



## **ACHIEVING VOLUNTARY COMPLIANCE THROUGH SELF-ASSESSMENT TAX REGIME**

Contribution by Mr. Malik Tukur on behalf of Mr. Chris N. Onyegbule, a seasoned tax official and the Team Lead, Self Assessment Project of the Federal Inland Revenue Service, Nigeria.

The paper is divided into 4 Chapters viz

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- What is Self-Assessment?
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- Dealing with the Tax Lien
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## **ACHIEVING VOLUNTARY COMPLIANCE THROUGH SELF-ASSESSMENT TAX REGIME: AN OVERVIEW**

### **CHAPTER ONE**

#### **INTRODUCTION**

The self-assessment tax regime is a system of tax administration whereby the taxpayer is granted the right, by law, to compute his own tax liability, pays the tax due (at the designated bank) and produces evidence of tax paid at the time of filing his tax return at the tax office, on due date. On the other hand, the tax authority has the responsibilities of enablement to and checks on the taxpayer to ensure compliance with tax administration process.

In other words, self-assessment tax regime is characterised by partnership and shared roles and responsibilities between the taxpayer and the tax authority.

The paradigm shift in the regime is that having left the taxpayer with the burden of filing tax returns, the tax authority ensures through enablement, compliance and compliance enforcement activities that the right (correct) amount of tax due is paid and at the right time, and if otherwise to **strictly** apply sanctions as provided by the tax laws. It is emphasised that this tax regime is complete with a continuum of activities; from taxpayer enablement, filing of tax returns, and payments, tax returns processing, payment/debt management, and compliance/enforcement. Self-assessment applies to employees, self employed, limited liability companies including oil companies; agents/taxable persons, in the case of value added tax (VAT).



The Self-assessment tax regime is based on key assumptions as stated below:

- i. the taxpayer is a stakeholder and a partner and should be treated courteously;
- ii. the taxpayer is honest and indeed demonstrates this by signing a declaration as to the correctness of the tax returns;
- iii. the taxpayer runs the business and knows the right amount of profits and taxes payable;
- iv. as a consequence of (i) and (iii) above should be allowed to self assess; and
- v. on the part of the Revenue Authority, it should accept returns as filed and later subject the returns to risk assessment.

It is important to note that this tax regime is a response to a challenge in the application of a tax rule, under government assessment tax regime, that “no tax lien should arise until the revenue makes a demand for it.” The application of this rule brought about delays in the payment of taxes consequent on time lag between the time of issuance of notices of assessment and effective service of the notice on the taxpayer. In between, disputes were common with the attendant increase in the costs of tax administration and compliance. In addition, the regime was introduced to elicit voluntary compliance. Voluntary compliance, as we know, engenders more efficient and cost effective tax administration. Therefore, it can be said that self-assessment tax regime is a vehicle for voluntary compliance.

From the foregoing, Nigeria responded to the “wind of change” in the method of assessment in tax administration. It introduced self-assessment method of payment of taxes in 1992 (following the enactment of the appropriate law in 1991)<sup>1</sup>. Initially, self-assessment was not mandatory for every taxpayer until 1998. Even now self-assessment filing has continued to be incentivised, albeit inadvertently, considering that it was mandatory.

Nineteen years down the line, the “new regime” and by implication voluntary compliance has not “taken root”. Perhaps it was because it was run side-by-side with government assessment system due to gray areas in the tax laws and the absence of appreciable efforts at taxpayer enablement, an important component of self-assessment. While not passing a judgement on the inadequacy or otherwise of the tax laws to support classical self-assessment tax regime. I will not fail to say that the excuse of ambiguity of the tax laws to support self assessment, as the reason for the poor performance, appears to run contrary to the rules of interpretation of tax statutes. It is in this regard that I cite a decided case as below:

*Lord Herschell held that “it is beyond dispute too, that we are entitled and indeed bound, when construing the terms of any provision found in a statute, to consider any other parts of the Act, which throw light upon the intention of the legislature, and which may serve to show that the particular provision ought not to be construed as it would be, if construed alone and apart from the rest of the Act”<sup>2</sup>*

*In a similar ruling, Lord Sounds held that; “I think, when we come to a matter of doubtful construction....., I conceive it to be our duty in dubio to prefer the construction which harmonises with the general intention of the legislature as we gather it from the whole statute.”<sup>3</sup>*

In view of the above, the mere fact of the requirement that every company/person should file self assessment tax returns<sup>4</sup> more than reveals the intention of the law makers, that is, the regime of self assessment is in place; it should be run in its classical form.



