users<sup>10</sup>, the issue of unrelated rental or business income tax may also be raised.

The problem is the absence of clear legal regime and institutional weakness to enforce the payment of tax that would have been collected from the Church. There was, and in fact there is, a long standing perception that any business activity by the Church should not be taxed. This is particularly reflected by the Orthodox leaders and followers. The Church has inclined to invoke religious, historical and administrative reasons to escape from tax and makes the overall enforcement of rental income tax difficult. Surprisingly, there are also confusions among various officials of Ministry of Revenues and Addis Ababa City Government Revenues Authority, as to the exemptions of religious institutions from payment of tax either business or rental income tax.<sup>11</sup>

The ineffective enforcement of rental income tax on the Church would affect, one, the revenue of the government and, second, it will affect the smooth market completion as the Church would use its virtually tax exempted status in the market. In the USA, various religious institutions play

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<sup>9</sup> Victor R. Wolder, 'Income and Real Estate Tax-Exemption Problems of Churches and Associations' (1967) 45 Taxes 613

<sup>10</sup> *ibid.*

<sup>11</sup> I have tried to collect some preliminary empirical data from the Ministry of Revenue to know how many religious institutions specifically the Orthodox Church, are complied to pay rental income tax, which finally I am failed to get data.

a paramount role in the urban development by providing job opportunities and credit facilities, among other things.<sup>12</sup>

### **1.3. Objective of the study**

This paper has the following general and specific objectives.

#### **1.3.1. General Objective**

This paper aims to investigate the challenges and the solutions thereto of the enforcements of rental income tax on the EOTC in Addis Ababa.

#### **1.3.2. Specific Objectives**

The paper has the following specific objectives that need to be accomplished;

1. To investigate the scope of Schedule ‘B’ (Income from Rental of Buildings) of the FITP,
2. To determine whether the income of rental of buildings of EOTC falls under the scope of Schedule ‘B’ of the FITP or not.
3. To locate the specific areas of challenges (legal and practical) of the tax authority in enforcement rental income tax on the buildings of the Church in Addis Ababa,
4. To asses various historical, religious and administrative reasons of the Church behind the failure to comply tax obligations,
5. To assess the existing ways that the tax authority tries to enforce payment of rental income tax, if any,
6. To assess the practical compliance aspects, if any of the Church to pay rental income tax and
7. To design specific solutions for the proper enforcement of rental income tax on the buildings owned by the Church.

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<sup>12</sup> Laura A. Reese and Gary Shields, ‘Faith-Based Economic Development’ (Summer/Autumn 2000) 17(2/3) Policy Studies Review 87 available < <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1541-1338.2000.tb00918.x>> ,Last accessed 11 March 2019. See also Laura A. Reese and Gary R. Shields, ‘Economic Development Activities of Urban Religious Institutions’ (1999) 1(2) International Journal of Economic Development 166-167,available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.455.73&rep=rep1&type=pdf> ,Last accessed 11 March 2019

## 1.4. Research Questions

The research paper has the following questions that need to be investigating in due course.

- What is the scope of rental income tax under schedule ‘B’ of the FITP? Does the income accrue from leasing of a building of the EOTC fall under the ambit of rental income? Is this rental income of the Church taxable or exempted?
- If it is taxable the following question needs to be answered:
  - ✓ What are the major legal and practical challenges of the tax authority on the enforcement of rental income tax on the buildings owned by the Church in Addis Ababa?

## 1.5. Literature Review

Unlike the experience of other countries like the USA, the jurisprudence of taxation of religious institutions is not much discovered in Ethiopia. The only attempt that can be mentioned in this regard is Taddese Lencho’s effort to show the historical influence not to pay tax together with the absence of clear legal frame work to regulate the same.<sup>13</sup> In fact, there are also other literatures which are written on the exemption of churches and charities that deal with the rationales for exemption.<sup>14</sup>

Taddese mainly tipped the absence of clear legal regime and the deeply entrenched view that charities and religious resistance to pay tax. As a result of this vagueness, the legislature includes the concept of “unrelated business income” under the current FITP (Article 65(1) (m)). However, this inclusion does not solve the problem at all. In fact, the issue of taxation of Charities seems solved following up the enactment of Charities and Societies Proclamation No. 621/2009 which is repealed by the currently enacted Organizations of Civil Societies Proclamation No.1113/2019.<sup>15</sup>

This research is mainly devoted to analyze the challenges of the tax authority be it legal or practical and tries to enunciate solutions thereto. This mainly differs with the work of Taddese.

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<sup>13</sup> Taddese, Ethiopian Income Tax System (note 3) 390

<sup>14</sup> See, Selam Tadesse, Exemption of Religious Institutions and NGOs, ( 19-39) Cited in Taddese Ethiopian Income Tax System, (n 3) 393.

<sup>15</sup> Organizations of Civil Societies Proclamation, 2019, Procl. No. 1113, Fed. Neg. Gaz., Year 25, No. 33.



## 1.6. Research Method and Methodology

The paper employed both doctrinal and non doctrinal aspects of legal research. Qualitative research method is preferred to analyze qualitative data that are collected from interview and other secondary sources. The data will be evaluated with respect to the research questions raised and to the issue under investigation.<sup>16</sup> Qualitative research methodology is used to analyze the behavior, attitude and experience of a given study area either the population (targeted) or a given subject matter by using interview or other mode of soliciting data.<sup>17</sup>

Both primary and secondary sources of data have been employed to carry out the research activities. Basically, intensive interview has also been utilized to solicit important data from the targeted population. In doing so purposive and convenience sampling are chosen so as to acquire data from those samples selected based on their expertise and other responsibilities of the targeted person. My targeted populations are tax officers from the Revenue Office of Addis Ababa City Administration and Ministry of Revenues (including sub-city revenue offices which are randomly selected these are Bole, Akaki Kality, Arada, Gulele and Yeka) as well as from the Ministry of Finance. Apart from these, I have also interviewed officials from the Ministry of Peace (formerly Ministry of Federal Affairs and Pastoral Development) as it is bestowed with the function of following up and controlling the activities of religious institutions. I have also tried to conduct interview with individuals from the Church Diocese though I have failed to find data. The nature of the interview is mixture of both structured and semi-structured interview. This is because it is not easy sometimes to find these individuals and hence, I employed the interview as time and other resources enable me to do that.

Other primary sources of data like legislations are also investigated to properly address the issues raised under the research question. Most importantly, various sources of secondary data from books, letter, court case, journal articles and book reviews are also utilized to conduct this research.

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<sup>16</sup>Yalew Endawok , *Yemirmir Meseretawi Merhowochna Ategebaber* ( in Amharic 3<sup>rd</sup> ed, Tefera Seyoum Printing Press. 2017 ) 19

<sup>17</sup> Catherine Dawson, *Practical Research Methods: A User-Friendly Guide To Mastering Research Techniques And Projects* (Cromwell Press 2002) 14

The data is analyzed from notes taken from the interview and grouped according to the similarities of opinions and statement of interviewees and it is interpreted accordingly. Like other legal researches, this paper is also relied on the investigation of certain tools like case, consolidation of laws, books and journal articles.<sup>18</sup> In fact, this research is not totally devoid of empiricism methods.<sup>19</sup> Intensive interview and some observations are employed to make it empirical research.<sup>20</sup>

### **1.7. Scope of the Study**

In terms of scope, the study focuses on analyzing legal and practical challenges associated with the enforcement of rental income tax on the Church. Geographically, the study is limited to Addis Ababa and it does not include incomes that are accrued from churches located in regions. Since the income of each church is required to be transferred to the central Diocese and later distributed for each church, it is not all rental income tax that falls under the jurisdiction of City Administration. As far as the type of tax that is going to be investigated is concerned, the study is also limited to rental income from buildings of the Church. It will not address other taxes like employment withholding tax, turn over tax, capital gains tax and value added tax. Due to resource and time constraint it is not possible to address all types of taxes.

With regard to the religious institution, the study looks in to the enforcement of rental income tax on buildings that are owned EOTC. Although there are more than 2400 religious institutions in Ethiopia, the study is limited to the Church. The Church is historical, national and universal that plays a paramount role for national integrity, consensus and unity since its establishment in the fourth century. And, it is important to study whether this Church is exempted from tax or not and it will be an important foundation to think about the future as to whether this Church obliged to pay tax.

### **1.8. Thesis Organization and Size**

The paper has four separate chapters. The first chapter is devoted on indicating the research proposal in that the background, research problem and questions, the objective of the study and

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<sup>18</sup> Wondemagegn Tadesse, 'Legal Research Tools and Methods in Ethiopia' (2012) 25( 2) Journal of Ethiopian Law 77

<sup>19</sup> Lee Epstein and Gary King, 'A Replay' (2002 ) 69 (1) The University of Chicago Law Review 199-205

<sup>20</sup> *ibid.*

the methodology of the research is included. The second chapter is destined to investigate the scope of rental income under Schedule B of the FITP. The third chapter is focused on discussing the critical aspects of the enforcement of rental income tax on the EOTC. The final chapter is left for conclusion and recommendation parts.

## CHAPTER TWO

### 2. LEGAL AND PRACTICAL CHALLENGES ASSOCIATED WITH THE STRUCTURE OF SCHEDULE “B” OF THE INCOME TAX LAW

#### 2.1. Introduction

Historically, the structure of Schedule “B” income tax, interchangeably called “rental income tax” has been crafted during the Imperial Regime in 1949.<sup>21</sup> Proclamation 107/1949, which replaced the 1944 Proclamation, has defined income in inclusive way as “*every sort of income earned or unearned, whether in the form of gains, profits or rents, salaries, wages, or compensation for personal services of whatever kind.*”<sup>22</sup> The Proclamation has employed broad terminologies to define income ranges from employment to any other means of accruing income. It has been known that during the Imperial period, rental income covered incomes accrued from both buildings and land, in which the latter was privately owned.<sup>23</sup>

With the coming into power of the Derg Regime, Schedule “B” had been removed owing to government ownership of land and the expropriation of extra houses.<sup>24</sup> However, the Schedule has regained its structure after the overthrow of the Derg.<sup>25</sup> The income tax laws that are enacted thereafter used the nomenclature of Schedule “B” as “income from rental of buildings.”<sup>26</sup> Tax policies and laws have delimited the scope of Schedule “B” to buildings. This can be witnessed from the two tax succeeding proclamations, income tax proclamation No.286/2002 and FITP No.979/2016, where in the latter repealed the former. Moreover, these two proclamations do not provide what a building is that is amenable to rental income tax.<sup>27</sup>

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<sup>21</sup> Taddese, Ethiopian Income Tax System (n 3) 340. See also, Taddese Lencho, ‘Towards Legislative History of Modern Taxes in Ethiopia,’ (September ,2012) 25 ( 2) Journal of Ethiopian Law 116, 117

<sup>22</sup> A Proclamation to Provide for the Payment of Tax by All Individuals and Businesses, 1949, Art. 2(2). Proc.No.107, *Negarit Gazetta*, 8<sup>th</sup> Year, No.12.

<sup>23</sup> Taddese , Ethiopian Income Tax System, ( n 3 )342.

<sup>24</sup> *ibid.*

<sup>25</sup> *ibid.*

<sup>26</sup> *ibid.*

<sup>27</sup> *ibid.*

In this chapter, coverage is made on the scope of Schedule “B” together with the practical and legal challenges associated with its application, the analysis as to whether the EOTC is exempted or not from the payment of rental income tax from buildings and examine the scope of rental income tax on the buildings owned by the Church.

## 2.2. The Scope of Schedule “B” and Problems Associated with It

Before directly looking into the scope and nature of income from rental of buildings, it might be well to consider the definitions given by the lawmakers on income when they subject it to tax. In this respect, definitions that are given as to what an income means will be examined. In relation to this, tribunals of different jurisdictions defined income differently based on different foundational ideologies.

The Federal Supreme Court of the US in numerous cases has defined income that encompasses profits and losses from the sale of capital assets.<sup>28</sup> To name one of the definitions that has been provided by courts reads *“Income may be defined as the gain derived from capital, from labor, or from both combined, provided it is understood to include profit gained through a sale or conversion of capital assets . . .”*<sup>29</sup> In defining in such way, the Supreme Court seems to have relied on Corporation Laws of the US existed during the early 20<sup>th</sup> century.<sup>30</sup> This is mainly because tax laws were legislated based on the doing of business through forming corporate entities. In majority of cases, State Courts of the US have used the definitions given by the Supreme Court.<sup>31</sup> In fact, sometimes it might be necessary to look into the statutes and court decisions of a particular state on the conception of income.<sup>32</sup> The Supreme Court of Wisconsin, for instance, defined that *“Income must be money or that which is convertible into money.”*<sup>33</sup> This definition is provided in line with the laws of this State.

