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DIR's Panoramic Reach:
TAX ASSESSMENT MEETS AUDIT POWERS

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When Might the DIR Issue a VAT Assessment?

This first article in our series, *DIR's Panoramic Reach: Tax Assessment Meets Audit Powers*, examines the many circumstances in which the Department of Inland Revenue (DIR) may issue a VAT assessment. Many Bahamian businesses would be surprised to learn just how broad these powers are, particularly because several of the circumstances are far from intuitive.

VAT in The Bahamas operates on a self-assessment basis. In general, persons carrying on taxable activities must register under the VAT Act, file periodic VAT returns with the Comptroller, and remit any VAT due within the prescribed time.

A common misconception is that once VAT returns have been filed and associated VAT paid, a taxpayer's VAT obligations have effectively ended and the DIR has no basis for further action. Nothing could be further from the truth.

The DIR, through the Comptroller, may issue a VAT assessment in a number of circumstances, including where:

- the Comptroller is not satisfied that a VAT return is accurate or reasonable;
- a person has collected VAT or represented that VAT was chargeable on a supply when that treatment was incorrect; or
- the Comptroller has reason to believe that a person should be registered for VAT but is not.

An assessment may also be issued where a VAT registrant incorrectly charges VAT on a supply and:

- the supply is not taxable;
- the supply is taxable but zero-rated; or
- VAT is charged at the wrong rate.

Two additional assessment powers may come as a surprise to many taxpayers.

First, the Comptroller may issue an assessment where satisfied that a scheme has been entered into or carried out for the purpose of evading tax or abusing the provisions, intent, or purpose of the VAT Act. The legislation does not clearly specify the basis upon which the Comptroller may form such a belief or arrive at such a conclusion.

Second, the Comptroller may issue an assessment where there is reason to believe that a person will become liable to pay VAT but is unlikely to pay it. This effectively permits what may be described as a protective assessment, issued in anticipation of a potential VAT liability.

These examples, while not exhaustive, illustrate the scope of the DIR's assessment powers. Businesses that assume assessments arise only when a return is not filed or tax is not paid may find themselves caught off guard. The prudent course is to understand the full range of circumstances in which an assessment may be issued and to ensure that VAT compliance processes can withstand scrutiny.

In the next article in this series, we examine a question of equal importance: How far back can the DIR go when assessing a taxpayer?

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