SMALL BUSINESS TAXATION IN ETHIOPIA: A FOCUS ON LEGAL AND PRACTICAL ISSUES IN INCOME TAX CATEGORY

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Abstract: *The expenses, which are incurred by the government in carrying out its inherent duties, are covered by imposing tax to its citizens. Thus, a business, small or large, is obliged to contribute its share to cover the government expenses in the form of 'tax'. This article analysis the legal and institutional framework of small business taxation in Ethiopia. It identifies and examines the types and mode of calculation of the different types of taxes imposed on small business entities; income tax, turn over tax and excise tax. Beyond that, it examines the tax treatment of small business on termination, and post-cessation income tax. Moreover, it examines the tax administration issues of small business taxation in Ethiopia. In the end, the article forwards a recommendation to address the ongoing problems of small business taxation in Ethiopia. The authors employed empirical qualitative research methodology.*
Keywords: *Small Business, Business Income Tax, presumptive Income Tax Assessment, Tax Administration, Legal Framework, Tax Payer*

CONCEPTUAL UNDERPINNING ABOUT SMALL BUSINESS AND IT'S TAXATION

Principally there is no conventional or conceptually clear-cut dividing line that distinguishes businesses that are small from those that are not. It is common to find different meaning for the term small business depending on for which purpose the law is defining. Economist, legislatures and international organization commonly employ quantitative indicators such as the size criterion of number of employees and economic criterion of annual turnover (Berisha, et al 2015). However, literally Business Dictionary define small business as "*designation for firms of a certain size which fall below certain criteria (that varies from country to country) in terms of annual turnover, number of employees, total value of assets, etc (*http://www.businessdictionary.com/definition/small-business.htm).

When we come to the case of Ethiopia under the Federal Urban Job Creation and Food Security Agency Establishment Council of Ministers Regulation No. 374/2014 small and micro enterprises are defined *as an enterprise having a total capital of up to 500,000 in the case of service sector up to 1,500.000 in the case of urban agriculture, artisanal mining and construction sector engages from 5 to 30 workers including the owner, his family members and other employees (*Federal Urban Job Creation and Food Security Agency Establishment Council of Ministers Regulation , 2016, Federal Negarit Gazeta, Reg. No. 374, 22nd year, No. 41, Article 2 (3) and (4). [Here in after Regulation No. 374/2016). This proclamation employed size criterion and economic criterion of number of employees and annual turnover respectively. Coming to the Ethiopian income tax proclamation (Federal Income Tax Proclamation, 2016, Federal Negarit Gazeta, Pro. No.979, 22nd Year, No.104. [Here in after Proclamation Number 979/2016), there is no any single provision which directly define as to what is small business and small business taxpayers. Rather the law divided business taxpayers in to categories as category “A”, “B” and “C.” Category “C” taxpayer is contextualized as small business taxpayers. Accordingly, as per the recent income tax proclamation (Ibidem) of Ethiopia, sole proprietor whose annual turnover is below five hundred thousand (Ibid, Article 3) and small and micro enterprise whose annual turnover is below five hundred thousand birr are regarded as small business taxpayer (Ibid. Article 48). In fact, small business is very important economic sector in every nation ranging from developing to developed countries and commonly they are considered as the socio-economic indicators of a given country.

Having this as to the meaning of small business lets proceed to the very important issue regarding to small business; that is taxation of it. The very nature of small business triggers different issues when a government think about taxation of it; for instance, to tax or not to tax? Special regime of taxation or the ordinary one? Issues of compliance and administration cost? Design of taxation of small business? Being developing or developed nation? Small business is commonly regarded as the “hard to tax” sector of the economy though by now there as consensus as to taxation of them. The issue would become very problematic in case of developing countries, as administration capacity of the tax authority as well as the tax awareness of the sociality is weak and at the baseline. Tax policy experts have consistently argue to give emphasis for the simplification of the tax structure for small business in order to decrease compliance costs for small taxpayers (Parthasarathi 2004).

Worldwide in order to address the taxation issues of small business, policy makers developed different methods of taxing small business (Parthasarathi, 2004). The first one is simplified application of general regime: It is adopted by those states, which prefer not to have special regime of small business taxation. It is characterized by simplification of tax forms, filing and payment process, arrangement of payments, reduced direct tax rates and simplified Value added tax (VAT) (Parthasarathi, 2004). The other one is designing a special regime for small business. This special regime can be designed in different ways (Parthasarathi 2004).

The first one is Turnover system; it would be done by either applying uniform tax rate for all small business or it may be progressive turnover based tax or may be by applying different tax on turnover for different sectors based on average profit.

Secondly, Indicator Based System: Tax will be imposed based on indicator-based measures, which can be of the following forms. First, it may be in the form of the classic French Forfait system (Pashev 2006; Bucci 2019) which depend on a variety of indicator like purchases, sales, number of employees, and number of cars owned by the taxpayer. Then by the agreement of the tax authority and individual taxpayers the amount would be determined and going to be applied for two years as of the assessment. Secondly, it can be in the form of Standard assessment system (Yitzhaki, 2007; Bucci 2019; Pashev 2005). Here, like the French forfeit system range of indicators of activity, which can be specified in detail, are used though unlike the forfeit system, it is not subject to the negotiation between taxpayer and the authority. In this regard the Israeli *tackshivim* system is the best example. *Tackshivim* system covered the assessment of income in 130 economic branches, specifying within each the parameters to be used (Yitzhaki 2007).

The third one is Combined Turnover/ Indicator Based Tax: in this case, the tax system is principally turn over based however, the tax authority can employ indicators to avoid possible tax evasion (Thuronyi, 1996; Bucci 2019). The other option is Cash based arrangement: Special record procedure for gross income and expenses (Bucci 2019, Thuronyi 1996). In fact tax simplification for small business has lots of benefit such as reduction in compliance cost, better understanding of legislation and policy aim, reduction of administration cost for the custom authority, may be to bring fairness (Small Business tax review, https://www.gov.uk/government/publications/making-tax-easier-quicker-and-simpler- for-small-business. (Last accessed, Jan 6, 12018).

Developing countries mostly use special regime for small business taxation, presumptive taxation, though it is also used by the industrialized nations. For instance out of 17 Central and Latin American countries 14 of them adopted a wide range of special regime of taxation for taxation of small business (Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, Mexico, Nicaragua, Honduras, Paraguay, Peru, and Uruguay). Exceptions are El Salvador, Panama and Venezuela. In sub Saharan African countries, almost three fourth of them adopted presumptive taxation (Taube et al 1996).