The income tax law of England does not define what income is. However, the House of Lords has determined that the subject area of taxation (income) is something that is *“money or money’s*

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<sup>28</sup> James Morfit Mullen, ‘Rents and Rental Values Taxable as Income’ (1941) 5 Maryland L. REV. 387

<sup>29</sup> *ibid.*

<sup>30</sup> *ibid.* 387-388.

<sup>31</sup> *ibid.* 388.

<sup>32</sup> *ibid.* 389.

<sup>33</sup> *ibid.*

worth.”<sup>34</sup> Pursuant to this, what is considered as “income” is “money” or that must be valued in terms of value money though there is no value received in cash. This definition seems to be related with what is provided under Ethiopian income tax laws.

Coming to Ethiopia, income is defined both under Proclamations 286/2002 and 979/2016 in identical terms provided that “*income means every form of economic benefit, including non-recurring gains, in cash or kind from whatever source derived and in whatever form paid, credited, or received.*”<sup>35</sup> The definition is very broad which gravitate every kind of economic benefit as an income and so that it would be subject to tax, be it in the form of rental income tax, employment income tax or any other types of taxes.

Owing to the varying conceptions on what income is resulted in different construction on the concept of income tax particularly on rents and rental values.<sup>36</sup> For example, a person who resides in his own house and rented out for rent might pose up a series questions. The former might be seen as self –rent while the latter is rent in value of money. Both cases can be valued in terms of money. In our law, there is no rental income tax on the houses occupied by the owner.

According to James Mullen, rental activity may be seen in three major scopes or subject matters.<sup>37</sup> However, his view is broad as he focuses on both the rental of land and buildings. The three subject areas of rental income for the purpose of taxation are:

- i. “*When real estate is leased for a term or otherwise for the payment of rent.*
- ii. *When the taxpayer receives compensation, either partly or entirely, in the use of a dwelling or other real estate.*
- iii. *When the owner of real estate does not lease it, but occupies it himself.*”<sup>38</sup>

The first one is the obvious one in that if someone gains benefit by leasing a building such income is subject to rental income tax. The second one is a residence furnished for a tax payer in providing services. For instance, an apartment provided for a minister or a bishop for residence to facilitate religious activities might or might not be subject to tax. Under our law, an

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<sup>34</sup> *ibid.*

<sup>35</sup> See Art 2(10) of Proc. No. 286/2002 and Art. 2(14) of Proc. No. 979/2016

<sup>36</sup> Mullen (n 28) 389.

<sup>37</sup> *ibid.*

<sup>38</sup> *ibid.*

investigation will be made herein under in a separate section. The final one has to do with ‘self-rental’ when the owner uses his house for residence. Whether this is a subject of taxation of rental income or otherwise varies from jurisdiction to jurisdiction. Under our law, the owner is not liable to pay rental income tax even if he/she uses his building as a residence.

Schedule “B” of our income tax law encounters many problems associated with its structure and scope of application. According to Taddese, these problems emanate from the truncated historical aspects of Schedule “B” and the absence of clear and elaborated regimes governing incomes accrued from rental of buildings.<sup>39</sup> There is no any detailed governing rules on rents and rental values that would ultimately delimits the scope of application of Schedule “B”. The newly enacted income tax law simply referred the Schedule as “income from rental of buildings.” This denomination is also employed under the repealed tax law.

Except such terminologies, there are no clear definitions provided for rental income and buildings that are subject to rental income tax. And, practically there is no uniform application of the Schedule in enforcing rental income tax which stemmed from the ambiguous structural formation of Schedule B’s scope of application and ways that the Schedule conceived together with the unparallel enforcement.<sup>40</sup> This, in turn, creates practical and legal challenges that ultimately affect the equitability and administrative feasibility of the Ethiopian income tax system.<sup>41</sup>

### **2.2.1. Scope of Schedule “B”: Legal loopholes**

As noted earlier, the history of Schedule “B” is dated back to the late 1940’s where Ethiopia was under the Imperial Regime. Despite its prolonged history, there are no detailed rules and regulations that are meant to govern its scope of application in a plain spectrum. This problem has persistently continued even in the newly enacted FITP. The regional income tax laws do not address this problem either. This can be witnessed from Amhara Regional State Income Tax

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<sup>39</sup> Taddese , Ethiopian Income Tax System (n 3) 343.

<sup>40</sup> *ibid.*

<sup>41</sup> *ibid.*

Proclamation (repealed)<sup>42</sup>, which is the verbatim copy of the Federal income tax laws, particularly ,that of Proclamation 286/2002.

Be this as it may, the foundation for the levying of rental income tax is the existence of real property which in and of itself is not sufficient. The property must be offered in the form of rent for the other party and thereby the lessor (owner or possessor) accrues benefit from it. Two questions need to be answered here, i.e. 1) was income derived; and 2) to whom is the income attributable to?<sup>43</sup> Needless to state, the basic determinant that needs to be questioned in cases where income is derived from property is who owns it, *inter alia*.<sup>44</sup> Hence, buildings and land as well as movable properties may be the sources of rental income. However, incomes accrue from rental of buildings may be categorized under Schedule “B”; whereas incomes generated from the rental of movable properties, like machineries might fall under a different schedule of taxation.

This distinction does not seem scrupulously matriculated based on a grand policy rationale or any other legitimate foundation. And the courts did not give us jurisprudential reasoning on the underlying categorization of the same income in different schedules. What we have at our hands is excerpts that have been written by scholars though scanty they are.

Despite the fact that Schedule “B” designates itself as ‘rental income tax’, it is mindful that it does not seem cover all forms of income accrued from rental of property.<sup>45</sup> The case in point is rental of machineries which falls under Schedule “C”. There is also “income from causal rental” which falls under “other income” or Schedule “D” pursuant to Art. 58 of the FITP.<sup>46</sup> Here, it is important to see areas that are included under the scope of “incomes from the rental of

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<sup>42</sup> The Amhara National Regional State Income Tax Proclamation, 2002, Procl. No. 76, *Zikre Hig*, 7<sup>th</sup> Year No. 23. See Arts 14, 15 and 16 which are directly copied (including the order of articles) from Proc. 286/2002.

<sup>43</sup> Lucius A. Buck, ‘Income Tax Evasion and Avoidance: The Deflection of Income’ (1936-1937) 23 VA. L. REV. 108.

<sup>44</sup> *ibid*.

<sup>45</sup> *ibid*. 344

<sup>46</sup> Income from causal rental is miscellaneous income derived from rental of land, building or movable assets. The that has been derived may fall under Schedule “B” or “C” depending on the nature of the property that has been rented out.



buildings.” It is not only incomes that accrued from rental of a building *per se* that are liable to rental income tax. It also includes:

- I. *“All amounts derived by the taxpayer during the year under the lease agreement ,including any lease premium or similar amounts;*
- II. *All payments made by the lessee during the year on behalf of the lessor according to the lease agreement;*
- III. *The amount of any bond ,security ,or similar amount that, during the year ,the taxpayer is entitled to retain as a result of damage to the building and that has not been used by the taxpayer in repairing the damage to the building;*
- IV. *The value of any renovation or improvement made under the lease agreement to the building when the cost was borne by the lessee in addition to the rent payable to the taxpayer; and*
- V. *If the leased building is a furnished one, the gross amount of income shall also include any amount attributable to the lease of the furniture or equipment. ”*<sup>47</sup>

The FITP is not the only legislation that delimits the scope of Schedule “B”. There is also a regulation that further specifies certain incomes as to which Schedule that particular income categorized under. <sup>48</sup> For instance, the lease of business that includes goods, equipment and buildings that are parts of the normal operation of business are subject to taxation under Schedule “C”.<sup>49</sup> The law considers business as incorporeal movable though it consists of both movable and immovable assets.<sup>50</sup> Business premise is one of the ingredients of business as per Art. 127(2) (c) of the Comm. C. No matter how a business consists of lease of buildings as part and parcel of it is treated as business lease and there by falls under Schedule “C”. So, the scope and nature of “business lease” also casts a doubt as it may include a building.<sup>51</sup>

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<sup>47</sup> See Art. 15 of the FITP

<sup>48</sup> Council of Ministers Federal Income Tax Regulation, 2017, No.410, Federal *Negarit Gazetta*, 23<sup>rd</sup> Year, No.82

<sup>49</sup> Federal Income Tax Regulation, 2017, Art. 22, Regulation No 410, Federal *Negarit Gazeta* Year 23<sup>rd</sup> Year, No.82.

<sup>50</sup> Commercial Code of The Empire of Ethiopia , 1960, Arts 124 and 127, Proclamation No 166 , *Negarit Gazeta* ,*Gazette Extraordinary*,19<sup>th</sup> Year No. 3

<sup>51</sup> Taddese Ethiopian Income Tax System (n 3) 345.

It appears apparent that a conflict inevitably arises between Schedule “B” and “D” on the fact that a building is one of the subjects that may be causally rented.<sup>52</sup> Generally, incomes accrue from “causal rental” and “business leases” are the two exceptions to Schedule “B” income taxation of rental of buildings that are excluded by the legislature. Practically, however, there are numerous cases which do not attract income taxation under Schedule “B” though on its face involve rental of buildings.<sup>53</sup> This added other intricacies to the overall scope and nature of income from the rental of buildings. These divergent trajectories have also continued even under the newly enacted laws. To name some of the rental businesses that do not normally fall under Schedule “B” includes, but are not limited to, the use and occupancy of rooms and other quarters in guest houses, pensions, apartment houses furnishing hotel services, hostels and tourist rooms.<sup>54</sup> Hotels, in Ethiopia have engaged in the provisions of rooms and apartments as business apart from their main business of catering and entertainment.

In fact such delusion is also found in the US, specifically, when corporations engage in “passive investment income.”<sup>55</sup> However, when corporations are engaged in providing significant service for the occupant, such as for the use or occupancy of rooms and other quarters in hotels, tourist houses and other apartment houses, these are not considered as passive investment incomes.<sup>56</sup>

The Ethiopian practice shows that the rental part of the business is considered and fully integrated to their overall business. But sometimes they might be required to report their rental and business activity separately under Schedule “B” and “C”. So, the practice in Ethiopia is a bit confusing which is also coupled by legal loopholes as discussed below.

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<sup>52</sup>ibid.

<sup>53</sup> ibid. 346.

<sup>54</sup> ibid

<sup>55</sup> According to Black’s Law Dictionary “*passive income is an income derived from a business ,rental, or other income-producing activity that the earner does not directly participate in or has no immediate control over.*” Rent is defined under Int.Rev.Code of 1954 Section 1372(e)(5) means “ *an amounts received for the use of ,or rights to use, property (whether real or personal) of the corporation* ”

<sup>56</sup> Treas. Reg. § 1.1372-4(b) (5)(vi) as cited in Unknown, ‘Subchapter S Eligibility-Rental Income from Real Estate and the Passive Investment Income Limitation’ (1972) 43 U.Colo. L. Rev. 323

### 2.2.2. Schedule “B”: The Realm of the Practice

According to Taddese “*the practice surrounding the scope and the meaning of Schedule “B” is sketchy, patchy, anecdotal and at times inconsistent.*”<sup>57</sup> The problem seems to emanate from the absence of detailed rules and definitions about the scope of application and nature of Schedule “B”. The problem has also been worsened by the absence of cases that navigate the scope of Schedule “B” visa-avis other Schedule of the Ethiopian income tax system.<sup>58</sup> However, the practice is blended with a nightmare which has its own negative ramification on the overall enforcement of rental income tax. The practice has been witnessed from the tax administration system as to what the scope of Schedule “B” looks like on the ground. A number of scenarios have been encountered on the whole enforcement of rental income tax. Companies and individuals may rent out their property and drive income in different scenarios.