In addition to the cases cited above, it is interesting to note the ruling of the Court of Appeal in the case, Phoenix Motors Limited V NPFMB:

*“If a statute is revenue based or oriented, the provisions therefore must be construed liberally in favour of revenue or in favour of deriving revenue by government, unless there is a clear provision to the contrary. This is because it is the interest of the generality of the public and to the common good and welfare of the citizens for Government to be in revenue and affluence to cater for the people”.*

Finally, by implication, the constitution of the Federal Republic of Nigeria, as amended, encourages self assessment in that it provides that:

*“it shall be the duty of every citizen to declare his income honestly to appropriate and lawful agencies and pay his tax promptly”.*

## CHAPTER TWO

### COMPONENTS OF SELF-ASSESSMENT REGIME

In broad terms, the self-assessment tax regime may be grouped into two components namely enablement and compliance enforcement. A myriad of features are derivable from this broad categorisation, bearing in mind that the driving force is that the taxpayer bears the burden of computing and paying the tax due.

#### 2.1 **ENABLEMENT**

Whereas the taxpayer bears the burden of computing and paying tax due, the Revenue Authority ensures that the taxpayer is sufficiently enabled to perform this function. The *Internal Revenue Service of the United States of America considers taxpayer enablement so important that it forms part of its vision*\*\*This feature runs through the process flow but especially before the due date for filing tax returns:

##### (a) **Books and Records**

Various tax laws require the Revenue Authority to determine the books and records to be kept by the taxpayer for the purpose of establishing the tax due. Part of the enablement function of the Service is to develop templates of records and books to be kept for tax purposes. Drawing from the vision of FIRS “to make taxation the pivot of national development” will require good record keeping since administration of taxes rely on good records. The tax laws require the Service to prescribe the types of records to be kept.<sup>5</sup>

##### (b) **Designing Simple Tax Forms**

One of the ways the taxpayer will be enabled to comply is through the designing of simple and user-friendly tax forms that capture all declarations to be made.

##### (c) **Notes for Completing Tax Forms**

All tax forms should be accompanied by guidance notes so that the taxpayer (especially individuals and fringe companies) does not incur extra costs through the engagement of external professionals/advisors to complete the forms. Bear in mind that the Revenue Authority should do all in its powers to encourage compliance.



(d) **Availability of Forms**

The taxpayer should be able to collect/have access to forms with minimal efforts. The forms should therefore be made available at websites and places frequently visited by taxpayers, e.g. churches/mosques, banks, post offices, shops/supermarkets, etc.

(e) **Educating the Taxpayer on the Requirements of the Tax Laws**

While the taxpayer bears the burden of paying/filing, he should be educated on the requirement of tax laws which are :

- i. due dates for filing tax returns/payments;
- ii. sanctions for failure to pay/file on due dates (interests, penalties and legal actions etc);
- iii. incentives contained in the tax laws and the benefits of voluntary compliance; and
- iv. a wide range of guidance notes and leaflets on various subjects.

(f) **Taxpayers' Rights**

In summary;

1. the taxpayer is entitled to fairness;
2. the Revenue Authority must be helpful to the taxpayer;
3. the taxpayer is entitled to efficient service;(this includes timeliness and a perception of the Revenue being able to detect "tax reduction schemes" ); and
4. the taxpayer has the right of appeal.

For all the rights of the taxpayer, there is the reciprocal obligation to be:

- a. honest;
- b. give accurate information;
- c. pay taxes as and when due; and
- d. give the tax official all the co-operation required to execute tax duties.

(g) **Other Information that would enable the taxpayer comply voluntarily.**

2.2 **TAX COMPLIANCE**

Tax compliance activities are the major role the Revenue Authority plays in the self-assessment regime. Recall that the taxpayer bears the burden of computing the tax and paying not later than due date. Once the tax returns are filed, the Revenue Authority processes the returns to ensure that the correct amount of taxes were declared and paid at the right time. The Revenue Authority in ensuring maximum compliance, carries out the following activities:

- (a) checks for completeness of returns filed;
- (b) checks for arithmetical accuracy and proper completion of tax return form;
- (c) carries out risk assessment and profiling of tax return; and
- (d) carries out audit (where necessary) of taxpayers records based on risk assessment and collection enforcement.



With pre-determined risk ratios, drawn from a risk framework, every tax return is subject to risk assessment. This is a departure from government assessment where the time and capacity impeded 100% examination/audit that was supposed to be the norm. Under self-assessment, resources are applied to areas of risk in the order of the weight attached. A justification for risk based audit is that the taxpayer is a stakeholder and assumed to be honest. Also, risk based case selection removes all vestiges of subjectivity and human biases. By and large risk based case selection is a more effective way of compliance check and it engenders voluntary compliance. In any case, with the prospects of automation of tax processes, risk based case selection is a sine-qua-non for automation.