As to the types of presumptive regime, there are many types developed since the inception of the concept of presumptive taxation. Initially the culture was to use occupation and sector based standard assessment in which the taxpayer is obliged to pay a fixed lump sum payment in a specific trade and professions (Taube et al 1996). Ghana was the first African country to introduce this form of small business tax system. Afterwards including Ethiopia (Ethiopia has adopted standard assessment for about 150 different business and professions as of 1960), Nigeria, Lesotho, Sierra Leone and Mozambique adopted such system in 1960's and 70's.

The paper is structured as follows. Section 1 deals with the deals with conceptual underpinning of small business and its taxation. Section 2 discusses with the legal framework of small business taxation, mainly the type of taxes imposed on small businesses and their respective assessment methodology, section three discuss the tax administration issues of the small business and the last section provides with the conclusion and recommendation.

THE LEGAL FRAMEWORK OF SMALL BUSINESS TAXATION IN ETHIOPIa

Once we identify the taxpayers in our cases the small business as per the Ethiopian context, the next question is what type of taxes are imposed on such specific taxpayers. The legality element of taxation not only identified the taxpayers but also the type, percentage and calculation of the tax imposed to the small businesses. Small businesses are subject to different taxes including to business income tax, windfall income tax, other income tax, turnover tax and excise tax. In addition to the main taxes imposed to the small businesses, the paper also tried to analyze the tax treatment of termination of a small business, aggregation of income, post cessation income tax and lease disposal of business asset.

Business Income Tax

Small businesses are not different from the other businesses of the country, the reason why they are called small business is not to relieve them from tax liability rather to have them a simplified tax system that is convenient and less costly. The less cost for payment of tax and creation of convenience tax system to small businesses empowers them to stay on the business and through time to become medium size business in the end. Cannons of economy and progressivity back the reason behind the separate treatment of the small business for tax purpose. For this reason, in principle, the income tax proclamation provides a presumptive business tax to small business and as exception, it allows for the voluntarily keeping of accounting records for the determination of tax liability based upon the financial statements made from the accounting records. Therefore, the Income Tax Proclamation provides three modes of assessment of small business income tax liability: *first*, based on the voluntarily keeping of accounting records; *second*, standard presumptive business tax assessment; and *third*, indicator-based presumptive tax assessment. These three modes of assessment of tax liability of small businesses have their own distinct features and the paper examines and analyze the similarity and difference of the three modes of assessments in the below sections.

Based on the Voluntary Recorded Books of Account

However, the proclamation provides presumptive business tax assessment method for small businesses in principle but as an exception, it provides a room for the voluntarily keeping of accounting records by the small businesses. Art 82(4) of the Income Tax Proclamation states, *"Category 'C' taxpayers [small businesses] may keep a record of gross income and shall keep such other records as may be specified in the Regulations* (Emphasis ours)." This indicates that though it is not obligatory but if the small business need to keep accounting records the law recognizes it and taxed accordingly. However, it also delegates Council of Ministries to determine how and what type of accounting records can be kept by small businesses to determine their tax liability using the accounting records instead of the presumptive tax assessment. The Council of Ministries defines that the small business which voluntarily likes to keep accounting records should maintain the accounting records provided for Category 'B' taxpayers (Federal Income Tax Regulation, 2017, *Federal Negarit Gazeta*, Reg. No. 410, 23rd Year, No. 82, Art 49(1)&(2) [Here in after Federal Income Tax Regulation No.410/2017], Art 59(1). As to what is obliged to keep the book of account of Category 'B' taxpayers apply for small business (Category 'C') taxpayers, the small businesses are obliged to keep the following accounting records: records of daily incomes and expenditures; records of all purchases and sales of trading stock; payroll; and other relevant documents that helps to determine the tax liability of the small business (Cumulative reading of Art 59(1) of the Federal Income Tax Regulation and Art 82(2) of the Income Tax Proclamation). No more issue of presumptive tax assessment in this case, and the small business declare its tax liability based upon the profit and loss statement and pay it within two months from the end of the tax year (Federal Income Tax Proclamation No. 979/2016, Art 82(4) (b) & 82(5)(b).

Presumptive Income Tax Assessment

As cited by Muuz Abraha presumptive taxes were began since 18th century and the tax liability of the then taxpayers were calculated based upon the properties and other parameters than the actual income of the taxpayers (Muuz 2015). The assets and other indicators were taking into account to determine the tax liability of the taxpayers in the early time as the science of accounting were not as such developed to determine the actual tax liability of the then taxpayers. It is very hard to think of the modern book keeping system and tax accordingly to the then taxpayers and it is for this reason that the then governments were imposing tax based on the assets and other parameters of their citizens. As it cited by Muuz Abraha the renowned tax scholar Victor Thuroyni defines presumptive tax as:

The term "presumptive" is used to indicate a legal presumption that the taxpayer's income is no less than the amount resulting from the application of the indirect method. The concept covers a wide variety of alternative means of determining the tax base ranging from method of reconstructing income based on administrative practice, which can be rebutted by the taxpayer, to true minimum taxes with tax base specified in legislation (Thuronyi 1996).

As per the scholar, the word 'presumption' in the tax assessment is used similarly to the other legal presumption, which can be rebutted by a contrary proof. The presumption tax is not final and conclusive rather it is subject to review where there are contrary proof. The prerequisite for presumptive taxes is the reconstructed income based on the tax authority. Whatever the case the tax base is defined under the tax relevant laws, the tax authority is entrusted only to determine the income of the taxpayer for presumptive tax collection purpose. As it is mentioned in the above, it is when the small business does not keep accounting records that the presumptive tax assessment is applied and the justifications for the incorporation of the presumptive tax assessment is defined in introduction section of this paper. Once we say presumptive tax assessment is applied when there is no obligation to keep accounting records, we should also identify the types of the presumptive tax assessment that Ethiopia incorporates under its income laws.

In Ethiopia, the small businesses income tax liability is determined based upon presumptive business taxes (Federal Income Tax Proclamation No. 979/2016, Art 49). The legislator does not say about the details of the presumptive tax assessment rather it delegates to the Council of Ministries to issue a regulation as to the detail mode and type of presumptive tax assessment methodologies. And the Council of Ministries issued a directive as to the details of the presumptive tax assessment methodologies; it recognizes two types of presumptive tax assessment methodology these are standard presumptive business tax assessment and indicator based presumptive business tax assessment methods. The presumptive business tax liability of small businesses is calculated in accordance with the schedule attached with the income tax regulation. The annual taxable income of a small business taxpayer is calculated based upon the maximum annual turnover in the income bracket with in which the annual gross income of the taxpayer falls (Federal Income Tax Regulation, Reg. 410/2017, Art 49(1) & (2). The Minister is delegated to revise the Schedule attached with the regulation at least every three years.

