

# EVALUATION OF THE EFFICIENCY OF STANDARD ASSESSMENT FOR CATEGORY C TAXPAYERS IN ETHIOPIA: THE CASE OF TIGRAY REGIONAL STATE

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## Abstract

*This article evaluates the application and efficiency of the Ethiopian standard tax assessment, as enshrined in the Income Tax Regulation No. 78/2002, against the tax liability of Category C Taxpayers, commonly known as small business taxpayers, referring to the practice in Eastern Zone Administration of the Tigray National Regional State. This mode of tax assessment was introduced to ensure the basic principles of tax systems such as equitability, efficiency, certainty, simplicity etc; as opposed to the situation when the tax regime is employing estimated tax assessment for the same purpose. It is found that there is a contradiction between the rules of standard tax assessment and their practical application, since the actual tax liability of the large section of the Category C Taxpayers is being assessed according to estimated taxation and this practice is incurring higher cost of administration. This article argues that the practical assessment of tax liability of Category C Taxpayers is not ensuring efficiency and the practice has to conform to the rules of standard tax assessment to meet efficiency; yet the criteria for categorization of taxpayers into Category C Taxpayers must be revised to fit the actual incomes of taxpayers to ensure equity and equality.*

**Keywords:** Category C, Efficiency, Ethiopia, Presumptive taxation, Standard assessment, Taxpayers, Tigray

## I. INTRODUCTION

In different tax regimes of many countries, taxes are levied on different sources of income classified in to some number of segments. Largely, countries set their source of income tax taxpayers in to small, medium, and large taxpayers mainly depending on the amount of income derived by the taxpayers. Tax law frameworks of different countries including Ethiopia provide specific rules governing the assessment method, tax rate, accounting period, deduction, exemption, and other related guidelines for each of the above listed group of taxpayers. Although the impacts of application of different types of income tax assessment mechanisms would also deserve discussion, the theme of this article is on the ‘efficiency’<sup>1</sup> of the standard assessment as implemented for assessing income tax liability of the small businesses, contextualized as ‘Category C Taxpayers’<sup>2</sup> in Ethiopia.

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<sup>1</sup> From the public finance theory perspective efficiency stands for delivering maximum results from limited resources. See LEE BURNS AND RICHARD KREVER, *Taxation of Income from Business and Investment*, in TAX LAW DESIGN AND DRAFTING 2, 1-36 (Victor Thuronyi ed., 1998)

<sup>2</sup> In this article, category C taxpayers are based on the terminology given to them under the Income tax Proc. no. 286/2002, considered as the taxpayers whose annual income turnover is less than or equal to 100,000 Birr.

During the initiation of the Income Tax Proclamation No.286/2002<sup>3</sup>, there have been many expectations to be optimistic in one hand and concerning issues on the other hand about the efficiency of the provision of standard assessment to assess income tax liability of category C taxpayers. The expectations emanate from the very nature of standard assessment and its supposed solution for easing the problems that used to be manifested. Conceptually, income tax assessment refers to an impartial determination of the amount of tax for a given item that is subject to taxation. However the subsequent enactment of the regulation for the better regulatory purpose has come with a little room for reducing the inherent problems of the hard to tax categories or groups. The prevailing shortcomings of tax assessment of these groups include investment of extra administration cost, escaping of tax net, under-taxation, low tax compliance behavior, and/or uncertainty on the part of the tax authority and taxpayers attributable to the difficulty of locating the actual amount of tax liability to be paid.<sup>4</sup>

## II. PRESUMPTIVE INCOME TAX ASSESSMENT

Presumptive taxes are taken as one of the oldest types of taxes dating back to the 18<sup>th</sup> century where tax liability has been assessed based on the whole asset of taxpayers and other related parameters than the actual income or revenue of the taxpayer.<sup>5</sup> Income tax assessments made on the basis of this technique involve employment of surrounding indirect factors to determine the actual taxable income and tax liability.<sup>6</sup> According to Victor Thuroyni, a renowned scholar on taxation:

*The term "presumptive" is used to indicate a legal presumption that the taxpayer's income is no less than the amount resulting from application of the indirect method. The concept covers a wide variety of alternative means of determining the tax base ranging from methods of reconstructing income based on administrative practice, which can be rebutted by the taxpayer, to true minimum taxes with tax bases specified in legislation.<sup>7</sup>*

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Though the turnover can be varied by the Ministry of Finance and Economic development, currently, Category C taxpayers are termed under art. 19(3) of the Income Tax Regulation No. 78/2002 as Category C, unless already classified in Categories "A" and "B" those whose annual turnover is estimated by the relevant Tax Authority as being up to Birr 1000,000 (one hundred thousand Birr).

<sup>3</sup> *The Income Tax Proclamation*, Proclamation No. 286/2002, FED. NEGARIT GAZETTA, 8<sup>th</sup> year No. 34 4<sup>th</sup> July 2002.

<sup>4</sup> Zerihun Asegid, *Presumptive Income Taxation of Small Business in Ethiopia; The Law and Practice relating to standard assessment in Addis Ababa city 75* (July 2013) (Research paper submitted to Mekelle University for the Award of Master's Degree in Laws of Taxation and Investment). The author provides that Estimation of daily sale has remained the main source of conflicts between taxpayers and the Authority. Media outlets, meetings organized by the Authority and review committees have been some of the places where one can visualize how the problem is serious. Not only the cause it inflicts on taxpayers within the same category to pay the same tax under standard assessment, the practice has brought varied tax liabilities for taxpayers in similar occupation because the estimates were subjective and based on the personal observation of the tax officers and the estimates have also made taxpayers not to be certain about their tax liability.

<sup>5</sup> Konstantin Pashev, *Presumptive Taxation and Gray Economy: Lessons for Bulgaria*, 4 (Dec. 2015) (WP 0512/1, Center for the study of Democracy) <[https://www.files.ethz.ch/isn/29878/2005\\_12\\_Presumptive.pdf](https://www.files.ethz.ch/isn/29878/2005_12_Presumptive.pdf)>, accessed on July 2016.

<sup>6</sup> 'The term presumptive taxation covers a number of procedures under which the desired base for taxation (direct or indirect) is not itself measured but is inferred from some simple indicators which are more easily measured than the base itself. See also EHTISHAM AHMAD & NICHOLAS STERN, *THE THEORY AND PRACTICE OF TAX REFORM IN DEVELOPING COUNTRIES*, 276 (Cambridge Univ. Press, 1991).

<sup>7</sup> VICTOR THURONYI, *Presumptive Taxation in TAX LAW DESIGN AND DRAFTING*, 1 Chapter 12 (Victor Thuronyi ed., Vol.1; IMF: 1996)

Though there are variations on the initiation and justifications of presumptive taxes across countries, it is believed that objectives behind the introduction of presumptive taxes are improving the efficiency of collection by reducing taxpayers' 'administrative and compliance costs; reducing the administrative costs of compliance and enforcement management; and bridging the way from informal to formal activities and from assessment based on indicators to self-assessment based on actual income.'<sup>8</sup> From such policy objectives, presumptive taxation techniques are taken as a device to minimize the share of shadow economies/businesses, increase efficiency, and fighting corruption by shielding the interactive contact between taxpayers and tax assessing employees.<sup>9</sup>

Similarly, Thuroyni has given the justification/reasons behind the introduction of presumptive techniques stating:

*First is simplification, particularly in relation to the compliance burden on taxpayers with very low turnover.... Second, is to combat tax avoidance or evasion..... Third, by providing objective indicators for tax assessment, presumptive methods may lead to a more equitable distribution of the tax burden, when normal accounts-based methods are unreliable because of problems of taxpayer compliance or administrative malpractice. Fourth, rebuttable presumptions can encourage taxpayers to keep proper accounts, because they subject taxpayers to a possibly higher tax burden in the absence of such accounts. Fifth, presumptions of the exclusive type can be considered desirable because of their incentive to a taxpayer who earns more income in which he/she will not pay more tax. Finally, presumptions that serve as minimum taxes may be justified by a combination of reasons (revenue need, fairness concerns, and political or technical difficulty in addressing certain problems directly).<sup>10</sup>*

Generally, we can infer that presumptive taxation is one of the techniques that serve to assess taxable income and tax liability of taxpayers without obliging to keep record of income and expenditure. On the other hand, there is no uniformity in applying the presumptive taxation in each tax regime as different types of presumptive methods exist in different countries. However, the most notable methods of working with presumptive taxation are standard presumptive assessment and estimated presumptive assessment.<sup>11</sup>

### **A. Standard Assessment**

One of the two presumptive tax approaches frequently applied by presumptive tax rate approaches for tax assessment is the standard assessment, which assesses "a given amount of

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<sup>8</sup> Pashev, *supra* note 5, at 4.

