



FEDERAL INLAND REVENUE SERVICE

Information
Circular

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SUBJECT: PREPARATION AND PROCESSING OF BEST OF JUDGEMENT (BOJ) ASSESSMENTS

This Information Circular is published to guide Revenue officers on the preparation of estimated assessments (BOJ) and the ultimate processing of such an assessment. It is also intended to provide information to taxpayers on the necessary steps to be taken when a BOJ assessment is imposed on them and why it should be guided against as much as possible.

1.0 Introduction

The Self – Assessment Regime requires the concurrent filing of returns and payment of tax due on or before the due date. A taxpayer must compute his tax liabilities, pay the tax due and file the relevant returns with evidence of payment the tax on or before the due date. A taxpayer must file returns under the Self-Assessment Regime in person or engage the services of accredited agents to file returns on his behalf. The return must be signed by the taxpayer or his appointed agent.

2.0 Returns

It is mandatory for all taxable persons (employees and self-employed individuals as well as companies) to render the returns of all transactions engaged in during the accounting year to the relevant Revenue authority. The period within which the returns must be made however differs, depending on the status of the taxpayer. Companies that fail to file tax returns in any assessment year will be subject to Best of Judgement.

(a) Individual Taxpayers' Returns

It is mandatory for individuals (both employee and self-employed) to render their returns annually to the relevant tax authority on or before 31st March every year. The returns must disclose information in relation to:

- sources of income
- capital allowances computation with schedule of assets
- relief and allowances with supportive documents

(b) Corporate/ Companies Returns

It is mandatory for companies to render their returns annually to the relevant Revenue authority within a prescribed time period of six (6) months after the end of the accounting period. The returns must contain the followings;

- audited financial statements, with notes explaining the salient components of the financial statement.
- Statement of profit/loss and sources of such profit/loss to be disclosed in a prescribed standard form approved by the Revenue
- Computation of capital allowances and income taxes with details of Assets schedule; and
- In the case of a self- assessment filer, evidence of direct payment of the whole or part of the tax due.

The failure to render returns as at when due will attract penalty as appropriate.

3.0 **Statutory Provisions on the Board's Powers to Raise Assessment**

Section 65 of CITA LFN 2004 grants powers to the Board to assess every company chargeable with tax as may be applicable after the expiration of the time allowed for the delivery of the audited accounts and returns (specified in paragraph 2.0 above) or otherwise as it may appear practicable for the Board to do. The powers to raise Best-of-Judgment assessment on taxpayers are cited under sections 65 (2)(b) and 65 (3) of CITA for Companies and sections 54 (2) (b) and 54 (3) of PITA for individuals. Best-of-Judgment assessment can arise in the following three (3) circumstances:

- (a) where an individual or company has submitted audited returns and the Board has refused to accept the returns;
- (b) Where an individual or company has not submitted returns within the prescribed time period; and
- (c) Where it appears practicable for the Board to issue best-of-judgment assessment

It is pertinent to stress that corporate entities are allowed under Section 59 of CITA, CAP 21, LFN 2004 as amended to extend the period of making their returns, provided they apply in writing to the Board, to show good cause for their inability to comply with the provisions on submission of returns and obtain in writing, the Board's approval granting the extension. Therefore, field officers must always be guided by this provision in the exercise of the powers to raise Best-of-judgment assessment.

4.0 **Capital Allowance Issues to be Considered In Raising a BOJ**

Best of judgment (BOJ) assessment is based on the discretion of the Revenue Authority having considered the expected income level of the taxpayer or that of other companies in similar line of trade or industry. But it must be pointed out that Sections 65 (2) (b) and 65 (3) do not empower the Board to exercise discretion in determining a company's assessable profits by BOJ but rather empowered to determine total profit to which the applicable tax rate is applied. The implication of the above is that it is assumed that necessary adjustments have been made for capital allowance, balancing charge, balancing allowance and loss relief to arrive at total profit.

5.0 **Consideration before Raising BOJ Assessment**

Before determining the total profits of a company under Section 65 (3), due regard must be given to the particular statement which states as follows “and the Board is of the opinion that such company is liable to pay tax”. Normally there should be reasonable expectation of tax payment from the company before the Board can proceed to raise an assessment. Therefore, the Tax Officer should always be guided by any of the under-listed consideration in his attempt to raise BOJ assessment. These considerations include:

- i) unabsorbed losses and capital allowances carried forward
- ii) possibility of a company being liable to tax under minimum tax provision
- iii) economic trend/performance
- iv) sectoral/industrial economic performance
- v) performance of companies in similar lines of trade or business
- vi) performance below determined industrial averages analysis

5.1 **NIL Assessment**

This is another form of Best of judgment. For example where a company whose annual average turnover is N20.0 million has an adjusted loss figure in 2003 resulting in unabsorbed losses and unrecouped capital allowances amounting to N13.0 million carried forward, it will be unreasonable to expect the company to pay income tax in 2004 (although the company is expected to pay minimum tax, if it has been in business for over four (4) years). A NIL assessment will be more appropriate, but one will expect necessary adjustments to be made to the NIL assessment whenever the relevant audited accounts are submitted. All cases of perpetual NIL assessments should as a matter of routine be reported to the Audit Unit for appropriate action.

5.2 **Best of judgment Assessment in Relation to Individuals/Self-employed Persons**

This is a very difficult task to implement bearing in mind that this category of taxpayers largely dominates the informal sector. Taxpayers in this sector engage in subsistence trading activities and do not keep records of their transaction; yet they have a duty to contribute their quota towards economic

development. Therefore, estimated assessments raised on this category of taxpayers must take cognizance of their peculiarity and ability to pay. There is need to have constant dialogue between the tax authority and the Executives of various Trade associations to which most of these traders and artisans belong on how best to administer taxation among their members. Where turnover is not readily available, other variable like size of business, patronage and number of trade equipment may be considered. As much as possible, the application of discretionary means should be de-emphasized.

5.3 **Common Experiences in Administering BOJ**

There have been instances when tax liability as per tax returns submitted are either higher or lower compared to the BOJ assessment raised and also where audited returns are submitted immediately after Best of Judgment assessment has been served on the tax payer. The following steps should be adopted in resolving such reported instance.

(i) **Where BOJ is Higher Than Tax Liability as per Tax Returns**

The Tax Officer should enforce payment of BOJ and where the taxpayer objects, such an objection should be subjected to dispute resolution process.

(ii) **Where BOJ is Lower Than Tax Liability as per Tax Returns**

The Tax Officer should raise an additional assessment to cover the difference in assessment.

(iii) **Where Accounts are Submitted Immediately after BOJ has been raised, although still Pending Service of Notice on Taxpayer**

BOJ assessment should be withdrawn, and assessment raised based on the audited returns. It should be noted however that penalty for late filing of returns must be imposed.

6.0 **Conclusion**

With the integrated tax system being adopted by the FIRS, it is anticipated that problems usually associated with the preparation of Best of Judgment assessment will become reduced. Officers should therefore encourage the adoption of self assessment methods, rather than Government assessment. In particular, Tax Officers should discontinue the practice of imposing estimated assessment on imaginary or portfolio companies. They should always endeavor to identify those companies with physical presence and make inquiries why such companies are not filing returns as at when due. BOJ assessment should not be raised for fun but rather, to be seen as a means of enforcing compliance. Field Inspectors should at all time be mindful of the effect that frivolous assessment will have on their arrears.

7.0 **Enquiries;**

All enquiries in connection with this Information Circular should be addressed to:

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