

Statutory Framework and Procedural Discipline in Tax Disputes and Appeals Under The 2025 Tax Era

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Abstract

This paper examines the statutory framework and procedural discipline governing tax disputes and appeals under Nigeria's 2025 tax reform legislations, specifically the Nigeria Tax Administration Act 2025 (NTAA) and the Joint Revenue Board Act 2025 (JRBA). The central thesis is that while these enactments introduce unprecedented procedural discipline through unified objection timelines, presumption of correctness, and restricted appeals on points of law, their effectiveness depends on strict adherence by taxpayers and consistent application by tax authorities. The paper argues that procedural discipline, though essential for expeditious resolution, must be balanced with substantive access to justice. The study adopts a doctrinal legal research methodology, analysing primary sources including the NTAA 2025, JRBA 2025, the Second Schedule (Procedure of the Tax Appeal Tribunal), and relevant judicial decisions from Nigerian courts and the Tax Appeal Tribunal. Secondary sources include academic journal articles, textbooks on evidence and tax law, and online legal commentaries. A major finding is that the 30-day objection period, the presumption of correctness, and the security requirement for appeal create significant procedural pitfalls that have resulted in numerous appeals being struck out for non-compliance. The paper recommends that the National Assembly clarify the definition of "point of law" in the JRBA and introduce sanctions against tax authorities for procedural misconduct to balance the current regime, which disproportionately penalises taxpayers.

Key Words: Procedural Discipline, Best of Judgment Assessment, Presumption of Correctness, Burden of Proof, Security for Appeal, Point of Law.

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1. Introduction

For decades, tax dispute resolution in Nigeria was characterised by fragmentation, procedural uncertainty, and protracted litigation.¹ The co-existence of the Federal Inland Revenue Service (FIRS) Act, the Taxes and Levies (Approved List for Collection) Act, and various State revenue laws created overlapping jurisdictions between the Tax Appeal Tribunal (TAT), the Federal High Court, and State High Courts.² This multiplicity of fora often encouraged forum shopping by taxpayers and tax authorities alike, leading to inconsistent decisions and delayed

¹ *FIRS v. Halliburton Energy Services Nig. Ltd* (2018) LPELR-45243(CA).

² Haliday E Chidi, Grace Akolokwu, Rose Ohiana Ugbe, and Matilda Nwayanwu, 'Disputes Resolution in Nigerian Taxation, Critical Appraisal of Jurisdictional Powers' *Benue State University Law Journal* (2021) (10)

revenue recovery.¹ The situation was further complicated by the absence of a unified procedural code governing objections, appeals, and judicial review.²

The year 2025 marks a paradigm shift in Nigeria's tax dispute landscape. With the enactment of the tax reform legislations including the Nigeria Tax Administration Act 2025 (NTAA) and the Joint Revenue Board Act 2025 (JRBA), the National Assembly has introduced a consolidated statutory framework designed to impose procedural discipline on tax disputes from the point of objection through to final appellate review.³ The NTAA consolidates all core tax administration provisions covering assessment, collection, objection, appeal, and enforcement all into a single legislation, thereby repealing the objection and appeal provisions previously scattered across the Company Income Tax Act (CITA), the Personal Income Tax Act (PITA), and the Value Added Tax Act (VATA). The JRBA, on the other hand, establishes the Joint Revenue Board (JRB) as a policy harmonisation body and delineates the jurisdiction, composition, and practice direction of a restructured Tax Appeal Tribunal.⁴

This paper examines the procedural provisions for resolving Nigerian tax disputes introduced under the NTA Act and JRB Act. Specifically, the paper analyses provisions covering objection timelines, the presumption of correctness attaching to tax assessments, the burden of proof, security for appeal, and the avoidance of procedural pitfalls that could defeat meritorious claims. This paper employs a doctrinal legal research methodology to analyse the statutory provisions, and relevant case law where available.

The paper is structured into several parts. Part 1 introduces the research problem while Part 2 provides an overview of the dispute resolution provisions under the NTAA 2025. Part 3 examines objection procedures and statutory timelines, including the consequences of failure to object properly. Part 4 discusses the presumption of correctness of tax assessments and the shifting burden of proof. Part 5 analyses the jurisdiction of the Tax Appeal Tribunal under the JRBA 2025. Part 6 addresses security for prosecution of appeal, while Part 7 considers appeals on points of law. Part 8 offers guidance on avoidance of procedural pitfalls, and Part 9 concludes with recommendations for taxpayers, practitioners, and revenue authorities.

