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EFCC and Tax Enforcement: What Nigerian Companies Need to Know about Tax Investigations by the EFCC



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Introduction

In an effort to increase revenue, especially from non-oil sectors, the Federal Government of Nigeria has recently implemented a series of fiscal reforms. These include the digitalisation of tax administration, initiatives to enhance compliance, and measures aimed at bolstering fiscal stability. Similarly, the Economic and Financial Crimes Commission (EFCC) has intensified its focus on investigating and prosecuting tax-related offences. Companies are increasingly being subjected to tax compliance scrutiny. This development signals a significant policy shift and aligns with the government's broader strategy to strengthen revenue collection and combat economic sabotage.

To help Nigerian companies navigate this evolving landscape, we have compiled a list of essential questions concerning the process, obligations, rights, and remedies available during EFCC investigations of tax-related offences. We believe that a clear understanding of the processes and implications of an EFCC inquiry will influence how a business organises its affairs and responds to the EFCC investigation.

I. Understanding the Process

1. Is the EFCC's involvement in tax enforcement a recent legal development or an extension of existing powers?

The EFCC's involvement in investigating tax violations is not a new legal development. The EFCC mandate under the EFCC Act has always included tax evasion as an economic and financial crime.

Section 46 of the Economic and Financial Crimes Commission (Establishment) Act, 2004 ("EFCC Act") states that:

"Economic and Financial Crimes" means the non-violent criminal and illicit activity committed with the objectives of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc."

In accordance with Section 46 of the EFCC Act, the EFCC has investigated individuals and companies for tax evasion and, in certain cases, prosecuted offending companies for tax evasion in courts.



2. What does the term "economic sabotage" mean in the context of tax evasion?

Economic sabotage involves the intentional abuse of tax incentives, exemptions, and waivers granted under various tax laws. These benefits are meant to promote investment, boost economic growth, and generate employment, yet they are often exploited by companies for personal benefit or to evade tax responsibilities. When businesses misuse these privileges, the expected economic advantages are compromised, and government revenue declines. This deliberate manipulation of tax incentives for tax evasion is what characterises economic sabotage in tax enforcement. As part of its enforcement strategy, the EFCC can investigate companies that claim tax compliance to determine whether they are, in fact, using tax incentives as a cover for evasion.

3. In practical terms, what changed in the EFCC's approach to Tax investigations?

In recent months, the EFCC has invited several companies to question them specifically on tax compliance matters. More notably, businesses under investigation for unrelated issues are routinely directed to provide their tax compliance documentation. This reflects a strategic shift in the EFCC's enforcement approach, where tax compliance is being treated as a central component of broader economic crime investigations.

II. EFCC's Role in Tax Enforcement

4. What is the legal foundation for the EFCC's role in investigating and prosecuting tax-related offences?

The legal basis for the EFCC's role lies in Section 46 of the EFCC Act, which defines economic and financial crimes to include non-violent unlawful activities carried out with the objective of acquiring wealth illegally, and expressly mentions tax evasion. This provision gives EFCC the authority to investigate tax evasion as an economic crime. In a recent unreported Court of Appeal decision, *EFCC v. Insurance Resourcery and Consultancy Service Limited (CA/ABJ/CV/803/2023*, delivered on 27th June 2025) (the "Insurance Resourcery Case"), the court overturned a previous decision of the Federal High Court. It held that while the EFCC is not a tax administrator and cannot assess or compute taxes, it remains a financial crime investigator with the power to investigate and prosecute companies suspected of tax evasion.



5. How does the EFCC work with tax authorities like the NRS or State IRS?

Under Nigerian law, the Nigeria Revenue Service (“NRS”) and the respective State Internal Revenue Services (IRS) are responsible for the assessment and collection of taxes depending on the type of tax in question. Section 4(i) of the Nigeria Revenue Service (Establishment) Act 2025 permits the FIRS to collaborate and exchange information with other agencies on tax matters, which creates room for joint action with the EFCC. In the Insurance Resourcery Case, the Court of Appeal clarified that there is no requirement for documentary proof of such collaboration before the EFCC can act. In practice, while joint investigations between EFCC and tax authorities are possible, it is more common for each agency to conduct its own inquiry. This means a company may be subject to parallel investigations by both the EFCC and the FIRS or State IRS on tax-related matters.

