

# Managing Tax Audits



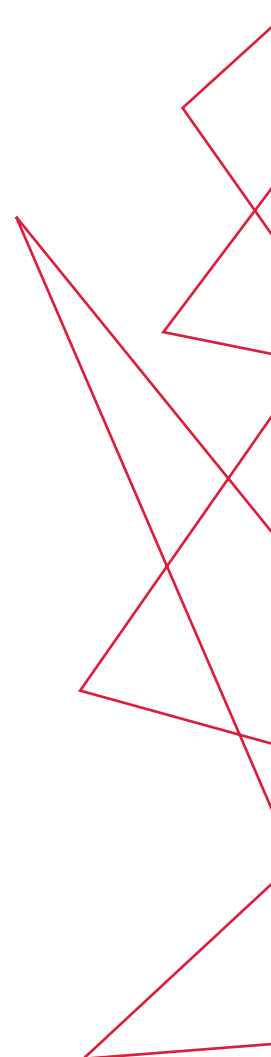
## ABOUT US

CTL Strategies LLP is a firm specialised in providing tax and legal advisory services to businesses. We offer a comprehensive range of tax and legal advisory services to a rapidly expanding client base including family run businesses, high net-worth individuals, SME's to accounting and law firms, local and multinational companies.

Our tax advisory services encompass all aspects of tax related business planning that help our clients achieve a more tax-efficient operational and business structure. This includes advising in corporate re-organizations and consolidations, structured finance and tax-driven transactions.

Along with our team of affiliated international taxation experts, we offer tailored international tax planning and compliance programs for businesses conducting cross-border transactions. Our tax compliance review program can ensure that you comply with all domestic tax laws and regulations, and can also help you avoid unnecessary fines and penalties while optimising your tax position through tax planning.

Tax disputes are the mainstay of our practice and our tax disputes team, comprising of tax attorneys and MIRA licensed tax agents, can represent and assist you in tax audits and investigations by the MIRA, filing tax objections, filing appeals with the Tax Appeal Tribunal and at every stage of tax controversies.





## WHAT IS A TAX AUDIT?

A tax audit, or a MIRA audit, is simply an examination of your accounts and financial affairs to verify that you have declared the correct amount of tax. Generally, the MIRA conducts 2 types of audits:

*Desk Audit:* This is an audit where the MIRA requests for information to verify an amount in your tax return, but does not visit your premises or perform substantive audit procedures.

*Field Audit:* This is the most common type of audit conducted by the MIRA. After notifying you that you have been selected for an audit, the MIRA auditors will visit your premises to inspect and examine your business and financial records. Upon conclusion of the audit, the MIRA will issue a report on the findings of the audit (“Audit Report”) and a Notice of Tax Assessment (“NOTA”).

## WHY ARE YOU SELECTED FOR AN AUDIT?

The MIRA does not usually disclose how and why taxpayers are selected for audit. However, if you are being audited by the MIRA, chances are that you have been selected for one of the following reasons, as listed in the MIRA’s Audit Guide.

1. Random selection.
2. You have a higher risk compared to others (risk is usually assessed through certain criteria set out by the MIRA).
3. The MIRA’s compliance team has observed an issue that needs to be further checked.
4. The MIRA’s compliance focus includes the business activity you are involved in.
5. You have requested for a refund.
6. You are a large taxpayer subject to continuous risk reviews.

## HOW WILL AN AUDIT AFFECT YOU?

Conducting tax audits is one of the key functions of the MIRA. If the MIRA finds that your tax liabilities are not computed or declared in accordance with the law, the MIRA will make an assessment of the amount of tax that you are required to pay. This means that you may end up having to pay additional tax assessed, fines and penalties for short payments. In such cases, fines are applied from the original due date of those taxes.

The best approach in response to an audit will be to prepare thoroughly for it, and at the same time, being aware of your rights and obligations in such circumstances.

## THE AUDIT PROCESS

Neither the Tax Administration Act, nor the Regulation provides a detailed explanation of the actual audit process.. However, the MIRA has issued various publications that provide some detail on the stages of an audit. The basic framework is listed below:

### *1. Notification of the audit*

If you are selected for a tax audit, the MIRA will notify you in writing. You or your representative may also get a call informing you about the audit. The written notification you receive is known as the “Audit Notice” and it will indicate the expected commencement date of the audit, period covered under the audit, and the documents that may generally be examined during the audit. At this point, you may discuss with the MIRA and decide on a time that the audit may take place, your contact point and the principal place where the MIRAs auditors may conduct audit work.

