

A Conceptual Analysis of Right of Taxpayers to Claim Refund in Nigeria

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Abstract : A salient feature of the Nigerian Tax Law is the right of the taxpayer to demand for a refund where excess tax is paid. Section 23 of the Federal Inland Revenue Service (Establishment) Act, 2007 vests Federal Inland Revenue Services with the power to make tax refund as well as set guidelines and requirements for refund process from time to time. In addition, Section 61 of the Federal Inland Revenue Service (Establishment) Act, 2007, empowers the Federal Inland Revenue Services to issue information circular to acquaint stakeholders with the policy on the refund process. A Circular was issued to that effect to correct the position that until after the annual audit of the Service before such excess can be paid to the claimant/taxpayer. But it is amazing that such circular issuance does not feature under the states' laws. Hence, there is an inconsistencies in the tax paying system in Nigeria. This study, therefore, sets an objective, to examine the trending concept of tax refund in Nigeria. In order to achieve this set objective, a doctrinal study went under way, wherein both federal and states laws were consulted including journals and textbooks. At the end of the research, it was revealed that the law should be specific as to the time frame within which to make the refund. It further revealed that it is essential to put up a legal framework for the tax system to recognize excess payment as debt due from the state. This would provide a foundational framework for the relationship between taxpayers and Federal Inland Revenue Service as well as promote effective tax administration in all the states of the federation. Several Recommendations were made especially relating to legislative passage of "Refund Circular Bill at the states levels' pursuant to the Federal Inland Revenue Service (Establishment) Act, 2007.

Keywords : claim, Nigeria, refund, right

Conference Title : ICIPL 2018 : International Conference on International Private Law

Conference Location : London, United Kingdom

Conference Dates : December 13-14, 2018