



GOMBE STATE INTERNAL REVENUE SERVICE



A SIMPLIFIED GUIDE TO TAX DISPUTE RESOLUTION

G O M B E S T A T E | M A Y 2 0 2 3



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1. A BRIEF EXPLANATION OF TAX DISPUTE RESOLUTION

1.1 WHAT IS A TAX DISPUTE?

- 1.1.1 The dispute process is a crucial aspect of revenue administration. A dispute arises when Gombe Internal Revenue Service (GIRS) and a taxpayer have divergent views on the amount of taxes payable. There are various causes of tax disputes. For instance, the Service may establish that a taxpayer has refused to abide by the tax law (e.g., by not filing a tax return or not declaring taxes owed) and/or is unreasonable; a taxpayer has made an erroneous return; there are disputable facts; or there is a divergence in the interpretation of the tax laws.
- 1.1.2 A taxpayer may contest the following: (1) the invalid or arbitrary application of the state's revenue code by tax officers; (2) the issuance of tax assessments by the Service's auditors using inaccurate information or without taking into account taxes paid; (3) time-barred assessments (charges issued outside the timeframe allowed by the revenue code); (4) mistakes made by GIRS in computing tax liabilities; (5) assessments that are not served to the taxpayer in accordance with the tax laws; and (6) the issuance of an assessment to the wrong individual or entity. In sum, a taxpayer has the right to dispute the correctness of the particulars relied upon by the auditor, the accuracy of interpretation of the revenue code, and the total amount of penalties levied by GIRS. If the determination of a tax dispute is in favour of a taxpayer, an individual or

business can expect to benefit from a lower tax burden.

1.2 HOW DOES GIRS TRY TO MINIMISE THE OCCURRENCE OF TAX DISPUTES?

- 1.2.1 Gombe State's dispute resolution procedures are embedded in the Revenue (Codification and Consolidation) Law No. 42 of 2021. In addition, GIRS is implementing its first Internally Generated Revenue (IGR) Expansion Strategy covering the period from 2023 to 2027. The successful implementation of the expansion strategy will place the Service on the trajectory towards achieving its vision, which is ***to become the foremost subnational revenue authority in Nigeria, fully optimising information and communications technology (ICT) for efficient and effective collection of tax and non-tax revenues through a simple, accountable, and transparent tax administration system. To this end, GIRS must deliver on its mission: “to collect all tax and non-tax revenues due to Gombe State Government effectively and efficiently towards ensuring adequate funding for public goods, services, and projects for the benefit of all residents.”***
- 1.2.2 GIRS's IGR Expansion Strategy contains nine critical goals that are consistent with the Service's vision and mission. One of the goals contained in the strategy is to ensure that the tax dispute resolution process is fair and independent, accessible to taxpayers, and effective in resolving disputed matters in a timely manner.

1.2.3 GIRS endeavours to abate the volume of disputes with taxpayers as they are expensive, time-consuming, and limit its ability to direct available human and financial resources to non-filers and other high-risk groups. To minimise the occurrence of tax disputes, GIRS will implement the following measures over the medium term:

- a. Build the capacity of tax audit staff by widening their knowledge and experience of audit techniques and skills and deepening their ability to interpret the revenue code.
- b. Automate work practices, particularly through the application of a computerised audit case management system and electronic services for taxpayers.
- c. Regularly assess the common causes of disputes and institute measures to prevent them. For example, disputes could be triggered by gaps in the revenue code or limitations in the audit process, which would require legislative amendments and capacity building.
- d. Ensure data used by the Service to inform any administrative actions taken is accurate.
- e. Develop a system for non-legally binding public rulings and private binding rulings, which provide
- f. Introduce cooperative compliance programmes for taxpayers that manage their tax affairs effectively and are prepared to disclose their tax risks as they arise. In particular, the Service will build relationships with taxpayers and avoid conflicts through improved services such as dedicated client relationship contacts and the quick resolution of technical and administrative issues.