Standard Assessment

The Income Tax Regulation provides standard tax for the 99 types of small business. It is the Council of Ministries, which determines the annual taxable income of the 99 businesses and then determines the final tax liability of the small business based upon the tax rates of Schedules 'B' and 'C'. The role of the tax authority is to determine the status of the small business based upon the daily sales income of the small business. To determine the status of the small businesses from among the 99 categories of annual taxable income the Ethiopian Revenue and Customs Authority issued a directive that applies only to Addis Ababa small business taxpayers (Addis Ababa City Administration Category "C" Taxpayers Daily Revenue Estimation Information Collection Implementation ERCA Directive, 2017, No. 123. [Here in after, Category "C" Taxpayers Daily Revenue Estimation Directive]. The scope of application of the directive is for all businesses, which have annual turnover not exceeding 500,000 Birr. Though it looks like to assess the daily income of the small businesses in which their tax liability is determined by indicator-based assessment, when you indulge in to the provisions of the directive it is intended to determine the daily income of the small businesses in which their tax liability is determined pursuant to the standard presumptive tax assessment methodology. The 33 business sectors that are stated under Art 28 of the directive to show the indicators that should be taken into consideration to calculate their daily income are small businesses in which their tax liability is determined by standard assessment method, but not by indicator-based assessment. What is provided under Art 27 and 29 of the directive evidenced that the directive is intended to determine the daily income of the small businesses in which their tax liability is assessed by standard method.

The general indicators to find the daily income of the small businesses are trade status, location, convenience to customers, good will, expenditures, documents of daily income receipts, the number or amount of goods supplied or services provided, sales price, business sector, demand of the goods or services in the market, size of business premise, life span of the business, status of warehouse, quality of goods or services, source of supply of goods or provision of services, consumers level, private assets of the business owner and the number of employed workers of the business. In addition, the sector specific indicators are provided in Art 28 of the directive, you can see the directive for further knowledge as it is very hard to include the indicators of each sector in this paper. The Committee the next job is to calculate the annual turnover of the small business with the annual working days of the small business and after calculating the annual taxable income, the status of the small business from among the 19 statuses will be identified, calculates once the daily income of the small business. Once the status of the small business is identified, it will be obliged to pay the standard tax provided in the regulation for the next three years. Here the role of the tax authority is to calculate the daily income of the small business to know the annual turnover of the small business and to which status it lies and all other things are determined by the regulation.

II. Indicators Based Assessment

The Ethiopian income tax provides indicators-based assessment for five small business sectors only; these are public transport service, dry freight transport service, tanker trucks, flourmills with single hopper and agricultural vehicles. The indicators that are used to estimate the tax liability of the businesses is specified in the Schedule attached with the Federal Income Tax Regulation. The Council of Ministries not only determines the indicators for taxation of such sectors but also the annual taxable income and the annual tax liability of the sectors. The tax authority does not have any say but to tax only the presumed taxable income with the presumed income tax liability provided within the Schedule. Even the tax calculation part is determined by the regulation what is the role of the tax authority for indicated-based tax assessment methods is only to collect as per prescribed by the regulation. However, the Minister shall revise the Indicator-Based Schedule at least every three years (Federal Income Tax Regulation No. 410/2017, Art 49(3). It is very clear that the tax authority does not have any say over the tax assessment of the five sectors as the indicators; annual taxable income and tax liability of the five sectors are determined by the Council of Ministries and are revised by the Minister at least every three years.

Employment Income Tax

What we want to discuss on this section is the obligation of the small business in relation to withholding of employment income tax and its related matters. Small business usually run by a single person that is the owner of the business. However, rarely small business employ employees in running their business and in that time the small businesses as any other business owners have the obligation to withhold employment income tax. Not only that but also self-employment tax is one obligation of the small businesses to declare such self-employment income tax with their respective tax obligation; with the business or rental tax of their business.

Obligation to Withhold Employment Income Tax

As it is mentioned above repetitively, the small businesses do not have the obligation to keep books of accounts for different policy reasons. In principle small business are not obliged but if, they want to keep books of account the allows for the voluntary keeping of accounting records for tax purpose, once they make accounting records the small business has the obligation to declare their tax liability based upon the financial statements of the accounting records. However, the tax law provides one exception to the discretion of the small business to keep or not to keep accounting records and other financial related documents. Art 59(2) of the income tax regulation obliges the small business to keep documents of withholding of employment income. Art 59(2) of the regulation states, "*Notwithstanding the provision of sub-article (1) of this Article, a Category "C" taxpayer employing a worker shall keep documents showing any amount of employment income paid to the employee and any amount withheld in tax from such income*" (Emphasis ours). This is the exception to general principle of the right to determine the small business themselves to keep or not to keep books of account. However, on the case of employment income tax the small business has the obligation to keep the necessary accounting records of payment of wages and withholding of the employment income tax.
The income tax proclamation obliges all business irrespective of their size to withhold employment income tax (Federal Income Tax Proclamation Proc. No.979/2016, Art 88).

How the withholding obligation is to be carried out is one of the sensitive area where tax avoidance issues arises. For large and medium size business and a small business which voluntarily keeps books of account there is less avoidance and abuse of employment income tax but when it comes to a small business, which does not keep books of account the issue of collection and reporting of employment income tax, becomes very sensitive. This is due to the silence of the tax laws to oblige the small business to issue serially numbered receipts for the collection of employment income tax by withholding. This is not an issue in large and medium sizes businesses, as they are obliged to issue serially numbered receipts that are registered by the tax authority (Federal Income Tax Administration Proclamation, 2016, *Federal Negarit Gazzeta*, Proc. No. 983, 22nd year No. 103, Art 19(1). [Herein after, Income Tax Administration Proclamation Proc. No.983/2016], in collecting employment income tax by withholding. The printing presses are also obliged to make sure that such serially numbered receipts are registered and approved by the tax authority. This all-strict regulation of issuance and use of receipts is intended to minimize the abuse of the tax withheld that could be made by the business.