- I. *“A real estate company may construct buildings like villas, houses and other infrastructures for the purpose of rent for third parties and thereby to generate profit;*
- II. *A real estate company may construct buildings like villas, houses and other infrastructures for the purpose of selling real estate for third parties and thereby to generate profit;*
- III. *A real estate company may construct buildings like villas, houses and other infrastructures for the purpose of both renting and selling real estate for third parties and thereby to generate profit;*
- IV. *In addition to its core business, a non-real estate company may engage in the rental of buildings, offices and apartments;*
- V. *An individual may construct buildings and provides them partly or wholly for letting ;*
- VI. *An individual or a company may offer buildings, offices and halls for different ceremonies like weddings and meetings;*
- VII. *An individual or a company may lease out its machinery and equipment ;*
- VIII. *Hotels ,guest houses and pensions may rent out for third parties , in fact they are mainly established for such purpose especially guesthouses and pensions ; and*

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<sup>57</sup> Taddese, Ethiopian Income Tax System (n 3) 347.

<sup>58</sup> *ibid.*

*IX. An individual or a company may engage in leasing of capital goods under hire-purchase and finance lease arrangements.”*<sup>59</sup>

These are most common activities, which remained the subject of debate regarding the exact schedule as to which it belongs to, as per the respondents who were interviewed by Taddese.<sup>60</sup> An individual or a company that rents out machineries and equipments may be taxed under Schedule “B” or “C” as the practice shows.<sup>61</sup> A real estate company and a non-real estate company who might engage both in rental and selling of buildings are subject to tax, for the rental part under Schedule “B” and for the selling part under Schedule “C”. This means they are required to file their tax separately no matter how small the amount of tax is going to be paid. This creates unnecessary burden on taxpayers which will affect the overall tax administration. It also opens up a chance to split income in order to escape a higher tax rate or to benefit from deductions that are available under different schedules of the income tax law.

Splitting of income is one of the challenges that circumvent Schedule “B” income tax creates an opportunity for tax planning and allocation of income.<sup>62</sup> A real estate company who engages in rental and selling of buildings is required to report separately under Schedule “B” its tax return from rental income and under Schedule “C”, its tax return from business.<sup>63</sup> Similarly, non- real estate entity is required to file separately, one for its core or main business under Schedule “C” and the other is for its side rental income under Schedule “B”.<sup>64</sup>

Consequently, it has an implication that tax liabilities may vary on individual tax payers simply because one pays rental income tax and the other allocates his income for the payment of both rental and business income tax.<sup>65</sup> Two individuals who generate similar taxable income might be taxed differently which creates more tax burden on the individual who pays rental income tax , and less burden on the individual who split his income for the payment of rental and business

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<sup>59</sup>ibid.

<sup>60</sup> ibid. 348.

<sup>61</sup> ibid. 349.

<sup>62</sup> ibid. 352.

<sup>63</sup> ibid.

<sup>64</sup>ibid.

<sup>65</sup> ibid. 352-352.

income taxes under separate schedules. This split of income also enables taxpayers to exploit the exemption floor provided by the law, currently incomes up to Birr 7200 are exempted from tax liability.

The other challenge associated with Schedule “B” income taxation is difference in deduction of expenses. This Schedule has its own method of deductions though vary depending on certain rules regulating the deductions. For instance, maintaining books and accounts is served as a vantage point to determine the tax deductions. For those taxpayers who does not maintain books of accounts, a deduction is limited to amounts like fees and charges , but not tax , levied by the State or City Administration in respect of the land or building leased and paid by the taxpayer during the year.<sup>66</sup> In addition, an amount equal to fifty percent (50%) of the gross rental income derived by the tax payer for the year as an allowance for the repair, maintenance, and depreciation of the building, furniture and equipment shall also be allowed to be deducted for those taxpayers who do not maintain books and accounts.<sup>67</sup> However, a tax deduction may not be available for those taxpayers who are required to maintain books of accounts under the Proclamation.<sup>68</sup> For those tax payers who maintain books of accounts, on the other hand, a deduction shall be allowed so far as the taxpayer incurred in deriving rental income, these includes; the cost of lease of land on which the building is situated,<sup>69</sup> repairs and maintenance,<sup>70</sup> depreciation of the building, furniture and equipment,<sup>71</sup> interest and insurance premiums<sup>72</sup> and fees and charges, but not tax, levied by a State or City Administration in respect of the land or building leased.<sup>73</sup>

Under the repealed income tax proclamation, the method of calculation of depreciation of rental of buildings is cross-referred to Schedule “C”.<sup>74</sup> However, the newly enacted proclamation does

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<sup>66</sup> FITP, Art. 15(5)(a).

<sup>67</sup> *ibid.* Art. 15(5) (b).

<sup>68</sup> *ibid.*, Art.15 (6).

<sup>69</sup> *ibid.* Art. 15(7)(a)

<sup>70</sup> *ibid.* Art. 15(7)(b)

<sup>71</sup> *ibid.* Art. 15(7)(c)

<sup>72</sup> *ibid.* Art. 15(7)(d)

<sup>73</sup> *ibid.* Art. 15(7)(e)

<sup>74</sup> Income Tax Proclamation No 286/2002, Art. 16(1) (c) (iii).

not provide such cross reference. In a nutshell, those rules that allow deductions under Schedule “B” are fewer than those provided under Schedule “C”.<sup>75</sup> To name some of the allowable deductions under Schedule “C”, but not under Schedule “B”, includes deduction on trading stocks, bad debts and reinvestment costs. By the mere fact that Schedule “B” is silent on the deductibility or otherwise of the expenses, the tax authorities deny the deduction of some expenses incurred for the earning, maintaining and securing the rental income.<sup>76</sup>

### **2.2.3. The Scope of Schedule “B”: The constitutional Jurisdiction Dilemma**

The FDRE Constitution has allocated the power of taxation for both the Federal and Regional governments. The power over taxation of rental income from buildings has been assigned for both governments. However, it has to be noted that the power over taxation of rental income is primarily given for Regional States. As per Article 97(6) of the FDRE Constitution, states have the power to levy and collect taxes on income derived from private houses and other properties located within their own territory.<sup>77</sup> The Federal government has the power to levy and collect taxes on income of houses and properties that are owned by the same.<sup>78</sup> This shows that the Federal government has taxation power of rental income only on those houses owned by it.

The constitutional jurisdiction issue of the enforcement of Schedule “B” arises due to the difference in allocation of power of taxation on different yardsticks. These are for instance, the nature of business organization and the area on which the building is located. The power of taxation over income from business is given for both the Federal and Regional governments. On the other hand, the power of taxation over incomes from the rental of buildings is overwhelmingly given for Regional States. This different allocation of power of taxation has a serious implication on tax payers, for institutions that operate business and rental of buildings and accrues income there from may be required to report for its business income and rental income separately to the Federal Government and Regional States. Generally, the fiscal power

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<sup>75</sup> Taddese, Ethiopian Income Tax System (n 3) 355.

<sup>76</sup> *ibid.*

<sup>77</sup> The Constitution of the Federal Democratic Republic of Ethiopia, 1995, Procl. No. 1, Federal *Negarit Gazeta*, 1<sup>st</sup> Year No.1

<sup>78</sup> Art. 96(6) of the FDRE Constitution.

configuration that has been crafted by the FDRE Constitution has perplexed the overall administration of taxation on rental income.<sup>79</sup>

As a result of the exponential problems tide with Schedule “B”, there are waves of arguments against the separate treatment of the Schedule.<sup>80</sup> In fact, there seems no any palatable reason for the separate treatment of the Schedule. Neither the legislator nor tax administration officials have provided a sufficient policy rationale as to the exact distinguishing element existed between renting a house (building) and doing “business” (selling goods and services). This artificial distinction has been further buttressed with definitional provision that is provided under the FITP. As per Article 2(2) (a) of the Proclamation, the definition of “business” has expressly excluded “the rental of building” and “rendering services as an employee” from the ambit of the so-called “business”. The law maker seems to have the intention that rental of a building is not seen as “business”. However, there is no any substantial difference between the two activities that are enlisted under the two schedules.

Those who propound the separate treatment of Schedule “B” have gloomed their argument by suggesting that rental income from building is relatively less risky source of revenue for the government, at least compares with income from business as provided under Schedule “C”.<sup>81</sup> On the other hand , those who are against the separate treatment of the Schedule argues that such artificial separation creates a room for manipulation especially a taxpayer engaged in both rental and business activity may shift expenses to the other source of income to reduce the overall tax liability.<sup>82</sup>

Despite such opposing views, it is difficult to comprehend the real intention of the law maker on the issue under consideration. It is, however, the result of historical gravitation and lack of deliberate consideration on the implication of the separate treatment.<sup>83</sup> The Constitution has exacerbated the problem by assigning the fiscal power over rental of buildings to Regional States and business income concurrently to the Federal and Regional governments. Any amendment to

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<sup>79</sup> Taddese, Ethiopian Income Tax System (n 3) 359.

<sup>80</sup> *ibid.* 362.

<sup>81</sup> *ibid.* 364.

<sup>82</sup> *ibid.* 366.

<sup>83</sup> *ibid.* 367.

mix the two schedules may result the loss of revenue to regional states.<sup>84</sup> So, the problem will still persist unless amendment to the Constitution is made.

### **2.3. Is the Income Accrued from Rental of Buildings of the EOTC Treated as ‘Income’ under the Law? Is It Subject to Tax or Exempted?**

As mentioned earlier, the FITP has defined income in expansive way to gravitate any form of economic benefit to be subject to tax and hence, to boost the total revenue of the government accrued therefrom. Most importantly, the Proclamation has broadened the source of the income which is clear from the phrase “...*in cash or kind from whatever source derived ...*”<sup>85</sup> (Italics added). The law tries to expand the source of incomes and persons who are liable to pay tax. The first threshold that must be taken when tax is levied is whether a person accrued income or not. The second one is whether the income is exempted or not. Exemption is one of the privileges that is granted for certain incomes as provided under the Proclamation. The exemptions includes those exemption floors under Schedules “A”, “B” and “C” and “exempt incomes” under Schedule “E”. Apart from these, the Council of Ministers is empowered to enact regulations that can exempt income from tax on economic, administrative and social reasons.<sup>86</sup>

One of the exempted amounts, as provided under Art. 65(1) (m) of the FITP, is “the incomes of a non-profit organization *other than business income that is not directly related to the core function of the organization.*”<sup>87</sup> (Italics added). From this wording, it is discernable that, income generated by non-profit organizations is exempted from tax, at least in principle. However if these institutions are engaged in a “business activity which is not directly related” with their main purpose of establishment, the incomes are accrued therefrom shall be subject to tax. This provision specifically deals with incomes generated from “business activities” but not incomes from the “rental of buildings.” Would it be tenable to argue that income generated from rental of buildings of religious institutions, for instance EOTC, is exempted from tax? In fact, the first question that needs to be answered is whether the economic gain from the rental of buildings of

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<sup>84</sup> *ibid.*

<sup>85</sup> Art. 2 (14) of the FITP.

<sup>86</sup> Art. 65(2) of the FITP.

<sup>87</sup> The word “non-profit organization” encompasses many organizations including religious institutions, aid organizations and professional associations.



the EOC is “income” in the first place. As per the definitions of “income” provided under the Proclamation, nothing precludes the income accrued from the rental of buildings of the Church to fall under such umbrella. As it has been enunciated above, the definition is broad which encapsulates any economic gain as an income and there is no exception provided thereto. The law does not also mention individuals or entities that are free from any tax liabilities except those provided under Schedule “E” and those falls under the exempted threshold. Above all, the Proclamation does not provide any individuals or entities that are exempted from the payment of rental income tax from buildings under Schedule “B”. So, in the absence of clear provision, it is hard to envisage that income generated from rental of buildings of the Church is exempted from tax.

There are letters written to the EOTC Diocese demanding them to pay business and rental income taxes.<sup>88</sup> This shows religious institutions are not exempted from the payment of rental and business income taxes. There are also directives which directly or indirectly require religious institutions to pay tax. The most notable one is a directive enacted by the Ministry of Federal and Pastoral Development Affairs (now the Ministry of Peace) which obliges religious institutions to report their financial audit to the Ministry.<sup>89</sup> Art. 20 (5) (b) of the directive provides that religious institutions shall report about the institutions they administered and the payment of rental and employment income taxes to the Ministry, in their annual financial audit report. Art. 20(1) of the directive has obliged the religious institution to inspect its audit by external auditor or any organ appointed by the institution. However, if the annual transaction of the institution is greater than Birr 500,000 external auditor is must as per Art. 20(2) of the directive.