Perhaps, the time is apt to give another overview of risk based case selection: The first step is to define risk: it is anything that suggests that a tax return is incorrect and reduces tax payable.

Risk assessment is a move away from traditional trade-based approach to case selection. "Trade-based" system is not scientific and is prone to subjectivity. It therefore has a limitation as do the following case selection methods;

- through informants;
- random selection (scientific but not cost effective and may not cover all cases); and
- referrals.

However, with risk based approach, the following features are evident:

- Financial Ratios, in terms of performance, are predetermined and weights are attached to them. The degree of deviations from "normal" are aggregated to determine the extent of risk. Cases are selected for audit in descending order of the extent of risk. In this way, audit time is spent on cases of relative higher risks. Also, manpower is deployed to areas of need.
- Risks may also be determined by policy positions such as mergers and acquisitions, industry, geographical issues, expected yield from audit, etc

Every case has a chance of being selected for audit only on the basis of risk profile. The system engenders transparency and will enjoy the confidence of the taxpayers. On the whole the system promotes voluntary compliance because it does not give the taxpayer the opportunity to "take a chance".

While not delving into tiny details about risk profiling, it must be noted that it must be supported by a vibrant intelligence gathering outfit that is up-to-date. This will ensure the development of right parameters and that all taxpayers are brought into the tax net (including ghosts and moon lighters).

### 2.2.1 COMPLIANCE ENFORCEMENT

Tax compliance enforcement is on the flip side of taxpayer enablement (see 2.1). Put another way, taxpayer enablement is a justification for **strict** tax enforcement. It is made up of the following activities, among others:



- a. imposition of penalties for late filing (without fail);
- b. charging of interest for late payment (without fail);
- c. prompt distraint actions;
- d. up-to-date debt management portfolio (by amount, age, type, office, etc.),
- e. prompt prosecution of tax defaulters, and
- f. administrative assessment that is based on third party information/audit.

With appropriate taxpayer enablement in place, it is the tax compliance enforcement action that brings about a change in behaviour ;from non-compliance to voluntary compliance. To achieve this desired change in behaviour, the Revenue Authority must be divested of discretionary powers that may negatively influence change in attitude.

#### 2.2.1.1 AGENTS OF COMPLIANCE ENFORCEMENT

Overtime, the Revenue Authority got used to issuing notices of assessment. It may not give up this practice easily. Tax officials may indeed constitute impediment to the implementation of self-assessment. It becomes imperative therefore for the agents of compliance enforcement listed below to work for strict compliance of self-assessment processes from end to end:

- Tax Audit Policies and Programme;
- Field Operations, Policies and Programme;
- Taxpayer Service, Policies and Programmes;
- Management of Tax Operations (Line and Headquarters); and
- On a project level, the Self-Assessment Project Team.

In carrying out its self-assessment processes compliance functions, the agents of change should bear in mind the thoughts of Machiavelli regarding change, that “there is nothing more difficult and dangerous or more doubtful of success, than an attempt to introduce a new order of things. For the innovator has enemies, all those who **derive advantages from the old order** of things, whilst those who expect to be benefited by the new institution will be but lukewarm defenders”.<sup>6</sup>