The income tax administration obliges all business irrespective of their size to provide receipt of withholding tax to the payer pursuant to the directive issued by the ERCA. By the reading of Art 96 of the Tax Administration Proclamation all business including the small business which do not have the obligation to maintain books of account has the obligation to issue a serially numbered receipt for withholding employment income tax. However, the issue is different when it comes to the small businesses, which do not keep accounting records. This is even worse as the tax authority failed to force the small business to issue serially numbered receipts for collecting employment income tax from their employees by the schemes of withholding. The tax authority should wake up and enforce the provisions of the law and even creates awareness to the small businesses regarding their obligation of issuance of serially numbered receipts for collecting employment income. Moreover, the tax authority should also create awareness for the employees engaged with in small business to request for the receipt of the withheld employment income tax. Unless the tax authority regulated the issuance of the serially numbered receipt for collection of employment income by the small businesses, the employment income tax withheld by the small business may not be reported to the tax authority.

Large and medium size business has the obligation to report the employment income tax within 30 days to the tax authority. Art 97(1) of the Tax Administration Proclamation is a general provision, which obliges all business to submit the withheld tax to the tax authority within 30 days. However, Art 60(2) of the regulation states that the small business engaged in the transport services are obliged to report the withheld employment income tax with their principal business income tax. Due to this small business, which are engaged in transport, service has a different tax reporting of withheld employment income from all other business. The rationale behind this exception may be due to the inconvenience of the small business engaged in the transport service to submit the withheld employment income tax to the authority every 30 days from the time of collection of the employment income tax.

Self -Employment Tax

The new regulation of the income tax brings a new concept, self-employment tax. If a taxpayer derives, his car engaged in a small business transport service, such taxpayer is obliged to pay his employment income to the authority together with its business income tax liability. The amount of the salary is the salary that could be paid had it been employed as driver. Art 49(4) of the regulation states, "*if a tax payer who is the owner of a vehicle, derives the vehicle he uses in the business of rendering transport services, the employment income tax that the deriver would have paid had the owner employed such deriver, shall be included in calculating the tax payable by the owner of the vehicle* (Emphasis ours)." This clearly indicates that the owner of the car who undergo small business by providing transport service has the obligation to withhold his own employment income tax and report it to the tax authority. As it is mentioned in the above, the vehicle owner has the obligation to submit such employment income tax together with the principal business tax (Federal Income Tax Regulation No.410/2017, Art 60(2). This self-employment income tax is applicable only to small business owners who are engaged in the provision of transport services and this raises the question of equity, which is one of the principal cannons of taxation. Why the other small business owners who run their business themselves are not obliged to pay self-employment tax is not clear? The policy reason behind the imposition of self-employment tax to small business owners of transport services is not clear.

Income Tax on Sale and Lease of Business Asset

As it is mentioned above, the gain on the sale of a business asset is one of the source of income that is taxable pursuant to the tax laws of the country (Federal Income Tax Proclamation 979/2016, Art 21(1) (b). The gain on disposal business asset and lease of business asset is part of the revenue that the tax authority takes into consideration in making the presumptive tax assessment methodologies; standard or indicator-based assessment. As the gain from disposal of part of the business asset is included in determining the tax liability of the small business taxpayer by presumptive tax assessment, no different question of taxation arises. Similarly, as the lease of part of the business asset is take into consideration in determining the tax liability of the small business taxpayer no problem of taxation arises. What is problematic is when the disposal of the business asset or the lease of the business asset is to the whole assets of the small business? The tax law is silent on the tax implication of the transfer of the whole business to third party by sale or the temporary transfer of the whole business to third party by lease. But the writers believe that as any other business the gain or loss of small business should be recognize at the time of disposal of the whole business and taxed accordingly. Similarly, the lease of the whole business asset should be taxed differently than the lease part of the business assets of the small business.

Windfall and Other Income Taxes

Windfall profit tax does not have a long history in the country. It is in 2010 that for the first time the windfall tax is introduced to tax the windfall profits of the financial institutions that is gained due to the devaluation of the Birr value by 20%. The new income tax proclamation also incorporates windfall income tax. As per the new income tax proclamation windfall, profit is defined as any *unearned, unexpected, or other non-recurring gain* (Federal Income Tax Proclamation 979/2016, Art 60(4). In addition, the Ministry of Finance and Economic Development is delegated to issue a directive as to the details of windfall income tax. The Ministry is delegated in particular to determine the amount of income to be considered as a windfall profit, the business that are subject to windfall income tax, the manner and factors of assessment of wind fall and the date on which the windfall income tax becomes effective. The Ministry is also delegated to determine different rates of windfall income tax taking into consideration the nature of the businesses. So far, no windfall profit tax directive is issued and it is too early to discuss the detail implementation of this tax without having such directive. However, as any other business small business are liable to pay windfall income tax based upon the rate, which is to be specified by the Ministry.

Small businesses are also liable to pay other income taxes, which are not specified under the new income tax proclamation at a 15% flat rate. Art 63 of the income tax proclamation states, "*A person who derives any income that is not taxable under Schedule A, B, C, or the other Articles of this Schedule shall be liable for income tax at the rate of 15% on the gross amount of the income*." Other income tax is imposed to small business as any other business. However, what constitutes 'other income' is very vague. The legality element of tax may arise here; 'other income' is very broad and even difficult to demarcate it. The type of activity that could be taxed under the guise of 'other income' is not clear. We have tried to dig out if there are 'other incomes' which are taxed by 15% flat rate, but not yet other income tax in practice even the tax officers are new with this concept. This also violates one of the cannons of taxation, which is cannon of clear, and predictability of taxes. We think that the legislator intention is to tax all incomes whether they are prescribed under the new income tax law or not. However, the intention of the legislator my not be achieved as far as the provision of the law are vague and difficult for implementation. The legislator does not give a legislative delegation to the Council of Ministry or to the tax authority to issue a regulation or directive for the proper implementation of this vague provision; it only gives a general legislative delegation in the 'Miscellaneous Provision' section of the proclamation (Federal Income Tax Proclamation 979/2016, Art 99(1) & (2). In dead, the legislative delegation given to the Council of Ministries and tax authority in the 'Miscellaneous Provision' section of the proclamation may create an opportunity to issue a regulation and or directive for the effective implementation of the 'other income tax'.

What will happen if windfall profit is there before the issuance of the directive? Should it be taxed by 'other income taxes rate' 15% flat rate? Alternatively, no tax until the issuance of a directive? We believe that pursuant to the new income tax proclamation there is no any income, which is not taxable. Where the clear provisions of the tax law do not provide for the taxation of an income the inclusive 'other income taxes' provision applies and taxed such income at a 15% flat rate.

Aggregation of Income in Small Business

Aggregation of income of taxpayers is one of the means to achieve horizontal equity within the taxpayers. The separate treatment of incomes of taxpayers defeats the progressive tax system and for this reason, countries incorporate aggregation of income of a single individual taxpayer to ensure the equitable treatment among taxpayers. Dr. Tadesse Lencho states in his dissertation the following important points as to the need of proper implementation of the aggregation of income of taxpayers to ensure equitable tax treatment of citizens.