This particular directive has clearly required all religious institutions to be registered in order to acquire legal personality. Art. 2 of the directive has indicated the necessary requirement that need to be fulfilled when a certain religious institution files to register; these are capacity to perform legal activities and the purpose of establishment shall be to undertake religious or spiritual services. Apart from this, Art. 6 of the directive states another requirement on

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<sup>88</sup>See Ethiopian Revenues and Customs Authority (now Ministry of Revenues), a Letter written to the Ethiopian Orthodox Tewahido Church Diocese’s Secretariat, 5 *Ginbot* 2005, (in Amharic) E.C, Annex One.

<sup>89</sup> በፌዴራልና ኦርቶዶክስ ክርስቲያን ስርዓት ስርዓት ማህበራትን ለመመዘገብ እና ተዛማጅ አገልግሎት ለመስጠት የወጣ መመሪያ፣ ጥር 2010 ዓ.ም፣ መመሪያ 1/2010፣ አ.አ.

membership; if the institution is established by way of temple or church, at least one thousand (1000) fellows are required and five hundred (500) members for the establishment of association, ministry or fellowship. And upon the registration of religious institution by the Ministry, it may acquire a certificate that entitles a legal personality pursuant to Art 11 of the directive.

Despite the existence of such directive, the Church is not still registered as per this directive. In fact, the Church had gained legal personality as provided under the Civil Code (see Art.398). However, it is not clear whether the Church is required to be registered as per the newly enacted directive while it has already acquired a legal personality under the Civil Code of 1960. But now, it is hard to establish the legal personality of the Church as the state is secular to religion as per the Constitution. The confusion also exists on the Ethiopian Muslim Council (Mejilis), which administers and controls the activities of mosques, is not also registered as per the directive nor recognized under the Civil Code. Currently, there is an attempt to enact a law that establishes legal personality of the Council. These two dominant religious institutions are adamantly hesitant to register pursuant to the directives enacted by the Ministry.

One important thing that needs to be investigated is the legality of the directive and the power of the Ministry in relation to registration and requiring the Church to annually report about the payment of tax. Does the Ministry have the power to control the Church? The repealed proclamation No. 916/2015 empowers the then Ministry of Federal Affairs and Pastoral Development to work in collaboration with pertinent government organs, regions and other organs to ensure the peace and mutual respect that will prevail among followers of different regions and beliefs, and to enable the prevention of conflicts, register religious organs and associations.<sup>90</sup> The directive is enacted pursuant to this provision which ultimately restricts freedom of religion since it requires the Church to report annually about the payment of tax apart from registration and licensing requirement. This directive is against the principle of secularism as provided in the Constitution. The newly enacted Proclamation No.1097/2018 is also similarly empowers the Ministry of Peace to work with religious, cultural, governmental and other pertinent organs and register religious institutions to promote peace and mutual respect among

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<sup>90</sup> Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, Art. 9(2) cum Art. 9(1) (h) Pro. No.916/2015, Fed.Neg.Gaz. 22<sup>nd</sup> Year No.12.

religions and beliefs as well as nations and nationalities.<sup>91</sup> But, requiring the Church to report annual financial audit to the Ministry seems contrary to freedom of religion. So, the directive needs to be considered in the future.

According to Ato Bitew Kassaw there are more than 2483 registered religious institutions in Ethiopia.<sup>92</sup> Except the Church and the Muslim Council, other religious institutions are registered by the Ministry. There is no as such a big challenge with those currently established religious institutions merely because they voluntarily undergo the registration and licensing requirement.<sup>93</sup> The Ministry is not capable of regulating and following up the EOTC as it is customarily dominant and it is failed to obey orders from any governmental institution including the Ministry.<sup>94</sup>

The failure to register is equally disadvantageous to the Church as it is cumbersome to process some international transactions and contracts that are undertaken by the Church as it has no licensing and certificate which entitles its legal personality in light of the directive.<sup>95</sup> It is also difficult to authenticate contracts related with the institution as it is not duly registered organization.<sup>96</sup> According to Bitew, the EOTC and other religious institutions fears to register mainly because they speculates that registration might help the Ministry to trace the rental, business and employment income taxes associated with them. In such cases, it is difficult to locate their residence and activities, like rental of buildings and businesses conducted by the institutions. This seems to be one of the reasons that hinder the enforcement of rental income tax on the EOTC. Even if we may practically see businesses and buildings that generate income, it is not easy to identify the owner and the person who runs such business. It is without registration

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<sup>91</sup> Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, Art. 13(1)(c) cum Art. 13(1) (h) Proclamation No.1097/2018 No., Fed.Neg.Gaz. 25<sup>th</sup> Year No.8

<sup>92</sup> Interview with Ato Bitew Kassaw, Director, Religious Organization and Association Registration Directorate, Ministry of Peace (Addis Ababa, Ethiopia, 12 June 2019)

<sup>93</sup> *ibid.* ; This similar idea is also gathered from Interview with Ato Getawa Destaw , Director, Religion and Faith Affairs Directorate, Ministry of Peace, (Addis Ababa, Ethiopia, 5 June 2019)

<sup>94</sup> Interview with Ato Bitew Kassaw (n 92)

<sup>95</sup> *ibid.*

<sup>96</sup> *ibid.*

and licensing that most of the religious institutions operates business. This is mainly common in the EOTC which runs business in its own name but without paying tax.

Another important issue that worth a discussion is the scope and nature of income from rental of buildings of the Church and that are subjected to rental income tax under Schedule “B”. In a compound of a Church, there might be many buildings used for spiritual services and at the same time there might also be buildings rented out for office and business. But the scope of application of the rental income tax from the rental of buildings is one of the most critical issues that need to be investigated in-depth.

A building of a Church may be leased to third parties for business, residence and offices. If the building is not exclusively used for worshipping purposes, it may be rented out and the Church may generate rental income. In such case, the Church is obliged to pay rental income tax as the buildings that are rented out for the lessee are not within the exempted threshold. However, practically, the Church is hesitated to comply with payment of tax. As stated by tax official, the Church argues that the income accrued from the rental of buildings is exclusively used for religious and spiritual services and it should not be taxed.<sup>97</sup> However, this justification does not seem plausible as the law simply obliges taxpayers without any distinction and irrespective of the purpose of income allocates to. It should also be noted that, due regard is not given as to who rented the building.<sup>98</sup> In fact, there are very few churches that have tried to pay to date though the overwhelming majorities still remain failed to pay tax.<sup>99</sup>

All tax officers whom I have interviewed unanimously replied that the income from rental of buildings of the Church is not exempted from tax. But, there is no tax collected from the Church but in very few cases. In some Sub-Cities, there is no even any attempt to enforce rental income tax on the Church.<sup>100</sup> The most surprising one is there are no cases that have been brought to the

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<sup>97</sup>Interview with Ato Teshale Teshager , Coordinator of Tax Assessment Group, Addis Ababa City Administration Revenues Authority, Bole Sub-City Small Tax Payers Branch Office (Addis Ababa, Ethiopia, 16 May 2019)

<sup>98</sup> Interview with Ato Erimias Getaneh, Coordinator of Tax Collection Group, Addis Ababa City Administration Revenues Authority, Arada Sub-City Small Taxpayers Branch Office (Addis Ababa, Ethiopia, 14 May 2019)

<sup>99</sup> Interview with Ato Yared Fissha, General Manager, Addis Ababa City Administration Revenues Authority Small Tax Payers Branch Office(Addis Ababa, Ethiopia, 14 May 2019)

<sup>100</sup> Interview with Ato Teshale Teshager ( n 97)

attention of the court so far except one case related with the Ethiopian Seventh Day Adventist International Church.<sup>101</sup> With the exception of this case, there is no developed jurisprudence in the law of unrelated business income and tax in particular and tax exempt organizations in general in our legal system. In the aforementioned typical case the Cassation Division has rightly identified and made it responsible to pay tax this religious affiliated institution i.e. Akaki Adventist Mission School which is under the control and ownership Ethiopian Adventist International Church. The applicant (Adventist Church) has vehemently argued that the School is a nonprofit organization established under the Church and hence should not be taxed. However, the Cassation has found that the School charges students with high tuition fee comparable to other private school and therefore it is difficult to consider this School as a nonprofit organization. The mere fact that the School is established by the religious institution does not make it a tax exempt organization as the court correctly upholds. And finally the Cassation has decided that the Adventist Church is obliged to pay housing and land rent tax as per Proclamation No 80/1976. The Cassation bench has cited Article 14 of this proclamation which exempted worship places and cemeteries from urban housing tax and land rent, which is a real property tax. The bench has decided that buildings of the school are not exempted from the payment of housing tax as they are unrelated with the core function of spiritual service.

The reason seems that tax authorities have chosen to persuade Church leaders over any other adversarial systems.<sup>102</sup> As per the views of some tax officials, it is advisable to opt awareness creation to the religious leaders and followers rather than triggering the matter before the court of law.<sup>103</sup> In this regard, discussions have been made so far and it has to be continued with Church

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<sup>101</sup> Taddese , The Ethiopian Income Tax System, (n 397). *Ethiopian Seventh Day Adventist Church v. Akaki-Kality Sub-City Administration Revenues Office*, Federal Supreme Court, Cassation Division, File No. 66474, vol. 13, pp. 506-510, in Amharic, cited in Taddese Ethiopian Income Tax System (n 3) 397.

<sup>102</sup> Interview with Ato Yared Fissaha (n 99), See also, Taddese, The Ethiopian Income Tax System (n 3) 397

<sup>103</sup> Interview with Ato Teshale Teshager (n 97). This also gathered from the Interview with Ato Tariku Birhanu , Inland Tax Affairs Deputy Manager , Akaki Kality Sub-city Small Tax Payers Branch Office (Addis Ababa, Ethiopia, 21 May 2019)

leaders in a continuous and persistent way so as to collect rental income tax from buildings of the Church without taking much time.<sup>104</sup>

Despite the conduct of face-to-face discussion with the Church, the tax authorities have not still collected tax from rental of buildings.<sup>105</sup> In fact, the attempt to enforce the rental income tax on the buildings of the Church is not limited to discussion with religious leaders, it also backup with various letters that have been written ordering the Church to comply its tax obligation. Moreover, there is also a study undertaken on the number of Churches and other religious institutions on the incomes they accrued from the rental of buildings and other business activities conducted by the Church and religious institutions.<sup>106</sup> An attempt to solicit data on the number of Churches and other related issues with the generation of income by the same institutions and other communications exchanged between the Church and tax authorities is remained fruitless as the tax authorities claimed the data is classified and should not be disclosed for the purpose of research.<sup>107</sup> Generally, the enforcement of rental income tax on the buildings of the Church can be manifested with a mere discussion and a rare step to persuade them to obey their tax obligation. The detailed aspect of legal and practical challenges and other justifications that have been raised behind the Church to pay rental income tax will be treated in the forecoming separate chapter.

#### **2.4. Should the Church Be Taxed as a Single Entity or Separately? Which Is the Exact Subject that is obliged to Pay Rental Income Tax?**

A taxpayer, as per Art.14 of the FITP may be an individual or a body with a different rate of taxation. If the tax payer is a body, it shall be subject to a flat rate of thirty (30%) rental income taxes on buildings.<sup>108</sup> On the other hand, if the tax payer is an individual, he/she is subjected to a progressive tax ranges from 10-35%.<sup>109</sup> Under the Proclamation, there are three categories of tax

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<sup>104</sup> Interview with Ato Kenaw Takele , General Manager , Bole Sub-city Small Tax Payers Branch Office (Addis Ababa, Ethiopia, 16 May 2019)

<sup>105</sup>Taddese , The Ethiopian Income Tax System (n 3) 397.

<sup>106</sup> Interviews conducted with Ato Yared Fissaha (n 99) and Ato Kenaw Takele (n 104).

<sup>107</sup> Interview with W/ro Seble Belay, Director, Tax Assessment and Collection Directorate, Addis Ababa City Administration Revenues Authority ( Addis Ababa, Ethiopia, 11 April 2019)

<sup>108</sup> Art. 14(1) of the FITP.

<sup>109</sup> Art. 14(2) of the FITP.

payers; these are Category “A”, “B” and “C”. This categorization is based on the annual gross income of taxpayers and whether the taxpayer is a body or not. A body is categorized under Category “A” regardless of the amount of annual gross income it generates in a tax year. In fact, the rationale behind the classification seems an ease of administration and thereby to escalate enforcement of taxes.