### *2. The first meeting*

Prior to commencing the audit, the auditors assigned by the MIRA to conduct your audit will generally conduct an interview with you or your representative. This meeting is focused on understanding your business, your record keeping process, the scale of operation, and other information that may be necessary to start the audit.

### **3. Field work**

After the first meeting or interview, the MIRA auditors start the audit by reviewing your business records. Often, this involves observation and examination of your business procedures, processes, internal controls and documents. If the MIRA auditors require any additional documents, they will request that you provide them. Usually, such requests may be made informally (verbal or email), but in some instances, they may issue a formal Document Request Notice (“DRN”) specifying certain documents that they require.

In case the MIRA sends a DRN to you, you have 30 days to produce the documents indicated in the notice. If you have reason to believe that the documents are not relevant to the audit, you have the right to appeal that notice to the Tax Appeal Tribunal (“TAT”). Unlike other appeals to the TAT, you need not file an objection to the MIRA before filing the appeal to the TAT.

### **4. Communication of audit findings**

Upon completion of the audit procedures, the MIRA will usually contact you to discuss the findings of the audit and the amount of tax and fines assessed. If you disagree with any of the points raised in the draft assessment, you should discuss the matter with the auditor and formally raise your concerns in writing.

### **5. The final report**

After you comment on the draft Audit Report, the MIRA will issue a final Audit Report. This report will point out the audit findings, and will be issued with a NOTA that shows any additional taxes that you need to pay. If the audit is for a period for which you have filed a tax return, the MIRA’s assessment will also include adjustments that have been made to your tax returns.

### **6. Settling payment**

If the MIRA makes an assessment of an additional amount of tax, you have 30 days from the date of the NOTA to make the payment. If the outstanding payment is not settled within 30 days, the MIRA will commence with enforcement actions as per the Enforcement policy of the MIRA.

It is advised that you settle the payment of additional tax as early as possible as fines keep on accruing from their original due date upto the date of payment regardless of what date that may be. If you are unable to make the payment in its totality, you may submit a request with the MIRA to allow you to make the payment by way of an instalment agreement with the MIRA. The MIRA has the discretion to reject instalment payment requests.

You must take note that even if you are allowed to pay under an installment agreement, fines will keep accruing until the outstanding amount is fully settled.

## *7. Resolving disputes*

If you disagree with the final Audit Report and you think that the MIRA's assessment of tax does not truly reflect your tax liabilities, you can formally object to the MIRA in writing. Your objection must be filed within 30 days of the Notice of Tax Assessment and must be lodged using a MIRA 903 form. You are not obliged to settle the outstanding amount of tax and fines at this point. However, fines accruing from non payment of additional tax assessed by the MIRA will keep on accruing until you settle the outstanding amount.

It is advised that you seek assistance of a tax advisor when you file an objection as it is important to strategically raise your grounds for objection. These grounds will be the basis for an appeal with the TAT in case the MIRA disallows your objection.

## *8. Appeal to the TAT*

Once you file an objection, the MIRA will review your objection and issue an "Objection Review Report". If the MIRA has disallowed your objection, you may lodge an appeal with the Tax Appeal Tribunal. You must settle all outstanding taxes and fees before filing an appeal even if those outstanding payments do not relate to the amounts stemming from the disputed matter. It is advised that you appoint a professional tax advisor or a legal counsel who can represent you at the Tax Appeal Tribunal.

## KNOW YOUR RIGHTS

To successfully and effectively manage a tax audit, it is important to know your rights as a taxpayer. Particularly important are your rights with respect to professional and courteous treatment by the MIRA, to privacy and confidentiality, to seeking professional help and to seek legal representation.

*“ You can seek professional help  
and legal representation ”*

## MATTERS TO CONSIDER IN AN AUDIT

Below are some points to keep in mind in managing a tax audit.

### *1. Prepare for the audit, before audit*

The most important thing you can do in an audit is to prepare well before the commencement of the audit. When preparing your tax returns, make sure that all your documents are in order, and that you keep record of all the reports used to prepare tax returns including any adjustments made to those reports and the details of those procedures. You must be able to explain to the auditors how you have worked out the figures in your returns. The best way to do this is to keep records of all your workings.