<sup>9</sup> *Id.*

<sup>10</sup> THUROYNI, *supra* note 7 at 3. See also Kyle D. Logue & Gustavo G. Vettori, *Narrowing the Tax Gap through Presumptive Taxation*, 2 COLUM. J. TAX. L. 121, 101-149 (2011) [www.repository.law.umich.edu/cgi/viewcontent.cgi?article=2730&context=articles/](http://www.repository.law.umich.edu/cgi/viewcontent.cgi?article=2730&context=articles/) accessed on June 12 2016.

<sup>11</sup> Estimated tax assessment is a method of tax assessment in which 'tax authorities use indicators of business activity to presume profits or tax liabilities whereas, the standard presumptive tax assessment assesses income tax burden of a given tax-payer based on a given set of criteria.' For further elaboration see Yury Valevich, Dirk Kieseewetter (Coach), Alexander Chubrik (Lector) Minsk, Proposals for Further Improvement of the System of Presumptive Income Taxation of Individual Entrepreneurs in Belarus, 3 (Sep. 2004) (PP/11/04 IPM research center), <<http://www.bsu.by/Cache/pdf/303183.pdf>> accessed on July 3, 2016.

taxpayers' taxable income using a simple lump-sum tax based on the average income of a particular trade or profession".<sup>12</sup>

Such method of income tax assessment is typically considered as a model of presumptive tax assessment which applies an objective reference to fix the standard amount of taxable income and tax liability.<sup>13</sup> Assessments are made taking average income of the respective occupations, and/or businesses working an average hours using an average effort.<sup>14</sup> In principle, this income tax assessment modality is taken as an approach of assessment which is 'irrebuttable'<sup>15</sup>, and exclusive.<sup>16</sup> Based on a research carried out by Mr. Helawy Tadesse and Gunther Taube on experiences and prospective of presumptive taxation in sub-Saharan Africa, it is stated that, standard assessment is represented by the Tachshiv of Israel and complemented;

*The Tachshiv of Israel is widely referred as the most elaborated standard assessment method .... the Tachshiv for each industry was prepared, often over several years, after extensive research and many visits to a sample of businesses. The average profitability of a particular industry and its relationship to the specific indicators were discussed with representatives of the industry before the official tachshiv was issued. Examples of the indicators employed included location, seating capacity (for restaurants), number of employees, skill level of employees (for carpenter's workshops or garages), and etc.*

In addition, other researchers have also asserted that payments made under standard income tax assessments are fixed lump-sum in nature.<sup>17</sup> When Helaway and Taube illustrate such behavior of the Ghanaian Standard Income Tax Act of 1963, as an example, they state that;

*The standard assessment Act decreed that "all persons carrying out any trade, business, or profession in any year must register with the Commissioner of income tax, and specific lump-sum tax payments based on occupational grouping were established". There are thirty three sectors in which their income tax assessment is made and prepared on the basis of standard assessment. All of these sectors need to obtain annual tax clearance certificates to be displayed on their premises, as a proof of payment.*<sup>18</sup>

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<sup>12</sup> Helawy Tadesse, & Günther Taube, Presumptive taxation in Sub-Saharan Africa; Experiences, and Prospects 12 (January 1996) (WP/96/5 IMF African Department). Available at [www.imf.org/external/pubs/ft/wp/wp9605.pdf/](http://www.imf.org/external/pubs/ft/wp/wp9605.pdf/) accessed on July 3, 2016.

<sup>13</sup> Valevich *et al*, *supra* note 11.

<sup>14</sup> *Id.*

<sup>15</sup> Presumptive income taxation can be rebuttable and irrebuttable. Rebuttable taxation is one that can be appealed by the taxpayer through proving that his actual income, calculated under the regular rules, was less than that calculated under the presumption. By contrast, irrebuttable taxation cannot be appealed. As a result, rebuttable taxation can encourage taxpayers to keep proper accounts, because they subject taxpayers to a possibly higher tax liability in the absence of such accounts. See Valevich *et al*, *supra* note 11, at 2.

<sup>16</sup> Another ground for classification of presumptive income taxation is classification into formal and discretionary taxation. Formal taxation means determination of tax liability according to the established rules. By contrast, discretionary taxation assumes a high degree of tax authorities' discretion while determining tax liability. Hence, it appears that formal presumptions are less open to corruption and administratively simpler. But formal presumptions are considered as less equitable because they don't take into account taxpayer-specific conditions. See Valevich *et al*, *supra* note 11, at 3.

<sup>17</sup> Helawy Tadesse, & Günther Taube, *supra* note 12, at 12. This research has further disclosed the adoption of the system in most federal states like Nigeria, Mozambique, Lesotho, Sierra leon, and Ethiopia was made in the 1960's and 1970's.

<sup>18</sup> *Id.*

This shows the fact that an idle enforcement of the standard income tax assessment was placed in the Ghanaian income tax act. This can be inferred from the comprehensive netting of all traders, business men, and professionals for registration and making them subject to specific lump-sum payments based on groupings.

In addition to the above points, the above researchers on presumptive taxation have put the initial intention of the country on introducing the technique suggesting the reason 'of imposing minimum tax on the different occupations/businesses' before they serve as a final tax liability at latter times.<sup>19</sup> However, stipulation of the income tax act in the above country case, and a standard assessment in general, to assess their tax liability on a lump-sum basis doesn't mean that every taxpayer in every grouping shall be subject to the same tax liability.<sup>20</sup>

Regarding the bases of income tax assessment, the standard assessment technique of Ghana has employed different factors such as the number of service years, and size of means of conducting business and/or trade to levy the actual income tax.<sup>21</sup> In other developing countries more or less means of standardizing the lump-sum standard assessments have been used. Countries like Burkinafaso, Rwanda, and Ethiopia have respectively applied locality, construction of business premises, and the use of freight and seating capacity, for standard assessment of transport vehicle owners.<sup>22</sup>

### ***1. What Merits does Standard Assessment have?***

The application of standard assessment to different occupation-specific assessments as described in the above topic has been one of the most preferable tools in many countries; especially in developing countries for different reasons.

First, administration of standard tax assessment is simple in nature.<sup>23</sup> The principal role of the government under standard assessment is to ascertain the remittance of the actual owed presumptive tax liability of such taxpayers.<sup>24</sup> For example, a fixed lump-sum tax imposed on a given sector or category under standard assessment is not heavily dependent on the

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<sup>19</sup> *Id.*, at 13.

<sup>20</sup> Emmanuel G. Ofori, *Taxation of the Informal Sector in Ghana: A Critical Examination*, 22 (May, 2009) (A Dissertation presented to the Institute of Distance Learning, Kwame Nkrumah University of Science and Technology for the award of MA in Business Administration) <<http://ir.knust.edu.gh/bitstream/123456789/583/1/Emmanuel%20G.%20Ofori.pdf>> accessed on July 5 2016. In this case, the researcher illustrates the specific treatment of groups under similar sector taking the Taxi and Intra-city transport service taxpayers which are made subject to separate treatment.

<sup>21</sup> As an example, he has presented the fact that 'medical doctors and dentists had to pay varying lump-sum taxes according to the number of years in practice while the lump-sum amounts paid by fishermen were calibrated by the length of their fishing vessels.' See Helaway Tadesse, & Günther Taube, *supra* note 12 at 13.

<sup>22</sup> *Id.* Not only these tax regimes but other countries of the Sub-Saharan Africa have also adopted the standardized income tax assessment for their different sectors based on different adjustment imputes. For example, in this research, the researchers have denoted the regulation of the agricultural sector by standard income tax assessment explaining as "calibrated standard payments are also used to tax agricultural incomes, based on various indicators. Mostly standard assessments or levies for the agricultural sector has been based on the crop planted, area covered, average yield, and number of livestock. Apart from this in countries like Mozambique, the payment depends on the fact that whether the farmer uses a tractor or not?" *For the Ethiopian case, see The Council of Ministers Income Tax Regulations*, Regulation No. 78/2002, FED. NEGARIT GAZZETA 8<sup>th</sup> Year, No.37, Addis Ababa, 19 July 2002, Annexed schedule II.

