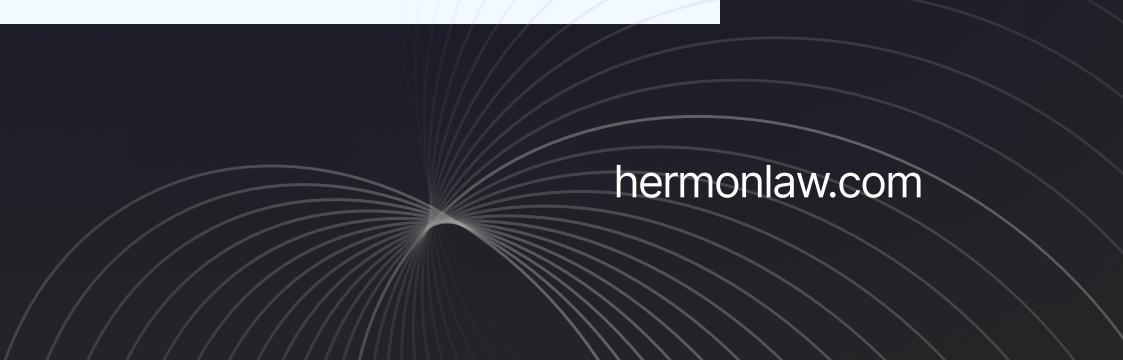


# CONSTITUTIONAL LIMITS AND LEGISLATIVE DESIGN: JURISDICTIONAL ISSUES IN NIGERIA'S EMERGING TAX DISPUTE FRAMEWORK

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The introduction of the Nigerian Tax Administration Act (NTAA) 2025 and the Joint Revenue Board Establishment Act (JRBEA) 2025 has re-opened fundamental debates on the jurisdiction of Nigerian courts in tax disputes. Central to this debate is the definition of “High Court” in section 147 of the Nigerian Tax Administration Act 2025, which expressly includes both the Federal High Court and the High Courts of the States the Federal Capital Territory.

At first glance, this definition might appear to promote inclusiveness by offering taxpayers greater access to judicial remedies through the Federal High Court and the State High Courts. Yet, on closer inspection, the provision generates significant jurisdictional uncertainty when read in light of constitutional provisions and the established case law delimiting the jurisdictional boundaries between the Federal High Court and the State High Courts.

The controversy is rooted in section 251(1)(a) of the 1999 Constitution, which confers exclusive jurisdiction on the Federal High Court in civil causes and matters relating to the revenue of the Government of the Federation. The textual clarity of this provision leaves no doubt that where a dispute concerns revenue accruing to the Federal Government, the jurisdiction to entertain such a dispute is exclusively vested in the Federal High Court, to the exclusion of any State High Court. Conversely, revenues accruing to a State, such as personal income tax, fall squarely within the jurisdiction of the State High Courts.

This line has been repeatedly upheld, as seen in *Lagos State Internal Revenue Service v Ecoserve Ltd* and *Chemiron International Ltd v Lagos State Internal Revenue Service*, *Access Bank Limited v. Edo State Board of Internal Revenue*, amongst others, where the courts ruled that State High Courts have jurisdiction only in relation to “State taxes.” These cases underscore a consistent judicial recognition that the scope of the State High Court’s jurisdiction in tax matters is confined to revenue that constitutionally belongs to the State, while matters concerning federal revenue are reserved for the Federal High Court.

A jurisdictional controversy could arise under the recently enacted Joint Revenue Board Establishment Act 2025. Paragraph 10 of the Second Schedule to the Act makes provision for appeals from the decisions of the Tribunal constituted under the Act.

Subparagraph (1) of the Schedule provides that:

*“any person dissatisfied with the decision of the Tribunal may appeal to the Federal High Court on a point of law, provided notice is given within thirty days of the decision.”*

Subparagraph (3), however, introduces a dissonant provision:

*“Where the relevant tax authority is dissatisfied with the decision of the Tribunal, it may appeal against such decision to the High Court on points of law by giving notice in writing as specified in subparagraph (1) to the Secretary within 30 days after the date on which such decision was given.”*

Further to the above Section 41(8) of the Nigeria Tax Administration Act provides as follows:

*“(8) Where a taxpayer is dissatisfied with the judgement of the Tax Appeal Tribunal, it may appeal to the High court, provided that it shall pay 20% of the disputed amount into an account designated by the High Court as security before the hearing of the appeal, and include the evidence of payment while filing the notice of the appeal.”*

The definition of “High Court” above is contained in Section 147 of the Nigeria Tax Administration Act thus:

*“High Court” means the Federal High Court or High Court of the State or Federal Capital Territory”*

The above section 41(8) of the Nigerian Tax Administration Act 2025, which grants a taxpayer the right of appeal to the “High Court,” seems to be in conflict with the provision of Paragraph 10(1) of the JRBEA which specifically requires taxpayers to appeal to the Federal High Court.

When the above sections are read together with section 147’s expansive definition of “High Court”, the statutory text under S.41(8) of the NTAA appears to allow an aggrieved taxpayer to approach either the Federal High Court or the State High Court, regardless of whether the dispute concerns federal or state revenue.

This creates a constitutional dissonance: it suggests that a High Court of a State or FCT, could be called upon to entertain appeals arising from disputes involving federal revenue, even though section 251(1) (a) of the Constitution clearly excludes such matters from its jurisdiction.

Such an interpretation, if given effect, would not only blur the carefully constructed constitutional demarcation between federal and state judicial powers but would also expose the statute to a declaration of inconsistency under section 1(3) of the Constitution, which renders void any law that conflicts with constitutional provisions.

Moreover, although the Federal and the High Court of the States or FCT are constitutionally courts of coordinate jurisdiction, they are not courts of identical jurisdiction or competence. Their powers are shaped by the subject-matter distribution laid down in the Constitution.

The Federal High Court, for example, exercises exclusive jurisdiction over matters such as admiralty, aviation, intellectual property, and revenue accruing to the Federal Government, while the State High Courts maintain their plenary jurisdiction over civil and criminal matters not expressly reserved to the Federal High Court.

By conflating both courts under the single umbrella of “High Court” in section 147 of the Nigerian Tax Administration Act 2025, the legislature collapses a crucial jurisdictional distinction that the Constitution itself has preserved. This collapse risks spawning conflicting interpretations, forum-shopping by litigants, and potentially void proceedings where a State High Court erroneously assumes jurisdiction over a federal tax matter.

Taken together, the broad definition of “High Court” in section 147 of the NTAA and the differing appellate routes prescribed in paragraph 10 of the JRBEA reveal areas where further legislative clarity would be beneficial. The jurisdiction of Nigeria’s superior courts is constitutionally entrenched and has been carefully structured to preserve the federal balance and ensure orderly adjudication.

Ordinary legislation is expected to operate within, rather than modify, this framework. Provisions that appear to blur the lines between federal and state judicial competence may therefore invite interpretive difficulties or constitutional challenge.

A more coherent approach would be to amend the legislation to make clear that appeals concerning federal taxes lie exclusively before the Federal High Court, while disputes relating to state taxes fall within the jurisdiction of the State High Courts. It would also be desirable for both taxpayers and tax authorities to follow the same appellate pathway from a tribunal decision, to avoid inconsistency and uncertainty. Such refinements would not only harmonize the new tax regime with constitutional requirements but also enhance the predictability and integrity of Nigeria's tax dispute resolution framework.



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