The most important question that needs to be investigated here is the personality of the Church for the purpose of levying and enforcing rental income tax. Before directly looking this issue, it is important to examine the definition about “body” provided under the law. A “body” is defined under the Federal Tax Administration Proclamation (FTAP) and other regional laws. As per Art. 2(5) of the FTAP “a body means a company, partnership, public enterprise or public financial agency, or *other body of persons whether formed in Ethiopia or elsewhere.*”<sup>110</sup>(Italics added) The definition seems to have evolved on companies or corporations and partnerships established for the purpose of undertaking business activities whether they are run by governments or private shareholders. The definition also incorporates public financial agencies as a body. However, the definition is very broad as it indicated in the phrase “*other body of persons whether formed in Ethiopia or elsewhere.*” It is plausible to argue that nonprofit organizations might fall under this definition. Hence, churches, mosques or other religious institutions may be described as bodies, at least within the literal definition provided therein.

The repealed Amhara income tax proclamation provides that:

“Body shall mean any company; registered partnership; entity formed under foreign law resembling a company or registered partnership; or any public enterprise or public financial agency that carries out business activities including body of persons corporate or unincorporated whether created or recognized under a law in force in Ethiopia or elsewhere and any foreign body’s business agent doing business in Ethiopia on behalf of the principal.”<sup>111</sup>

This definition seems to define a body in terms of a business entity encompassing partnership and other company structures. This definition was directly copied from the repealed income tax

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<sup>110</sup> Federal Tax Administration Proclamation, 2016, Procl. No.983, Federal *Negarit Gazette*,22<sup>nd</sup> year No.103

<sup>111</sup> Amhara National Regional State Income Tax Proclamation (Repealed), 2002, Art 2(2), No. 76, *Zikire Hig*, 7<sup>th</sup> Year, No.23.

proclamation.<sup>112</sup> However, the definition provided by the FITP is very broad which includes nonprofit organizations apart from business entities proper.

Now, it is found to be crucial to analyze how the Church is treated practically and legally for the purpose of enforcement of rental income tax. The Church acquired legal person as per Art. 398(1) of the Civil Code but the applicability of this provision is questionable as the state declares secularism. The Church operates its activities through different organs like the Dioceses Secretarial of the Church. In the aforementioned section, it has been discussed that the Church is not registered under the Ministry of Federal and Pastoral Development Affairs (now the Ministry of Peace) and its *de facto* status is virtually unchallengeable. The directive does not still practically govern the Church and the Ethiopian Muslim Mosques. However, the legality of the directive that requires registration of the religious institutions is very argumentative as there is no any specific proclamation that it emanated from.

In light of the above points, the Church shall be subject to pay rental income tax on buildings as a single entity or separately (each churches). Practically, however, the Church is treated as a single entity taxpayer though there are data that suggest otherwise.<sup>113</sup> If the Church is taxed as a single entity, the issuance of TIN No. and registration is made to the Church as one entity in light of Art. 9(1) and Art 12 of the FTAP. This may be easy for the tax authority to collect rental income tax as there is a single entity which serves as a bridge to pay tax imposed on all incomes accrued from rental of buildings. But, it is difficult for the Church, since it requires effective and organized administration. If tax is collected from each Church, registration and issuance of TIN No. should be made to each Church. This would be more burdensome for the tax authority as it requires high compliance costs to follow up each Church. It would be the responsibility of each church to pay its tax not the EOTC as a single entity.

The problem that might be raised in relation to taxing the Church as a single entity is the issue of jurisdiction over taxation. The power of the Revenue Authority is only limited to collect rental income tax from incomes collected from Addis Ababa. It is, however, important to note that the Church collects income across the country and distributed to Woreda Dioceses. In this regard,

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<sup>112</sup> See Art. 2(2) of the Income Tax Proclamation No.286/2002.

<sup>113</sup> Interview with Teshale Teshager (n 97).



the Authority needs to know its power over taxation. So, the power of jurisdiction over taxation is highly argumentative and it is difficult to delineate a clear jurisdiction since the income is collected across the country. As per Art. 52(7) of the Revised Charter, the fiscal power to assess and collect taxes on income from rented houses and other properties in the City is the exclusive power of the City Government.<sup>114</sup> The question is as to whether the EOTC Diocese's income falls under the jurisdiction of the City. This is very critical which might pop up different issues. In fact, it is possible to say that the City is empowered to levy and collect tax on those churches administered by the Addis Ababa Diocese of EOTC.

## **2.5. The Laws of Some Selected Countries on Tax Exemption of Churches**

At least in principle, Churches are exempted from the payment of tax. Due to the important role they played in promoting social capital, religious institutions are usually free from tax liability. In USA many churches are exempted from tax unless they generate income from unrelated business activities.<sup>115</sup> Churches in the USA may also lose their tax privilege in cases where they participated in political campaign.<sup>116</sup>

Section 23(c) of the Companies Tax Act of Nigeria states that “[t]he profits of any company engaged in ecclesiastical, charitable and educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company shall be exempted from tax.”<sup>117</sup> Some countries like Egypt exempt certain incomes of non-profit organizations within the limits of their social, scientific or sporting activities.<sup>118</sup> Apart from this, revenues realized from the authorship or translation of books and religious, scientific, cultural and literary articles that are not produced in audio and/or visual forms are also exempted from tax.<sup>119</sup> Unlike Egypt, Ethiopia does not encourage the promotion of religious activities through

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<sup>114</sup> The Addis Ababa City Government Revised Charter, Proc.No.361/2003, Fed. Neg. Gaz. 9<sup>th</sup> No.86

<sup>115</sup> James R. Hines, ‘Non-Profit Business Activity and the Unrelated Business Income Tax’ (1999) 13Tax Policy and the Economy 57.

<sup>116</sup> Sec.501 of the IRC.

<sup>117</sup> Companies Income Tax Act of Nigeria (As Amended by the Companies Tax Act (Amendment) Act, 2007) <<http://www.lawnigeria.com/LFN/C/Companies-Income-Tax-Act.php>> last accessed on March 28, 2019.

<sup>118</sup> The Income Tax Law of Egypt No. 91 of 2005, Art. 36, Ministry of Finance, 2005.

<sup>119</sup> *ibid* Art. 36(2)

exempting the Church from tax. Let alone to exempt tax, religious institutions including the Church are strictly controlled via bylaws including derogatory directives.

## CHAPTER THREE

### 3. ASSESSMENT ON THE ENFORCEMENT OF RENTAL INCOME TAX ON THE ETHIOPIAN ORTHODOX *TEWAHIDO* CHURCH

#### 3.1 Introduction

Rental income from a building is one of the categories of income that is designated under Schedule 'B' of the FITP.<sup>120</sup> In fact, it has to be noted that rental income may not necessarily be limited to buildings; it may also be accrued from the rental of movable property and land. The focus of this paper is destined to rental income from buildings that are under the ownership of the Church.

Before just looking into the underlying subject matter, it appears to be necessary to enunciate the very concept of 'rent (n)' (*rente* in French) or 'rental' (adj.). According to Black's Law Dictionary 'rent' is "*a consideration, paid, usually periodically for the use or occupancy of property, especially real property.*"<sup>121</sup> 'Rent' in civil law is also defined as;

*"A contract by which one party conveys to another party a tract of land other immovable property, to be held by the other party as owner and in perpetuity, in exchange for payment of an annual sum of money or quantity of fruits."*<sup>122</sup>

From these two definitions it is discernable that rent is intrinsically relied on the immovable property, i.e., building or a land. In this paper, however, the term rent is used with reference to rental of a building. This rental income from a building is subject to tax in every county.

The taxable income of a tax payer from the rental of a building is the gross amount of money derived annually and calculated after the deduction of necessary expenses that are allowed under the law. The gross amounts of income that might be derived by the tax payer from the rental of a building are provided under Article 15 of the FITP. These include payments related to the lease

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<sup>120</sup> See FITP, Art. 8(1) (b) cum Art. 13

<sup>121</sup> *Black's Law Dictionary* (8<sup>th</sup> ed., 2006) 1322.

<sup>122</sup> *ibid.*

agreement like lease premium, all other payments made by the lessee on behalf of the tax payer pursuant to the lease agreement, bond or surety that the tax payer is entitled to retain in lieu of damages occurred by the lessee and any renovation or improvement made to the building by the lessee.

In cases where the rent is a furnished building, the income shall also include any amount attributable to the lease of the furniture or equipment apart from the amounts of money attributable to the building.<sup>123</sup> However, there are deductions that can be allowed for those tax payers required to keep books and accounts. Category ‘A’ and ‘B’ are required to keep books and accounts unlike category ‘C’ tax payers. And, the deduction is made pursuant to the law and limited to those necessary expenditures incurred in deriving the rental income in a particular year. These deductions include cost of lease of the land on which the building is situated, repairs and maintenance, depreciation of the building including furniture and equipment, interest and insurance premiums, and fees and charge (not inclusive of tax) levied on the land and building leased.

In this section, an attempt will be made to enunciate major challenges in the enforcement of rental income tax on the Church.

### **3.2. Major Challenges in Enforcing Rental Income Tax on the EOTC**

There are various challenges which hinder the proper enforcement of rental income tax on the Church. In this paper, an attempt has been made to identify key challenges, which includes institutional (the tax authority), legal and practical problems that are related with the enforcement of rental income tax on the buildings of the Church.

#### **3.2.1. Challenges Associated with the Tax Authority**

The poor enforcement of the rental income tax on the EOC is mainly attributed to the reluctances of the tax authority<sup>124</sup> though there are also contributory factors to this problem.<sup>125</sup> According to

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<sup>123</sup> Article 15(3) of the FITP.

<sup>124</sup> The Addis Ababa City Administration Revenue Authority is responsible to administer and collect rental income tax from buildings that are owned by the EOTC.

<sup>125</sup> There is along held attitude that enforcing the Church to pay tax would create public chaos and may ignite political unrest that might come from religious community.

Machie Abrha, it is the reluctance and weakness of the tax authority that may be raised in relation to the absence of strong enforcement of rental income on the Church.<sup>126</sup> The tax authority does not have the tendency to force the Church to pay tax from its rental income. This is manifested by absence of a case that might be brought to the attention of a court. The Authority rather opts to convince top religious leaders to pay tax that the Church accrued from rental income.<sup>127</sup>

The *Cabinet* of Addis Ababa City Administration has conducted various meetings with religious leaders so as to persuade them to pay tax.<sup>128</sup> However, they persistently argue that the income that is gained from rental of buildings is not even enough to cover the cost of the Church including salaries for priests and for other spiritual services.<sup>129</sup> This argument, however, does not seem to hold water, as the Church rented out various buildings not to mention other contributions and donations made by the members of the religion. Religious leaders of the Church also stated that seventy percent (70%) of the income of each church goes to the EOTC Dioceses and the remaining thirty percent (30%) of the income that is destined to cover the costs of each Church.<sup>130</sup> Owing to this, religious leaders claim that the tax authority should ask the Dioceses rather than each church as the overwhelming income goes to the former.<sup>131</sup>

However, the tax authority did not go further to prove such allegations. The Authority seems in dilemma as to who is going to pay the rental income tax. Should the Authority require the Diocese or each church? It is not clear whether the Diocese or each church that is supposed to be registered for tax as per Article 9 of the FTAP. It is not also clear as to whether Addis Ababa Diocese or EOTC Diocese that is going to be registered? Related with this, for which entity that Tax Authority is responsible to issue a TIN No. in light of Article 12 of the same Proclamation. All these questions have created difficulties for the tax authority.

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<sup>126</sup> Interview with Ato Machie Abrha, Head of Tax Notification and Information Core Process, Eastern Addis Ababa Medium Tax Payers' Branch Office of Ministry of Revenues (Addis Ababa, Ethiopia, 24 April 2019)

<sup>127</sup> Interview with W/ro Seble Belay (n 107).

<sup>128</sup> *ibid.*

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.*

<sup>131</sup> *ibid.*

Though there are arguments that propagate the issue of enforcement of rental income tax on the EOTC should not be a big deal, in the presence of other viable tax bases,<sup>132</sup> it has to be noted that the income accrued from such rent is fairly huge. The tax that might be collected from the Church may not be enough to cover the costs of the health sector of Ethiopia; however, it may be sufficient to create job opportunities for street children in Addis Ababa. In the presence of many people who did not get a loaf of bread per day, it is generally uneconomical to leave the Church to remain reluctant to pay rental income tax.<sup>133</sup> There is a strong desire on the part of the tax authority to collect the rental income tax; however, there seems no robust measure that has been taken so far except meetings conducted with religious leaders.