<sup>23</sup> Logue & Vettori, *supra* note 10, at 126. See also Pashev, *supra* note 5, at 7.

<sup>24</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 14.

investigative assessment of the taxpayers income; instead, an 'average income is presumed to be earned by members of a particular occupation'.

Secondly, imposing of an average lump-sum tax on taxpayers who fulfill common minimum threshold within a group provides them ancillary incentive for extra gain earned above the average standard tax.<sup>25</sup> Such incentives will consequently encourage taxpayers to exert additional effort which can boost up their respective productivity and economic efficiency.

Thirdly, viewed from the principle of equity, it enables to rectify horizontal tax equity of small businesses which operate in a shadow economy/market.<sup>26</sup> This is realized by the reason that narrowness of tax base and specifically, exclusion of small business taxpayers operating outside the knowledge of a tax administration can be easily captured into the tax base by a simple formulation of standard tax assessment for a given sector.

Fourthly, standard tax assessments enable to 'minimize opportunities for corruption and collusion since there is discretion on the side of the tax official; instead, lump-sum taxes are predetermined and derived from tables or matrices that simply show occupation on one side and a corresponding tax liability on the other.'<sup>27</sup>

Finally, standard assessment is considered as a tool to trap informal business/trade operations which operate in a covert economy to be brought in to the eyes of the tax administration thereby become subject to tax levy.<sup>28</sup>

## ***2. Demerits of Standard Assessment***

Viewed from other perspectives, standard assessment is not without limitation. The first and commonly known demerit of standard assessment is its 'poor performance with respect to resource mobilization.'<sup>29</sup> This is due to the fact that the fixed standard tax payment assessments by a tax regime are mostly based on the minimum income threshold which causes assessment of the average tax that does not exhaustively tax income of higher income gaining small business taxpayers.<sup>30</sup> As a result, the income tax revenue that would be collected from a group of taxpayers above the average standard tax assessment line shall be missing.

Secondly, tax assessments made on the basis of standard approach are less adaptive to economic changes as they are most of the time drawn at a time giving no or little consideration to the possible short and long run economic fluctuations, if any.<sup>31</sup> In this regard, if the tax system fails to be flexible to the new economic indicators typical principles of taxation such as equity shall be distorted as the tax rate of a given group will remain unchanged despite of the alterations on economic variables.

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<sup>25</sup> *Id.* This is true, since a given group of taxpayers who has been subject to the same standard tax payment may gain a profit beyond the average ground of lump sum tax assessment which shall be taxed at a zero rate resulting in an additional economic benefit to the taxpayer.

<sup>26</sup> *Id.* See also Ofori, *supra* note 20, at 21. In this case, the researcher stipulates that inclusion of the potentially excluded small business taxpayers in to a tax base promotes horizontal equity in a given tax system.

<sup>27</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 14.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*, at 15.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

Thirdly, standard tax assessment violates important economic principles. Whereas the first shortcoming of such tax assessment technique is its weakness to recognize relevant economic realities such as loss to determine the standard assessment tax liability. Secondly, it is against the principle of progressivity of a tax system in that taxpayers with a better earning of income are taxed with taxpayers of lower income earners equally.<sup>32</sup>

Generally, while standard assessment approach is formulated for administrative simplicity and increment of tax compliance behavior for taxpayers currently, its application is getting limited in scope.<sup>33</sup>

### **B. Estimated Assessment**

Under this type of presumptive tax assessment method, tax liability is assessed by taking indicators which are specific to a given business/trade, and/or occupation.<sup>34</sup> Tax liability of a given taxpayer is assessed taking one or more relevant indicating factors such as the size of production facility, quantity of stocks, quality of means of production, and capacity of supplying a given service.<sup>35</sup> After an estimation of income is made based on these factors and other similar measurements; final tax liability is fixed either by direct application of an existing business tax rate to the estimated income or presume tax liability having regard to the income assessed.<sup>36</sup>

On comparing the two common forms of presumptive taxation, 'estimated assessments are considered as a somewhat more refined and sophisticated presumptive taxation techniques than standard assessments.'<sup>37</sup> This was supplemented with an argument which reasons out assessment based on indicating factors is more effective and relevant than an assessment made on the basis of similar grouping in that grouping under similar category does not directly lead in to a closer amount of income.<sup>38</sup> In addition, estimated assessments are taken as more advantageous than standard assessments due to their room to consider business or occupation based losses.<sup>39</sup>

On the other hand, standard assessments take comparative advantage over estimated assessment having the nature of estimated assessment which opens a door for an individual interaction of tax administration and taxpayers due to the discretion provided to a given tax authority to investigate estimated income of a given taxpayer.<sup>40</sup> Impliedly, such interactions between the parties create possible loopholes for corruption. Similarly, though the employment of indicators to assess income tax liability of a taxpayer has a prevailing benefit

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<sup>32</sup> *Id.* Becoming subject to the same tax burden because two lawyers or doctors are in a similar occupational category distorts vertical as well as horizontal equity. *See also* Logue & Vettori, *supra* note 10, at 126.

<sup>33</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 14. The researchers stated that 'In Ghana where, standard assessment has had a longer and more extensive application than anywhere else in Africa, its role in the tax system has gradually been minimized.' They have also added that such group of taxpayers are currently becoming obliged to keep record so that their tax liability is assessed based on the income registered in the account. *See also* Zerihun Asegid, *supra* note 4, at 41.

<sup>34</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 14.

<sup>35</sup> Valevich *et al*, *supra* note 11, at 3.

<sup>36</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 15.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* This is due to the fact that extra gaining/profit from extra works or business expansion could be taxed more accurately under estimated assessment than under standard assessment.

<sup>39</sup> *Id.*, at 16.

<sup>40</sup> *Id.*, at 16

over the other assessment methods, the selection of better ‘indicators’<sup>41</sup> pose a challenge to a tax authority.<sup>42</sup>

Regarding the common indicators used by developing countries for estimated assessments, they are illustratively given as: ‘the size of business’s premises; the number of employees; the skill of employees; the amount of installed machinery, and the level of inventory’ whereas specific indicators of service recommended are indicators ‘such as seating capacity of a restaurant or the number of rooms in a hotel.’<sup>43</sup> Other ancillary mechanisms such as questioning of businesses which have business transaction with the taxpayer may also be devised by tax authorities to find out an income assessed.<sup>44</sup>

As stated above, despite estimated tax assessments capacity to tax taxpayers based on their individual performance taking particular indicators, its administrative difficulty added with its tendency to corruption makes it less preferred.<sup>45</sup> On the other hand, due to estimated tax assessments requisition of detailed tax assessment report and investigation, several minimum conditions should be fulfilled. Some of the minimum requirements identified to be complied with are:

*First, the tax administration must have the technical resources to make detailed studies of profitability by type of activity, and second, an adequate number of tax officials must be available to verify information provided by taxpayers about the characteristics of their business. Third, because the system involves discussions between officials and taxpayers on the level of the assessment, officials must be strictly supervised and adequately paid.*<sup>46</sup>

Having set the above minimum grounds, scholars warn that failure to fulfill any of the above requirements deprives effectiveness of the estimated tax assessment.<sup>47</sup>

### III. WHAT MAKES STANDARD ASSESSMENT EFFICIENT?

Theoretically, income tax assessment and generally tax systems are judged from many iconic perspectives such as efficiency, equitability, neutrality, certainty, potential of the tax

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<sup>41</sup> On the criteria to identify a good indicator factor, it is advised to use ‘level of observability and recordability of the indicator; the level of falsification and concealment of the indicator; and thirdly, the correlation of that indicator to income and the stability of that correlation over time.’ Based on these criteria, indicators which are ‘recordable, difficult to falsify or substitute, and indicators with strong correlation to income are taken as better indicators that enable to reach at a better assessment. See Helaway Tadesse, & Günther Taube, *supra* note 12, at 16.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* Occupations such as, transport services can be assessed by easy recordable indicators such as passenger capacity or cargo space. Some creative tax authorities of some countries have also resorted to more sophisticated techniques such as the electric, and water bills.

<sup>44</sup> *Id.*, at 17.

<sup>45</sup> The administrative difficulty arises from the very nature of estimated tax assessments in which the assessments tend to require deployment of hefty labor and financial resources while its tendency for corruption is connected with the physical interaction and discretion of assessment of the tax officers with the taxpayers.

