

NIGERIA

The exhaustion of administrative remedies in relation to tax issues before litigating such matters in Nigerian courts is aptly summarized by the Income Tax Law and Practice in Nigeria.^{1/}

Legislation dealing with exhaustion of administrative remedies in Nigeria concerning tax matters is not contained in one statutory enactment but scattered in various pieces of legislation.^{2/}

The administration of income tax under the provisions of the Income Tax Management Act of 1961, as amended,^{3/} is vested in the Joint Tax Board in accordance with the provisions of section 27 (1) of this Act. The Board serves as a "clearing house" of tax disputes.

1/ C.S. Ola, Income-Tax Law and Practice in Nigeria, 13-29 (1974).

2/ The Income Tax Management Act of 1961, as amended, Annual Volume of the Laws of the Federation of Nigeria, secs. 27-32 (1961); The Companies Income Tax Act, 1961, as amended, Annual Volume of the Laws of the Federation of Nigeria, secs. 3-19 (1961); Personal Income Tax (Lagos) Act, 1961, Annual Volume of the Laws of the Federation of Nigeria, secs. 3-12; 29-42 (1961); The Income Tax (Miscellaneous) Provisions Act, No. 7 of 1969, as amended, Annual Volume of the Laws of the Federal Republic of Nigeria, secs. 1-7 (1969); The Income Tax Act of 1943, as amended, 3 The Laws of the Federation of Nigeria and Lagos, Ch. 85, secs. 60-63 (1958); The Income Tax Administration Act, No. 39 of 1958, as amended, Annual Volume of the Laws of the Federation of Nigeria, secs. 3-17 (1958); Personal Income Tax Law, No. 6 of 1962, as amended, 1 Annual Volume of the Laws of Northern Nigeria, secs. 3-6; 28-38 (1962); Personal Income Tax (Lagos) (Amendment) Act, No. 7 of 1968, Supplement to Lagos State of Nigeria Official Gazette, No. 2 of June 13, 1968, secs. 1-5; The Income Tax Law of 1957, as amended, 2 The Laws of Western Region of Nigeria, Ch. 48, secs. 3-7; 45-55 (1959); Finance Law, No. 5 of 1962, as amended, Laws of Eastern Nigeria, secs. 23-44 (1962).

3/ Id. The Income Tax Management Act of 1961, Annual Volume of the Laws of the Federation of Nigeria (1961).

The provisions of the Income Tax Management Act referred to above are supplemented by the provisions of the Personal Income Tax (Lagos) Act of 1961,^{4/} an enactment which applied to the Federal Territory of Lagos before the creation and establishment of Lagos State. These laws are administered by the Federal Board of Inland Revenue, an agency established and constituted under the provisions of section 3 of the Companies Income Tax Act of 1961, as amended.^{5/}

Insofar as taxation of persons apart from corporations is a responsibility of each state in Nigeria, the Personal Income Tax (Lagos) Act of 1961 was amended in 1968,^{6/} in order to vest in the newly created Lagos State power and authority to tax persons within its jurisdiction as a state. Under the amended tax law as previously applied to the Federal Territory of Lagos and also in accordance with the provisions of the Income Tax Management Act of 1961 and the Companies Income Tax Act also of 1961, federal taxation issues continued to be administered by the Federal Board of Inland Revenue, while the Lagos state law is administered by the Lagos State of Internal Revenue Board. Pursuant to the provisions of these statutory enactments controlling federal tax issues, appeals on such tax issues are made to the Board within a specified number of days from the date of discovery of discrepancies concerning tax.

^{4/} Supra note 2, Personal Income Tax (Lagos) Act, 1961, Annual Volume of the Laws of the Federation of Nigeria (1961).

^{5/} Supra note 2, Companies Income Tax Act, 1961, Annual Volume of the Laws of the Federation of Nigeria (1961).

^{6/} Supra note 2, Personal Income Tax (Lagos) (Amendment) Act, No. 7 of 1968, Supplement to Lagos State of Nigeria Official Gazette, No. 2 of June 13, 1968.

If the application for review is unsuccessful, the Board serves the applicant a notice of refusal to amend after which the applicant may then appeal to the Appeal Commissioners, a tax agency constituted to hear tax appeals under the provisions of the Companies Income Tax Act of 1961 and also the Personal Income Tax (Lagos) Act of 1961. Appeals to the Appeal Commissioners are held in camera. Where the Appeal Commissioners render a decision concerning any tax dispute assessing a statutorily specified amount of money, no further appeal could be made against such a decision of the Appeal Commissioners, except with the consent of the Federal Board of Inland Revenue. However, a taxpayer who is not satisfied with the decision of the Appeal Commissioners may apply to the High Court of Lagos upon giving written notice to the Board within thirty days. From the High Court of Lagos, appeals could be made to the Federal Supreme Court of Nigeria.

In 1973, however, the federal government of Nigeria established and constituted the Federal Revenue Court to specifically deal with corporate taxes, customs duties and other similar subjects. Each state also has its own taxation laws as seen above which regulate the exhaustion of administrative remedies before adjudicating tax issues in formal courts of Nigerian states.

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