1.3 HOW CAN A TAXPAYER AVOID A DISPUTE?

- 1.3.1 When a taxpayer receives an assessment, a potential tax liability arises. An assessment can have far-reaching consequences in that GIRS has powers under the revenue code to levy penalties, fines and interest; withhold the issuance of tax clearance certificates; seal businesses; recover amounts due; file a criminal case in the court, which could lead to imprisonment; and so forth.
- 1.3.2 In the context of the above, it is important that taxpayers meet their obligations as prescribed in the Revenue (Codification and Consolidation) Law No. 42 of 2021 and any public and private rulings issued by GIRS. In particular, to avoid a dispute, each taxpayer must keep records, file returns, and pay taxes and other dues. By circumventing disputes with GIRS, taxpayers will ensure that they do not: incur preventable costs, including a fine of up to ₦10 million (Law No. 42 Section 99(1)), a penalty of 10% of withheld tax and interest of up to five percentage points above the prevailing Central Bank of Nigeria Monetary Policy Rate (Law No. 42 Section 104) or a fine of 50% of the total amount of revenue payable (Law No. 42 Section 105); and experience

delays associated with disputes; and/or face criminal charges, such as incarceration of up to three years (Law No. 42 Section 99(1)).

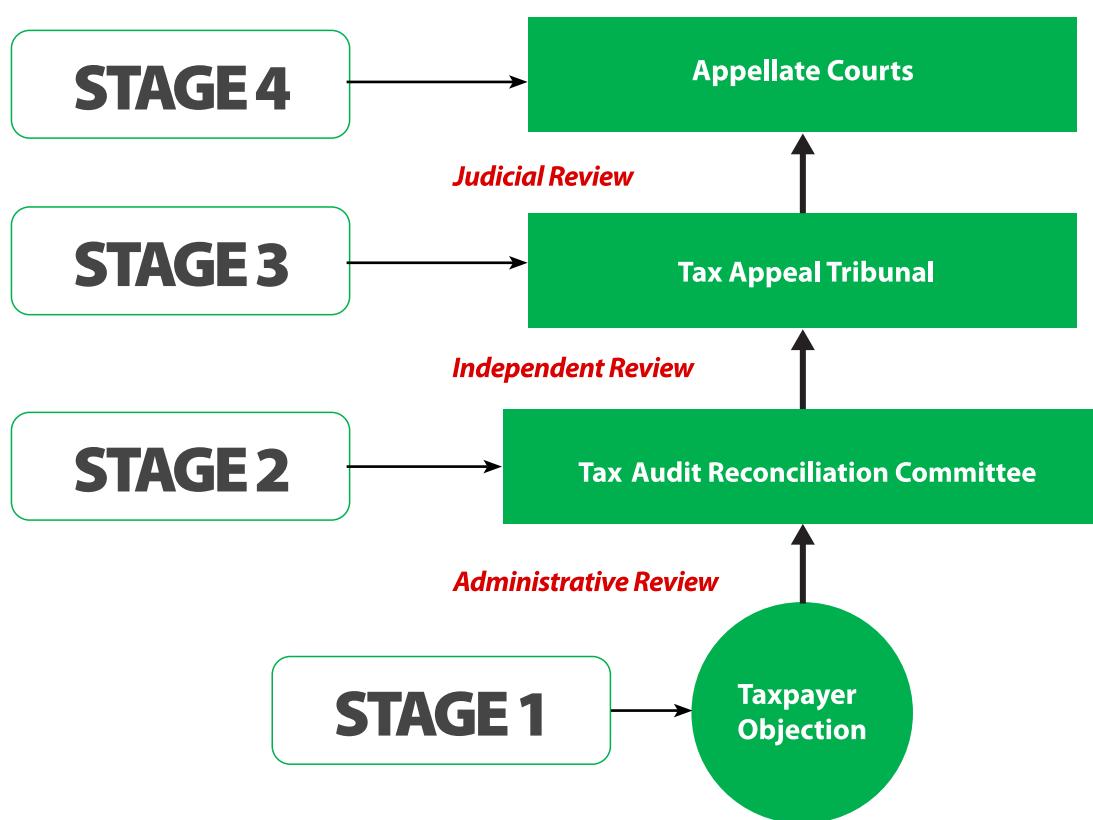
1.4 WHAT IS THE PATHWAY TO RESOLVING A DISPUTE?

