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DIR's Panoramic Reach:
TAX ASSESSMENT MEETS AUDIT POWERS

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Dealing with a DIR Tax Assessment: When a Taxpayer Chooses to Pay Rather Than Object

In the previous article in our series, *DIR's Panoramic Reach: Tax Assessments and Audit Powers*, we discussed how far back the Department of Inland Revenue ("DIR") may go when assessing a taxpayer, the basis upon which an assessment must be calculated and what a notice of assessment must contain.

But what happens when the taxpayer does not intend to object to the assessment and is willing to pay, but cannot pay the full amount immediately?

In this article we discuss the circumstances upon which a taxpayer has made the decision not to object to the DIR's tax assessment.

A taxpayer must not concede to the tax assessment too quickly. Further, a taxpayer who has made the decision not to object must take special care to confirm that there is no basis to object. If, after careful review and advice, a taxpayer concludes there is no realistic basis to object, then the payment-arrangement considerations below become central.

Can a taxpayer request additional time to pay?

The Value Added Tax Act (the "VAT Act") allows a taxpayer to apply for additional time or another acceptable payment arrangement. However, obtaining additional time does not necessarily stop all of the financial consequences associated with the outstanding tax.

The VAT Act provides that a person assessed by the Comptroller may apply in writing for time to pay the assessed tax. Where good cause is shown, the Comptroller may:

- grant the taxpayer additional time to pay the assessed tax; or
- make another arrangement with the taxpayer, acceptable to the Comptroller, to ensure payment of the tax due.

This gives the Comptroller flexibility when dealing with taxpayers who intend to satisfy an assessment but may be unable to make a single immediate payment in full.

For example, depending on the circumstances and the Comptroller's approval, another arrangement may take the form of an agreed payment schedule. This would allow the taxpayer to make payments over a period of time rather than paying the entire assessment at once.

The provision does not, however, give a taxpayer an automatic right to additional time or to pay by instalments. The taxpayer must apply in writing, demonstrate good cause and obtain the Comptroller's written approval.

The VAT Act does not define "good cause" for the purposes of an application for extension of time to pay. Whether good cause has been shown will therefore likely depend on the facts presented to the Comptroller.

What does an extension of time or other arrangement typically include?

An extension of time or other payment arrangement does not stop interest from accruing on the tax that remains outstanding. Interest continues until the relevant tax is actually paid.

Accordingly, additional time may result in the increase of the taxpayer's overall cost. The longer the assessed tax remains unpaid, the more interest may accrue.

A taxpayer should apply promptly, provide sufficient supporting information, propose realistic terms and obtain the Comptroller's written approval. Most importantly, the taxpayer should understand that, even where additional time is granted, interest ordinarily continues to accrue until the outstanding tax is paid.

An alternative arrangement granted or made by the Comptroller may include the waiver of a fine.

Negotiating a realistic payment schedule

It is true that you cannot get "blood out of a stone," but taxpayers should not assume that the payment schedule they think is reasonable will automatically be acceptable to the Comptroller.

Key points:

- **Professional advice can be decisive.** An experienced tax advisor can help you structure and present a payment proposal that balances the government's interest in timely collection with the taxpayer's need to remain a going concern.
- **Unrealistic proposals are unlikely to succeed.** For example, proposing to pay only 1% of the tax owed every six months while simultaneously making aggressive purchases of goods or equipment for business expansion is unlikely to persuade the DIR. The Comptroller will reasonably calibrate the need to be paid soon against the risk that the frequency and size of payments could kill the business.
- **Evidence strengthens your case.** You are more likely to obtain approval if you can show the reasonableness of your proposal with concrete documentation, such as bank statements, cash-flow projections, and audited or management financial statements.

In short, while the VAT Act gives the Comptroller flexibility to grant time or make other arrangements, that flexibility is not unlimited. A well-supported, realistic proposal—developed with experienced counsel—materially improves the chances of securing terms that allow the taxpayer to comply without jeopardising the business.

What comes next?

But what if the taxpayer believes the assessment is incorrect and does not intend simply to pay it?
In the next article in this series, we examine how a taxpayer may object to a VAT assessment and the important procedures and deadlines that apply, including the strict 30-day objection period and the requirement to pay or provide acceptable security at the time of objection.

About Graham Thompson's Tax Group
Graham Thompson's Tax Group combines deep international tax expertise with on-the-ground experience in The Bahamas' evolving tax landscape. The team advises on complex tax planning, structuring, and dispute resolution matters, including VAT, income tax, and other indirect taxes, and regularly represents taxpayers in dealings with the Department of Inland Revenue.

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