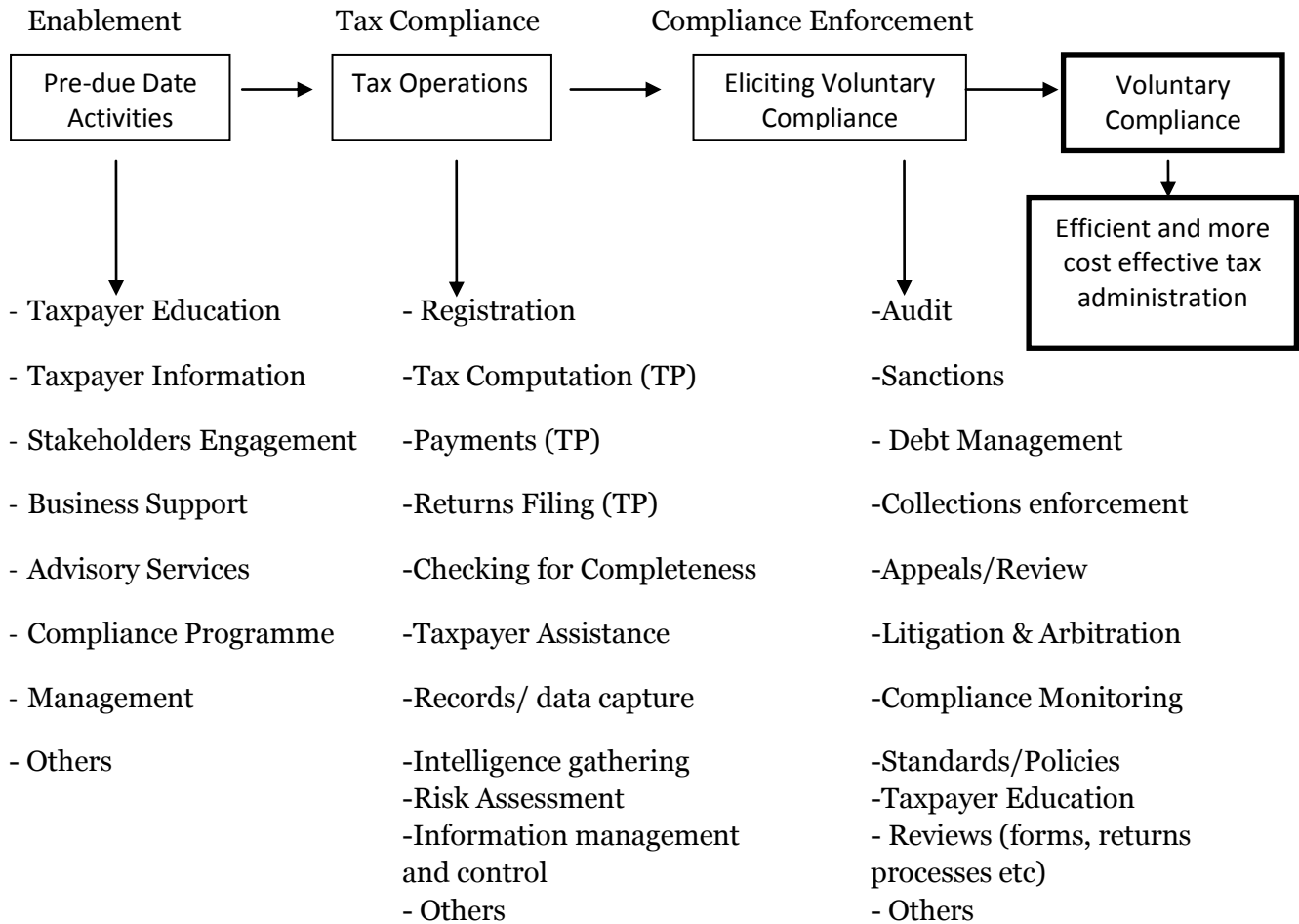
## CHAPTER 3

### SELF-ASSESSMENT PROCESS FLOW

Some of the functions in self-assessment processes run through all the components as do the roles played by various actors in the processes. There are also overlaps of roles all with a view to eliciting voluntary compliance. Therefore, the process flow charts may be seen from different perspectives.



### SELF-ASSESSMENT PROCESS FLOW CHART



**Note:** Every activity in the flow chart must add value to the objective of achieving voluntary compliance.

### CHAPTER 4

### CONCLUSION

Drawing from the report of the IMF Technical Assistance Mission to Nigeria in October, 2010<sup>7</sup>, there is every reason for the Revenue Authority in Nigeria to take urgent steps to deepen self-assessment. This is more so because self-assessment engenders transparency, certainty and simplicity of tax administration. It is also in sync with modern business practices.

At every point in self-assessment process, it must be borne in mind that the goal is to achieve voluntary compliance. To this extent the taxpayer must be empowered to ensure self-assessment. Note should be taken however that the motivation for voluntary compliance is strict compliance enforcement. To get this about, discretionary powers in the hands of tax officials must be reduced if not removed completely.



Self-assessment calls for a complete change in behaviour on the part of both the taxpayer and the tax official. This will necessitate a re-orientation, re-education, review of existing processes and a large dose of buy-in of Management and Staff. Surely, this has human resource implications.

I will not fail to say that most of the materials that are available for tax administration today were written from the context of government assessment. Self-assessment-friendly literature should be developed to support the self-assessment regime and voluntary compliance.

On the whole, some desirable skills/attributes should be harnessed for the implementation of classical self assessment namely:

- i. inclination for change;
- ii. analytical ability;
- iii. improved customer relationship management;
- iv. professional enforcement disposition;
- v. good communication/informative and interpretation disposition; and
- vi. courteously being firm.

While I express confidence in internal capacity to set the right processes for self-assessment, I will note as an English writer said that “it is of all trades to make songs, and the second best to sing them”<sup>8</sup>.

Thank you.

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