



# FEDERAL INLAND REVENUE SERVICE

INFORMATION

NO: 93/03

CIRCULAR

Date: 25<sup>th</sup> March, 1993

**SUBJECT: COLLECTION PROCEDURE**

*The following guides are notified for the general information of all staff, tax payers, tax practitioners and tax payers' representatives. This circular amends the circulars Nos IR.5852/CNol.1/183 of 13th February, 1992 and IRC/1019/239 of 30th June, 1992. It takes immediate effect.*

1. **Time of Payment**

The due dates of payment are as follows:

1.1 **Self Assessment**

For self-assessment filers, the “due date of payment” is determined as follows:

- a) For companies with accounting year ending on 31<sup>st</sup> December, the due date of payment is 30<sup>th</sup> June of the succeeding year;
- b) For companies with accounting year ending on 30th September, the due date of payment is 31<sup>st</sup> March of the succeeding year;
- c) For companies with accounting year ending any time between 1st January and 30th June, the due date of payment is 1st January of the succeeding year; and
- d) For all other cases the due date of payment is six (6) months after the accounting year end.

- 1.1.1. Under the self-assessment system, a corporate taxpayer is expected to *attach an evidence of payment (e-ticket)* to the returns filed. However, under the provisions of the Act, it has up to two months from the due date of payment within which to settle the assessment. This latter arrangement applies to lump sum payments only. Self-Assessment filers who file their assessments promptly and attach e-ticket may be granted, on application, the concession to pay the remaining tax due in not more than five monthly installments commencing from the month immediately following the due date of payment. Such payments may not extend beyond 30th November of the year the assessment and the tax payable relate.

## 1.2 **Provisional Tax**

All companies not filing self assessment are to pay provisional tax which is the equivalent of the tax paid in the immediately preceding year. It is also payable where the collection of tax is in abeyance following an objection or an appeal such that the provisional tax is higher than the tax not in dispute. The tax is due for payment not later than 31st March of the year of assessment when paid in one lump sum. However, to enjoy installment concession, the payment must commence in January. The payment of provisional tax may not extend beyond 30th April of the year to which the payment relates.

1.2.1 Provisional Tax is an advance payment. It is not an assessment and should not be treated as a substitute for an assessment. When paid, it is to be utilized as a set-off against the assessment for the year.

### 1.2.2 **Provisional Tax & Penalty for Late Filing**

Provisional tax, as explained above, is an advance payment. It is not a penalty for late filing. The provisional tax is payable whether or not an assessment is late whereas the penalty for late payment is payable when the filing of returns is late. *Objections to the Demand for Provisional Tax on the grounds that the returns would be filed later or that the expected income tax would be lower than the provisional tax are not valid.*

## 1.3 **Undisputed Government Assessment**

Government-assessed tax will continue to be payable within two months from the date of the assessment. However, *where the two-month period expires after the 14th December, such tax must be paid not later than that date.*

### **Example 1**

ABC Limited was assessed on 1<sup>st</sup> July 1992 for 1992 current assessment for ₦500,000.00

### **Comment**

The assessment is expected to be paid between 1<sup>st</sup> July, 1992 and 31<sup>st</sup> August, 1992 and not by 14<sup>th</sup> December, 1992.

### **Example 2**

ABC Limited was assessed on 1<sup>st</sup> December, 1992 for 1992 current assessment for ₦1m

## **Comment**

The company has two (2) months within which to pay the assessment but since the two-month period expires after 14<sup>th</sup> December, 1992, the last date for the payment of the tax should be 14<sup>th</sup> December, 1992.

### 1.4 **Disputed Assessment**

An amount payable in connection with a determined formal objection or appeal must be settled within one month from the date on the Notice of Amended Assessment, but where the one-month period expires after the 14th December, such tax must be paid not later than that date.

## 2. **Term of Payment**

### 2.1 **Lump sum Payment**

All assessments and the provisional tax are payable in one lump sum.

