

Tax Alert

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Tax Appeal Tribunal rules on mode of objection to Notice of Assessment and determination of the applicable timeframe

The Tax Appeal Tribunal (TAT) sitting in Lagos today, Tuesday 17 September 2019, delivered a considered ruling in the tax appeal filed by *Earth Moving International Limited* ("the Taxpayer") against the *Federal Inland Revenue Service (FIRS)*. The issues for determination were:

- a. whether the Taxpayer can communicate its written Notice of Objection by electronic means;
- b. whether the statutory timeframe of 30 days to object to a Notice of Assessment excludes public holidays and days on which there is a nationwide strike of the National Labour Congress (NLC); and
- c. whether the FIRS in issuing two separate Notices of Refusal to Amend (NORA) can insist on relying exclusively on the earlier of the two NORA for the purpose of determining the Taxpayer's compliance with the statutory timeframe for lodging an appeal at the TAT.

The TAT in its ruling relied on the provision of Section 69(1) of the Companies Income Tax Act (CITA), Cap. C21, Laws of the Federation of Nigeria 2004 (as amended) to determine that CITA did not prescribe the mode of objection in writing. Accordingly, the Taxpayer may contest an assessment via a written notice forwarded to the FIRS by electronic or physical means.

The TAT also relied on Section 69(2)(a) of CITA to determine that the 30 days statutory timeline for objecting to an assessment was exclusive of public holidays and the NLC warning strike, which fell within the period.

The TAT further held that the Taxpayer was within its rights to rely on the second NORA issued by the FIRS in computing the timeframe for filing its Notice of Appeal at the TAT. The FIRS was, therefore, precluded from relying on its first NORA in ascertaining the validity of the timing of the Taxpayer's appeal at the TAT.

KPMG's Tax Dispute Resolution Team is pleased to have provided support to the Taxpayer in the resolution of these issues at the TAT.

For any enquiries on the above, please contact:

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