



# KRA AUDIT

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# INTRODUCTION



- ❑ It is a fundamental principle of the Self Assessment System that returns for Income Tax (PAYE, Corporation Tax, Individual Tax, WHT, Capital Gains Tax, Monthly Rental Income Tax and Turnover Tax,, VAT(Including VAT Withholding Tax), Excise, SDL, KEBS Levy, Stamp Duty and other Agency Taxes filed by compliant Taxpayers are accepted as the basis for computing tax liability.
- ❑ The Department promotes compliance with the tax system by vigorous pursuit of non- filers and filers of inaccurate returns

# Definition



- ❑ A Revenue Audit is an examination of tax returns in relation to books and records of accounts.
- ❑ The primary objective of the Audit programme is to promote voluntary compliance with the tax system. The Audit programme is mainly concerned with monitoring tax compliance.

# Objective – Range of Functions



- ❑ determining the accuracy of a return, declaration of tax liability or claim for repayment, set-off or refund
- ❑ identifying additional liabilities or other matters requiring adjustments
- ❑ collecting the tax, interest, and penalties, where appropriate
- ❑ specifying remedial action required to put taxpayers on a compliant footing where errors or irregularities are discovered during the course of the audit

# Objective – Range of Functions



- ❑ considering what procedural or other changes are necessary to facilitate counter-evasion activities
- ❑ Evaluating and recommending for prosecution where strong indications of serious tax evasion/avoidance emerge

# INTERPRETATION



Audit Centre means Regional Audit Centres, MTO and LTO

Return refers to any of the following: -

- Income Tax Return
- VAT Return
- Excise Return
- PAYE Return
- WHT Return
- Agency Tax Return.

# INTERPRETATION



- Capital Gains Returns
- Monthly Rental Income Return
- Turnover Tax Return
- Withholding Vat Return

# INTERPRETATION



- ❑ Tax/Revenue Audit means an examination of tax returns in relation to books and records of accounts .
- ❑ In a tax audit we have Standards and procedure which are basically requirements with respect to an audit as contained in this handbook, internal standards, tax laws, taxpayers' charter, departmental instructions, judicial precedence or any circular, guidelines and instructions.
- ❑ Audit Centre Head refers to Head of Audit operations in LTO and MTO and the Regional Audit Centres



# INTERPRETATION



- Tax Agent refers to a person registered by the Commissioner under section 19 of the Tax procedures Act and authorized by the Taxpayer to handle matters relating to their tax affairs.
- Tax Representative refers to a person who is the tax representative of the taxpayer under section 15 of the Tax procedures Act

# TYPES OF TAX AUDITS



## Issue Based Audit

This is an issue focused and restricted examination of the books and records of the taxpayer to determine the true and correct level of tax liability and/or compliance. All audits are risk driven where all the risks must be identified prior to commencement of audit.

Audits may be conducted in the following manner, ideally, by a team of auditors:

- Desk Audit.
- Field Audit

# Desk Audit



- ❑ These are Audits where the Taxpayer's records are delivered to the Tax Office for examination.
- ❑ Audits especially those involving straightforward issues such as verification of specific claims of expenses, allowances or relief are conducted either by letter (post, fax or e-mail) or by telephone. Desk audit may also arise in review of director's tax affairs

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## Field Audit

- This is an audit where the Taxpayer's records are examined at the business premises.

# Tour of Business



- ❑ In spite of the scope of audit, business premises should be visited for familiarization purposes. The length of such visits depends on complexity of the points at issue. A notice is generally given to both the taxpayer and his/her agent.
- ❑ In certain exceptional circumstances such as where it is suspected that records are likely to be removed or altered, a visit may take place unannounced. This will be determined by the Audit Manager

# LEGAL PROVISIONS



The Commissioner is empowered to delegate this functional duty by virtue of: Section 5 of the Tax Procedures Act 2015

Power of Access

The authority to access premises, books, records and other information is provided for under:

Sections 58, 59 and 60 of the Tax Procedures Act 2015

Requirement to Keep Records/Entries

1 Sections 54A and 55 of Income Tax Act.

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## Requirement to Keep Records/Entries

1 Sections 54A and 55 of Income Tax Act.

2 Section 43(1) VAT Act 2013

3 Section 23 of the Tax Procedures Act 2015

4 Section 34 of the Excise Duty Act 2015

# CHARTER OF RIGHTS AND OBLIGATIONS



- ❑ The Taxpayer's Charter contains a statement of Taxpayer's rights and an affirmation by the Commissioner's determination to protect these rights.
- ❑ The Charter recognizes the Department's responsibility for ensuring compliance with the law and expresses an expectation that it will administer the law consistently and apply it firmly to those who evade tax.
- ❑ Tax auditors operate within the framework of the Charter.
- ❑ Courtesy and Consideration - Audits can be a burden to people and may cause some disruption to their business. It is, therefore, essential that Audits are conducted in an efficient, courteous and professional manner.