### 2.2 **Installment Payments**

Section 77(5) of CITA CAP C21 LFN 2004 states that “*A company filing self assessment shall pay the tax due within two months from the due date of filing the assessment in one lump sum or such number of monthly installments (not being more than six) as may be approved by the Board;...*”. The Board has exercised the power of approval conferred on it by Section 77(5) above, through the Tax Administration (Self-Assessment) Regulations, 2011 which stipulates that the taxpayer shall notify the relevant tax authority of its intention to make installment payments and files returns on or before the due date with evidence of payment of the final installment. The Regulation allows the taxpayer to commence installment payment in the relevant assessment year before the due date in a manner that the last installment is paid not later than two months after the due date. However any balance of taxes unpaid as at the due date shall attract interest for failure to pay on the due date.

An example is where a taxpayer’s due date for payment is 30<sup>th</sup> June 20XX, the taxpayer can notify the FIRS of the intention to make installment payments and commence such payments in that year of assessment and have the last installment paid by 30<sup>th</sup> June 20XX. The Regulation then goes ahead to allow the taxpayer to pay last installment by 31<sup>st</sup> August 20XX. However the unpaid installments by 30<sup>th</sup> June 20XX will attract interest but no penalty while failure to pay final installment by 31<sup>st</sup> August 20XX will attract both penalty and interest.

### 2.2.2 Provisional Tax

Provisional tax may be paid, on approval, in 4 monthly installments terminating on 30th April of the year to which the payment relates. Any balance not paid on that date is to attract interest at commercial rate.

### 2.2.3 Government Assessment

Government assessments are payable in one lump sum only.

### 2.2.4 Qualification for Installment Concession

The grant of installment payment is not automatic. It is at the discretion of the Board. It must be applied for and approved in writing. To qualify for the grant, a company must prove to the satisfaction of the Board that the payment of the tax due in one lump sum will impose financial hardship on its operations. In other words, the company should convince the Board that it is unable to pay the whole tax due in one lump sum. The application must also be lodged with the relevant tax office *before the due date of payment*. Additionally, an *application for installment payments not backed up with at least the first installment as evidence of cooperation, may not be considered*.

### 3. Penalty for Late Payment

Failure to pay the tax due as explained in paragraphs 1.1 to 1.4 above will attract penalty at 10% per annum. The penalty is payable for each year the tax remains unpaid.

#### Example 3

ABC Limited was assessed ₦100,000 on 1<sup>st</sup> July 1989 for 1989 year of assessment. 50% was paid at the end of that year and the balance remained unpaid till 30<sup>th</sup> June, 1992.

#### Comment

Penalty starts to count from the date the Notice of Assessment was issued.

	1/7/89	-	31/12/89	-	6 months	
1989	100,000	at 10%	for 6 months	=	10,000	
1990	50,000	at 10%	for 1 year	=	5,000	
1991	50,000	at 10%	for 1 year	=	5,000	
1992	50,000	at 10%	for 6 months	=	5,000	
	Total penalty due on 30th June, 1992					<u>25,000</u>

### 3.2 **Provisional Tax and Penalty for Late Payment**

It is pertinent to explain that for government assessment, where a Demand for Provisional Tax is served on a company and tax remains unpaid by 31<sup>st</sup> March, the tax will attract penalty even though the company later submits returns after the due date of payment. The penalty and the interest will be imposed for the period the provisional tax remains unpaid.

### 3.3 **Self Assessment, Provisional Tax and Penalty**

A self-assessment filer is exempted from the payment of provisional tax. However, a company that is so exempted but fails to file the self assessment on the due date of filing or having filed, fails to pay on the due date of payment, will be required to pay the tax due together with the statutory penalty and interest.

## 4. **Interests**

The interest is to compensate the government for the use, by the taxpayers, of the funds that legally belong to it. It is also to prevent the creation of an unfair financial advantage for those who do not pay their taxes as and when due.

### 4.1 Interests will therefore accrue under two conditions:

- i.) where penalty is payable (i.e. where the payment of government assessment, self assessment or provisional tax is late); and
- ii.) where the taxpayer has the formal approval of the Board to defer the payment of the tax.

In the first case, the interest is charged together with the penalty for late payment. In the second case, only the interest is chargeable for the period of the deferment.