### *2. Communication is key*

Ignoring requests from the MIRA does not make the MIRA stop the audit. Ensure that the MIRA has your current email address and mailing address at all times. If your chief financial officer or accountant is unavailable for an extended period of time, inform the MIRAs auditors. If you do not respond to their requests, The MIRA may make an “administrative assessment” based on their estimates of your tax liability. Usually such an administrative assessment is likely to affect you adversely, and therefore it is important that you co-operate with the MIRAs auditors and respond to all their requests in a timely manner.

### *3. Keep your records in order*

Always hold on to any documents regarding tax deductions, taxable income and input tax credits. It is also important that you organise the records in such a way that you would be able to produce them when requested by the auditors. You should not destroy any business records, before 5 years from the end of the tax year to which the documents relate, unless authorized by MIRA.

### *4. Use your time wisely*

In situations where calculations and estimates are being made by the MIRA to arrive at the estimated tax liability, carefully review those calculations. When in doubt, always ask for more details from the MIRA auditors. When the draft audit report is shared with you, make sure that enough time is spent on reviewing the calculations and clarifying the issues highlighted. Also, look for any factual mistakes and errors in the report.

### *5. Be straight to the point*

Always go straight to the point in answering the questions asked by auditors. Poorly answered or undocumented answers may lead to undesirable outcomes. Do not hesitate to provide all information requested by the auditor - no more and no less should be provided.



## HOW WE CAN ASSIST YOU

Having a competent tax advisor can go a long way in ensuring that your rights as a taxpayer are protected and the application of the law is fair and balanced. This is crucial, especially in cases where you believe that the MIRA is not following due process or you are not in agreement with the MIRA on how your tax liabilities are assessed or when you disagree with their interpretation and application of the law.

*“ Let the professionals manage your audits  
so you can focus on things that matter more ”*

You or your accountants might not be in a position to handle the tax audits or potential tax disputes that may arise from an audit. Enlisting the help of specialists will ease the burden created by the audit on your business. At CTL Strategies LLP, we help our clients by engaging with them and representing them throughout the entire process of tax audits. Our team of tax experts, lawyers and chartered certified accountants are well-versed in the audit process from an administrative and legal standpoint. We shall assist you in preparing the supporting documents and explanations that you may be required to submit, and advise you on how they should be presented to the MIRA.

If you would like us to manage your tax audits, we recommend that you engage us at the early stages of the audit. This will help us work through the audit, attempt to resolve any “grey areas” and assess any potential ramifications and implications as early as possible. In our experience, managing audits from the outset enables will help us achieve a better result for you.

After the conclusion of the audit, if you are of the opinion that the MIRA’s assessment is not fair, we can also assist you in filing an objection to the MIRA. If you are not happy with the outcome of your objection, we can also represent you at the Tax Appeal Tribunal and at all stages of the Court process.

If you receive an audit notice from the MIRA and require our assistance, you may contact Madeeh Ahmed, who leads our audit management team at [madeeh@ctlstrategies.com](mailto:madeeh@ctlstrategies.com).

## OUR TEAM

### Madeeh Ahmed, ACCA

Having worked at the MIRA's audit department for more than 5 years, and being responsible for supervising and advising tax audit teams at the MIRA as the Director of Audits, Madeeh is extensively experienced in managing tax audits. With his experience in and exposure to complicated tax and accounting issues, Madeeh leads our audit management team and ensures that the protection of our clients' rights in every step of the audit process.

### Hamdhulla Hussain, ACCA

Prior to joining CTL, Hamdhulla headed the Objections Unit at the MIRA for more than 2 years and therefore has a deep understanding of dealing with tax disputes and controversies. Hamdhulla's background as a chartered accountant and extensive experience in financial audits and in handling tax disputes enables him to take on the most challenging cases while achieving outstanding results for our clients.

### Ali Naeem

Ali, from our Tax Disputes Practice team, takes a special interest in our tax audit management assignments. Ali worked at the legal services department of the MIRA and was responsible for dealing with tax objections and appeals by taxpayers. Ali had represented the MIRA at the TAT and High Court on various tax cases. He now acts for both corporate and individual clients and frequently advises law firms and other professional firms on contentious tax matters and disputes.