The income of the Church derived from rental of buildings is not considered as a ‘profit’ since rental of building is not falls under the ambit of doing business pursuant to Art. 2(2) of the FITP. The general reason for the taxation of the Church for rental income tax is simply because it generates income.<sup>134</sup> This seems tangentially related with the benefit principle of the canon of taxation. According to Ato Derara, the Church has to pay rental income tax comparable to the income it generates. However, the problem is, it is difficult to know the rental market value of the building in a given locality.<sup>135</sup>

Tax has also distributive function in allocating the income generating from tax payers. This is in fact, the most important consideration that policy makers need to account when they craft tax policies and legislations. But, the most conspicuous question that worth matter is the compliance of tax payers to pay tax pursuant to the law. The Church is blamed for its noncompliance to pay tax. In the presence of such huge noncompliance, it is a misnomer to envisage the allocation of income by virtue of the principle of distributive function of taxation.

The failure of the tax authority to follow up the audit of the Church might be raised as a problem which worsens the overall enforcement of rental income tax. There is no any single attempt that

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<sup>132</sup> Interview with Ato Ataklti W/abzigi, Senior Tax Policy Researcher, Ministry of Finance (Addis Ababa, Ethiopia, 15 March 2019)

<sup>133</sup> Interview with Ato Derara Bersissa, Tax Notification Core Process Coordinator, Medium Tax Payers’ Branch Office of Ministry of Revenue (Addis Ababa, Ethiopia, 25April, 2019)

<sup>134</sup> Art.2(14) of FITP.

<sup>135</sup> Interview with Ato Derara Bersissa (n 133).

has been made so far to audit rental income of the Church. The tax authority reserves its hand to audit the Church as it fears such type of investigation might ignite chaos and would inflame the religious community. The religious community may consider such government measures as a mechanism to weaken the Church and they may consider this as a gross interference of the government on religious matters.<sup>136</sup> However, it has to be noted that religious freedom and development cannot be achieved without the presence of strong government, at least in terms of finance. Hence, to be strong, the government needs to collect tax from possible sources including the Church.

Henceforth, the Church has to pay rental income tax as prescribed in the law. The Church should be the part of development process rather than paralyzing it. Faith based institutions play a paramount role in supporting economic development by creating job opportunities, providing credit for individuals, promoting humanitarian and charities specially for vulnerable groups i.e. children ,elders , persons with disabilities, etc.

In the event when the Church fails to adhere the tax law, the tax authority needs to follow a appropriate legal procedure including the imposition of administrative measure relating to registration and cancellation of registration, maintaining of books and accounts and issuance of TIN No. as provided under Art.100 to 115 of the FTAP. For instance, as per Article 101 of the FITP the tax payer who failed to register for tax as per the Proclamation in due time shall be liable to pay 25% penalty of the tax payable by the person for the period commencing on the date that the person was required to apply for registration and ending on the date that the person files application upon the initiation of the tax authority. The tax authority is not effectively implementing such administrative measures on the Church. In fact, let alone to implement the administrative measures like penalty, the authority is not capable of enforcing the actual rental income tax that would have been collected from the Church. In this regard, to avoid possible challenges the Addis Ababa City Administration *Cabinet* has remitted Churches and other religious institutions from the payment of taxes, including penalties and tax arrears for the tax

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<sup>136</sup> Interview conducted with Seble Belay (n 107), Ato Machie Abrha ( n 126) and Derara Bersissa (n 133) .

years preceding 2010 E.C.<sup>137</sup> From 2010 E.C onwards, the Cabinet has passed a decision that the Church should pay taxes including penalties but there is no adherence to it up until now.

The other measure the tax authority should take against the Church is bringing the matter before the court of law. The authority hesitated to litigate cases before the court with the fear that such adversarial system might create public chaos particularly on the Orthodox religious community. This might be very sensitive issue which might create political unrest. However, the authority should not adamantly refrain from suing the Church. In fact, convincing religious leaders to pay tax by creating awareness is the most advisable procedure. The awareness should also be created on the general public on the obligation of Churches and religious institutions to pay tax which ultimately scaffolds the collection of rental income tax from the Church and hence, this supports economic development, at least in terms of the contribution of tax to the GDP.

But, it is difficult to rely on such measures, for one thing religious leaders and the public might not be willing to attend awareness creation programs on tax, and for another Church leaders might feel that the law is not harsh so that they may fail to pay tax at a certain point of time. Hence, the tax authority should draw the matter before the court of law and this may give a lesson for other institutions what a failure to pay tax would cost.

## **3.2. Justifications behind Noncompliance Behavior of the EOTC**

The EOTC is the dominant religious institution which has put its own influence in the entire history of the country up until the 1970s. In this section, an attempt has been made to investigate different reasons associated with the Church in the enforcement of rental income tax. These include historical, religious and administrative reasons that have been raised by the Church. The researcher's attempt to include the opinion of the individuals from the Church remains in vain as they refuse to give any data.

### **3.2.1. Historical Justifications**

In the past, it is virtually impossible to separate the activities of the Church from that of the government. Particularly, those rulers that have been descended from the Solomonic line bless their power by professing that they are 'God chosen'. Especially after the end of the Zagwe

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<sup>137</sup> Interview with Seble Belay (n 107).



Dynasty, the Church has become wealthy by owning large tract of land.<sup>138</sup> *Abune Tekle Haymanot* is one of the religious father who played an important role in bringing an agreement between monarchies of the Zagwe and Solomonic Dynasties.<sup>139</sup> This agreement finally results in granting one –third of the property in the country to the Church and monasteries during the thirteenth century.<sup>140</sup>

During the reign of Emperor Zara Yacob (1434-68), the restoration of Solomonic Dynasty had been stimulated further and can be seen as a renaissance in the development of literatures particularly in artistic and intellectual works in Ethiopia.<sup>141</sup> It was during this time that the reading of the Old Testament had been expanded. The Emperor himself wrote many religious books which guided the administration of Church in its dogma and ritual activities.<sup>142</sup> Most notably, the *Fetha Nagast* (Law of the Kings), which is one of the earlier documents, was promulgated in this period. This document has clearly indicated that the Church is totally free from tax.<sup>143</sup> In such time it is totally impossible imagine the taxation of the Church as it influences emperors and often times more powerful than the kings. This is why some emperors who attempted to convert themselves to Catholic had failed to rule the highland community of Ethiopia; among them Za Dengel (1603-04) and Susenyos (1607-32) are known in their failure to administer the Orthodox community. Be this as it may, the Church is not only exempted from tax in the history of highland Ethiopia, it had owned one third of the land free from any charge of tax and tribute.

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<sup>138</sup> Iving, et al. Kaplan. *Area Handbook for Ethiopia* (1971) 233

<sup>139</sup> *ibid* .

<sup>140</sup> *idid*.

<sup>141</sup> *ibid* . 234

<sup>142</sup> *ibid* .

<sup>143</sup> “Let the King give honor to the order of the clergy... Let him give from his wealth to each of them, according to their rank. He shall exempt them from tribute, presents, and the other kings to be given to the rulers... And let the King assign to God a part of the presents and of the spoils of war, as King David and other righteous kings did. Let him not raise his hand against priests or God’s saints, so that what be fell the evil kings of Israel and others may not befall him,” *Fetha Nagast*, (272-73), quoted in Teshale Tibebu, *The Making of Modern Ethiopia, : 1896-1974* (The Red Sea Press 1995) 80 cited in Taddese Lencho, *Ethiopian Income Tax System* (n 3) 391.

Up until the coronation of Emperor Tewodros II (1855-68), the Church and its officials like priests, *deacons*, *debteras*, monks, *bahitawi* (hermits), etc have enjoyed much privilege. The Emperor had declared that priests and deacons should plough their own farm and this raised an opposition from the Church which is formerly carried out by peasants. And the measure that had been taken by the Emperor did not go last as the reign comes to an end. So, the Amharic saying “*siso larash*, *siso langash* and *siso legedash*” which roughly means one third to the peasant, one third to the king and one third to the church<sup>144</sup> predominantly preoccupied the *status quo* had been experienced up until the 1970s.

Apart from the exemption of tax on these large tracts of land, the Church enjoyed a support from the state; this can be easily witnessed from Art. 126 of the 1955 revised Constitution of the Empire of Ethiopia which clearly indicated that the Church is supported by the state. Furthermore, Art.127 of this Constitution gave a power to the Emperor to promulgate decrees, edicts and public regulations for the Church except matters relating to monastic and other spiritual services. As a result of the huge support from the Emperor, one eighth to one third of all land was believed to be owned by the individual churches, monasteries and clergymen. There is a literature which indicates that much of this land was supposed to be under the ownership self-supporting monasteries.<sup>145</sup> In addition to such ownership over large tracts of land, the Church received one-quarter of the state revenue accrued from land tax.

However, following up the coming power of the Derg, the Church had lost its privileges and results in the nationalization of lands of the Church to the state. This revolution turned out against the interest of the Church and it lost its power and influence upon the government.<sup>146</sup> The socialist regime hugely affects the incomes of the Church as a result of the expropriation of its property that did not utilized for spiritual and religious services.<sup>147</sup>

After the overthrow of the socialist government in 1991, the Church began to claim the expropriated property and the government tried to return some of the buildings of the Church

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<sup>144</sup> Teshale Tibebe, *The Making of Modern Ethiopia: 1896-1974* (The Red Sea Press 1995) 82 cited in Taddese, *Ethiopian Income Tax System*, (n 3) 391.

<sup>145</sup> Kaplan (138) 245

<sup>146</sup> Taddese, *Ethiopian Income Tax System* (n 3) 391,392.

<sup>147</sup> *ibid.* 392.

which were taken by the earlier government. Up until recently the Church has claimed the current government to return back the possession of land and buildings.<sup>148</sup> The Church vehemently argues that the government should not oblige the Church to pay rental income tax while there are properties which are not returned back to the Church.<sup>149</sup> This serves as the main defense for the Church behind its hesitance to pay rental income tax, not to mention other taxes.<sup>150</sup> All the privileges that had been existed during the earlier times especially during that of the Solomonic Dynasty was one of dominion effect which induced the Church just not to comply for the enforcement of rental income tax. The Church appealed to the government that it had lost one-third of its control over land and the Church is not as rich as those earlier times.

Despite such allegations, the Church generates a huge amount of income from rental of buildings and expanded its income by constructing new buildings. And some of the defenses raised by the Church do not seem plausible as the existing status quo should not be compared with the times of Solomonic Dynasty. Generally, historical privileges and reasons that have been raised by the Church hinder the enforcement of rental income tax. The Church is still insisted on historical privileges and demands the government to grant such privilege together with the exemption of tax and any other charges.

### **3.2.2. Religious Justifications**

At the forefront, it has to be noted that the major sources of revenue for the Church are “tithe” (*Asrat -Bekurat*), contributions, donations, etc. Priests and other religious fathers have preached congregants through gospel that God shall punish them if they fail to give “tithe” and donations to the church. The Holy Bible of the Hebrew has contained dogmas and ritual traditions that rule the provision of offerings to the Church, particularly related with agricultural fruits.<sup>151</sup> It is this Holy Bible specifically the Book of Genesis that is the first written document which deals with the exemption of religious institutions from taxation. The story is related with Joseph (Gen. 37-

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<sup>148</sup> Interview with Yared Fissha (n 99).

<sup>149</sup> *ibid* .

<sup>150</sup> *ibid* .

<sup>151</sup> (Exod. 23:29; Deut. 26:2-10) and of tithes (Lev. 27:30; Num. 18:21-32; Deut. 14:22-29).”You shall give every year the tithes of all your crops and seeds and of any fruit your land produces.” (Deut. 14:22).

48) in that agricultural products produced from the lands of priests were free from any appropriation by the Pharaoh (Gen. 47:22, 26).

In the ancient Roman law, the Jews enjoyed a special privilege (*privilegium*) and immunities (*immunitas*) to observe their traditional religion by constructing temples and they were immunized from any activities of Roman cult.<sup>152</sup> The Roman Empire collected revenues or poll tax from individuals and no one is exempted from such tax. However, Jews were exempted from the payment of special tax to support them to build temples in Rome.

The New Testament has teachings related with taxation which mainly deals with issues of tax compliance. The Apostle Paul professed the Roman Christians in the Book of Romans “*Pay each what you owe him – the tax to whom you owe the tax, the tribute to whom you owe the tribute, fear to whom you owe fear, and honor to whom you owe honor.*”<sup>153</sup>. Jesus declared to the people when they asked about the payment of tribute, “*What are Caesar's give back to Caesar and what are God's to God.*” Here, the focus is tax compliance that needs to be meet by the people. It is however, hard to construe this teachings are meant to propagate religious tax exemption.