### 4.2 **Interest Rate**

Interest is chargeable at commercial rate. The current rate is 15% per annum or as may be determined by the Board from time to time.

### 4.3 **Reckoning of Interest**

Interest is due from the date of reckoning. The date of reckoning is determined as follows:

#### 4.3.1 **Self Assessment**

The reckoning of interest starts from a day after the due date of payment.

#### 4.3.2 **Provisional Tax**

Interest is to be reckoned from 2<sup>nd</sup> January of the year to which the provisional tax relates.

#### 4.3.3 **Government Assessment**

The reckoning of interest would start a day after the date the assessment was issued.

#### 4.4 **Interest & Penalty for Late Payment**

The interest is not an alternative to the penalty. Interest is for late and deferred payments while penalty is charged for late payment of tax. Interest is therefore charged in addition to the penalty in cases of late payment.

##### 4.4.1 **Self Assessment**

Penalty starts to count from the due date of payment but interest starts to count from a day after the due date of payment.

##### 4.4.2 **Provisional Tax**

Penalty starts to count from 1st January but interest is reckoned from a day after the due of payment which is 2<sup>nd</sup> January.

##### 4.4.3 **Government Assessments**

Penalty is charged from the date the assessment was issued but interest is reckoned from a day after the assessment was issued.

#### **Example 4**

A company was served a Notice of Amended Assessment for ₦500,000 to replace a disputed government assessment on 1st May, 1992. The tax remained unpaid till 31st October, 1992.

## **Comment**

### 1. **Penalty for late Payment**

Note:

**1/5/92 to 31/10/92** **6 months**

Penalty = 10/100 of 500,000 = **₦50,000**

### 2. **Interest**

Due date of payment	-	01/05/92
Day of Reckoning	-	02/05/92
Interest rate	-	20% per annum
02/05/92 to 31/10/92	-	183 days.

### 3. **Total Payment**

Tax	-	500,000.00
Penalty	-	50,000.00
Interest	-	<u>50,000.00</u>
Amount Payable		<b><u>600,000.00</u></b>

#### 4.5 **Deferred Payment: Interest & Penalty**

When a company arranges with the Board to defer the tax due, interest is chargeable but penalty may not be imposed if the application is approved. The interest is calculated on reducing balance basis.

#### 4.6 **Interest on Payments in Excess of Approved Installments**

When a taxpayer seeks to pay the tax due in a number of installments greater than that approved for self assessment or provisional tax as specified above, interest is payable on the excess number of installments, also on reducing balance basis.

#### 4.7 **Default in Payment of Approved Installments**

When a company defaults in the payment of the installments as approved, the concession stands cancelled. *Interest starts to count from the date the default occurs.* The calculation of the interest is also on the reducing balance basis.

#### 4.8 **Interest on Arrears**

As from 1<sup>st</sup> January 1991, arrears of tax are to carry interest at commercial rate. The interest is in addition to the annual penalty and both are to be charged annually.

#### 4.9 **Lateness in Filing Application for Installment Payments**

Where a company is late in applying for installment payment arrangement, interest should be charged from the date of reckoning (a day after the due date of payment) to the date of commencement of the payments. The accruing interest should be added to the tax and spread over the number of installments allowable under the circumstance.

5.0 **Forms of Payment**

5.1 Payments are made to designated collecting banks and the taxpayer is expected to obtain an e-ticket from the bank.

An official Income Tax Receipt should be obtained from the relevant tax office.

5.2 **Petroleum Profits Tax (PPT)**

In view of the fact that transactions in the oil industry are in dollars and the operators are allowed to keep their proceeds of sale in accounts overseas, Government has directed that the estimated tax of an accounting period under the Provisions of Section 33 of the Petroleum Profits Tax Act, 1959 as amended shall be made and submitted to the Board in U.S. dollars and when payments are being made, each monthly payment shall be in U.S. Dollars and shall be equal to one-twelfth of the estimated tax or of the fraction of the remaining months of the accounting year for which a revised estimated tax becomes necessary and is so estimated.