From practical experience, it is evident that the Commission’s goal is to ensure compliance. Companies found to be non-compliant may be given the opportunity to present payment plans or settlement structures. However, this does not limit the EFCC’s authority to prosecute where necessary. A professional who understands this nuance is better positioned to engage effectively with the EFCC on behalf of a company.

6. What types of tax offences usually fall under EFCC jurisdiction?

Tax evasion falls under the jurisdiction of the EFCC, and the concept is interpreted quite broadly. It covers deliberate non-payment of taxes, underpayment, or false declarations made to reduce liability. In practice, any infraction that results in the concealment of taxable income or failure to remit taxes as required may be regarded as tax evasion and brought under EFCC’s investigation. This wide scope means that intentional defaults and manipulations of tax obligations, once linked to financial crimes, can trigger EFCC’s scrutiny.

III. Company Exposure and Compliance

7. Which companies are most likely to be investigated for tax evasion?

All companies may face investigation under the current policy, but certain categories of companies are more likely to experience significant scrutiny. Financial services firms, publicly quoted companies, insurance companies, and their affiliates are under close watch due to the size of the funds they handle and their diverse tax obligations. Additionally, businesses already under EFCC investigation for other financial crimes often find that tax compliance issues become part of a parallel inquiry. Essentially, any company summoned before the EFCC can expect its tax records to be examined.



8. How can a company determine whether it is under investigation or has been flagged for tax default?

A company usually becomes aware of EFCC interest through a formal letter of invitation requesting its officers or consultants to attend an interview and produce relevant documents.

9. What immediate steps should be taken upon receiving a letter or invitation from the EFCC?

Any invitation or inquiry from the EFCC should be taken very seriously because the consequences go beyond tax compliance and may involve criminal proceedings or reputational damage. The first step is to immediately seek advice from legal experts experienced in white-collar crime to guide communication with the EFCC and protect the rights of the company or its officers. Legal counsel can also help clarify the true scope of the inquiry, assess the potential risks of the investigation's outcome, and identify weaknesses and vulnerabilities within the organisation that could lead to negative consequences, as a request for tax documents might relate to broader issues such as fraud, money laundering, or contract payments. At the same time, the company should ensure that its tax filings, receipts, audited accounts, and correspondence with tax authorities are accurate and complete.

IV. Process and Procedure

10. What is the usual EFCC process for conducting tax-related investigations?

The EFCC generally begins tax investigations by gathering intelligence, sourcing information from tax authorities, banks, whistleblowers, or agencies such as the Nigerian Financial Intelligence Unit. The EFCC then issues a formal invitation to the company for questioning. Company officers or consultants are interviewed, and their documents are scrutinised against financial records. When needed, forensic accountants are engaged to identify and uncover discrepancies. If the EFCC remains unsatisfied after initial submissions, it may continue to request additional statements or records until the investigation is concluded.



11. What documents are companies typically required to submit?

The EFCC often requests a wide range of documents to assess tax compliance and financial activity depending on the direction of the investigation. These typically includes;

- a. Certificate of Incorporation & Corporate Affairs Commission's filings.
- b. Annual Tax Returns (CIT, VAT, WHT).
- c. Audited Financial Statements.
- d. Self-Assessment Forms & Evidence of Tax Payments.
- e. Income and Capital Allowance Schedules.
- f. SCUML Certificate where applicable

For specific investigations relating to a suspected misuse of government incentives, the EFCC might request the following documents:

- a. Evidence of contracts awarded showing their value and duration.
- b. Company accounts records
- c. Invoices from contractors
- d. Evidence of remittances to regulatory agencies such as the Nigeria Content Development and Monitoring Board, etc.
- e. Counterparties Know Your Customer records and licences

12. How does a tax audit or reconciliation exercise impact the EFCC investigation?

A tax audit or reconciliation can greatly impact the progress of an EFCC investigation. An ongoing audit with the FIRS may cause the EFCC to either wait for its results or proceed with its own inquiries into possible tax defaults. Once the FIRS completes an audit, it offers a clearer picture of the company's liability status. If liabilities or penalties are still unpaid, the EFCC might see this as deliberate evasion, but a clean audit report can serve as strong evidence of compliance. While the EFCC cannot act as the FIRS in calculating taxes, unresolved audit disputes may lead to doubts about whether there has been intentional concealment by the company being investigated. However, the EFCC has the power and resources to uncover financial inflows that the FIRS audit may have omitted. In such cases, it will rely more heavily on the findings of its own investigation.



V. Rights of Companies

13. What legal rights does a company have during an EFCC investigation?

Companies are not without protection, as several legal rights apply during criminal investigations and law enforcement interviews. A subject of law enforcement interrogation is entitled to legal representation. They have the right not to incriminate themselves or the company they represent. They also retain the right to apply for bail.

14. Can a company seek clarification on the basis for the EFCC's investigation?

An EFCC invitation will typically specify the basis for the investigation, but if this is unclear, a company has the right to seek clarification. The appropriate approach is to engage legal experts to communicate directly with the EFCC, ensuring the scope of the inquiry is clearly understood. This allows the company to prepare adequately and effectively.

15. Are there particular timelines or procedural safeguards involved?

There are no fixed timelines governing EFCC tax-related investigations, which means inquiries may vary in duration depending on the circumstances. However, companies are assured of certain procedural safeguards. The EFCC usually issues formal invitations during its investigations. When court actions are to be taken, the Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees the company's right to adequate time and resources to prepare its defence.

VI. Settlements and Remedies

16. Is it possible to settle tax liabilities during EFCC investigations?

Businesses can explore settling their tax liabilities during an ongoing investigation. However, the fact that liabilities have been settled does not automatically prevent the EFCC from pursuing criminal action if it believes an offence has already been committed. Settlement may reduce exposure and demonstrate good faith, but it does not eliminate the Commission's discretion to pursue prosecution.

17. Can companies negotiate payment plans or deferrals with tax authorities while under EFCC scrutiny?

A company can negotiate payment plans, reconciliations, or voluntary disclosures with relevant tax authorities during an ongoing investigation. The fact that the EFCC is investigating a company does not remove the statutory authority of the FIRS or State IRS to process the settlement of tax liabilities. Engaging voluntarily with tax authorities and negotiating structured payments often demonstrates good faith, and if a payment plan is already in place, this considerably reduces the company's risk exposure.



18. What actions should a company take if it contests the claimed tax liability?

When a company disputes a claimed tax liability, the correct approach is to follow the dispute-resolution process outlined in Tax Reform Act. This starts with engaging the FIRS or the relevant State IRS directly and, if necessary, especially when a Notice of Refusal to Amend has been issued by the tax authorities, contesting the assessment before the Tax Appeal Tribunal. A tax dispute specialist will advise the company on the best way to interact with the tax authorities. Providing accurate tax return submissions and supporting documents is essential to demonstrate compliance and strengthen the company's position.

VII. Penalties and Risks

19. What are the repercussions of failing to comply with EFCC summons or requests?

Failing to comply with the EFCC's summons or request can have serious consequences. The EFCC may obtain a warrant of arrest to compel the attendance of directors or principal officers of the company. Section 38(2) of the EFCC Act makes it an offence to willfully obstruct the EFCC or to ignore lawful enquiries, carrying penalties of up to five years' imprisonment, a fine, or both.