- 1.4.1 Typically, most disputes arise following an audit or investigation by GIRS that examines a taxpayer's financial and accounting transactions and records. Following the audit, GIRS may determine that additional taxes are due and may issue an assessment notice (see **Annex A**) and advise each individual/business on its right to appeal (see **Annex B**). It should be noted that the tax audit may not have covered the entire scope of the revenue code and/or the relevant facts described above; subsequent audits should therefore look out for unintended omissions of previous audits. If a taxpayer is dissatisfied with an assessment, Gombe State's revenue code caters for a three-stage simple and transparent graduated dispute resolution mechanism (see **Figure 1**). However, non-technical objections or disputes, such as errors of omission or commission, can be resolved without involving the Audit Reconciliation Committee.

When a taxpayer receives an assessment, a potential tax liability arises.

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Figure 1: The pathway to resolving a dispute



- 1.4.2 Filing an objection is the first stage in the dispute resolution process. Section 32 of Law No. 42 of 2021 provides for an individual/business to object to GIRS in writing for a review and revision of the assessment. An objection is a written communication from a taxpayer to GIRS expressing dissatisfaction with a tax decision (e.g., an assessment) raised on the taxpayer (see **Annex C**). If the Service rejects a taxpayer objection, it issues a written Notice of Refusal to Amend (NORA) within 30 days of notice of objection. GIRS will usually issue a NORA when it determines that all the grounds given by a taxpayer are unfounded.
- 1.4.3 If dissatisfied with the NORA, a taxpayer can elevate the case to the second stage, an independent review by external tax specialists. In Gombe State, Section 59 of the revenue code provides for a Tax Appeal Tribunal (TAT). Section 50 of the revenue code also provides for a Revenue Recovery Tribunal to settle disputes arising from the implementation of the state revenue law. The Tribunal is represented by a Chairman and two members appointed by the Governor. Per the rules, an appeal to the Tribunal must be filed within 30 days of the decision communicated by GIRS at the court in which it sits.

- 1.4.4 The Tribunal is governed by the Rules of the Revenue Recovery Tribunal issued by the Chief Judge of Gombe State. The rules aim to ensure that TAT deals with appeals in a just, fair, and timely manner; and encourages and promotes the resolution of disputes among parties. The rules allow both GIRS and taxpayers to lodge cases, and the court will summon the parties (see **Annex D**). If aggrieved by a taxpayer's non-compliance with the revenue code, GIRS can appeal to the Tribunal. Prior to a case being heard, a taxpayer must pay 50% of the disputed amount in the Tribunal's designated account. Aggrieved parties can withdraw their applications before a hearing commences by filing a notice of discontinuance.
- 1.4.5 The Tribunal must conduct a hearing, deliver its ruling, and clear each case within six months. The rules allow for a pretrial conference to zero in on the disputed issues. Furthermore, the Tribunal may elect to hold proceedings virtually. The Tribunal has the power to rescind and modify GIRS's decision if it considers that the decision made during Stage 1 was ambiguous, erroneous, omitted material facts, or fraudulent. All decisions issued by the Tribunal are considered to be legally binding. The Tribunal can also order an appellant to pay costs if it discovers instances of misconduct, undue delays, or lapses by the relevant party.
- 1.4.6 During Stage 3, a taxpayer who is discontented with the decision of the Tribunal can appeal to the State or Federal High Courts to resolve the dispute and issue a prohibition or writ of certiorari from the lower dispute resolution stage. Such an appeal must be made after notifying the Tribunal and within 30 days after the date of the decision or ruling of the Tribunal.