<sup>46</sup> Vito Tanzi & Milka Casanegra de Jantscher, Presumptive Income Taxation: Administrative, Efficiency, and Equity Aspect 12 (August 17, 1987) (WP/87/54 IMF Fiscal Affairs Department) <<http://www.imf.org/external/pubs/ft/wp/wp8754.pdf>> accessed on July 3, 2016. The authors also described that enforcement of estimated tax assessment, especially in countries with an inadequate resources is not easy raising the fact that such countries which have tried such formulation in history had remained with a flawed system.

<sup>47</sup> *Id.*, at 13.



system to adapt to inflation and other macro-economic changes, etc.<sup>48</sup> From the public finance theory's perspective, efficiency stands for delivering maximum results from limited resources.<sup>49</sup> Unreasonably high taxes may discourage taxpayers from doing extra work, since the marginal gains from each additional unit of effort is decreasing. For the sake of evaluating a given income tax system from the efficiency's point of view, it demands the lowest tax burden on businesses and individuals.<sup>50</sup> When a given income tax system makes any types of economic reforms with respect to taxes, it can affect economic efficiency and ultimately living standards in many ways.<sup>51</sup> This could for instance happen in a situation where a government carries-out its income tax assessment in a form that increases the tax burden or tax rate on the taxpayers. In this circumstance, even though it is possible to improve the revenue of the government, the welfare of the taxpayers could be threatened. As such, it is advisable for the government to pursue tax reform without or with little increment of the overall tax burden. Apart from the level of the tax burden, the way any given amount of tax revenue is raised may also have effects on efficiency.<sup>52</sup> Any additional tax burden may tend to discourage the activity on which it is imposed. It follows that the more comprehensive the tax system is the less distortion there will be of the relative rewards of different types of work, of the relative attraction of work and leisure, of the relative returns from different types of investment, and of the relative prices of goods and services.<sup>53</sup>

Generally, efficiency, is supposed to be secured under presumptive income tax assessment than in an assessment of actual income.<sup>54</sup>

#### IV. THE LEGAL FRAMEWORK OF STANDARD ASSESSMENT IN THE ETHIOPIAN CONTEXT

As stated under the preceding section, traditionally the Ethiopian income tax system dates back to Axumite kingdom; whereas, the beginning of modern tax system traces back to the 1941.<sup>55</sup>

Regarding the history of beginning period of the income tax assessment, it is believed that Ethiopia income tax system was inhibited by the presumptive taxation model.<sup>56</sup> That is to say, the taxable incomes had not been inferred from taxpayers' accounts. Rather, various proxies were used to establish tax liability of different taxes.<sup>57</sup> For example, under the Land Tax Proclamation of the 1942, land tax has been assessed based on the fertility of land classified as fertile, semi fertile, and poor land with respective 15, 10, and 5 Birr income tax

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<sup>48</sup> Daniel J Pilla, *Ten Principles of Federal Tax Policy 2013* cited in Tadesse Lencho, *The Ethiopian Income Tax System: Policy, Design and Practice* 43 (2014) (A dissertation submitted to University of Alabama for the award of LL.D Degree in Taxation Laws) <[http://www.acumen.lib.ua.edu/content/u0015/0000001/0001504/u0015\\_0000001\\_0001504.pdf](http://www.acumen.lib.ua.edu/content/u0015/0000001/0001504/u0015_0000001_0001504.pdf)> accessed on July 3, 2016.

<sup>49</sup> See Zerihun Asegid, *supra* note 4, at 36.

<sup>50</sup> *Id.*, at 37.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*, at 38.

<sup>54</sup> Helaway Tadesse & Günther Taube, *supra* note 12, at 9. The authors added that, the most indicating criteria for the detection of efficiency of the tax assessment is to comparatively use relatively small amount of administrative cost for tax assessment.

<sup>55</sup> Tadesse Lencho, *Towards Legislative History of Modern Taxes in Ethiopia (1941-2008)*, 25 JOURNAL OF ETHIOPIAN LAW 106, 104-158 (2012).

<sup>56</sup> See Zerihun Asegid, *supra* note 4, at 42.

<sup>57</sup> *Id.*

per *Gasha*.<sup>58</sup> Regarding, the design or the tax structure, there were three Schedules (A-C). Schedule C income tax ladder was standing for business income tax sources and subcategorized in to class A, class B, and class C categories.<sup>59</sup>

It was after the enactment of the Income Tax Decree of 1956 that businesses were brought under differed treatment in calculating tax liability and keeping of record.<sup>60</sup> For the first time, businesses other than those identified as small ones was obliged to keep book of accounts about their income and expenses for the purpose of calculating tax liability.<sup>61</sup> However, by the then Income Tax Authority, businesses with an estimated annual taxable income of less than 15,000 Birr were named as ‘small businesses’.<sup>62</sup> They were still exempted from the record keeping requirement and paid tax at a fixed rate, according to rules to be prescribed by the then Finance Minister.<sup>63</sup> Modifications were made in the subsequent times with regard to the thresholds of the small business categories. The term ‘Category C Taxpayer’ was introduced for the first time to refer to small business by Income Tax Regulation issued pursuant to the Legal Notice 258/1962.<sup>64</sup> After the application of the standard assessment for four years, then comes a shift in the assessment method in 1960s, following the formulation of the Income Tax Proclamation No. 173/1961. Under this proclamation, the estimated income tax assessment approach was introduced to be applied ‘if no records and books of account are maintained by the taxpayer or if for any reason the records and books of accounts are unacceptable to the Income Tax Authority, or if the taxpayer fails to declare his or its income within the time specified in the law.’<sup>65</sup> This proclamation continues to be effective holding the estimated income tax assessment until it was repeal by a subsequent Income Tax Proclamation No. 227/2001.<sup>66</sup>

The estimated assessment was calculated by estimating daily sales of the taxpayer times the annual working days times the profitability rate, and then allocates to the relevant schedule C matrices.<sup>67</sup> Lack of efficiency, creating disputes/conflict, vulnerability to corrupt practices caused by the estimated assessment lead the introduction of standard assessment.<sup>68</sup>

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<sup>58</sup> For example such historical legislation could be referred from the then laws. *See The Proclamation to Provide for a Tax on Land*, Proclamation No. 8/1942, NEGARIT GAZETTA, 1<sup>st</sup> Year No. 1, 1942, Article 3(ii) (*now repealed*),

<sup>59</sup> Schedule ‘A’ and ‘B’ represent personal and business incomes respectively while Schedule ‘C’ dealt with Sur-tax; *See the Income Tax Decree of 1956*, FED. NEGARIT GAZETTA 16<sup>th</sup> year No. 1, Addis Ababa, 1956, Art. 43 (*now repealed*).

<sup>60</sup> *The Income Tax Decree of 1956*, FED. NEGARIT GAZETTA 16<sup>th</sup> year No. 1, Addis Ababa, 1956, Art. 43 (*now repealed*).

<sup>61</sup> Under this proclamation, companies and associations that were liable to keep records and businesses with annual turnover of 500,000 Birr and above was obliged to pay income tax on the basis of actual income inferred from records. *See Zerihun Asegid, supra* note 4, at 42.

<sup>62</sup> *Id.*, at 44-46.

<sup>63</sup> *Id.*

<sup>64</sup> *The Income Tax Regulation*, Legal Notice No. 258/1962, 1962, Art. 25 (*now repealed*)

<sup>65</sup> *The Proclamation to Income Tax*, Proclamation No. 173/1961, NEGARIT GAZETTA, Art. 40 (*now repealed*),

<sup>66</sup> *The Income Tax (Amendment) Proclamation*, Proclamation No. 227/2001, FED. NEGARIT GAZETTA, 7<sup>th</sup> year No. 9, 2001 Art. 2(4) (*now repealed*).

<sup>67</sup> *Id.*, Art. 10

<sup>68</sup> The Federal Democratic Republic of Ethiopia House of Peoples’ Representatives, *Hearing on the Draft Income Tax Amendment Proclamation before the Standing Committee for Budget and Economic Affairs*, (Statement of Beyene Bekele, General Director of the then Federal Inland Revenue Authority), (1993 E.C), *cited in Zerihun Asegid, supra* note 4, at 45.