The rule of aggregation is ostensibly there to ensure at least intra-scheduler horizontal equity of persons who derive income from one business and persons who derive income from multiple businesses. Since the tax rate structure for individuals is progressive, the requirement of aggregation is tremendously significant in ensuring the equitability of the income tax system at least among persons who are subject to the same schedule (Tadesse, 2014).

To ensure the equitable treatment of taxpayers the former income tax proclamation incorporates the aggregation of incomes of taxpayers for tax purpose. Art 70 of Proc No 286/ states; A taxpayer who derives income from different sources subject to the same schedule shall be assessed on the aggregate of such income.

Here from the reading of this article it is clear that aggregation of different source of income is only possible when the income is derived only from a same schedule, if it derives from different schedules the aggregation of income does not apply. Before the introduction of TIN, it was very difficult to think the aggregation of income of taxpayers who get different sources of income which lies in the same schedule but after the introduction of TIN taxpayers easily identifies if they have another source of income since they are obliged to get a license by one TIN for all of their business. And the new income tax proclamation incorporates similar provision for the aggregation different sources of income of the same schedule to be taxed by aggregation. Art 8(2) of the new income proclamation states;

Subject to Article 64(2) of this Proclamation, a taxpayer that derives income from different sources subject to tax under the same Schedule for a tax year shall be taxable under the Schedule on the total income for the year. What is different from the former income tax law is it added only that the different sourced income should be within the same tax year. As per the new law, there are three requirements for aggregation of income for tax purpose: *first*, there should be two or more business of a taxpayer; *second*, the different source of income or the businesses must lie within the same schedule; and *third*, it should be within the same tax year. However, Schedule “D’ taxes are not subject to the aggregation of income for tax purpose. The main reason behind the exception is Schedule ‘D’ taxes are final taxes, which are not taxes is stated under Art 64(2) of the proclamation, “*Tax imposed on income under this Schedule shall be a final tax on the income*.”

Small business taxpayers are not excluded from the aggregation of income of different sources of income, which lies under the same Schedule. As it is stated in the above, small business taxpayers are the small and micro enterprise and sole proprietors whose annual turnover is not exceeding 500, 000 Birr. Small businesses are Category ‘C’ taxpayers, which are either Schedule ‘B’ or Schedule ‘C’ business whose annual turnover is not exceeding 500,000Birr. Aggregation of income is only possible when the incomes are derived from the same Schedule which is to mean that small business which have different sources of income from either Schedule ‘B’ or schedule ‘C’ have the obligation to aggregate their incomes under the respective Schedules and pay their tax liability by the aggregated income.

As it is stated in Taddese Lencho dissertation, the tax officers were not allowing the aggregation of income of small business pursuant to the provisions of the former income tax law. The tax officers believe that the aggregation of small business incomes with the large and/or medium size business enables a taxpayer to avoid tax. As it is cited by Taddese Lencho, Demisse gebre submitted an aggregated income of his hotel and his small business transport service to Lideta Sub- City Revenue Bureau but the Bureau denied the declaration of income by aggregating the income of medium or large size business and small businesses by arguing that the aggregation of the income of a business who have the obligation to keep books and account and small business is not allowed unless the aggregated income tax liability is greater than the tax which could be collected by separate treatment of the businesses. And finally, the case submitted for review to the Federal Supreme Court Cassation Division and the Cassation Division decided the case in favor of the tax- authority (As cited by Taddesse Lencho Federal Court Cassation File No. 58620, Sene, 02, 2003E.C. unpublished, in Amaharic). This all shows that before the coming of the new income tax proclamation, even though the law of aggregation of income applies to all businesses irrespective of their size but in practice, the income of small business was not aggregated in the earlier practices.

Tax Treatment of Small Business on Termination

Any business which ceases to run taxable activity (Activity is to mean any business or other activity giving rise to income subject to tax under the tax law but excludes withholding tax as a final tax (Art 23(6) ITAP), have the obligation to notify to the tax authority as to the termination of its business activity within 30 days of the date that the taxpayer ceased to carry on the activity (Federal Income Tax Proclamation No.983/2016, Art 23(1). The taxpayer who ceased the taxable activity has the obligation to file and pay its tax liability within 60 days after the taxpayer ceased to carry on the business activity or lesser period as the authority requires by notice. The taxpayer is obliged to file and pay both the tax liability of tax period in which the taxpayer ceased to carry on the activity and for any prior tax period for which the due date for filing has not arisen (Federal Income Tax Administration Proclamation No.983/2016, Art 23(2). If the taxpayer is to leave Ethiopia and his absence is unlikely to be temporary, the taxpayer has the obligation to file the tax liability of tax period and for any prior tax period for which the due date for filing has not arisen. The leaving taxpayer has the obligation to pay or make an arrangement satisfactory to the authority for the payment of tax due the tax filed by advance tax declaration. If the tax authority believe that a taxpayer will not file and pay his tax liability by advance tax declaration means, it has the discretion to order by notice to file and pay for both taxes that are due in the tax year and for the tax period would otherwise be due. In addition, if the taxpayer who is ceasing his business or leaving this country without ceasing the taxable activity is subject to more than one tax, the taxpayer has the obligation to file and pay such taxes separately.

Even when the business or any taxable activity is terminated due to the death of the taxpayer, it is liable to pay tax unless the Minister relief from the payment of tax. The Minister may relief the payment of tax if it causes serious hardship to the dependents of the deceased taxpayer. This includes the relief of the whole tax or part of it or the penalty and or interest of late payment of the tax of the deceased taxpayer. The Council of Ministries is delegated to determine the limits of the relief to be granted to a taxpayer or to its heirs by a regulation. In addition, the Council of Ministries determine that the maximum amount of relief, which can be granted by the Minister, is ten million Birr (Federal Income Tax Regulation No 407/2017, Art 7). Whatever the case a small business that is terminating due to the death of the taxpayer is in principle liable to pay tax at the time of termination but as an exception, it may be relieved from tax liability by the decision of the Minister due to the hardship of the dependents of the deceased taxpayer. However, the transfer of the small business as a business asset to the heirs does not constitute a disposal of asset and there is no recognition of gain or loss at the time of transfer of the business asset to the executor or the beneficiaries of the succession (Federal Income Tax Proclamation No. 979/2016, Art 71(1) (b). For this reason, no tax due to the transfer of business asset to the beneficiaries of the succession.

