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FIRS ISSUES DEMAND NOTICES BASED ON PROPERTY VALUATION..... 1

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In its drive to increase tax revenue generation, Federal Inland Revenue Service (FIRS) has started applying the value of property as a basis for assessing companies to income tax (CIT) rather than turnover basis of assessment. The FIRS recently issued notices to several companies demanding for payment of CIT assessed on this basis. The foregoing is a fall out of property valuation exercise carried out by FIRS in October, 2016.

Highlights of the demand notices include:

- The tax is assessed at 6% of the value of the properties and it is payable within 30 days of receipt of the notice. In arriving at the above rate, FIRS deemed 20% of the value of the properties as turnover, and then subjected the deemed turnover to CIT at 30%. The assessment is regardless of whether or not the affected companies have been tax audited for the reviewed period.
- FIRS stated that the assessment was made in accordance with Section 30(1)(a) of the Companies Income Tax Act (CITA). Section 30(1)(a) of CITA stipulates that FIRS may assess a company to income tax on a fair and reasonable percentage of the turnover of the trade or business if there are no assessable profits, or assessable profits are less than FIRS' expectation from that trade/business or if the assessable profits cannot be ascertained.

As noted above, Section 30(1)(a) empowers FIRS to assess companies to CIT on a fair and reasonable percentage of the turnover of the trade or business of such company. We are therefore not aware of any provision in CITA that permits FIRS to assess a company to CIT on a percentage of the value of its property. The action of FIRS may therefore be challenged by the affected taxpayers on the ground that the basis of assessment is arbitrary and not supported by the tax laws.

Further, the use of value of properties as a basis for assessment to CIT may be considered as unreasonable under certain circumstances. These include:

- Where the properties are owned and occupied by the companies occupying them rather than commercial properties developed for sale
- Where the companies have not sold the commercial properties valued
- Where the properties are not solely owned by the entities that are being assessed, etc.

International Property Tax Institute

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