2. Overview of Dispute Provisions Under the Nigeria Tax Administration Act 2025

The Nigeria Tax Administration Act 2025 (NTAA) represents a fundamental codification of tax dispute resolution procedures in Nigeria. Unlike the previous regime where objection and appeal provisions were scattered across six different tax statutes, the NTAA consolidates all dispute-related provisions under a single legislative instrument.⁵ This consolidation serves three key objectives including uniformity of procedure across all taxes administered in Nigeria, certainty for taxpayers regarding timelines and processes, and the imposition of procedural discipline to eliminate the forum shopping and jurisdictional conflicts that plagued the pre-2025 era.⁶

2.1. Scope of Application

By virtue of section 2 of the NTAA, the Act applies to all taxes, levies, and duties collectible by the FIRS under any federal law, including companies' income tax, petroleum profits tax, value added tax, capital gains tax, stamp duties, and tertiary education tax.⁷ Section 3 extends the application of the Act to taxes collectible by States under the Personal Income Tax Act, thereby bringing pay-as-you-earn (PAYE) disputes and State inland revenue assessments within the same procedural framework.⁸ The legislative intent, as discerned from the explanatory memorandum, is to create a seamless dispute resolution system irrespective of whether the tax is federal or state.

2.2. Objection and Appeal

¹ M. Olorunfemi, 'Forum Shopping in Nigerian Tax Litigation' *University of Lagos Law Review* (2023) (11) 112.

² Prior to 2025, CITA (Cap C21 LFN 2004) s. 59 provided objection timelines, while PITA s. 85 and VATA s. 24 had inconsistent provisions.

³ NTA Act, 2025, ss. 1–3; JRB Act, 2025, ss. 3 and 23 (establishment of JRB and TAT).

⁴ JRB Act 2025, s. 3.

⁵ Cyril Lee Oriafioh, and Osasu Obaretin, 'Nigeria Tax Reform Acts: Implications, Challenges and Prospects' (2025) accessed from <https://rsisinternational.org/journals/ijriss/articles/nigeria-tax-reform-acts-implications-challenges-and-prospects/> on 6 May 2026 at 10:19AM.

⁶ T Adewale, 'Consolidation of Tax Procedures in Nigeria' *Journal of African Tax Studies* (2024) (19) 94–97.

⁷ NTAA, s. 2.

⁸ NTAA, s. 3(2).

The NTAA provides for structured to follow the natural progression of a tax dispute starting from objection to assessment, internal review by the tax authority, first-tier appeal to the Tax Appeal Tribunal, and second-tier appeal on points of law to the Federal High Court and subsequently to the Court of Appeal and Supreme Court.¹

Significantly, the NTAA provides that any person dissatisfied with a tax assessment may object in writing to the tax authority within **30 days** from the date of service of the assessment notice.² This replaces the previously inconsistent timelines of 30 days under CITA but 21 days under PITA and 14 days under certain State laws.³ The dilemma of judicial interpretation of "assessment notice" under the old regime is now statutorily resolved by section 40, which defines service to include electronic delivery or delivery by post.⁴

2.3. Alternative Dispute Resolution (ADR)

The JRBA empowers the Chairman of a Tax Appeal Tribunal (TAT) to grant parties time within which they may explore possibilities for settlement of the dispute.⁵ Parties are however to resume proceedings upon the expiration of 30 days or such period as the TAT may grant. The JRBA also establishes the office of Tax Ombud as a body corporate with perpetual succession and a common seal.⁶ The Tax Ombud is to serve as an independent and impartial arbiter to review and resolve complaints relating to tax, levy, regulatory fee and charges, among several other functions.⁷ The Office of the Tax Ombud recently promises fair tax dispute resolution by serving as a neutral channel for resolving tax disputes adding that its core mandate is the protection of tax payer's rights, ensuring accountability and strengthening confidence in the nation's tax administration system.⁸ ADR provision draws legislative inspiration from the decision of the Court of Appeal in *FIRS v. Chevron Nigeria Ltd*,⁹ where the court had lamented the absence of statutory encouragement for settlement, noting that protracted litigation harmed both revenue collection and taxpayer–authority relations. Under the 2025 regime, any settlement agreement reached through ADR is binding on both parties and enforceable as a judgment of the Tax Appeal Tribunal.