From the year, 2001, onwards, a universal country level tax reform on all types of tax as part of the general tax reforms was made four times.<sup>69</sup> One of the reforms was the introduction of standard assessment in lieu of the estimated assessment.<sup>70</sup>

The Proclamation recognized the fact that standard assessment must be preceded by a one year survey period.<sup>71</sup> And, during this period, without recourse to estimation of daily sale, the Proclamation introduced a transitional rule whereby small businesses must pay a tax equal to the tax paid in the previous year, adjusted upward by 6% increase for inflation, until the end of the survey and formulation of standard assessment tables.<sup>72</sup> In the immediate next year, 2002, due to its failure to accommodate the tax system principles suggested before, a comprehensive income tax law was enacted. In its extensive coverage of the issues of income tax, in the case of standard assessment, nothing new was added on the 2002 Proclamation.<sup>73</sup> Basically, there was high expectation by everyone for the new approach of standard assessment to substantially solve the problem of estimated assessment considering the fundamental assumptions of the standard assessment.<sup>74</sup>

However, according to Zerihun, the new Income Tax Proclamation of 2002 did not come up with details of the standard assessment, save to the indication of the factors to be used as a source of classification. It rather, puts the underlying principle and ways to implement the system. The author said that pursuant to Articles 2(16) and 68(2) of the mentioned Proclamation, ‘the Council of Ministers has been expected to decide the maximum threshold for small businesses and to come up with model standard assessment guides.’<sup>75</sup>

Interestingly, the authorized office, Ministry of Finance Economic Development, take over the assignment on time and start as per the procedurally correct implementation of the standard assessment, but missed the what should have been done.<sup>76</sup> The Income Tax Regulation provides two schedules with 69 sectors, dissected at 19 scales on an annual turnover of 5,000 Birr interval. The first schedule inhibits the variety of 69 category C taxpayers while the neighboring second schedule contains Attorneys, Flourmills, Transport

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<sup>69</sup> The first stage of reform took place between 1992/93 and 1995/96 and the second reform covered the time line between 1996/97 and 2000/01. The third and fourth reforms were supposedly happened in 2001/02-2005/06 and in 2006/07 respectively. See *an Interview with Ato Nigussie Muruts*, Category C Taxpayers income tax assessment expert in the *Tigray Regional State Revenue Authority, Mekelle*, (20 Dec, 2014).

<sup>70</sup> Article 2(4) of the Proclamation is stipulated to replace Article 40 of the Income Tax Proclamation of 1961 and it stated that standard assessment shall be used to determine the income tax liability of category ‘C’ taxpayers. See also Zerihun Asegid, *supra* note 4, at 50.

<sup>71</sup> *The Income Tax (Amendment) Proclamation*, Proclamation No. 227/2001, *supra* note 65.

<sup>72</sup> *Id.*

<sup>73</sup> Under Art.68 (1) of the Income Tax Proclamation of Proc. No. 286/2002, it is stipulated that standard assessment method shall be used to determine income tax liability of category C taxpayers. Like the repealed proclamation, the principal indicators of the standard assessment are type (quality of the sector), location (geographical location of the business), and size of businesses. See *supra* note 3, Art. 68 (1).

<sup>74</sup> The underlining steps for implementing standard assessment are identifying the type of business in which the taxpayer is engaged and determining the corresponding tax amount from the standard assessment schedules. See Zerihun Asegid, *supra* note 4, at 51.

<sup>75</sup> As a result, the Council of Ministers came up with regulation No. 78/2002 stretching the threshold income of category C taxpayers. See *The Income Tax Regulation*, Regulation No. 78/2002, FED. NEGARIT GAZETTA, 8<sup>th</sup> year No. 37 19<sup>th</sup> July 2002.

<sup>76</sup> The first step in the introduction of standard assessment being the market surveying the Institutions have based their study on the size and diversity of taxpayers that were found in the list of the Tax Authority. At the time, the main focus areas of the formulation were categorization of businesses and setting annual turnover, amount of exempt income, profit ratio, and fixed taxes.

Services, Driving trainers, and some other taxpayers with respective level indicators.<sup>77</sup> Here it is worthy to mention that; configuration of the matrices or scales of the first schedule was not based on the indicators standard assessment should base itself. The first schedule of the income tax regulation annexed is based on annual turnover of each sector.<sup>78</sup>

The regulations' attempt to treat these taxpayers in this manner seems to cause recurrence of the wound they have been suffering under the estimated assessment in one hand, and an attempt to keep progressivity of the tax system on the other hand. However, taking in to account the introduction of standard assessment to simplify the burdens on taxpayers and tax authority, and avoid inappropriate relations of the two during assessment the first goal outweighs the second.<sup>79</sup> So we can say that, decision of the Council of Ministers to shorten expectation were not legally given and administratively feasible. This also arises from the absence of indicators that can serve for the placement of taxpayers in the schedule without recourse to records.

Category C taxpayers are indebted with an express obligation of declaring their turnover, but not keeping records and accounts.<sup>80</sup> Such stipulation could distort the taxpayers' inherent privilege of being free from similar duties or on the other hand enhance his active participation on the tax assessment. As a right, the prime remedy given to category C taxpayers under the regulation is their right to disprove the tax assessment made by the tax officer through the presentation of evidence only if the tax authority has approved the record presented by the taxpayer.<sup>81</sup> However, this is hardly easy to the taxpayer to exploit the opportunity since financial and skill requirement could be unbearable and even it is at the discretion of the tax authority to approve or reject the statement. In addition to this, due to the nonexistence of clear specification about the particulars to be included in the record of account, the taxpayer could fail to proceed.

When tax administrations work with the standard assessment they are heavily required to include revision rules, on when to update or by whom to revise, the income tax assessment rules.<sup>82</sup> Ministry of Finance and Economic Development (MOFeD), the ministry responsible for the enactment of standard assessment Directives in Ethiopia,<sup>83</sup> has once revised the schedules at the back of the Income Tax Regulation No.78/2002.<sup>84</sup>

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<sup>77</sup> The sectors under the second schedule have level of license, number of seats, source of power generation, and carrying capacity as indicators to categorize the Attorneys, Public transport, Flourmills, and Dry transports in to the specific band.

<sup>78</sup> On his opinion, the author dictates that basing the annual turnover as a standard to prepare categorization of the category C taxpayers was outside the IMF recommendation. It also argues that, categorization of these taxpayers on the basis of annual turnover creates a mess both part of the tax administration and taxpayers record keeping duty to assess the proximate amount of turnover. See Zerihun Asegid, *supra* note 4, at 52.

<sup>79</sup> Zerihun Asegid, *supra* note 4, at 53.

<sup>80</sup> *The Income Tax Regulation of the Tigray Regional State*, Income Tax Regulation No. 31/1995, TIGRAY REGIONAL STATE NEGARIT GAZETTA, 12<sup>th</sup> year No. 11, Art. 22 (1(a)).

<sup>81</sup> *Id.*, Art. 21(3).

<sup>82</sup> Zerihun Asegid, *supra* note 4, at 22.

<sup>83</sup> *Income Tax Proclamation*, Proclamation No. 286/2002, *supra* note 3, Art. 68 (3)

<sup>84</sup> The Ministry has set up a joint committee consisting of representatives from all regional governments and city administrations. Subsequently, the committee has carried out its study and submitted draft standard assessment schedules to the Ministry in 2004. In addition to this, profitability rate and the amount of tax assessed was modified except the two bands categorized inside the up to 10,000Birr and 10,000-15,000Birr. The ministry has distributed a letter to all regional governments and city administrations to implement the revision since 2004. See Ref. No አጠ3/16/28/509 cited in Zerihun Asegid, *supra* note 4, at 46.

## V. INCOME TAX ASSESSMENT OF CATEGORY C TAXPAYERS IN TIGRAY REGION: THE LACUNAS AND THE WAY FORWARD

Tigray region is the most northerly region of Ethiopia bordering Eritrea to the north, Sudan to the west, the Afar Region to the east and the Amhara region to the south. The region has an estimated area of 50,078.64km<sup>2</sup>. It is one of the regions recognized under the 'FDRE Constitution'<sup>85</sup> as a regional state entitled with a power of law making, enforcement of the laws, and interpretation of laws through its respective legislative, executive, and judicial organs of governments within its regional jurisdictions. Tigray regional state is structured from the regional state downward to zonal administrations, and this zonal administration in turn is sub divided in to *woredas*, the level of organization whereby main activities of the regional state such as collection and administration of tax are implemented, then the *woredas* in to sub-provinces. Taking this in to account, there are 'Seven Zonal Administrations'<sup>86</sup> and fifty two *woredas*, whereby the *woredas* are the final organs of the regional government to collect and administer taxes of taxpayers in their territory.

