

## **FIRS Tax Compliance: Guidelines for a Seamless Inquiry Process!**

In October 2023, the Federal Inland Revenue Service (FIRS) issued a guideline on desk examination, tax audit, investigation and inquiry processes to offer clarifications on the nature and scope of the FIRS' inquiry process to avoid conflict of roles thereby replacing prior communications on the subject.

As a background, in carrying out its tax control and administration functions, the FIRS is empowered to undertake tax compliance inquiry activities at different levels to ensure complete and accurate information reporting by taxpayers in their tax returns; educate taxpayers; deter tax evasion or avoidance and provide platform for gathering tax intelligence. This inquiry process may take the form of desk examination, tax audit or tax investigation. The guidelines thereby analyze the various inquiry levels as follows:

### **1. Desk Examination and Monitoring Exercises**

Desk examinations and monitoring exercises are conducted by officers in within the taxpayer's tax office and focus on a review of current year tax returns (except where multiple returns are filed simultaneously, in which case they may be considered for examination or monitoring) to ensure completeness, arithmetical accuracy, and obvious misapplication of tax laws. They are usually limited to reconciliation of balances brought forward and balances carried forward, verification of tax computation, losses, capital allowances and minimum tax computation, imposition of penalties for late filing of returns where necessary.

Notably, desk examinations do not involve physical visits to taxpayer's office or request for source documents. Further, once a desk review is commenced on a current tax return or set of tax returns, it should be concluded before the commencement of a tax audit/investigation and the findings of the desk review should be considered by the audit/investigation team. It is worth highlighting that desk reviews and monitoring exercises do not preclude tax audit and investigation on a company for the periods already reviewed/examined.

### **2. Tax Audit**

Tax audits may be conducted on a routine basis on risk profiling or special basis (in the case of tax refund or business combinations) as a back duty verification exercise which may cover a maximum of six (6) preceding years (which does not usually cover current year's tax returns). Tax audits must be guided by a detailed audit plan specifying the nature, scope, and intensity of the exercise. They must be preceded by a pre-audit meeting with taxpayer, followed by visit to taxpayer's office and reconciliation meetings. Tax audits primarily aim to rectify any discrepancies detected in the tax returns by raising additional tax assessments including penalties and interests as applicable. Notwithstanding, they do not preclude tax investigations.

### **3. Tax Investigation and Special Tax Crimes Investigation**

Tax investigations involve a thorough examination of violations of tax laws undertaken by Special purpose Tax Officers based on triggers and duly approved by management which is not limited to any number of years. Tax investigations can lead to criminal prosecution. The triggers for tax investigation exercise include the following:

- Inconsistent financial statements
- Investigation based on failed tax audit exercise
- Referred by tax audit department usually statute barred under audit where fraud is detected
- Lifestyle discrepancies
- Failure to file tax returns
- Unexplained losses
- Deliberate/fraudulent understatement of income or overstatement of costs
- Marinating proxy accounts
- Money laundering (unjustifiable movement of huge cash)

The FIRS may also conduct Special Tax Crimes Investigations which are aimed at uncovering and prosecuting individuals or organizations involved in serious tax-related criminal activities such as tax evasion, fraud, money laundering or other illicit actions designed to escape paying taxes. Special tax crimes investigation may be triggered by:

- Referrals from anonymous tips or whistleblowers
- Fraud cases referred from other departments of the FIRS
- Petitions written to the Service
- Illicit Financial Flows (IFFs) involving frequent or large cash transactions that may be indicative of unreported incomes.
- Entities incorporated in tax havens and tax shelter schemes.
- Post tax audit and investigation cases consistently and deliberately engaged in violations of the tax laws (over a six-year period) by understatement of income or overstatement of expenses.

Notably, if any member of the group is referred for Special Tax crimes investigation, all other entities within the group should be included in the investigation for completeness. Also, once a case is referred for investigation, other forms of compliance inquiry should cease and defer to the investigation exercise.

### **4. Other tax Inquiry Processes**

The Guidelines also highlights that the FIRS may also conduct Transfer Pricing Audits which are handled by the International Tax Departments specifically as well as Turnover Threshold Determination which is primarily to the effect that taxpayers on a higher or lower turnover (including turnover figures as per Audit/investigation) for a consecutive period of 3years are to be transferred to a different office based on requisite threshold.

In conclusion, it is commendable that the FIRS has provided useful guidance to taxpayers on its compliance inquiry processes.