2.4. Stay of Collection Pending Appeal

Under the pre-2025 law, the Federal High Court in *FIRS v. Mobil Producing Nigeria Unlimited*¹⁰ had held that the "pay now, argue later" rule was not absolute, and the court could grant a stay on terms. Conversely, the Court of Appeal in *FIRS v. Nigerian Agip Oil Company Limited*¹¹ had insisted that the taxpayer must lodge the full amount of tax assessed as a condition for entertaining an appeal. The provisions of the NTAA is generally to the effect that filing an objection or appeal does not automatically suspend the obligation to pay the assessed tax.¹² However, where notice of appeal has been given by the taxable person, payment shall remain in abeyance until such objection or appeal is determined.¹³ The TAT is given jurisdiction under section 90(4) to vary the security terms on application by either party.¹⁴

3. Objection Procedures and Statutory Timelines

A valid objection is the jurisdictional gateway to any tax dispute under the NTAA 2025. Without a properly lodged objection within the prescribed statutory timeline, a taxpayer cannot challenge the best – of – judgment administrative assessment, or even access the TAT or the courts.¹⁵ The NTAA 2025 has introduced a detailed, step-by-step procedural code for objections, departing significantly from the sparse and often ambiguous provisions of the pre-2025 legislation imposing mandatory timelines on both taxpayers and tax authorities alike.

3.1. Formal Requirements for a Valid Objection

¹ NTAA, ss. 34 –56.

² NTAA, ss 41 (3).

³ CITA (Cap C21 LFN 2004) s. 59(1) (30 days); PITA (Cap P8 LFN 2004) s. 85(1) (21 days).

⁴ NTAA 2025, s. 40.

⁵ Paragraph 6 (1) and (2), Procedure of the Tax Appeal Tribunal, 2nd Schedule JRBA.

⁶ JRBA, s 36.

⁷ JRBA, s 4.

⁸ Simeon Ebulu, 'Tax Ombud Promises Fair, Tax Dispute Resolution' The Nation News Paper of 4th May 2026 at 21.

⁹ *FIRS v. Chevron Nigeria Ltd* (2020) LPELR-49812(CA).

¹⁰ *FIRS v. Mobil Producing Nigeria Unlimited* (2017) LPELR-42534(CA).

¹¹ *FIRS v. Nigerian Agip Oil Company Limited* (2019) 12 NWLR (Pt. 1689) 443 at 467–470.

¹² NTAA, s 49(2)

¹³ NTAA, s 49 (3).

¹⁴ Paragraph 7 (5) and (6), Procedure of the Tax Appeal Tribunal, 2nd Schedule NTAA.

¹⁵ NTAA 2025, s. 95(1)(a); *FIRS v. Halliburton Energy Services Nig. Ltd* (2018) LPELR-45243(CA).

The relevant tax authority is to serve a notice of assessment on each taxable person stating the place at which payment should be made.¹ Upon being served with the notice of assessment, a person dissatisfied with the assessment may object in writing to the tax authority that issued the assessment.² However, an objection is not valid unless it delivered to the relevant tax authority within 30 days or such days as the authority may approve, explicitly states the grounds of objection, specifying the amount admitted as tax.³

This codification responds directly to judicial dissatisfaction with vague objections under the old regime. In *FIRS v. Honeywell Flour Mills Plc*,⁴ the Court of Appeal held that a taxpayer's letter stating merely "we disagree with the additional assessment" was insufficient to constitute a valid objection, as it did not specify the grounds or supply supporting computations.

3.2. Statutory Timelines for Objection

The cardinal timeline under the NTAA 2025 is the 30-day objection period prescribed by section 41(2) (a). This period runs from the date of service of the assessment notice. Section 41(1) defines service to include personal delivery, by registered post or courier, or electronic transmission to the relevant tax authority.⁵

Importantly, for any satisfactory and good cause shown, the tax authority extend the time for making the objection to such reasonable time.⁶ The tax authority may grant an extension not exceeding 30 days from the expiry of the original period.⁷ Any further extension may only be granted by the Tax Appeal Tribunal upon application under section 41(7), and the Tribunal is empowered to grant an extension if it is satisfied that there was sufficient cause for delay.⁸ A reasonable cause for late objection includes illness of the sole signatory to the company's accounts, industrial action affecting postal services, or natural disasters. The NTAA and JRBA implicitly adopts this jurisprudence by referencing 'satisfactory and good cause' and 'sufficient cause for delay' respectively.

