



GUIDELINE

PUBLISHED: OCTOBER 2023

Desk Examination, Tax Audit, Tax Investigation Exercises and Other Tax Inquiry Processes: Clarifications on the Nature and Scope of Inquiry

This guideline is issued to replace the earlier publications of October 2020 and April 2021.

1. Background

Section 2 of the FIRSEA clearly defines the object of the Service as “to control and administer the different taxes and laws specified in the First Schedule or other laws made or to be made from time to time, by the National Assembly or other regulations made thereunder by the Government of the Federation and to account for all taxes collected”.

To achieve this, the Service carries out tax compliance activities at different levels to guarantee complete and accurate reporting of information by taxpayers in their tax returns. These activities have far wider impacts than simply raising additional revenue as they also help to educate taxpayers, deter tax evasion or avoidance, and provide platform for gathering intelligence on emerging tax compliance risks.

There are 3 levels of tax compliance inquiry activities namely: (i) Desk Examination, (ii) Tax Audit, and (iii) Tax Investigation. This Guideline is important in order to define the nature and scope of each inquiry activity so as to avoid conflict of roles.

It is expected that as the automation initiatives of the Service advances, risk profiling engine will handle most of the tasks to be undertaken in compliance checks. It is equally expected that the projected severity of compliance risk will determine the levels of inquiries required.

2. Nature and Scope of Inquiry/Verification Functions Within FIRS

The 3 levels of tax compliance inquiry functions within the Service are explained below in terms of their nature and scope:

2.1 Desk Examination and Monitoring Exercises

Desk Examination should be carried out by officers in the RPP unit of the tax offices while monitoring exercises are limited to current year operations by GBTO and WHT & VAT desk officers in the Tax Offices. They are limited to current year tax returns and aim to ensure **completeness, arithmetical accuracy, and obvious misapplication of tax laws**. However, where a taxpayer files tax returns of more than one-year, all the returns may be examined or monitored.

Desk examinations must be limited to issues as ensuring balances brought forward are reconciled with balances carried forward, checking correctness of tax computations, losses, capital allowances and minimum tax computation for accuracy, as well as imposing penalties for late filing of returns where necessary. Desk Examination is also required to convert dormant into live cases.

Note that Desk Examination does not involve visit to taxpayer's office or request for source documents regarding revenue or expenditure items. However, fundamental documents as certificate of imported capital or ministerial approval on management fee, evidence of tax payment or evidence of filing tax returns may be demanded.

Once a desk review commences on the current tax returns or set of tax returns filed at once by taxpayers, it should be concluded before tax audit/investigation can start, and the findings of the desk review should be considered by the tax audit/investigation team.

The VAT units in Tax Offices are to monitor and carry out desk review of taxpayers' VAT compliance. The Regional VAT offices should be incorporated into the State Coordination offices nationwide with the mandate of working closely with Tax Offices to ensure that non-filers and stop-filers are brought back into the tax net.

Note also that Desk Examination and Monitoring exercises do not preclude Tax Audit and Investigation on a company for the periods desk examined as provided for by Sections 26 & 27 of FIRSEA.

2.2 Tax Audit

This should be carried out by designated officers in the different Tax Audit offices. Tax Audit exercise may be **routine (based on risk profiling) or special (as with the case of tax refund or business combinations)**. Tax Audits are generally back-duty verification exercises and so, may **not, in most cases, cover current year's tax returns**.

Tax audit exercises must be guided by a detailed audit plan for each audit assignment. The audit plan must specify the nature, scope, and intensity of the exercise, for example, comprehensive (multiple tax and multiple year) audits, single year, or single-issue audits, etc.

Tax audit exercises should cover a maximum of six preceding years and must be preceded by a pre-audit meeting with taxpayer, followed by visit to taxpayer's office and reconciliation meetings. The field visit entails the use of a range of audit methodologies (e.g., direct, and indirect audit approaches) to carry out elaborate vetting and verification of the underlying records, books, and accounts of the taxpayers. The primary aim is to rectify any discrepancies detected in the tax returns by raising additional tax assessment including penalties and interests as applicable.

Note that Tax Audit exercise does not preclude Tax Investigation action on a company provided there is an approval by the Management as provided by Section 35 of FIRSEA.

2.3 Tax Investigation & Special Tax Crimes Investigation

2.3.1 Tax Investigation

This involves an in-depth probe and painstaking examination of violations of the tax laws. Tax Investigation should be carried out by designated investigators in the Tax Investigation offices. **The exercise must be based on triggers and duly approved by Management. Tax Investigation exercise is not restricted to any number of years and can lead to criminal prosecution.**

For purpose of clarity, the triggers for Tax Investigation exercise are as follows:

- a) Cases referred by tax audit department usually statute barred under routine audit (6 years) where fraud is detected.
- b) Investigation based on failed tax audit exercise.