1.5 **WHAT DOES THE ADMINISTRATIVE REVIEW PROCESS ENTAIL?**

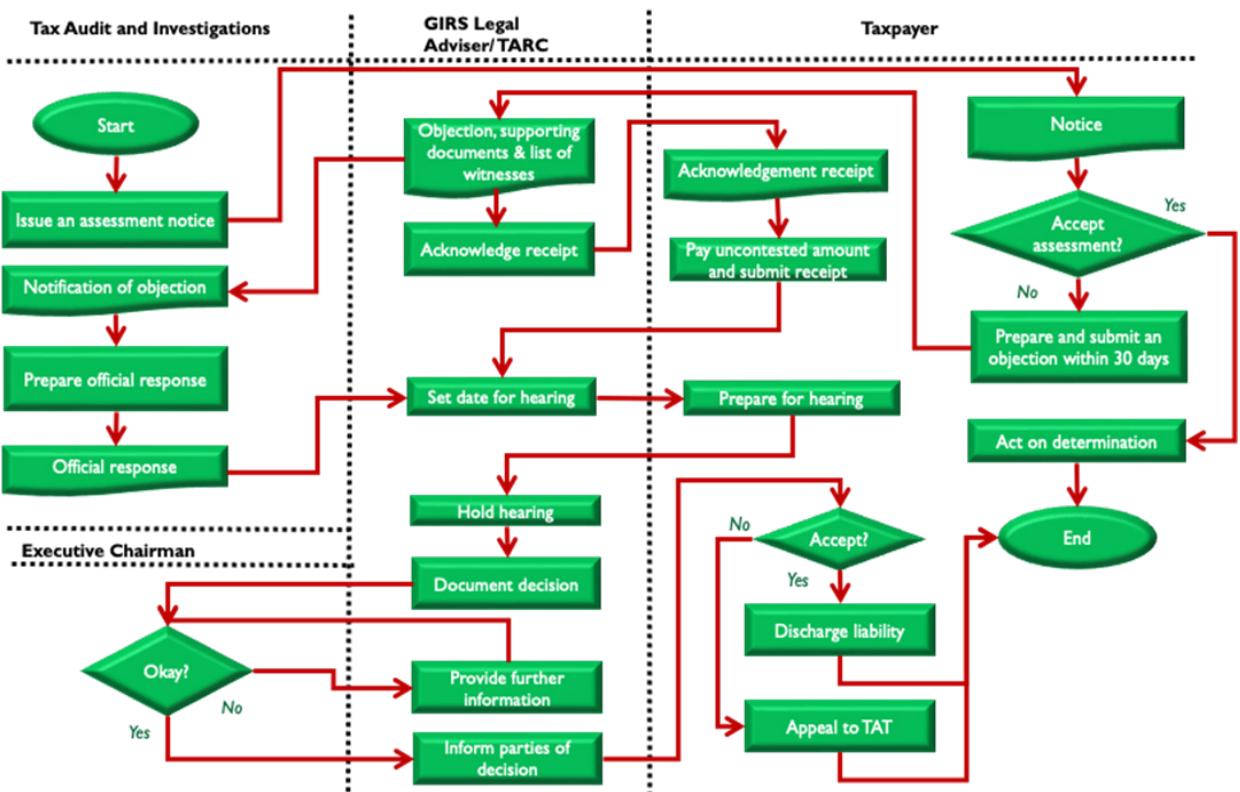
- 1.5.1 Stage 1 of the dispute resolution process, as illustrated in Figure 2, is referred to as the administrative review process. At GIRS, the Tax Audit Reconciliation Committee (TARC) is responsible for either quashing the assessment or rejecting the objection. To ensure the credibility and predictability of the process, TARC is quasi-independent in that the review is completely independent of the audit process. In other words, the officers who raised the tax liability in the assessment notice are in no way involved in handling the objection, other than the requirement to furnish TARC with documentary evidence supporting the notice.

To ensure the credibility and predictability of the process, TARC is quasi-independent in that the review is completely independent of the audit process.