The EOTC has seen the government’s effort to collect rental income tax as a practice which opposed the free exercise of the religion.<sup>154</sup> Religious fathers instigated congregants that the government turns out against the interest of the free exercise of the Orthodox Religion and this is used to try to lobby just not to pay tax.<sup>155</sup> Worst of all, the Church has tried to politicize the government’s power to collect rental income tax amounts to weaken the hegemony of the Religion.<sup>156</sup> This became a headache to the government to fiercely enforce the compliance of the Church to rental income tax obligation. That is why the tax authority tries sporadically enforcing the rental income tax on the buildings of the Church. The tax authority at times relieved the

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<sup>152</sup> Church Autonomy: A Comparative Survey (Gerhard Robbers, ed., Frankfurt am Main: Peter Lang, 2001) 8, 9

<sup>153</sup> (Romans 13:6-7).

<sup>154</sup> Interview conducted with Yared Fissha (n 99).

<sup>155</sup> *ibid.* and Seble Belay( n 107).

<sup>156</sup> Interviews with Yared Fissha (n 99) and Seble Belay (n 107). This idea is also gathered from Interview with Ato Assefa Kedir, Director, Legal Enforcement Service, Gulele Sub-City Small Tax Payers Branch Office (Addis Ababa, Ethiopia, 20 May 2019).

Church from payment of rental income tax together with tax arrears and interests on the condition that the Church should pay afterwards.

It has to be noted that there are indications as to the admission of the Church on its tax liability though it does not comply with it.<sup>157</sup> The Church also argued that it is free from any kind of taxation.<sup>158</sup> Generally, it is possible to say that the Church is not complied with its obligation to pay tax.<sup>159</sup> However, the Church does not seem to consider all the services provided by the government.<sup>160</sup> Public utilities like electricity, water and roads that are constructed with the revenues generated from taxes collected from individuals and companies. The Church would not receive such service had it not been the collection of the government revenues from such taxpayers.<sup>161</sup>

The Church has persistently refused to pay rental income tax under the pretext of religious organization that is not established for the purpose of profit accumulation. In addition to this, the Church tries to asymptote the government's effort to enforce the tax with that of free enjoyment of the religion. The Church also argues that the income it generates is not sufficient to cover the expenditure of the Church. This argument does not seem palatable as there are sources which indicate that the Church generates a large sum of money from rental of buildings.<sup>162</sup> This large sum of money is also served as a source of conflicts and controversies among clergies, chamberlains, and other religious fathers working there.<sup>163</sup> More detailed issues related with the administration of Church property and income will be discussed in the upcoming subsection.

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<sup>157</sup> Interviews conducted with Yared Fissha(n 99) ; Seble Belay(n 107).

<sup>158</sup> Interview with W/ro Zebua Hailu, Inland Tax Affairs Deputy Manager, Bole Sub-city Small Tax Payers Branch Office, (Addis Ababa, Ethiopia, 7 June 2019)

<sup>159</sup> Interview Solomon Haile , Legal Enforcement Coordinator, Yeka Sub City Small Tax Payers Branch Office, (Addis Ababa, Ethiopia , 23 may 2019). However, another interviewee indicated otherwise saying that the Church is paying tax in Yeka Sub City, Interview with Mekonnen Gebrie , Tax Assessment Officer Yeka Sub City Small Tax Payers Branch Office,( Addis Ababa, Ethiopia ,23 may 2019).

<sup>160</sup> Interview conducted with W/ro, Aberash W/Amanuel, Tax Assessment Coordinator, Gulele Sub-city Small Tax Payers Branch Office (Addis Ababa, Ethiopia, 20 May 2019)

<sup>161</sup> *ibid.*

<sup>162</sup> Interviews with Tariku Birhanu (n 103) ; Assefa Kedir (n 156).

<sup>163</sup> Interview with Assefa Kedir (n 156).

### 3.2.3. Administrative Justifications

The Church is centrally administered with headquartering in Addis Ababa after it gained its independence from Alexandria. Dioceses, parishes and monasteries are the constitutive administrative units of the Church, which are subject to rights and duties as enshrined under administrative law.<sup>164</sup> The administration of the Church is divided to dioceses of each administrative zone, each having its own bishop. A patriarch, *Abune* heads the Church at the top. The Episcopal Synod is the highest religious body which decides matters related to faith and other dogmas and ritual services. There is also a Church Council; its membership includes both clergy and non-clergy.

The EOTC Diocese's Secretarial is the highest administrative body that carries out core administrative functions and responsible to follow up lower administrative units including Woreda Dioceses. It is this body which allocates budgets for various Churches and monasteries. According to my sources, 70% of the income of each church goes to the Church Diocese while the remaining is left to cover the expenses.<sup>165</sup> However, there is another source which indicates otherwise.<sup>166</sup> But, it is difficult to assure the truth of such allegations that are made by the Church.<sup>167</sup>

The most important thing that needs to be highlighted is the Church's problem in relation to administering the collection and allocation of income of the Church. The Church have been criticized as they did not properly document the costs and income accrued from various sources.<sup>168</sup> The Church did not also declare their annual tax return for the tax authority.<sup>169</sup> Neither had it registered for tax as per Art. 9 of the FTAP. There is confusion as to which is going to be registered for tax, the Church as a single entity or each churches.<sup>170</sup> Similarly, there is also debatable point on Taxpayer Identification Number (TIN) on which it is going to be

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<sup>164</sup> Art. 399 of the Civil Code.

<sup>165</sup> Interview with Seble Belay ( n 107)

<sup>166</sup> *ibid* .

<sup>167</sup> Interview with Derara Bersissa (n 133).

<sup>168</sup> *ibid*.

<sup>169</sup> *ibid*. Art. 21(1) of the FTAP obliges a tax payer to file a tax declaration in the approved form and as provided in the FTAR.

<sup>170</sup> Interview with Machie Abreha (n 126).

issued.<sup>171</sup> Should there be one TIN for both the Church and Addis Ababa Dioceses? Should each Church have its own TIN? These are also the main administrative problems which hinder the enforcement of rental income tax. These are challenges encountering the tax authority to properly administer tax enforcement.

The other problem is internal administrative challenge that existed within the Church. There is no attempt to keep records and documents related to tax. This, in turn, creates a problem to compute the exact incomes and expenses of the Church which makes the whole tax collection and assessment more cumbersome. The Church has no qualified accountants and auditors that are capable of journalizing the incomes and expenses.

The Church is not willing to appoint internal auditors; this is because it will be disadvantageous for those corrupt individuals work in there.<sup>172</sup> Individuals who even propose such ideas are seen as “Reformists” (in Amharic *Tehadisowoch*).<sup>173</sup> According to anonymous source, some religious fathers and individuals associated with the churches inure private benefits for themselves at the expense of the Church. These individuals accumulated wealth and lead a luxurious life hiding behind the good names of the congregants and the religion. There is a huge struggle among individuals, clergies, ministries and other religious fathers to acquire administrative power within the Church not just to serve it but to private inurement.

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<sup>171</sup> *ibid.*

<sup>172</sup> Interview with Anonymous, Tax Officer, Addis Ababa City Government Revenues Authority, Small Taxpayers Office, June 5, 2019.

<sup>173</sup> *ibid.*

## CHAPTER FOUR

### 4. CONCLUSION AND AREAS FOR RECOMMENDATIONS

#### 4.1. Conclusion

Tax is one of, perhaps the single most important, sources of government revenue. But, what is important is the government's efficiency to effectively follow up its enforcement when taxpayers failed to comply. The Ethiopian Government, in its GTP, targeted to increase the ratio of tax to the GDP up to 15%.<sup>174</sup> Even though, the effort of the government to collect tax though it shows some increment (13%) in 2013/2014 it is below the target and the Sub-Saharan average (16%). The government has tried to enhance tax collection “*through improving tax administration systems, tax administration capacity, enforcement of tax laws, broadening the tax base and automation of tax administration systems.*”<sup>175</sup>

Despite such ambitions, the government has not fully exerted its effort to enforce tax laws to collect tax. The most notable area where it fails to reach is the Church. The Church accrues a huge amount of income from rental of buildings and businesses.

The paper generally began with raising some research questions that are attempted to be answered in the separate and subsequent chapters. The research questions are answered in chapter two and three. The first questions are what is the scope of rental income tax under Schedule “B” of the FITP? Is the income from leasing of a building of the Church fall under the ambit of rental income? Is this the Rental income of the Church taxable or exempted? The scope of Schedule “B” or “income from rental of buildings” is not clearly provided under the law. This is because the definition of buildings and other rental incomes that would have been treated under this Schedule are not provided there. For instance, rental of movables (e.g. machineries) and casual rental of lands and buildings are out of the ambit of Schedule “B” rather they fall under separate Schedules “C” and “D” respectively.

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<sup>174</sup> National Planning Commission , ‘FDRE Growth and Transformation Plan 2015/16 – 2019/20 (GTP - II)’ (September 2015, Addis Ababa) 6

<sup>175</sup> *ibid.*6



The other question that was answered is whether the rental of buildings of the Church treated as income from rental of buildings and hence falls under Schedule “B” or not. The paper submitted that the incomes accrued from the rental of buildings of the Church fall under the ambit of Schedule “B” so far as the building is destined for such purpose. It should be noted that however, buildings used for worship and other ritual services are exempted from taxation. Buildings and worship places are also exempted from property taxation as per the Urban Land Use and urban Houses Proclamation No. 80/76.

However, practical and legal challenges hindered the enforcement of rental income tax on the buildings of the Church. There are no detailed regulations and directives on the taxation of religious institutions and Churches in Ethiopia. These rose as defenses for Churches that they are exempted from tax but it is a tax loophole that are utilized by these institutions. The practical challenges are associated with the tax authority and the Church itself. The tax authority is very reluctant to enforce a tax law that obliges the Church to pay rental income tax. The authority fears the Church because any attempt to force it to pay tax would inflame the congregants believing that the government is turning out to weaken free exercises of religion and the interests. The issue is seen as “sensitive” by many tax officers and this ultimately refrains the government from enforcing tax laws on the Church. The paper argues that this ungrounded fear results from the authority itself as it does not tirelessly work on the area of tax education and awareness to the general public especially for religious communities.

Generally, the enforcement of rental income tax on the Church can be leveled in to three categories, those Churches that pay tax, which are very few in number, those Churches which received letters from the tax authority to comply tax duties which are also few in number and churches that did not receive any letter from the tax authority and they did not pay any tax at all. Majority of Churches fall in last category.

The other main challenges are associated with the Church itself. These challenges are related with those defenses that are raised by the Church not to pay tax or to the extreme it thinks that it is exempted from tax. These defenses are related with historical, religious and administrative reasons.

Historically, the EOC had been at jackpot where it influenced the state. Throughout the history of the Solomonic Dynasty, the Church owned one-eighth to one-third of all land of the country. This land is exempted from any charge or tribute. Above all, peasants were also contributed “tithe” or “*asrat-bekurat*.” The Church dictated its high days when the tax authority tries to enforce tax laws. It alleges that it is now poor compared with the times before the 1974. Despite such facts, the Church generates huge amount of income from rental of buildings and it became a prevalent economic activity. And it is hard to compare times of the Solomonic Dynasty with the current status quo.

Secondly, the Church also argued that the government’s effort to enforce rental income tax, or any another tax for that matter is against the free enjoyment of the religion. The Church alleged that such government act would affect the economic interests and privileges so that it is meant to weaken the expansion of the religion. It also further argued that the income that the Church generates is not enough to cover expenses. So, demanding the Church to pay tax tantamounts to affecting religious freedom in the eyes of religious leaders.

Finally, administrative challenges are also the main reasons that affect the proper enforcement of rental income tax on the buildings of the Church. In fact, this problem is also related with the tax authority. The Church is not registered for tax and it has no TIN that is provided under the FTAP. It has to be noted that the Church is not also registered by the Ministry of Peace though it is recognized under the Civil Code. The existence of the Church seems *de facto* as it has no license and registration as per the directive enacted by the Ministry. The tax authority does not work enough to properly enforce and administer the tax law, at least on the Church.