# Tax auditors should:



- Produce official identification/authorization
- Explain to the Taxpayer the purpose of the visit
- Outline to the Taxpayers' rights, entitlements and obligations
- Adopt an even-handed and professional approach in speech and behaviour and maintain that approach even if the taxpayer is uncooperative
- Take care in commenting during the Audit on the standard of record keeping

# Tax auditors should:



- Take care in commenting in the taxpayer's presence on the standards of accounting applied by the agent in preparing the accounts
- Tax auditors should not seek to enhance a settlement by proposing to use powers, or by scheduling further visits, under other Revenue programmes, unless authorized
- Not seek to enhance a settlement by making unwarranted accusations on the basis of incomplete information

# Presumption of Honesty



- ❑ Tax auditors carry out audits of returns, statements or claims submitted in order to check their accuracy
- ❑ Taxpayers are presumed to have dealt with their tax affairs honestly, unless there is reason to suspect otherwise
- ❑ Where the taxpayer's explanations and contentions are not accepted, the taxpayer is advised of the reasons for this
- ❑ Tax auditors are required to verify that the correct amount of tax is declared or quantified
- ❑ Tax auditors should not refrain from asking pertinent, searching questions where necessary about any matter that might have a bearing on income

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## Cont. .



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# Presumption of Honesty Cont. .



- ❑ Tax auditors should not refrain from asking pertinent, searching questions where necessary about any matter that might have a bearing on income
- ❑ Where the tax auditor is satisfied that the return as filed is acceptable, subject to the Audit Centre Head approval, he advises the Taxpayer that no adjustment arises following the audit

# Information



In the course of the Audit, a Taxpayer is entitled to ask for and have made available to him:

- Workings of the Auditor to support proposals for settlement
- Guidance on the type of evidence which may be acceptable to support explanations and contentions
- Guidance on his statutory obligations in relation to return filing, record maintenance and tax payments
- Details of legal provisions on charging the tax, interest and penalties.

# Impartiality and Integrity



Cases are selected on a risk-based analysis to ensure objectivity

Tax auditors must seek to collect the correct amount of tax. The taxpayer's attention should be drawn to the following issues if they come to the notice of the auditor:

- Additional relief, deductions or allowances which may be claimed.
- Errors in accounts, returns, submissions and/ or computation which overstate the tax liability.

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# Impartiality and Integrity



- ❑ That an auditor must not engage in the Audit of any Case which involves a family member or where a potential conflict of interest exists
- ❑ No officer shall be personally liable for any act or omission done or committed in the performance of his or her functions under a tax law unless, having regards to the circumstances of the case, such acts or omission is found to be;
  - (a) Done or committed willfully or dishonestly by such officer;
  - (b) Attributable to the negligence of such officer;
  - (c) Done or committed by such officer in contravention of any provision of a tax law or regulations made there under.

# Privacy and Confidentiality



- ❑ Personal and business information is to be treated with the strictest confidence and not disclosed to third parties, except in the very limited circumstances provided by law
- ❑ Auditors have considerable access to information on Taxpayers. every Auditor to ensure the security of:
  - taxpayer's books, records, accounts
  - commercial or other information in their possession
  - official Papers

Auditors should be alert to potential sensitivities when questioning a family member in the presence of other family members.

# Right to Objection and Appeal



Taxpayers have a statutory entitlement to object and appeal. Taxpayers should also be advised of the existence of the Alternative Dispute Resolution (ADR) mechanism.

## **Cost effectiveness**

To keep time and money costs at a minimum, only significant material points are pursued. As soon as it appears to an Auditor that the tax return is substantially correct, subject to the Audit Manager's approval, the Audit is terminated.

# Consistent Administration



- ❑ Charging of principal, interest and penalties should be consistent with the law
- ❑ All Cases should be approached in the same way when deciding whether or not to examine earlier/ later years unless there are circumstances that dictate otherwise e.g. fraud.

# Role of Tax Agents/Tax Representatives



- ❑ To facilitate the smooth conduct of the Audit by advising and assisting his client in complying with the requirements of the Audit
- ❑ Where the tax auditor encounters difficulties attributable to the Tax Agent/Tax representative, the taxpayer should be informed that the actions of the Agent/Representative are deemed to be those of the taxpayer.

# Interactive Session