- 1.5.2 Following an audit, the auditors will brief each taxpayer on their findings, share working papers and information obtained from third-party partners if requested and afford each taxpayer the opportunity to furnish additional information to inform an adjustment. Thereafter, if the issues are not resolved, a taxpayer must object within 30 days of receiving a written assessment notice from GIRS. If this deadline elapses without an individual/business lodging an objection and there are no extenuating circumstances (e.g., non-receipt of the assessment notice, illness, travel, or a disaster that results in the loss of records), no further complaint is allowed. If there are mitigating circumstances, a taxpayer must request an extension in writing explaining why the individual/business missed the deadline.
- 1.5.3 A taxpayer should lodge an objection to GIRS by completing the form provided in Annex C. The form aims to ensure that an individual/business furnishes all the information needed by the Service (e.g., the grounds for objection and relevant evidence) and simplifies processing. A taxpayer should sign and date the objection form. The signature must be of the individual taxpayer or authorised representative. If the person preparing the objection is a tax professional, then both the taxpayer and the agent must sign the form.
- 1.5.4 An objection form can be delivered in person, by mail, or by email. The onus is on the taxpayer to prove that an objection was delivered to GIRS within the stipulated timeframe. However, the Service will acknowledge receipt of an objection in writing. The process is free of charge.
- 1.5.5 Section 32(2) of the revenue code states that the Service can demand any relevant information (e.g., books and documents) from a taxpayer. In addition, GIRS has the power to summon any person who may be able to give information that is material to the determination of the objection. The processing of an objection will take longer when the necessary information required to process a case is missing. GIRS could also reject an incomplete objection notice in writing. Still, a taxpayer may complete and resubmit the notice within 30 days of the assessment notice. A taxpayer also has the option to request the Service to update or make a change to an assessment notice following an audit without having to object; this process is less formal than raising an objection or withdrawing an objection in writing.
- 1.5.6 During the administrative review process, the burden of proof is on taxpayers to demonstrate that the Service issued an incorrect assessment by not taking all facts into consideration and/or not properly applying the law. Taxpayers must furnish evidence in supplementary documents (e.g., those overlooked during the audit and any new evidence) or propose witnesses to attend a formal objection hearing. TARC can turn over any evidence in its possession to each taxpayer on request. In turn, a taxpayer is expected to supply information on a timely basis and honour appointments.

Figure 2: The administrative review process



1.5.7 To ensure that the majority of objections are resolved administratively, TARC aims to ensure that it operates transparently, impartially, efficiently, and on a timely basis. To this end, the committee will be guided by administrative review procedures and the application of ICT. Administrative review procedures will focus on: appreciating the rationale for the assessment notice issued to the taxpayer; applying revenue laws administered by GIRS consistently and correctly; reviewing the Service's policies; reviewing the grounds for objection put forward by the taxpayer; discouraging frivolous or unreasonable objections such as a taxpayer's failure to file a return to the Service on time by imposing fines or demanding that the objector defray costs; and considering any advice provided by the state's judiciary.

1.6 IS A TAXPAYER ADVISED TO ELEVATE TO A JUDICIAL PROCESS?

1.6.1 GIRS strives to ensure that it does not lose the revenue needed to develop the state. The Service's audit cases are risk-based, paying most attention to taxpayers that are non-compliant. When no strong legal or factual grounds are raised by individuals/taxpayers, the Service will ensure that taxpayers pay their dues by exercising its strict enforcement procedures. As a body corporate, the Service has the recourse to tax a taxpayer in order to collect back taxes, penalties, and interest (see Law No. 42 of 2021 – Section 3(2c)). Furthermore, GIRS has sovereign protections under Section 121 of the revenue code.