Under the FDRE constitution powers of the Federal and Regional governments are separately provided. In the cases of division of revenue among the two levels of governments, the regional states have power to levy and collect taxes and duties on revenue sources reserved to the States and to draw up and administer the State budget.<sup>87</sup> With respect to effective administration of the revenue sector, the regional state of Tigray has carried out many remarkable activities. To this effect, before March 2008 the office was set up as a single department within the Bureau of Planning for Finance and Economic Development of the region. After two years, 2010, the establishment of the sector is revised and made to be an Agency called Regional state of Tigray Revenue Agency through Proc. No.180/2002.<sup>88</sup> Further modification was made on the agency and it is now formulated as a Tigray Revenue Authority with the coming in to force of Proclamation No. 210/2003 of the Tigray regional state.<sup>89</sup>

Not only structure of the revenue sector, but the size of the businesses to be treated as small taxpayers (category C taxpayers in this case) was similarly fluctuating. Before the restructuring of the sector in July 2010, income tax assessment of category C taxpayers was

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<sup>85</sup> Article 47 of the FDRE constitution enumerates the following 9 regional states, and 2 city administrations as members of the federal government. These are; the State of *Tigray*, the State of *Afar*, the State of *Amhara*, the State of *Oromia*, the State of *Somalia*, the State of *Benshangul Gumuz*, the State of the Southern Nations, Nationalities and Peoples, the State of the *Gambela*, the State of the *Harari*, the City administration of Addis Ababa, the City Administration of *Diredawa*. See FDRE CONSTITUTION, Proclamation No 1/1995, FED. NEGARIT GAZETTE, 1<sup>st</sup> Year No. 1, Addis Ababa August 21 1995 (*here in after* referred as FDRE CONSTITUTION), Art. 47.

<sup>86</sup> The five zonal administrations are; Eastern zone, Central zone, Western zone, Southern zone, South Eastern zone, North Western, and *Mekelle* zones.

<sup>87</sup> FDRE Constitution, Art.52 (2(e)).

<sup>88</sup> *The Turn-over Tax (Amendment) Proclamation of the Tigray Regional State*, Proclamation No. 182/2002, TIGRAY REGIONAL STATE NEGARIT GAZETTA, 17<sup>th</sup> year Mekelle, August 8, 2010 No. 25, Art.1.

<sup>89</sup> Adjustment of the sector in to such form of organization (in the form of an authority) brought about comprehensive reformation of the administrative, legal, and financial changes. For example, in addition to the establishment proclamation, there were additional legislations enacted, such as regulation no. 68/2003 for the disciplinary regulation of its staffs. See *Income Tax Proclamation of the Tigray Regional State*, Proclamation No. 210/2003, TIGRAY REGIONAL STATE NEGARIT GAZETTA, 17<sup>th</sup> year No. 25, Mekelle, July 8 2011 Art.4 (1).

made by an estimated assessment.<sup>90</sup> The estimated assessment during this time involves representatives of the taxpayers, chambers office, trade bureau, revenue agency, and bureau of finance to make the estimating committee.<sup>91</sup> Estimations made by this committee had been used as a standard for the assessment of income of taxpayers for the next five consecutive years.<sup>92</sup> It is probably a simple mathematics to measure and find inefficiency and inequity of such income tax assessment that was carried out without considering the economic factors affecting incomes of the small businesses. Therefore, we can say that until the dissolution of this committee, the approach of the revenue office was not appropriate due to inefficiency, probable tax base constriction, fairness, and system of the income tax assessment.

In 2010, the existing approach that has been done through such committees dissolved and replaced by another committee wholly made up of the then revenue agency, when the sector was established in an agency form.<sup>93</sup> However, there was no improvement in the approach of income tax assessment of small businesses except to the withdrawal of the estimation committee members who represented other four offices and wholly replaced by the revenue office. Therefore, during this time estimated assessment has been used. This indicates the insistence of the tax system to continue with daily estimation of income collected once, and applying it for years, as many as four or five, without revision when the sector was structured in the form of an agency.

Despite of the power given to the Bureau of Finance and Economic Development on the revision of the standard assessment matrices given annexed with the 'Tigray Income Tax Regulation No. 31/1995'<sup>94</sup>, it has been revised only two times, in the whole past ten years. The revision for the elevation of the minimum profitability rate from 7% to 10% and extension of the number of sectors, at the same time increasing the number of sectors within the tax net, to be entertained under category C has been made on 2005 and 2008 E.C. respectively.<sup>95</sup>

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<sup>90</sup> *An Interview with Mrs. Alganesh Birhane*, Tigray regional state tax authority tax Assessment case team Coordinator, (13 November 2014).

<sup>91</sup> Each of the five bureaus explained above randomly assign a single representative and participate on the estimation. Here the estimated assessment was conducted once for the result of the estimation to serve for about five years.

<sup>92</sup> *Mrs. Alganesh Birhane*, *supra* note 90.

<sup>93</sup> *Id.*

<sup>94</sup> *The Tigray Income Tax Regulation*, Regulation No. 31/2004, TIGRAY REGIONAL STATE NEGARIT GAZETTA, Mekelle, April 2, 2004, Art. 22 (5).

<sup>95</sup> *Mrs. Alganesh Birhane*, *supra* note 90.

Table 1: List of Statics Category A-C taxpayers in Eastern, and Mekelle Zones of Tigray

S/n	Woreda	No. of taxpayers in each Category in 2011				No. of taxpayers in each Category in 2012				No. of taxpayers in each Category in 2013				No. of taxpayers in each Category in 2014			
		A	B	C	S/total	A	B	C	S/total	A	B	C	S/total	A	B	C	S/total
1	Ayder	11	49	529	<b>589</b>	24	78	658	<b>760</b>	106	163	691	<b>960</b>	141	176	808	<b>1125</b>
2	Hadnet	105	150	1012	<b>1267</b>	153	67	2500	<b>2720</b>	169	130	2165	<b>2464</b>	250	153	1820	<b>2123</b>
3	Q/ Weyane	460	2800	3783	<b>7043</b>	274	1307	5893	<b>7474</b>	1370	1782	4918	<b>8070</b>	1580	865	3999	<b>6444</b>
4	Hawelti	9	178	1344	<b>1531</b>	97	121	3761	<b>3979</b>	141	555	4205	<b>4901</b>	183	727	3763	<b>4773</b>
5	Quiha	10	11	537	<b>558</b>	19	24	584	<b>627</b>	22	69	1023	<b>1114</b>	36	70	964	<b>1070</b>
6	A/Haqi	60	4	863	<b>927</b>	77	65	951	<b>1093</b>	110	103	1410	<b>1623</b>	166	170	1235	<b>1466</b>
7	Semen	169	180	1600	<b>1949</b>	148	210	819	<b>1177</b>	169	198	1782	<b>2149</b>	202	235	1532	<b>1974</b>
<b>Total in Mekelle Zone</b>		824	3372	9668	<b>13864</b>	792	1872	15166	<b>17830</b>	2087	3000	16194	<b>21281</b>	2558	2396	14121	<b>19975</b>
8	Adigrat	33	92	3315	<b>3440</b>	96	135	3546	<b>3777</b>	178	254	3311	<b>3743</b>	273	252	3764	<b>4289</b>
9	Wukro	14	31	2010	<b>2055</b>	53	234	1779	<b>2066</b>	105	225	1715	<b>2045</b>	150	341	1876	<b>2266</b>
10	Gulemekeda	8	9	488	<b>505</b>	7	11	502	<b>520</b>	21	-	603	<b>624</b>	26	3	652	<b>657</b>
11	Irob	1	0	162	<b>163</b>	1	0	227	<b>228</b>	5	2	242	<b>249</b>	7	9	241	<b>257</b>
12	G/afeshum	0	0	315	<b>315</b>	1	0	415	<b>416</b>	7	1	481	<b>489</b>	15	18	526	<b>552</b>
13	Hawzen	1	1	660	<b>662</b>	16	7	697	<b>720</b>	28	13	823	<b>864</b>	12	51	856	<b>919</b>
14	S/T/Emba	3	3	1200	<b>1206</b>	32	13	1182	<b>1227</b>	39	18	1227	<b>1284</b>	50	66	1450	<b>1500</b>
15	A/wonberta	6	4	600	<b>610</b>	8	45	878	<b>931</b>	7	45	926	<b>978</b>	41	2	1049	<b>1092</b>
16	KilteAwlaelo	0	1	479	<b>480</b>	0	39	557	<b>596</b>	9	43	632	<b>684</b>	24	88	852	<b>964</b>
<b>Total Eastern Tigray</b>		66	141	9229	<b>9436</b>	214	484	9784	<b>10481</b>	399	601	9960	<b>10960</b>	598	830	11266	<b>12694</b>
<b>Total at Tigray Region</b>		<b>890</b>	<b>321</b>	<b>18897</b>	<b>11385</b>	<b>362</b>	<b>694</b>	<b>10961</b>	<b>28311</b>	<b>568</b>	<b>3601</b>	<b>26154</b>	<b>32241</b>	<b>3158</b>	<b>3226</b>	<b>25387</b>	<b>31778</b>