3.3. Tax Authority's Duty to Acknowledge and Decide

The NTAA imposed a timeline within which the objection of a taxable person is to be considered. Upon receipt of a valid objection, the tax authority may require the taxable person to furnish such particulars as may be necessary or summon any person to appear for examination before an authorised officer to determine the objection.⁹ Upon agreement between the tax authority and the taxable person as to the amount of tax to be assessed, the authority shall amend the disputed assessment and serve a revised notice on the taxable person.¹⁰ The decision of the tax authority on the objection must be made within 90 days from the receipt of the objection otherwise the objection shall be deemed upheld.¹¹ Where the tax authority consider the objection submitted by the taxable person as invalid, the taxpayer may proceed to appeal to the Tax Appeal Tribunal without further delay.¹² Failure to validly object or appeal within the time stipulated, the assessment shall be final and conclusive for all purposes and the full amount of tax becomes enforceable and attract penalties.¹³

4. Consequences of Failure to Object Properly

The NTAA 2025 imposes stringent consequences for failure to comply with the objection procedures prescribed and time stipulated. These consequences range from the loss of the right to challenge an assessment to the crystallisation of the tax authority's assessment as final and binding.¹⁴ This section analyses the various consequences under the new regime, drawing on pre-2025 case law that has informed judicial interpretation and on emerging decisions under the NTAA.

4.1. Invalid Objection Treated as No Objection

¹ NTAA, s40.

² NTAA, s41(1)

³ NTAA 2025, s. 41(2).

⁴ *FIRS v. Honeywell Flour Mills Plc* (2021) LPELR-55743(CA) at 18–22.

⁵ NTAA 2025, s. 41(1).

⁶ NTAA, s 41(3).

⁷ NTAA 2025, s. 41(6).

⁸ Procedure of the Tax Appeal Tribunal, Second Schedule JRB Act, Paragraph 2 (3).

⁹ NTAA 2025, s. 41(4) (a) and (b).

¹⁰ NTAA 2025, s. 41(5).

¹¹ NTAA 2025, s. 41(6).

¹² NTAA 2025, s. 41(7).

¹³ NTAA, ss 43 (1) - (2) & 49 (7).

¹⁴ NTAA 2025, s. 43(1).

The NTAA 2025 provides that where a taxpayer submits a document purporting to be an objection but which does not comply with the formal requirements of section 41(2), the tax authority may consider the objection as an invalid one carrying the same consequences as if no objection is made.¹ This provision would defeat a taxpayer who submits an objection letter challenging an assessment but failed to attach the supporting invoices or did not provide a computation of its contended liability, the objection remained incurably defective. The NTAA is not a mere procedural guide, it is a code of discipline. A taxpayer who receives a deficiency notice and chooses to comply partially chooses to have no objection."

4.2. Crystallisation of Assessment

Section 43(1) of the NTAA 2025 provides that where no valid objection is made within the prescribed period, or where an invalid objection is not cured, "the assessment shall be final and conclusive for all purposes of this Act."² This crystallisation has three practical consequences.

First, the taxpayer loses the right to challenge the quantum or validity of the assessment in any subsequent proceeding. In *Mobil Oil Nigeria Plc v. FIRS*,³ a pre-2025 decision, the Court of Appeal held that once an assessment becomes final under CITA section 59(4), the taxpayer cannot raise a defence that the assessment was arbitrary or based on estimated figures. The only remaining challenge is to the enforcement methods but not to the underlying liability.