- c) Inconsistent financial statements.
- d) Referrals of recalcitrant taxpayers by Tax Controllers and other departments (CSG, GTOG, STOG etc.) and other cases from within the Service.
- e) Failure to file tax returns.
- f) Lifestyle discrepancies.
- g) Unexplained losses.
- h) Resistance to Tax Audit exercise.
- i) Persistent low tax to turnover ratio for 3 years.
- j) Deliberate/fraudulent understatement of income or overstatement of costs.
- k) Manipulation of accounting for business combinations and restructuring.
- l) Equity being disguised as debt.
- m) Cases not tax audited for 6 years or more.
- n) Marinating proxy accounts.
- o) Discovery of abusive tax schemes.
- p) Publication of profit not in harmony with tax returns.
- q) Engaging in complex transactions with related parties such as special purpose entities that are structured to misrepresent the financial position or the financial performance of the entity.
- r) Board room squabbles amongst shareholders.
- s) Prolonged claim of dormancy by taxpayers.
- t) Money laundering (unjustifiable movement of huge cash).
- u) Any other triggers that the Management may deem appropriate for TID.

2.3.2 Special Tax Crimes Investigation

This is aimed at uncovering and prosecuting individuals or organizations involved in serious tax-related criminal activities. These activities may include tax evasion, fraud, money laundering, or other illicit actions perpetrated to escape paying taxes legally owed to the government. Such investigations often involve specialized teams with expertise in financial crimes and tax matters, and they may use various methods, including forensic accounting and surveillance, to gather evidence for prosecution.

Triggers for Special Tax crimes Investigation include:

- a) Cases that are under investigation, by other law enforcement agencies (EFCC, Police Investigation, ICPC Investigation, Interpol Investigation, National Assembly oversight functions investigation, spontaneous disclosures from NFIU and other anti-graft agencies).
- b) Referrals from anonymous tips or whistleblowers.
- c) Fraud cases referred from top Management and other Departments of the Service (Audit, TID).
- d) Investigation of financial criminal/fraud cases being reported by national dailies, other electronic media, or international media.
- e) Petitions written to the Service.
- f) Offshore Transactions - unreported incomes or assets held in offshore accounts or tax havens.
- g) Illicit Financial Flows (IFFs) involving frequent or large cash transactions that may be indicative of unreported incomes.
- h) Inconsistent Entity Structures involving frequent changes in business structures that may be used to evade taxes.
- i) Tax Shelter Usages including spinoff from tax investigation of related party transactions tracing from business associate.
- j) Aggressive tax planning schemes by local and multinational entities MNEs (group structure tax coverage).

- k) Entities incorporated in tax havens and tax shelter schemes.
- l) Alleged diversion of sales proceeds to personal bank accounts of directors or principal/related parties/entities (criminal tax evasion scheme).
- m) 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.

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.

The Office of the CD-ESG collates information from internal and external parties on tax evasion, fraud, and other serious tax crimes, receives additional intelligence from Data Analytics/Intelligence Department for onward recommendations to the ECFIRS for approval as either Tax Investigation or Special Tax Crimes Department depending on the information.

Note that once a case is referred by Management for investigation, other forms of compliance inquiry should cease and defer to the investigation exercise.

2.4 Other Tax Inquiry Processes

2.4.1 Transfer Pricing Audit

Transfer Pricing audit is handled by International Tax Department and issues of such should be transferred to the Department to handle. To this end, no Tax Office, Tax Audit or Tax Investigation team is allowed to carry out Transfer Pricing (TP) audit. Where there is need for joint audit/investigation between ITD, TAD, TID and STCD, such will be agreed by relevant Groups as the ECFIRS may direct for efficiency and convenience.

2.4.2 Turnover Threshold Determination

Guidance on segmentation policy of taxpayers was communicated via public notice titled "Filing of Tax Returns at the Tax Office Closest to Taxpayers' Operational Bases in Line with Federal Inland Revenue Service Segmentation Policy". Taxpayers on a higher or lower turnover for a period of 3 consecutive years are to be transferred to a different office. This is equally applicable to turnover figures as per Audit/Investigation for three consecutive years and such companies are to be transferred to another office based on requisite threshold.

3. Conclusion

To this end, officers are to take note of the information in this clarification and be strictly guided accordingly. Going forward, Management will no longer tolerate needless conflicts as appropriate sanctions would be meted out to erring officers as may become necessary.

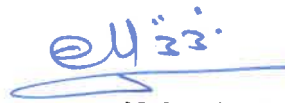
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9TH OCTOBER 2023.