Source: Tigray Regional State Revenue Authority

## VI. EVALUATION OF THE EFFICIENCY OF STANDARD ASSESSMENT FOR CATEGORY C TAXPAYERS IN THE TIGRAY REGIONAL STATE

Evaluation of the practice of income tax assessment of Category C taxpayers in the Tigray regional state looks in a better position compared with the other regions and city administrations in some aspects. One of the striking quality of the region in carrying out tax assessment is its tendency, at least as a plan, to introduce daily estimation on twice a year basis, apart from the practice of other regional states and city administrations which conduct the daily estimation once to serve a year or more. But this doesn't mean that this is the reality on the ground as there are many taxpayers who even complain the tax authority for its failure to conduct the daily estimation properly once per a year.<sup>96</sup>

Generally, despite the successive efforts of the authority to handle the sector in a way that brings a healthy tax system, the practice of standard assessment of Category C taxpayers in Tigray region is inhibited by many problems, inter alia, inefficiency of the tax assessment, which will be discussed below. This problem is partly attributable to the manual assessment made at least twice a year - which is not cost effective, and the lower satisfaction of taxpayers, which in turn reduces compliance rate of taxpayers. As it is dictated under Article 22 of the Income Tax Regulation No. 78/2002, any type of manual assessment is not required except for the assessment of the taxable income of category C taxpayers based on the tables annexed with the regulation.

Efficiency of an income tax system stands for delivering maximum results from limited resources.<sup>97</sup> With this standard, the amount of revenue to be gained needs to be fair considering the administrative cost spend on both the labor force, and expenses for related governance of the sector. Not only the amount of revenue collected but other intrinsic factors that determine the level of efficiency of the tax system need due protection in the course of income tax assessment. However, when we evaluate the efficiency of income tax assessment of category C taxpayers in the Tigray regional state, we can easily observe that it is far from the variable of efficiency. The manifestation of inefficiency is attributable for one thing to the number of staffs deployed for the sake of administrating these specific category taxpayers. In this respect, out of the total number of around 1154 staffs of the six departments of the tax authority, one third of them (over 27%) made up the estimation committee members mainly comprised under the data collection team.<sup>98</sup>

This would not be the problem but the fact that firstly, these staffs are not adequate enough, even considering the total concentration in the daily estimation task, to carry out the assessment.<sup>99</sup> The daily estimating committee members not only count the taxpayers income but also carry out many particular activities such as studying location of the business, amount

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<sup>96</sup> Most category C taxpayers from *Wukro* City and *Kielte Awlaelo* woreda (two of the 52 woredas in the regional state) have complained in the collected data claiming the estimating committees of the tax authority in their locality didn't even estimate their daily turnover once a year properly. Rather they state that most of the time the estimating committees take an estimation of one taxpayer in that area and apply it to the other taxpayers without taking in to consideration the actual activity of the remaining taxpayers.

<sup>97</sup> Helaway Tadesse, & Günther Taube, *supra* note 12, at 9.

<sup>98</sup> Human Resource Data report of the Tigray Regional State in the Fiscal Year of 2014.

<sup>99</sup> The total ratio of the number of staffs to the number of category C taxpayers to be assessed shall be 1:371; whereby one staff shall study the daily estimation of taxpayers, turnover, thereby income tax liability of 371 Category C Taxpayers twice a year (a total of 742 visits per year) for an assessment of a single tax period.



of turnover, number of employees, size and content of stores, and other subsidiary factors that overburden the work of the estimating staffs.<sup>100</sup> In carrying out the task of estimation, it has been difficult, if not impossible, for the committees to estimate daily sale of the targeted businesses. It has been reported that the main problems in the estimation were lack of technical knowledge on estimation, limited training, non-appearance of some assessors at business premise, lack of voluntary cooperation by taxpayers to give information and underreporting.<sup>101</sup> Due to the large number of businesses location in ‘Category C’<sup>102</sup>, the task remained difficult for the members of the estimating committee to deliver comprehensive and effective estimation for all the targeted businesses, at least in the required and planned manner. Accordingly, due to the arbitrary completion of the daily estimation, the tax system suffers from inefficiency, tax burden, and dissatisfaction of taxpayers.

Secondly, the amount of revenue the tax authority is collecting is insignificant with or without considering the cost of administration of the income tax assessment. In the previous year, out of all Category C taxpayers in the region, 41% of them have a daily estimation below 50 Birr, which means the possible income tax revenue to be collected shall only be from the remaining 59% Category C taxpayers (Table 2).<sup>103</sup>

Table 2: *Daily estimation of below 50 birr per day of Category C Taxpayers in Eastern and Mekelle Zones of Tigray Regional State Tax Authority in 20014 Budget Year*

S/N	City/Woreda	Taxpayers assessed below daily sale of 50 Birr				
		0-20	21-50	Subtotal	Percentage	Total
<b>Eastern Zone</b>						
1	Wukro	44	406	450	21%	<b>2131</b>
2	K/Awlae’lo	124	311	435	57%	<b>764</b>
3	Adigrat	1044	1489	2533	58%	<b>4400</b>
4	Gantaafeshum	25	125	150	27%	<b>556</b>
5	Hawzen	83	286	369	44%	<b>845</b>
6	A/wenberta	57	288	345	31%	<b>1105</b>
7	Gulemekeda	161	280	441	56%	<b>784</b>
8	Irob	73	71	144	55%	<b>262</b>
9	Sae’sietsaedaemba	131	447	578	37%	<b>1583</b>
<b>Mekelle Zone</b>						
10	Qedamaywoyane	11	387	398	11%	<b>3723</b>
11	Hadnet	219	567	786	43%	<b>1820</b>
12	Adihaqi	206	565	771	62%	<b>1235</b>
13	Hawelti	82	424	506	14%	<b>3606</b>
14	Avder	59	330	389	43%	<b>910</b>
15	Semen	115	356	471	32%	<b>1474</b>
16	Quiha	56	397	453	49%	<b>917</b>
<b>Total</b>		<b>8964</b>	<b>21034</b>	<b>29998</b>	<b>41%</b>	<b>76,794</b>

Source: *Tigray Regional State Tax Authority*

From Table 2, we can see that 76,794 category taxpayers from the total of 115,309 category C taxpayers are relieved from a tax liability though they are within the tax net. Not

<sup>100</sup> Mrs. Alganesh Birhane, *supra* note 90.

<sup>101</sup> Annual 2014 feedback report to the Zonal Revenue Offices by the Tigray Regional State Revenue Authority, (Mekelle, Tigray), at 56.

<sup>102</sup> According to different sources of data from the Tigray Regional State Revenue Authority (*see table one above*) more than 90% of the whole taxpayers in the regional state are category C taxpayers.

<sup>103</sup> *Id.*

only the insignificant figure of taxpayers subject to tax compared with the number of estimating staffs deployed towards its administration, but also assessment of the taxpayer's income in a way that relieves such number of taxpayers from tax liability is indicating inefficiency by itself.<sup>104</sup> Having such number of taxpayers as subjects of taxation, the total contribution of these taxpayers is very minimal not exceeding 10% to the whole business income tax comparing to the massive administrative costs of the sector.

Apart from the exclusion of substantial taxpayers from tax liability, the incapacity of the below 50 Birr daily estimation to diminish from time to time is additional setback behind the inefficiency of the sector. Tax centers within the tax authority are manifesting a tendency whereby there is an increasing rate of taxpayers that escape the tax liability. If we can take the case of *Mekelle* zone's recorded data of 2013 and 2014, specifically, with respect to the number of category C taxpayers whose daily estimation is below 50 Birr, there is an increment of the numbers which are treated under the group with daily estimation below 50 Birr.