- 1.6.2 As stated in Section 1.4 above, a taxpayer can choose to use the judicial process. Such a process could be complex and expensive and may create uncertainty. Beyond hiring a lawyer, a taxpayer may have to engage accountants and tax professionals. Furthermore, the time taken to resolve a dispute is likely to take more time after Stage 1 and could present an opportunity to open new avenues by GIRS, including maintaining a high assessment until the judicial assessment is heard.
- 1.6.3 Appeal hearings at the Supreme Court have been known to take up to five years and can adversely affect a business's health. Therefore, taxpayers are advised in the first instance to object to TARC as it is the easiest and speediest process. Before doing so, taxpayers should appreciate that misunderstandings often arise from poor communication or a lack of information. Therefore, before lodging an objection or appeal, the affected taxpayer should contact GIRS to discuss and resolve the issues. Most cases can be resolved by TARC.
- 1.7.2 Specifically, the Service will accord attention to systemic problems. Where there are too few disputes, GIRS will investigate whether the tax filing requirements are well understood by taxpayers, whether audit and investigations processes are effective, and whether the post-assessment notice process works well. Should there be a high volume of disputes, the Service will scrutinise cases of unreasonableness on its part (e.g., aggressive or unreasonable assessments).

1.7 HOW WILL GIRS GAUGE THE EFFECTIVENESS OF THE PROCESS?

- 1.7.1 GIRS undertakes to monitor the effectiveness of the dispute resolution process in three main ways. First, the Service will promote taxpayer awareness through education initiatives and hands-on assistance to micro, small and medium enterprises. Second, GIRS will, in the medium term, enable taxpayers to

file and monitor objections electronically; and take advantage of ICT to record information and monitor, analyse, and report on the outcomes of disputes on a continuous basis. Third, the Service will solicit taxpayer feedback, including their perceptions of the impartiality, timeliness, and fairness of the process. GIRS will seek to address any issues that are widely reported by taxpayers by making any necessary changes to policy, the revenue code, and administrative procedures.

- 1.8.1 For further information about dispute resolution, you may contact your own tax consultant. You can also contact GIRS's Executive Chairman or legal directorate at the following address:
- 039 Bauchi - Gombe Rd, opposite Custodian Hotel, 760251, Gombe, Nigeria
Telephone: 091300646676, 08024945888

1.8 WHO CAN A TAXPAYER REACH OUT TO FOR HELP?

ANNEX A: SAMPLE LETTER FROM AUDITORS



039 Bauchi - Gombe Rd, opposite Custodian Hotel, 760251, Gombe, Nigeria

PRESUMPTIVE TAX REGISTRATION FORM

[Taxpayer name]

[Taxpayer address]

[TIN: XXXXXX]

[Assessment number: XXXXXX]

[Date: XXXXXX]

Dear Taxpayer,

Re: Personal Income Tax Notice of Assessment for Tax Year [YYYY]

Many thanks for your [PAYE/DA/CGT/ presumptive tax] return dated [Date]. In processing your return/ following an audit for tax period [31.12.XX], Gombe Internal Revenue Service made the following adjustments:

- XXX.
- XXX.
- XXX.

The amount you owe for the period to [31.12.XX] is ₦ [XXXX], which includes penalties and interest to [insert date] (see Table A1). We will continue to charge penalties and interest until the amount owed is fully paid.

Table A1: Revised Assessment Details

Tax type

Details	Amount owed (₦)	Amount paid (₦)	Balance (₦)
Assessed amount			
Estimated penalty			
Interest accrued			
Balance due			
Liabilities from previous years			
Total due immediately			

You have the right to appeal for a reassessment or refund. Details of your appeal rights are enclosed in this letter. If you have any questions please call us on 091300646676 or 08024945888. You may also write to the Service at the address provided at the top of this letter, providing: a copy of this letter; your telephone number; and suitable times within office hours when we can reach you.

Thank you in advance for your cooperation.