The tax laws of Ethiopia are silent as to the tax treatment of divorce of spouses. In dead at Art 71(1) (a) of the income tax proclamation states that the division of common property of spouses due to divorce does not constitute as a disposal of asset or business asset and due to this there is no recognition of gain or loss at the time of division in kind of common property of spouses or at the time of sell of the common property for settlement purpose. For this reason, no tax is imposed upon the termination of the small business due to divorce of the spouses.

Post-Cessation Income Tax

As any other businesses small business are also subject to post-cessation income tax. This tax is a new type of income tax, which is incorporated in the new income tax proclamation and regulation; the earlier income tax laws of the country were not imposing this type of income tax to business. The reading of Art 74 of the income tax proclamation shows that post-cessation income tax applies for gains that are recognized after the cessation of the business. There are two requirements to impose post-cessation income tax to any business; first, any amount is derived by a taxpayer in a tax year from a business, activity, or investment that had ceased before the amount was derived (Federal Income Tax Proclamation No. 979/2016, Art 74(1)(a)); and second, if the amount had been derived before the business, activity, or investment ceased it would have been income subject to tax under this proclamation. The post-cessation gain is taxed pursuant to the proclamation as the business, activity, or investment had not ceased at the time the amount was gained. The post-cessation expenses which are incurred to derive the post-cessation gain are deductible to the extent allowed in the income tax proclamation. As it is stated above, small businesses are subject to post-cessation income tax as Art 74 of the proclamation applies to all business irrespective of their size and as there is no exclusionary provision that exempts small business from this type of tax under the proclamation.

Turn-over Tax

Any business which has annual turnover not exceeding 500,000 Birr has the obligation to pay turn-over tax. The very purpose of turnover income tax is ensuring the equitable distribution of tax burden among citizens. It is due to the cannon of equity and economy that turnover tax comes to birth. The preamble of the turnover tax proclamation states, "… *an equalization turnover tax imposed on persons not registered for value-added tax allows them to fulfill their obligations and also enhances fairness in commercial* *relations and makes complete the coverage of the tax system*." From the reading of the preamble, the very reason of incorporation of turnover tax is not to enhance the revenue of the government rather to equalize the taxpayers and protect the VAT registered taxpayers. The preamble also states that it is infeasible to register and oblige the business with annual turnover not exceeding 500,000Birr to VAT tax. As the annual turnover of small business is below 500,000Birr, they are not obliged to register VAT but are obliged to pay TOT.

However, the VAT proclamation provides the voluntary registration of business to VAT though their annual turnover not exceeds 500,000 Birr.

Voluntary Registration of VAT

As it stated above the rationale behind the birth of turnover tax is equalize the tax-burden of the taxpayers. For this reason, when a taxpayer wants to pay the main tax (VAT) instead of the equalizer tax (TOT), it is encouraged to voluntarily registration of the main tax (VAT). It is for this reason that the Ethiopian VAT proclamation that allows the voluntarily registration of the small business whose annual turnover is below 500,000Birr. Voluntarily registration of VAT is possible only where 75% of the supplied goods or rendered services is regularly made to VAT registered persons (Value Added Tax Proclamation, 2002, *Federal Negarit Gazeta*, Proc. No. 285, 8th Year, No. 33, Art 17. [Here in after VAT Proc. No.285/2002]. There are two requirements for voluntarily registration; first, regular and non- interruptible supply or rendition of goods or services respectively; and second, at least 75% of the supply and/or rendition of service should be made to a VAT registered person. Once the small business voluntarily registered to VAT, it does not have the obligation to pay turnover tax. Art 3 of the Turnover Tax Proclamation States, "… *Turnover Tax shall be payable on goods supplied and services rendered by persons not registered for Value Added Tax*." The implied meaning of this indicates that once the small business voluntarily registered VAT, it does not have the obligation to collect and transfer turnover tax to the tax authority. Once the small business registered for VAT, the governing law is the VAT proclamations. To say a few about the VAT liability of a small business voluntarily registered for VAT, the small business pays by balance of what he has collected in selling goods and services and what he has paid in purchasing goods and services.

Small Business Not Registered to VAT but Obliges to Pay TOT

The small business, which do not voluntarily registered to VAT, are obliged to pay turnover tax. Turnover tax is collected on the supply of goods and rendition of services in the course of furtherance of taxable activity (Turnover Tax Proclamation, 2002, *Federal Negarit Gazeta*, Proc. No. 308, 9th Year, No.21, Art 2(3) [Here in after TOT Proc. No.308/2002]. Similar to the vat tax, the turnover tax exempts some supply of goods and rendition of services from the obligation of turnover tax but the turnover tax does not incorporate zero tax rate, which makes it different from the vat tax rates. The supply of goods and rendition of services provided under the vat proclamation and turnover tax proclamation have some differences particularly exemption and zero tax rate activities of vat taxable transaction and the exemption of turnover tax law. Turnover tax has two rates 2% to on goods sold locally and services rendered by contractors, grain mills, tractors and combine-harvesters and 10% on other services rendered (Proc. No. 308/2002, Art 4 TOT).

Why the law provides different rates is not clear and this may raise the equitability of turnover tax among the taxpayers. It is very hard to know the intention of the legislator why it provides different tax rates but we can that the legislator may believe that the 2% rate is applied for business, which has low return when it is compared with the 10% taxable businesses.

Small businesses are obliged to pay turnover tax based upon the total annual gross receipt of their transaction. Gross receipt is the total annual revenue that is collected by the small business by supplying goods or rendition of services and without reduction of expenses. As small businesses are not obliged to keep accounting books and records the expenses incurred in gaining income shall be taken into account at the in determining the income of the business by standard assessment or indicator-based assessment. The income of the small business, which is calculated to determine the income tax liability of the business, are the base for calculating the turnover tax liability of the small business. The small business owner has the obligation to file and pay its turnover tax liability by himself (Turnover Tax (Amendment) Proclamation, 2008, *Federal Negarit Gazeta*, Proc. No. 611, 15th Year, No. 8, Art 2(2) [Here in after TOT Amendment Proc. No.611/2008]. The self-declaration of tax liability of the small business may be reviewed by the tax authority where the tax authority believe that the taxpayer understated its tax obligation (Art 11(1) TOT Proc. No. 308/2002). Where the small business does not file and pay his tax liability totally there is period of limitation to claim turnover tax against the small business taxpayer (Proc. No. 308/2002, Art 11(6) TOT).