Table 3: List of taxpayers below 50 Birr daily estimation in different Woredas /Municipalities/ of Mekelle Zone Tax Office

Woreda /Municipality/	2005 E.C	2006 E.C	Increase	Decrease
<i>Qedamay woyane</i>	11%	11%	0%	
Hadnet	37%	43%	6%	
Adihaqi	57%	62%	5%	
Hawelti	22%	14%		8%
Ayder	46%	43%		3%
Semen	22%	32%	10%	
Quiha	43%	49%	6%	

Source: Tigray Regional State Tax Authority

According to the above statistics (Table 3), daily estimation of category C taxpayers below 50 Birr in *Adi-haqi*, *Hadnet*, *Semen*, and *Quiha* Woredas have an increasing projection at 6%, 5%, 10%, and 6% respectively between 2013 and 2014.

The other pitfall of assessment of the sector with respect to efficiency is its inability to ensure fairness among taxpayers with in, and taxpayers in different tax centers. In Table 3 above, we can see the daily estimation made for the two tax centers, *Qedamay-woyane* and *Adi-haqi* in *Mekelle* zone is not justified on any cause, save for the arbitrary estimation of the estimating staffs of each tax centers.

Therefore, the practice of income tax assessment for category C income taxpayers is far away from achieving efficiency viewed in light with the number of employees of the tax authority deployed for estimation and the amount of return collected.

Thirdly, inefficiency of the tax system could be inferred from the contribution of the tax revenue to the whole GDP whereby income tax revenue is one constituent factor is too small. The tax to GDP ratio of Tigray region is around 7% during this time, which makes you concerned if you could normally talk about the efficient collection of tax in the real sense of

<sup>104</sup> Shallow differences among neighbor Woredas, 62% of 1235 taxpayers in *Adi-haqi* to 11% out of 3723 taxpayers in *Qedamay-woyane*, with more or less similar conditions are manifested during their income tax assessment.

the taxation.<sup>105</sup> These category C taxpayers take their share in the diminishing role of the income tax revenue to the whole GDP. As can be shown in Table 4 below, the tax to GDP ratio of the region is at the foot level to put a significant influence.

Table 4. *Tax GDP ratio of the Tigray Regional State*

Budget revenue	Region revenue/state revenue	RGDP at current factor coast	Tax to GDP ratio
2012	1,233,596	28,001,997	4.4
2013	2,157,911	34,065,637	6.3
2014	2,464,840	34,065,637	6.3

Source: Bureau of Finance and Planning of Tigray Regional State

According to the authority, partial inefficiency of the assessment of the tax liability of these taxpayers is attributable to the estimating committee members/staffs to some extent. Since most staffs of the authority who conducted the surveys are fresh graduates.<sup>106</sup> They were young, inexperienced, and ill-prepared and, thus either placed them in the wrong classification or negotiate for corrupt practices, many businesses complained. Other concerned authorities have also expressed their doubt on the graduates to estimate daily sale of businesses. Considering the limited short training offered for the graduates for estimating daily turnover of businesses, it has been found doubtful whether the employment of the young force as daily estimation committee members is comparatively advantageous or not.<sup>107</sup> As we have discussed under the preceding chapter; nature, location, and size of businesses do have significant role in the estimation of business turnover and hence the daily sale of such businesses can only be determined by the one who has experience in business world. The issue may be worsened if one considers the determination of daily sale for many of the businesses with one or two times a year visit as complained by many taxpayers.

## VII. CONCLUSION

In principle, presumptive taxation presupposes a system where the required tax base is inferred from proxies other than records of taxpayers. Most of the proxies employed are the size, quantity, level, location, and other similar parameters.

Regarding its implementation in Ethiopia and specifically the regional state of Tigray, presumptive taxation has been exercised through standard and estimated assessments. Under this assessment practice, tax liability is being assessed based on a daily estimation of an annual turnover for each taxpayer taking some surrounding circumstances. This has been advantageous for taking in to account the prevailing conditions of the business thereby making its own effort to bring about equity. The other approach, standard assessment, determines tax liability at occupational level without regard to the other many factors. The main advantages with this approach are simplicity, certainty, comprehensiveness, and efficiency.

The power of taxation of category C taxpayers is vested to regional states and city administrations; so that the mandate is given to the Tigray regional state tax authority in the case of Tigray region which in turn is carried out and administered at a *Woreda* level. Within

<sup>105</sup> The total revenue collected in 2013 was only 2,464,840 Birr (6.3%) out of 3,887,685 GDP of the regional state. See Table 4 above.

<sup>106</sup> Out of the 1140 staffs of the authority (until 2014), 89% of them are young staffs of below 35 years of old.

<sup>107</sup> *An Interview with Ato Nigussie Muruts, supra* note 69.

this context, the regulatory framework for category C taxpayers has been varying from the estimated assessment to the standard assessment. In this regional state, estimated assessment was in its place since the introduction of modern income tax system in the 1940's up to the year 2010. This approach has been mainly known for its susceptibility to corruption, inefficiency, uneconomic, less simplicity, and unpredictability. Therefore, the approach is obliged to shift from the year 2010 onwards. The standard assessment is introduced for category C taxpayers to provide fixed taxes for small businesses in consideration of size, type and location of businesses. Because of the presence of fixed taxes, it was an expectation that role of tax officers could be limited to categorizing businesses in the appropriate category on the basis of indicators like size and location of businesses, to minimize tax authority intervention, bring about simplicity and efficiency, and other basic principles. However, the practice with the new standard assessment couldn't come with the expectation due to the improper implementation of Proc. No. 286/2002.

One of the shortcomings was instead of setting mechanisms/factors that would immediately enable to locate the proper place of the taxpayers; it has employed similar procedures with that of estimated income tax assessment. Under the standard assessment, two different schedules which were prepared based on turnover, and indicators in schedule one and schedule two respectively. In the first schedule, indicating parameters other than the turnover was not provided, while in the second schedule which comprises attorney, flour mills, and transport there are indicators of level, number of seats, and other factors.

Despite the introduction of standard assessment post 2001 to bring administrative simplicity and stability, the use of estimation of daily sales in assessment has made the very objective of standard assessment unachievable. The absence of indicators or other turnover verifying mechanisms for most of the categorized businesses in the schedule are the main failures that restore back estimated assessment. As a result, income tax assessment of category C taxpayers in Tigray region has manifested the problems varying from inequity to the lack of comprehensiveness. Due to the excessive discretionary power of the estimating committees to assess income tax liability of these taxpayers, the tax authority and taxpayers enter in to frequent dispute and lack of satisfaction. One of the typical principles of tax systems, equity, is not maintained due to the subjectivity of income tax liability assessment among similar earning taxpayers. Secondly, the tax assessment manifests lack of efficiency which can be observed from the insignificant contribution of the sector to the economy in spite of the large deployment of work force to it. Not only this, inefficiency can also be inferred from the lower tax revenue to GDP ratio and lack of building the required trustworthiness among the taxpayers and the tax authority.

Based on the above findings, with respect to the pitfalls of category C taxpayers, the following recommendations should be employed to significantly reduce the problems;

For the general problems arising from the application of estimated tax assessment approach, the tax authority should make amendments to the regulatory tables annexed with the income tax regulation in a manner that provides the implementation of ideal standard assessment.

Secondly, for the problems being manifested in relation to lack of efficiency, especially under an unchanged circumstance of the current assessment trend, some objective measurements, to be identified by further assessment and trainings, should be given to

promote the capacity of estimating committee members, and thereby reduce the problem of inefficiency.

Thirdly, in order to minimize the prevailing unfair treatment of taxpayers from different tax centers /*Woredas*/, specific variables of profitability rate should be given on a well studied basis. Even a minimum ceiling of tax should be set to reduce the number of taxpayers escaping tax liability.

In addition to this, since the main goal of the regional tax authority in relation to category C taxpayers is boosting up of their experience in extending culture of paying tax and increasing compliance behavior instead of mere collecting tax revenue, satisfaction of the taxpayers should be maintained through privileged treatment and wise grievance handling.

Finally, in order to build trustworthiness and, at the same time minimize the number of grievances from such category C taxpayers, representatives of the business community should be made part of the daily estimation persistently.

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