The final Petroleum Profits Tax payable, that is, the thirteenth installment, shall be ascertained as provided for in Section 45(4) of the same Act such that so much of the amount of installments of estimated tax that had already been paid in U.S dollars shall be deducted from total Petroleum Profits Tax computed in U. S. dollars based on the annual accounts.

6. **Litigation**

As explained above, payments by installments or deferred payments, as the case may be, may be approved for companies with convincing proof of serious financial problem. However where the arrangement fails to yield the desired result, legal action may be instituted against defaulters to enforce payment. Legal action may also be instituted against any company that deducts withholding tax but fails to remit to the Board within the statutory time-limit.

7. **Demand Notices**

As a matter of routine, with effect from 1<sup>st</sup> April, 1993, demand notices must be dispatched regularly to tax defaulters, indicating the tax due, penalty and interest, latest on the 14th day of the following month when that balance is summarized.

Collection officers are to send these notices out without waiting for taxpayers to come and demand for them anymore.

### 7.1 **Withholding Taxes (WHT)**

Payments made to companies and certain categories of individuals are to suffer deductions at source as follows:

### 7.2 **Rates**

<b>Type of Payment</b>	<b>Applicable WHT Companies *a</b>	<b>Applicable WHT Individual *b</b>
(i) Dividend, Interest and Rent	10	10
(ii) Royalties	10	5
(iii) Commissions,	10	5
(iv) Construction	5	5
(v) Contract of Supplies*c	5	5
(vi) Directors' Fees	10	10
(vii) Consultancy, Professional , Technical & Management Services	10	5

\*a The Payment of withholding tax is now in the currency of the contract agreement.

\*b The individuals covered by the Federal Inland Revenue Service are the non-residents, residents of Abuja, members of the Police & Armed Forces and External Affairs Officers. Other individuals are under the tax jurisdiction of the State tax authority where the individuals reside.

\*c The term 'Contract of Supplies' covers all forms of supplies, deliveries, or the like through competitive bidding, tenders, LPOs or other arrangements, whether oral or written. The term does not cover across-the-counter cash sales or supplies in the ordinary course of business.

### 7.3 **Withholding Tax on Investment Income**

- (i) *Non-Residents:* Withholding taxes on dividends, interests, rents and royalties payable to non-resident remain the final tax.
- (ii) *Residents:* With effect from January 1992 the provisions in the Act regarding these payments as final tax have been amended. They are now to be regarded as payments on account.

### 7.4 **Remittance of Withholding Tax to Tax Authorities**

Failure of an agent of deduction to remit withholding taxes within the statutory time-limit shall attract sanctions as follows:

- (i) interest at commercial rate on the amount not remitted by the agent.
- (ii) Penalty of 10% per annum
- (iii) Prosecution of the agent for default; and
- (iv) Denial of Tax Clearance Certificate to such an agent.

Further, where the agent is a government Ministry, Department or Agency, or a Local Government, the Board may authorize the Accountant-General of the Federation in writing to deduct such tax plus interest at the prevailing commercial rate from any allocation due to such agency.

#### 7.5 **Withholding tax as tax credit**

Withholding taxes are advance payments and they can be applied as tax credit to settle the assessment of the year to which the income that suffered the deduction relates. Subject to the provision of paragraph 7.6 below, where the withholding tax credit exceeds the assessment for a given year, the excess may be carried forward for future set-off.

#### 7.6 **Refund/Set-off**

Where it is proved that the person who suffered the deduction is not liable to tax or that tax withheld is in excess of the assessed tax, the Board shall grant a refund within 90 days of the assessment or a carry-forward, as the case may be, after the claim has been confirmed by tax audit process.

#### 8.0 **Enquiries**

**All enquiries on any aspect of this publication are to be directed to:**

Executive Chairman  
Federal Inland Revenue Service  
15 Sokode Crescent, Wuse Zone 5,  
Abuja.

Or

**Visit our website: [www.firs.gov.ng](http://www.firs.gov.ng)**

**Email: [enquiries@firs.gov.ng](mailto:enquiries@firs.gov.ng)**

**Telephones: 08159490002, 08159490001, 08159490000**