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TAX COMPLIANCE

Ten Things You Can't Afford to Not Know!

1. No Longer To Be Treated as a Back-Office Function

For taxpayers operating in or from The Bahamas, tax compliance has moved decisively out of the back office and into the boardroom. What was once treated as a technical or administrative obligation has become a critical governance risk, capable of disrupting operations, impairing assets, exposing directors to fiduciary liability, and triggering regulatory and sometimes, even criminal consequences.

This is not because the law has suddenly become harsher, but because enforcement has become more deliberate, more confident, and definitely more likely. The Department of Inland Revenue ("DIR"), the Comptroller of Value Added Tax, and the Financial Secretary now operate within a mature enforcement framework supported by expansive statutory powers. Boards and senior management who fail to recognise this shift risk being caught unprepared. Every organisation should be asking a simple but uncomfortable question: could tax enforcement materially disrupt our operations, assets, or governance framework? Even though these concerns can arise across all Bahamian tax statutes, we have used the Value Added Tax Act, 2024, as amended (the "VAT Act"), to illustrates the scale of this risk.

2. Information-Gathering Powers

The VAT Act grants the Comptroller sweeping powers to compel the production of information, documents, and electronic data. These powers extend well beyond the taxpayer and may be exercised against directors, officers, employees, advisers, related parties, business counterparties, and financial institutions.

Individuals may be required to attend and give evidence under oath. Confidentiality obligations, statutory or contractual, offer no automatic shield. In practical terms, VAT enforcement can penetrate board deliberations, banking relationships, and third-party arrangements even where in some circumstances, no allegation of fraud exists. For many taxpayers, the shock will not be the outcome of the enforcement, but the frequency of such enforcement.

3. Search and Seizure Powers

With judicial authorisation, officers may enter premises without consent and seize records, computers, and electronic storage devices.

What may begin as a technical tax query can if not properly managed escalate rapidly into an operational crisis. The physical removal of systems and records carries immediate consequences for business continuity, data access, and reputation, risks that are often underestimated until they materialise.

4. Financial Security Requirements

Did you know that the Comptroller is empowered to demand financial security, including cash deposits or bonds, as a condition of VAT registration? These powers may be exercised where a potential tax liability has been identified, including mid-stream during an active business lifecycle.

For promoters, event organisers, and entities with temporary or complex structures, posting of security may be required before commercial activity begins. These provisions can directly affect liquidity, financing arrangements, and deal viability, and often is disruptive to the business.

5. Statutory Liens and Seizure of Assets

Unpaid VAT, even if one is challenging the existence of a liability, can give rise to an automatic statutory lien over assets held by government authorities, including Customs, without court proceedings. The lien may extend to assets transferred to related parties where avoidance is suspected.

Authorising the seizure of goods connected to unpaid VAT and the vehicles used to transport them, unless third-party owners can demonstrate lack of knowledge or involvement. VAT non-compliance is therefore capable of triggering enforcement against property and third parties.

6. Enforcement not theoretical but real

These enforcement powers are not theoretical. Public disputes between the DIR and major corporate taxpayers, including highly visible litigation involving large VAT and business licence assessments, demonstrate the real-world impact of enforcement. Significantly such cases require the posting of substantial security as a condition of appeal while being faced with the stark reality that disputes may drag on interminably, tying up capital, management attention, and strategic flexibility.

Even well-resourced organisations have publicly acknowledged the strain imposed by contested assessments and enforcement-driven security requirements.

7. Core Governance Responsibility

In this environment, tax compliance must be treated as a core element of corporate governance. Directors owe fiduciary duties to act in the best interests of the company and to oversee material risks effectively. Treating tax compliance as secondary to AML/CFT, is increasingly a fool's errand.

This is particularly so where tax authorities possess wide coercive powers, where judicial guidance remains limited, and advance rulings are increasingly elusive.

8. A Consistent Enforcement Philosophy Across Tax Statutes

The VAT Act is not an outlier. Similar enforcement approaches appear across the administration of the business licence legislation, real property tax statutes, stamp duty regimes, and customs laws. Across the tax framework, common themes emerge: broad information-gathering powers, escalating penalties, administrative liens, and limited tolerance for weak documentation or episodic compliance.

The message is unambiguous. Revenue generation is a national priority, and there will be no letting up on the use of these enforcement tools.

9. Questions Every Board and Taxpayer Should Be Asking

Boards and senior management should be asking whether tax positions are clearly understood and defensible, whether records and systems are audit-ready, whether an audit could disrupt operations or place assets at risk, and whether directors receive up-to-date and informed reporting on tax exposure as part of governance oversight. They should also consider whether advice is obtained early enough, how disputes would be managed, and what role legal privilege plays in protecting sensitive analysis. Where these questions cannot be answered with confidence, material exposure exists.

10. Preparedness Is No Longer Optional

In today's environment, audit is a question of when, not if. Tax enforcement now reaches directly into operations, assets, reputation, and governance. Only organisations that prepare proactively, by strengthening oversight, seeking informed legal advice, and stress-testing compliance will avoid being caught off guard.

1) Develop a keen understanding of the law and the administrative guidance on how tax laws are administered

2) Create a document creation/retention and destruction policy.

3) Develop a privilege protocol covering sensitive advice in the nature of the giving and receipt of legal advice.

4) Develop good rapport with the tax authorities and a robust lax audit management strategy.

Board-level recognition and action are essential. In an era of heightened enforcement, a knowledgeable and trusted advisor is no longer optional. It is critical.

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