Excise Tax

Like any other businesses small businesses engaged in the production or importation of luxurious and basic goods which are demand inelastic or hazardous goods are obliged to pay excise tax (The preamble of the Excise Tax Proclamation). The excise tax is applied only to the production and importation of goods listed in the Schedule attached to the excise tax proclamation and its subsequent amendments (Excise Tax Proclamation No. 307/2002. Excise Tax Proclamation, 2002, *Federal Negarit Gazeta*, Proc. No. 307, 9th Year, No. 20, Art 3&4 [Here in after Excise Tax Proc. No.307/2002]. In addition, the base of computation of the excise tax is cost of production for locally produced goods and the CIF for imported goods. The obligation to pay the excise tax lies with the producer for locally produced goods and with the importer for imported goods. When small businesses are engaged in the production of goods, which are specified under the attached Schedule, they are obliged to pay excise tax pursuant to the rate specified in the schedule. The time of payment of excise tax is at the time of clearance for imported goods and not later than 30 days from the date of production for goods produced locally.

Excise tax is assessed based on the books and records maintained by the businesses but in our case the small businesses do not have the obligation to keep accounting records and for this reason the excise tax liability of small businesses is assed based on the daily income assessment made for the purpose of business income tax. Once the annual taxable income of the small business is determined from the daily income assessed in accordance with Directive No. 123/2009, the excise tax will be calculated based on the annual taxable income of the small business. Similar approach will be applied for a handcraft small business, which is engaged in the production of traditional clothes.

The other issue that arises in relation to excise tax is time pf payment. Though the excise proclamation obliges the businesses which keeps accounting records to pay the excise tax not later than 30 days from the date of production, the payment time for small business shouldn't be different. As we have tried to explain in the above, the small businesses pay their TOT on a yearly basis based on the annual taxable income, similarly small businesses should pay their excise tax obligation based on a yearly basis.

Tax Administration Issues of Small Business

Essentially the taxation of small business is subject to arbitrariness by the fact that the tax is determined by the human estimation of the turnover or other else. Therefore, this fact necessitates good tax administration in case of small business. Good tax authorities shall take due care while assessing the annual turnover of the taxpayer. It is vital to have adequate information to assess and determine the taxable income in fair and reasonable manner. Therefore, every action of the authority will determine the final output; issues like the personality of assessors, number of the assessors, criteria to select the assessors, decision making procedure, participation of the trader's representative in the assessment, the grievance handling procedure, composition and impartiality of grievance handling committees and other issues.

As per article 8 of Addis Ababa City Administration Category "C" Taxpayers Daily Revenue Estimation, Information Collection and Implementation Directive (Addis Ababa City Administration Category "C" Taxpayers Daily Revenue Estimation Information Collection Implementation ERCA Directive, 2017, No. 123. [Here in after, Category "C" Taxpayers Daily Revenue Estimation Directive], there are eight committees established in order to conduct the assessment. This committee includes committee average daily income assessing committee, inspection committee, awareness creation committee, information evaluator committee and objection review committee. Regarding. The law provides criteria's for nominating the members; except some differences, the law recognizes some common criteria for the selection of member of each committee.

However, from the criteria provided under the directive, the inclusion of having advanced development thought as criteria for the selection of members of the above committees does not be fair. This criterion is to indicate the political commitment of the would-be member of each committee. Therefore, we argue that the criteria will make the committee partial and in effect would affect the overall assessment process.

Moreover, regarding to the composition of average daily revenue assessment committee the law fails to include trade representatives. In this regard, the experience of Amhara Regional State is outstanding. According to an interview the writers had with one of the tax officers of Amhara National Regional State Revenue Authority (Interview with Ato Zemenu Abebe, Tax Education Officer of the Amahara Revenue Bureau, *on the issue of small business tax administration*, Tahisas 27, 2010E.C), chamber of commerce is included as member of the assessing committee.

Coming to the objection review mechanism, as per article 23 of Addis Ababa City Administration Category "C" taxpayers Daily Revenue Estimation, Information Collection and Implementation Directive no. 123/2009, a review committee is established in order to handle an objection on the decision of the assessment committee. This review committee is defined under article 2/ 17 of the above directive as committees to be established at the word and branch office of the tax authority to handle any objection that will arise from the act of the assessors notwithstanding those taxpayers has the right to bring the objection as per article 54 of the tax administration proclamation.

However, the law enacted by ERCA for the Establishment of the Review Department and to determine its Working Procedure clearly excludes the application of this law for the case at hand (Directive for the Establishment of Tax Decision Objection Review Department and Determination of working procedure, ERCA, 2017, No. 127. [Here in after, Directive for the Establishment of Tax Decision Objection Review Department). It also provides the criteria for selecting the member of review committee (Category "C" Taxpayers Daily Revenue Estimation Directive, Art 23). However, of all the criteria's listed out under the law, still the law sets having advanced development thinking as a criteria to select the member of objection review committee (Directive for the Establishment of Tax Decision Objection Review Department Art 2(6)&(7). The inclusion of these criteria deteriorate the impartiality of the review committee.

Moreover, the taxpayer has only a single appeal option available under the assessment implementation directive. The objection can be brought before the word objection review committee and one more appeal only to the local ERCA branch office review committee. Can we take the decision of the branch office review committee as final? If so, what will be the remedy for the taxpayers who are aggrieved by the decision of the branch office review committee knowing that the review department established by ERCA as per directive no. 129/2017 is excluded from entertaining tax decision defined under article 2/ 34/ A/ of the tax administration proclamation that is cases regarding to presumptive assessment. Besides, the average daily income assessment directive fails to regulate procedural issues like how and what should be included while the objection is brought, procedures for rendering decision, content of the decision, period of limitation, who shoulder burden of proof and other procedural issues.

CONCLUDING REMARKS

The current tax laws and practices on small business taxation have many drawbacks and we have tried to organize the recommendations that the tax authority should take to address the ongoing implementation problems as follows:

First, the power to revise the Schedules of Standard Assessment and Indicator-Based Assessment is given to the Minister as an individual not as an institution. As per the income tax regulation, the Minister can review and write a circular letter to the ERCA for implementation at least every three years. This is impracticable as a single individual, the Minister, lonely without the involvement of experts cannot adequately revise the Schedules. The delegation given to a single Minister is improper, it should be given to the Ministry at least, and the composition and qualification of the committee, which could review the Schedules, should be properly named under the regulation.

Second, in large and medium size businesses, the pre-trading expenditure of such businesses is taken into consideration in determining the taxable income of such businesses but in small businesses, the pre-trading expenditure does not take into consideration in calculating the taxable income of the small businesses. In dead the life-span of the business is one of the indicators for the assessment of daily income of the small businesses but this is not enough and even in the Indicator-Based Assessment Schedule the pre-trading expenditure of the five sectors of the business is not taken into consideration in calculating the taxable income in which their tax liability is determined by the Second Schedule of the income tax regulation. The failure to take into consideration pre-trading expenditure in small business taxation is one of the drawbacks of the current regulatory framework.