The Church has also internal administrative problem that hinders the enforcement of rental income tax. Each church has no its own administrative organ that follows up the transactions. It is hard to know the annual incomes and expenses of a given church. There are no internal and external auditors that investigate the annual return of each church. This problem coupled with the non registration of the Church and the absence of TIN has complicated the whole enforcement of rental income tax on the Church in Addis Ababa.

## 4.2. Areas for Recommendation

Admittedly, the Addis Ababa City Administration Revenues Authority is reluctant in enforcing the rental income tax on the buildings of the Church found throughout the City. Having analyzed the practical and legal challenges encountered the whole enforcement of rental income tax on the Church; this paper submitted the following recommendations as part of the solution to scaffold the administration of the tax system.

- The tax authority needs to firmly enforce the existing tax laws to administer the tax system that is targeted to be achieved in the GTP. One potential area to collect tax is the Church which generates huge income from the rental of building. Above all, the registration for tax and issuance of TIN have to be made soon on the Church as these are the stepping stone to implement the collection of rental income tax from the buildings of the church. And the authority has to educate the public especially congregants or religious communities about tax compliance that need to be abide by the Church. The authority should also use other administrative and judicial mechanisms to enforce tax laws on the Church.
- A detailed regulations and directives should be enacted to specifically regulate the administration of the enforcement of rental income tax on the buildings that are owned by the Church. The regulations and directives shall specify buildings that fall under the ambit of Schedule “B”. In other words, the incomes that are exempted together with the scope of application of the Schedule need to be regulated concisely and briefly in the upcoming regulations and directives.
- The tax authority needs to support the Church to establish an organ that is capable of undertaking matters related to the administration of the income and expense of the Church. This support might include provision of technical assistance and educational training.
- The Ministry of Peace, through the Religious Organization and Association Registration and Licensing Directorate shall register the Church and follow up the activities of the Church related to the generation of income. The Directive enacted by the Ministry of Federal and Pastoral Development Affairs (now the Ministry of Peace) obliged religious institutions to report their annual rental income and tax return to the Ministry. It also

mandatorily stated that internal and external auditors have to be appointed by the Religious institutions to audit their financial return. However, the Church has not adhered to all these requirements yet. Hence, the Ministry should carry out its responsibility of following up religious institutions including the Church.

- Addis Ababa City Government Revenues Authority and Ministry of Peace should work in cooperation and mutual assistance. The sources indicated that there is no any mutual cooperation between these two institutions which ultimately affects the enforcement of rental income tax on the Church. The directive which is enacted by the Ministry of Peace is not known by the tax authority. The directive is an important instrument which obliges the Church to report its annual return as well as to inspect the financial status by external and internal auditors to the Ministry of Peace. This, in turn, eases the burden of the tax authority.
- The tax authority needs to ensure fairness and equality among all religious institutions across the City. There is a criticism that the tax authority is fiercely enforcing tax laws on the newly established religious institutions with minority followers, not on the Church.
- The tax authority should continue its meetings with top religious leaders with a massive effort. Though there are attempts, the sporadic and inconsistent meeting has to be avoided and replaced by genuine meetings with consistent way.
- The legislature should enact laws specifically addressing religious institutions so as to avoid ambiguities raised with respect to the enforcement of rental income tax in particular and other types of taxes in general.
- The EOTC as a dominant and influential religious institution needs to be an icon rather than a center of disobedience on the enforcement of tax laws which will have a counterproductive effect on other tax payers.
- As per Art 7 of FTAP, every nongovernmental organization has a duty to cooperate for the proper enforcement of tax laws and hence, the Church shall have the obligation to adhere such laws.
- If the tax authority is unable to enforce the tax laws on the Church, exemption of taxation of such institution might be another option. The existence of laws without enforcement is worthless. It is better to consider exemptions of the Church from tax so that this would enable it to expand its religious activities. This, in turn, promotes the production of

religious societies and hence, this helps to reduce criminal activities. In fact, it is clear that most churches in the rural areas are in shortage of money to render spiritual activities including salaries for priests and clergies. So, the government needs to consider the contribution of the Orthodox *Tewahido* in building social capital in this country.

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#### **F) Cases**

*Ethiopian Seventh Day Adventist International Church Akaki Adventist Mission School vs Akaki Kality Subcity -Woreda 01 Administration Revenue Office*, (Federal Supreme Court, Cassation Division Vol. No. 13 File No. 66474)

#### **G) Letters**

Ethiopian Revenues and Customs Authority (now Ministry of Revenues), a Letter written to the Ethiopian Orthodox Tewahido Church Diocese’s Secretariat, 5 *Ginbot* 2005, (in Amharic) E.C

*Handwritten notes and stamps:*  
 በጋንታ ደንብ 1994  
 ክፍያ ገቢዎች ለሰጠው ማብራሪያ  
 ክፍያ ገቢዎች ለሰጠው ማብራሪያ

**በአባሪ ለተዘረዘሩት የሥነ ምግባር ውስጥ ታክስ ቅ/ጽ/ቤቶች  
 የኢትዮጵያ ገቢዎችና ጉምረክ ባለስልጣን**

**ጉዳዩ:- በግብር/ታክስ አዋጅ፣ ደንብና መመሪያ ድንጋጌዎች አፈፃፀም የተሰጠ ማብራሪያ፤**

ከሀይማኖት ድርጅቶች ለሰማሰሰው የግብር/ታክስ ክፍያ አፈፃፀምን አስመልክቶ በባለሥልጣን ቅ/ጽ/ቤቶች፣ ክልሎችና ከተማ ገቢ አስተዳደር አካላት ወጥ አሰሪዎች ባለሙያዎች በግብር ክፍያ ተገባሪዎች አፈፃፀም ያለው ትክክለኛ ስህተት ለሚመለከታቸው የግብር አስተዳደር አካላት የሀይማኖት ተቋማትን በተመለከተ መሠረታዊ ድንጋጌዎች ማብራሪያ መስጠት አስፈላጊነት ይጠይቃል።

በዚህ መሠረት ምንም እንኳን የማብራሪያው መንግሥት ከመቀጠር የሚገኝ ገቢ ግብር አፈፃፀም ላይ ቢሆንም በአገሪቷ ውስጥ የሚገኙ ሁሉም የሀይማኖት ተቋማት ከግብር ጋር ተያይዞ ለሰማሰበቅባቸው ገደታዎች አፈፃፀም የሚከተለው ማብራሪያ ቀርቧል።

**1. የገቢ ግብር አዋጅ ቁጥር 286/9 (እንደተሻሻለ)**

**1.1. ከመቀጠር የሚገኝ ገቢ ግብር**

በአዋጁ አንቀጽ 10 ድንጋጌ መሠረት ማናቸውም ሰው በመቀጠር ምክንያት በሚያገኘው ማናቸውም ገቢ ላይ በአዋጁ አንቀጽ 11 በተመለከተው ሠንጠረዥ ልክ ግብር የመክፈል ገደታ ያለበት ሊሆን፣ በሌላ በኩል ማንኛውም ቀጣሪ ለተቀጣሪው ከሚከፈለው ከአያንዳንዱ ክፍያ ላይ ግብረን በመቀነስ በየወሩ ለግብር አስገቢ ባለሥልጣን ገቢ ማድረግ ያለበት መሆኑ የተደነገገ ለሰጠ በሁሉም የሀይማኖት ተቋማት ውስጥ በማናቸውም ደረጃ ያለ ሰው በአገኘው ገቢ ላይ ግብር የመክፈል ገደታ አለበት።

**1.2. በተከፋይ ሂሳቦች ላይ የሚቀነስ የቅድሚያ ግብር ክፍያ /withholding Tax/**

በኢትዮጵያ ውስጥ ያሉ ሁሉም የሀይማኖት ተቋማት ከላይ በተጠቀሰው የገቢ ግብር አዋጅ አንቀጽ 53 እና በገቢ ግብር ደንብ ቁጥር 78/1994 አንቀጽ 24 መሠረት ግብር የመክፈል ገደታ

1.2.2. በዚህ ደንብ ስተዘረዘረት አገልግሎቶች በአንድ ጊዜ ገዥ ወይም በአንድ የአገልግሎት ወጪ ክብር 500 /አምስት መቶ ብር/ በሚፈጸም ክፍያ ላይ 2% በመተነስ ለሚመሰከተው ገቢ ሰብሳቢ አካል የሚሰገባት ኃላፊነት አለባቸው።

2. የተጨማሪ እሴት ታክስ አዋጅ ቁጥር 285/1994(እንደተሻሻለ) የሁሉም የሃይማኖት ተቋማት ቤት በማከራየት እና ዕቃ በመሸጥ እንቅስቃሴ የተሠማራ ከሆነ በአዋጁ አንቀጽ 26 መሠረት ከኪራይ ወይም ከዕቃ ሽያጭ ገቢ ጋር የተጨማሪ እሴት ታክስ/ተርን ኦቨር ታክስ በመሰብሰብ አስታውቆ መክፈል አለባቸው፤/የአምነት አገልግሎት ከታክሱ ነፃ መሆኑ እንደተጠበቀ/

3. የኪራይ ገቢ ግብር

ሁሉም የሃይማኖት ተቋማት በገቢ ግብር አዋጅ ቁጥር 286/94 አንቀጽ 14 መሠረት በማናቸውም ሁኔታ ከተከራይ ቤት በሚገኝ ገቢ ላይ ግብር የመክፈል ግዴታ አለባቸው። ለሰዚህ ከላይ ከተራ ቁጥር 1 እስከ

3 የተጠቀሱትን ግብሮች የመክፈል ግዴታ በህግ የተጣሰባቸው ሁሉም የሃይማኖት ተቋማትና ግብረን ለመሰብሰብ ኃላፊነት ያለባቸው ገቢ ሰብሳቢ አካላት ሥራ ላይ ባሉ አዋጅ፣ ደንብና መመሪያዎች በተደነገገው መሠረት ግዴታቸውን እንዲጠጡ ማድረግ የሚጠበቅባቸው መሆኑን አይገለጽ፤ በግልባጭ የተመዘገቡትን የክፍል/ከተማ ገቢ አስተዳደር አካላትም ይህንን በመገንዘብ ተገቢውን እንደተፈጸሙ እናሳስባለን።

ከሠላምታ ጋር  
 ገርግ ታዲያ ግብር  
 ለደራሲ  
 (የገቢዎች ክትትል  
 ደጋፊ ደራሲዎች)

ገልባጭ፣

- ሰትገራይ ብ/ክ/መ/ የገቢዎች ባለስልጣን(መቀሌ)
- ሰሐፋር ብ/ክ/መ/ የገቢዎች ባለስልጣን(ሰመራ)
- ሰሀረሪ ብ/ክ/መ/ የገቢዎች ባለስልጣን(ሀረር)
- ሰማሌ ብ/ክ/መ/ የገቢዎች ባለስልጣን(ጅጅጋ)
- ሰደራዳዎ ከተማ አስተዳደር ካውንስል ገቢዎች ጸ/ቤት(ደረዳዎ)
- ሰአማራ ብ/ክ/መ/ የገቢዎች ባለስልጣን(ባህርዳር)
- ሰደቡብ ብ/ክ/መ/ የገቢዎች ባለስልጣን(ሃዋሣ)
- ሰራሚያ ብ/ክ/መ/ የገቢዎች ቤር(አዲስ አበባ)
- ሰጋምቤላ ብ/ክ/መ/ የገቢዎች ባለስልጣን(ጋምቤላ)
- ሰቤንሻንጉል ብ/ክ/መ/ የገቢዎች ባለስልጣን(አሶላ)
- ሰሊትዩጅያ ኦርቶዶክስ ተቃህዶ ቤተክርስቲያ መ/ፓትሪያርክ ጠ/ቅ/ጸ/ቤት
- ሰሊትዩጅያ ካቶሊክ ቤተክርስቲያ
- ሰሊትዩጅያ አስልምና ጉዳዮች ጠ/ምክር ቤት
- ሰሊትዩጅያ ወንጌላዊያን ሕብደተ ክርስቲያናት ህብረት
- ሰሊትዩጅያ ወንጌላዊት ቤተክርስቲያን መካነየሱስ
- ሰሰባተኛው ቀን ሕድሼንቲስት ዓለም ሕቀፍ ቤተክርስቲያን
- ሰሊትዩጅያ ቃሎ-ሕይወት ቤተክርስቲያን

ጳጳስ አበበ  
 ለጳጳስ/ቤተች ማስተባበሪያና ደጋፊ ሥራዎች ዘርፍ