



# Tax Alert

Issue 12.2 | December 2019



## **TAT clarifies the basis for computing interest on tax liabilities**

The Tax Appeal Tribunal (TAT or “the Tribunal”) sitting in Lagos on 16 October 2019, delivered judgement in the case between *Ikeyi & Arifayan (“the Appellant”)* and the *Lagos State Board of Internal Revenue (LSBIR or “the Respondent”)* to the effect that interest on additional tax assessment should be computed only on the principal tax liability before adding penalty to that principal liability.

### **Facts of the case**

The LSBIR issued a demand notice to the Appellant for outstanding tax liabilities for 2013 tax year, inclusive of penalty and interest. After series of correspondence between the parties, the LSBIR issued the Appellant a notice of refusal to amend the alleged tax liability. Consequently, the Appellant filed a notice of appeal at the TAT seeking an order to set aside the demand notice. While the issue was before the TAT, the parties entered into settlement discussions and agreed on the principal liability due to the Respondent. However, the parties could not resolve the dispute relating to the penalty and interest imposed on the principal liability and therefore, submitted the issue to the Tribunal for determination.

### **Issues for determination**

- a) Whether the Respondent could impose penalty and interest on a tax liability that was not final and conclusive;
- b) Whether the Appellant was liable to pay penalty and interest in the circumstances of this case; and
- c) Whether interest should be levied on the principal tax liability or the net tax payable after the addition of 10% penalty.

### **TAT’s decision**

After considering the arguments of both parties, the TAT held that:

- Interest and penalty were validly imposed as the Appellant did not fully remit the tax liability as and when required by the Personal Income Tax Act (PITA);
- Having accepted under-remittance of PAYE tax (consent judgement debt) due to the Respondent, the Appellant was liable to interest and penalty on the established tax liability;
- Section 40 of the Federal Inland Revenue Service Establishment Act and Section 82 of PITA are silent on the base on which interest should be computed. Therefore, interest on additional tax assessment should be computed only on the principal tax liability before adding penalty to that principal liability as submitted by the Appellant.

### Comments

The TAT decision on the basis for computing interest payable on assessed tax liability has resolved the uncertainty in this area of Nigerian tax laws. While the tax authorities are expected to apply the principle laid down in this case, taxpayers now have a precedent to rely upon to object to any assessment raised by any tax authority contrary to the TAT decision.

For any enquiries on the above, please contact:

Wole Obayomi

[ng-fmtaxenquiries@ng.kpmg.com](mailto:ng-fmtaxenquiries@ng.kpmg.com)

**Download KPMG Nigeria Tax Mobile App: [Apple](#) [Android](#)**

[Contact Us](#) | [Subscribe](#)

© 2019 KPMG Advisory Services, a partnership registered in Nigeria and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International

[kpmg.com/socialmedia](https://kpmg.com/socialmedia)



[kpmg.com/app](https://kpmg.com/app)