Third, excise tax is not collected pursuant to the provisions of the Excise Tax Proclamation. In practice, the small businesses, which are engaged in the production of luxurious or hazardous goods, are not paying excise tax though the law obliges every business, which is engaged in the production of the luxurious or hazardous goods to pay excise tax regardless of the size of the business. The excise tax law obliges every business to pay its excise tax liability pursuant to the accounting records but in case the where tax authority believe that the taxpayer underestimated its excise tax liability, it can assess the tax liability of the taxpayer by itself and notify to the taxpayer to pay accordingly. The problem is small business are not obliged to keep accounting records from the very beginning and this is addressed by the Daily Income Assessment Directive No. 123/2009E.C and as per Art 7(1) of the directive the annual taxable income assessed shall be used for the collection of indirect taxes including the excise tax; as excise tax is the family of indirect tax. But in practice the tax-authority is not collecting excise tax from small businesses.

Fourth, small business which are engaged in the provision of transport services are obliged to pay self-employment tax if the owner himself derives the car himself but no such type of self- employment tax to other small businesses and this rise the equitability of the tax system. The separate and discriminatory treatment discourages the transport service sector and violates the cannon of equity.

Fifth, no recognition of loss in small business taxation though the small business may get loss in doing its business. The tax law always presumes that small business are profitable only and this is a big drawback and even does not take the market fluctuations as the daily income assessed once applied for the next three or five years without changing the taxable income though there are changes in annual taxable income due to changes in the market.

Sixth, aggregation of income of small business with the other medium or large size of business of the owner is not properly handled in Ethiopia. As it has tried to explain above the standing of the tax-authority was against the aggregation of the income of the small businesses with other business incomes of the owner. Even, the Cassation Bench of the Federal Supreme Court gave a ruling against the aggregation of the income of small business with other business incomes of the person. Both the former and the new income tax proclamation does not have any difference on the issue of the aggregation of income, but what we have observed is the standing of the tax authority is changed and currently the income of the small businesses is aggregated with the income of other businesses of the person if they lie within the same Schedule. For federal taxpayers the income all business irrespective of their size is aggregated and determine the tax liability of the person running different businesses (Interview with Ato Minale Atalay, Customer Tax Education Officer of the ERCA Bahir Dar Branch, *on the issue of small business tax administration*, Tahisas 27, 2010E.C).

Seventh, post-cessation income tax is not collected pursuant to the provisions of the income tax law. Post-cessation income tax is incorporated in the new income tax proclamation to tax that business who recognizes profit after they cease business. The income tax law not only recognizes post-cessation profit but also recognizes post-cessation tax and the taxpayer is expected to pay tax though it has ceased business if it recognizes profit due to the business, which is ceased. Small businesses are not different in this case, and are obliged to pay post-cessation income tax. The federal taxpayers are using the post-cessation income tax to abuse it to sale or transfer an immovable or a vehicle that was owned by the name of the ceased business. The true meaning and intention of the post-cessation tax is diverted and used for abusive purpose. We recommend that the ERCA should not revive the license and the TIN of the ceased business for collecting post-cessation income tax, as the proclamation not mandates for the revival of the license and TIN of the ceased business to collect post-cessation income tax. We also recommend that the post- cessation income tax should not be used for abusive purpose rather those who truly recognize gain after of the cease of the business should only pay tax by the scheme of post-cessation income tax. Those who come to sale or transfer to third party an immovable and or vehicle owned by the ceased business should pay tax with penalty as they were intently hide the material fact at the time of cessation of the business.

Eighth, the Income Tax Proclamation does not properly address the tax implication of the death of the taxpayer, whether the provisions provided for tax treatment of cessation of a business applies by analogy or not is not clear. The tax treatment of the cessation of a business ceased due to the death of a taxpayer should be adequately addressed by amending the provision of the Income Tax Proclamation. However, when we asked what is done on the practice, the standing of the ERCA Bahir Dar Brach and the Amhara Revenue Bureau is far different. The standing of ERCA is when a large or medium size business is ceased due to the death of the taxpayer, the heirs of the deceased taxpayer bring the evidence for the death of the taxpayer and the tax liability of the deceased taxpayer is write-off. In addition, the standing of the Amhara Revenue Bureau is when a business is ceased due to the death of the taxpayer, the tax liability of the deceased taxpayer is calculated up to the date of his death and the heirs are obliged to pay accordingly. The tax treatment of small business up on the death of the taxpayer is the same with the other business and are obliged to pay the tax liability. But what is different is the tax liability of medium and large size business up on death of the taxpayer is calculated by auditing the accounting records and the tax liability of deceased small business taxpayer is determined by taking into account the number of months it stay in business within the tax year.

Ninth, the other loophole that may lead to the avoidance and or abuse is the withholding of employment income tax by small businesses. As we have stated earlier though the tax administration proclamation obliges all business to issue serially numbered receipts for any withholding tax but in practice the small businesses are not issuing serially numbered receipts that could be used to know the real employment income withhold from their employees. We recommend the tax authority to issue a directive as to the way small businesses should withhold employment income tax and give receipt for the employees. Another that may raise in relation to employment income tax is the legality of 'experience letters' wrote by private businesses entities, some institutions which wants to employ workers request the competing employees to bring an evidence that an employment tax is paid to the tax authority. This is intended to tackle forged experience letters that may come from some irresponsible private business entities. However, the ERCA tax officer Ato Minale Atalay told us that the ERCA is not responsible to write a write to every worker of an institution who pay employment income tax by withholding of its employer. This is explained in a circular letter and the letter of experience wrote by a private institution should be accepted without any prerequisite of a letter of payment of employment income from the tax authority. However, we believe that the circular letter, which relieves the tax authority from giving letter evidencing the payment of employment income, creates a loophole for forged experience letters. For this reason, the tax authority should repeal the circular letter and works against forged experience letters.

Tenth, regarding tax administration of small business, there are many problems that should be addressed for instance the composition of committees established to administer the overall assessment of average daily income is not participatory and impartial by the fact that the trade representatives are failed to be represented and also there are so politicized criteria of selecting the members of committees. Moreover, procedural issues like how and what should be included while the objection is brought, procedures for rendering decision, content of the decision, period of limitation, who shoulder burden of proof are not regulated which in effect open the door for maladministration.

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