

# CONDITIONS FOR OBTAINING TAX CLEARANCE CERTIFICATE

## INTRODUCTION

Tax Clearance Certificate, also known as Tax Form Z, is an official document issued by the relevant tax authority to a taxpayer, certifying that, the tax assessed on the income from all sources of the taxpayer for the three years immediately preceding the current year of assessment has been fully paid.

In this regard, Section 85 of Personal Income Tax Act (PITA) provides as follows:

*Section 85 (1) "Whenever the relevant tax authority is of the opinion that tax assessed on the income of a person for the three years immediately preceding the current year of assessment has been fully paid or that no tax is due on the income or that the person is not liable to pay tax for any of those three years, it shall issue a tax clearance to the person within two weeks of demand for the certificate by that person or give reasons for the denial, however, that the payment of current year tax shall not be made a condition for the issuance of the certificate unless the applicant is leaving the country finally".*

*Section 85 (2) also provides as follows "A Ministry/Department or an Agency of Government or a commercial bank with whom a person has any dealing with respect to any of the transactions mentioned in subsection (4) of this section, shall demand from the personal Tax Clearance Certificate for the three years immediately preceding the current year of assessment and shall verify the genuineness by referring same to the issuing tax authority".*

Section 85 (3) specifies the content of a Tax Clearance Certificate. These include

1. Chargeable income
2. Tax payable
3. Tax paid
4. Tax outstanding or alternatively a statement to the effect that no tax is due.
5. Taxpayer Identification Number (TIN)

## **TRANSACTIONS FOR WHICH TAX CLEARANCE CERTIFICATE MUST BE PRESENTED.**

1. Application for Government loan for industry or business;
2. Registration of Motor Vehicle;
3. Application for firearms licence;
4. Application for foreign exchange control permission to remit funds outside Nigeria;
5. Application for certificate of occupancy;
6. Application for award of contracts by Government, its agencies and registered companies;
7. Application for approval of building plans;
8. Application for trade licence;
9. Application for transfer of real properties
10. Application for import and export licence.
11. Application for agent license
12. Application for pools or gaming license;
13. Application for registration as a contractor;
14. Application for distributorship;
15. Confirmation for appointment by Government as Chairman or member of public board, institution, commission, company or to any other similar position made by the Government;
16. Stamping of guarantor's form for a Nigerian Passport;
17. Application for registration of a limited liability company or of a business name;
18. Application for allocation of markets stall;
19. Appointment or election into public office;
20. For change of ownership of vehicle by the vendor;
21. Application for a plot of land;
22. Any other transaction as may be determined from time to time;

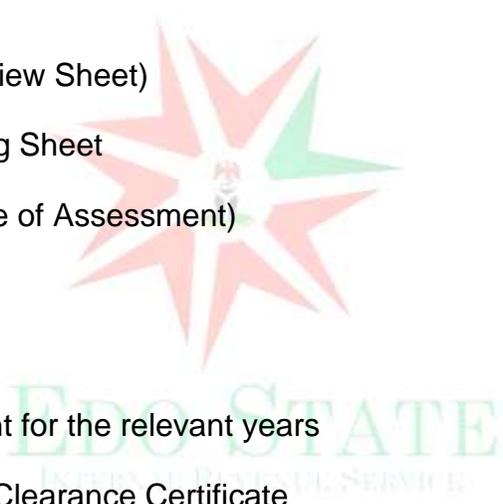
## **CONDITIONS TO BE MET BEFORE THE ISSUANCE OF TAX CLEARANCE CERTIFICATE**

Before Tax Clearance Certificate is issued to a taxpayer whether under the Direct Assessment or the Pay-As-You-Earn Scheme the following conditions must be met. These conditions are what we refer to as Check List for issuance of Tax Clearance Certificate to any deserving applicant.

### **DIRECT ASSESSMENT**

The following documents must be in the personal file of the applicant:

- Tax Form A (Self-Assessment Tax Form)
- Proof of Service
- Tax Form 40 (Interview Sheet)
- Income Tax Working Sheet
- Tax Form L1 (Notice of Assessment)
- E-Payment Receipt
- Bank Teller
- Receipts of Payment for the relevant years
- Application for Tax Clearance Certificate
- Tax form 34 (Employees Annual Assessment File)
- Evidence of TIN Registration.



## **PAY AS YOU EARN SCHEME**

In the same vein, the under listed conditions/documents should be evident in the applicant's personal file and the control file of the establishment:

- A copy of Taxpayer's application for Tax Clearance Certificate
- Taxpayer establishment must have filed relevant returns for the three preceding years as well as the current year of assessment.
- There must be evidence of remittance of taxes paid to the relevant tax authority
- Tax Form H2 also known as Certificate of Payment and Tax must be duly filled, signed and stamped by the employer.
- Evidence of Tax Identification Number
- Detailed brief on the Taxpayers
- Two passport photographs etc.

## **CONDITION UNDER WHICH TAX CLEARANCE CERTIFICATE MAY BE DENIED**

The Act also made provision for the condition under which a Tax Clearance Certificate can be denied:

S.85 (6) provides that when a person who has deducted any tax pursuant to the provisions of this Act fails to pay the tax so deducted (PAYE, WHT) to the relevant tax authority, no Tax Clearance Certificate may be issued to that person even if he has fully discharged his own tax liability under this Act.

## **OFFENCES AND PENALTIES:**

The Act also stated the offences and sanctions. To this end, the Act provides that a person who:

- For the purpose of obtaining Tax Clearance Certificate gives incorrect information in relation to any matter or thing affecting his liability to tax; or
- Obtains a Tax Clearance Certificate through misrepresentation, forgery or falsification, is guilty of an offence and liable on conviction to a fine of N50,000.00 plus twice the tax payable by him or to imprisonment for 3 years or to both such fine and imprisonment. S.85 (7).

S.85 (9) A person be it Government organization or corporate entity to whom S.85 (2) applies who fails to comply with same is guilty of an offence and is liable on conviction to a fine of N5,000,000.00 or imprisonment for 3years or both fine and imprisonment.