Yours faithfully,

[Name]

[Designation]

ANNEX B: TAXPAYER APPEALS FLIER



**GOMBE STATE
INTERNAL REVENUE
SERVICE**

039 Bauchi - Gombe Rd, opposite Custodian Hotel, 760251, Gombe, Nigeria

TO BE ISSUED WITH ASSESSMENT NOTICE TAXPAYERS' RIGHTS AND THE SERVICE'S OBLIGATIONS DURING AN AUDIT

To assess whether the correct tax liability has been reported in a return and paid, Gombe Internal Revenue Service (GIRS) will audit the accounting records and books of a taxpayer. During each audit, the Service undertakes to:

- Provide the relevant taxpayers with complete explanations of the process as it relates to the affected individuals/businesses and their rights during the course of the audit.
- Prepare a written basis of the assessment of tax liabilities determined during audits, and share working papers.
- Explain taxpayers' rights to appeal assessments of tax liabilities determined during audits.
- Conduct post-audit briefings. At each briefing, GIRS's Audit Team Leader will present the findings of the audit and recommend remedial actions that the taxpayer can take.
- Where possible, endeavour to resolve any issues arising from the audit through a formal process. In particular, all agreements reached will be fully documented.
- Afford each taxpayer the opportunity to furnish additional information to inform an adjustment. However, the burden of proof rests with each taxpayer.
- Allow every taxpayer to be represented by a tax professional.
- Conduct each audit in a timely manner, to minimise disruptions to the taxpayer's operations.

TAXPAYERS' APPEAL RIGHTS

If a taxpayer is aggrieved by an income tax assessment the concerned individual/business has the right to lodge an objection with the Executive Chairman within 30 days of being notified of the decision. Each taxpayer is expected to specify the precise grounds for objecting against the assessment; and can request a copy of the state's revenue code and Nigeria's income tax law from GIRS for reference purposes and at no cost.

Should a taxpayer be dissatisfied with the Service's decision on an objection raised, the affected individual/business has the right to file an appeal at the Tax Appeal Tribunal or file an action with the Federal High Court of Nigeria.

Thereafter, if the dispute is not resolved, the taxpayer can lodge an objection with the Court of Appeal. A taxpayer's final recourse is the Supreme Court of Nigeria. GIRS will respect judicial decisions.

TAXPAYERS' REFUNDS OF OVERPAID TAX

Following an audit, if taxpayers pay the Service amounts in excess of the amounts due, they may be eligible for a refund. Section 96(2) of Gombe State's revenue code stipulates that refunds shall be made within sixty days of the decision to make each refund, with the option of setting off the amount due against future tax.

ANNEX C: OBJECTION FORM



**GOMBE STATE
INTERNAL REVENUE
SERVICE**

039 Bauchi - Gombe Rd, opposite Custodian Hotel, 760251, Gombe, Nigeria

NOTICE OF OBJECTION

To: The Board Secretary/ Legal Adviser Gombe Internal Revenue Service	
From:	
Name of taxpayer:	
Taxpayer's address:	
Email:	
Telephone number:	
If applicable	
Name of taxpayer's representative:	
Representative's address:	
Email:	
Telephone number:	

1. Please provide the information requested

Date of notice			Assessment number			Tax year			Tax Identification Number		
Day	Month	Year							Day	Month	Year

2. Please attach a copy of your notice of assessment. Notice of assessment attached?

Please select ONE answer only.

Yes	1
No	2

3. Please state in precise terms the grounds for objecting the assessment, and attach a copy of all relevant supporting documents to minimise delays in dealing with the case.

Issues, reasons and all relevant facts of your objection:

4. Supporting documentation attached?

Please select ONE answer only.

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

Certification by taxpayer/authorised representative. I declare that the information provided in this form is true and correct.

Printed name:						
Signature:						
Date:	Day	Month	Year			

ANNEX D: TRIBUNAL SUMMON FORM

JUDICIAL (GMS RRT) FORM 1
IN THE GOMBE STATE REVENUE RECOVERY TRIBUNAL
SITTING AT _____
COMPLAINT NO: _____

BETWEEN:

COMPLAINANT

AND

RESPONDENT

SUMMONS

To.....of.....

(Respondent) (Address)

You are hereby summoned to attend this court at:.....on theday
of.....20.....at the hour of.....am/pm to answer a claim by the complainant against
you. The said complainant claims:.....being.....
.....

TAKE NOTICE that if you do not attend at this Tribunal at the time on the date stated, the
Tribunal may, on proof of service of this summons, give judgment in your absence.

DATED this _____ day of _____ 20_____

Chairman RRT

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