20. Can individual directors or officers be held personally liable?

Individual directors and officers can be held personally liable where deliberate tax evasion or related economic crimes are established. Nigerian law permits the lifting of the corporate veil in such cases, exposing those behind the company to criminal liability.

21. What reputational or business risks could result from EFCC involvement?

The risks associated with EFCC involvement go beyond legal penalties and often damage a company's reputation and operations. Criminal investigations frequently appear in the media before any trial, resulting in harmful publicity that can erode public confidence and trust in the brand. Other regulators often follow EFCC's lead, subjecting the company to extra scrutiny and compliance reviews. Importantly, foreign investors and business partners perceive such investigations as a deterrent, which can jeopardise contracts, partnerships, and funding opportunities.



VIII. Preventive and Strategic Considerations

22. What steps can companies take to ensure tax compliance?

The most effective way for companies to avoid EFCC scrutiny is through proactive tax compliance. This means conducting regular internal audits to detect and correct errors, maintaining accurate and complete records, and ensuring that accounting reports are consistent with tax filings. Timely payment of all tax obligations is essential, as late or incomplete remittances are a common trigger for investigations. Engaging professional tax advisors also provides an added safeguard, assisting companies in identifying risks early and responding appropriately to tax authorities' queries cannot be overemphasised.

23. How can internal compliance audits and professional advice reduce risk?

Internal compliance audits and professional advice significantly reduce the risks by providing preventive and defensive safeguards. Regular audits help detect under-remitted taxes, misclassifications, or filing errors early, allowing companies to correct them through amended filings or voluntary disclosures before regulators step in. Professional advisors also ensure that documentation is properly maintained and audit-ready, aligning company records with FIRS requirements.

24. Should companies contemplate voluntary disclosure of potential tax problems?

Companies that are aware of unresolved tax issues should consider voluntary disclosure to the FIRS rather than waiting for the EFCC to uncover them during a financial crime investigation. Taking this step demonstrates good faith and a willingness to comply, demonstrating that the company is not attempting to evade its tax obligations. Voluntary disclosure also provides an opportunity to negotiate and regularise liabilities on more favourable terms, while reducing the risk of the matter escalating into a criminal investigation.

IX. Legal and Professional Support

25. When should a company seek legal advice in an EFCC-related tax issue?

A company should seek legal advice immediately upon receiving an invitation from the EFCC and certainly before sending any response. Early intervention ensures that communications are properly structured and that the company's rights are protected from the outset. Legal counsel is also critical when responding to document requests, as lawyers can determine what must lawfully be disclosed and guard against regulatory overreach. During settlement negotiations with tax authorities, legal guidance ensures that agreements are properly documented, enforceable, and can be relied upon to shield the company against criminal proceedings.



26. What types of support can lawyers or tax professionals offer during investigations?

Lawyers provide vital protection and guidance during EFCC-related tax investigations. Lawyers can;

- Assist companies in understanding the role of the EFCC in tax enforcement and assess the nature of the inquiry from the EFCC.
- Manage all communication with the EFCC.
- Collaborate with tax professionals to prepare and verify tax documents, audited accounts, and correspondence to ensure consistency, while protecting privileged material from disclosure.
- Advise on voluntary disclosure or reconciliation with the FIRS and structured payment plans that can reduce the risk of prosecution where settlement is possible.
- Represent the company in court where legal action becomes necessary, or criminal proceedings are instituted.

27. How can companies communicate effectively with regulators while safeguarding their interests?

Effective communication with regulators requires balancing cooperation with the protection of rights. The best approach is to seek legal guidance to ensure that responses are accurate, measured, and aligned with the company's legal position. This protects the business while demonstrating willingness to comply with lawful requests.

Conclusion

The EFCC's role in tax enforcement is an important development that demands careful attention from the private sector. Companies should proactively understand their obligations and rights, ensure full compliance, and seek legal advice when necessary.

For more information about our practice offerings, please visit our website at www.uubo.org or email us at uubo@uubo.org.

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