Second, the tax authority may proceed to enforce the assessment using all powers under the NTAA 2025 including the power to substitute the agent of the taxable person by the taxing authority's agent, distraint of goods, garnishee of bank accounts, and the appointment of a receiver.⁴ The NTAA grants extensive powers to tax authorities to enforce its provisions. Where an assessment has become final and conclusive and a demand notice has been served on the taxable person, and the payment is not made within the time stipulated on the notice, the goods, chattels, or land of the taxable person may be distrained.⁵ Assets distrained may be kept for a period of 14 days at the expiration of which the tax authority may sold them upon an order of the High court if the amount due as tax plus charges and costs incidental to the distraint are not paid.⁶

Third, the crystallised assessment attracts interest and penalties under section 65 of the NTAA, which provides for interest for a sum equal to ten percent of the unpaid tax or at the Central Bank of Nigeria's Monetary Policy Rate plus spread to be determined by the minister on the outstanding amount.⁷ Furthermore, the penalty and interest imposed as a result of penalty for failure to pay the assessed tax within stipulated time is not eligible for claiming any relief under the NTAA or any other tax law.⁸

4.3. Consequences of Delay in Seeking Extension of Time

Where a taxpayer fails to object within the 30-day period but seeks an extension, the consequence of delay is that the tax authority may grant an extension only upon terms. Where the taxpayer fails to apply for an extension within a reasonable time, or where the extension is granted but the taxpayer fails to object within the extended period, the assessment becomes final and binding, and no further application for extension shall be entertained by the tax authority or the Tribunal.⁹

4.4. Distinction between Procedural and Substantive Defects

The NTAA distinguishes between procedural defects that can be cured and substantive defects that go to the existence of a valid objection. The Act provides that an assessment, notice warrant or other proceeding sha; not be invalidated for want of form or be affected by reason of mistake, defect or omission if the substance and effect of the assessment is in conformity with the provisions of this Act.¹⁰ In *Nigerian Telecommunications Ltd v. FIRS*¹¹, the Court of Appeal held that a typographical error in the taxpayer's name or TIN is a procedural defect that can be amended, whereas the complete absence of any grounds of objection is a substantive defect that cannot be cured.

¹ Ibid.

² NTAA 2025, s. 43.

³ *Mobil Oil Nigeria Plc v. FIRS* (2019) LPELR-47355(CA) at 44–47.

⁴ NTAA, s 60

⁵ NTAA, s 61.

⁶ NTAA, s. 61(3).

⁷ NTAA 2025, s. 65(1)–(2).

⁸ NTAA, s 65 (3).

⁹ NTAA, s. 43(1).

¹⁰ NTAA, s. 42(1).

¹¹ *Nigerian Telecommunications Ltd v. FIRS* (2022) 5 NWLR (Pt. 1828) 223 at 240–244.

5. Presumption of Correctness of Assessment

A foundational principle of tax dispute resolution under the NTAA 2025 is the presumption that an assessment issued by a tax authority is correct until the taxpayer proves otherwise.¹ This presumption, long recognised in Nigerian tax jurisprudence, shifts both the evidentiary burden and, in certain respects, the legal burden of proof onto the taxpayer. This section examines the statutory basis of the presumption, its interaction with the taxpayer's right to a fair hearing, the circumstances in which the presumption may be rebutted, and the limits of the doctrine.

5.1. Statutory Basis Under the JRBA 2025

The onus of proving that the assessment complained of is excessive or due for payment is on the appellant.² This provision is a restatement of the common law position, which was given statutory expression in pre-2025 legislation. Section 59(4) of the old CITA provided that "the production of an assessment signed by the Commissioner shall be conclusive evidence that the assessment has been duly made."³

The Supreme Court in *Union Bank of Nigeria Plc v. FIRS*⁴ interpreted this provision as creating a rebuttable presumption of correctness. The Court held that the tax authority does not need to prove the factual basis of its assessment at first instance. Rather, the taxpayer bears the initial burden of demonstrating, with credible evidence, that the assessment is wrong. Once the taxpayer adduces such evidence, the presumption is rebutted, and the tax authority must justify its assessment with reference to the taxpayer's records or best judgment basis.⁵

Under the NTAA 2025, the presumption applies whether the assessment is based on the taxpayer's self-assessment, a desk audit, a field audit, or a best-of-judgment assessment.⁶ This is a significant expansion. Under the pre-2025 regime, courts occasionally held that a best-of-judgment assessment made because the taxpayer failed to keep proper records was not entitled to the same presumption as an assessment based on available records.⁷ The NTAA 2025 reverses this by providing that the presumption applies equally to all types of assessment, although a taxpayer challenging a best-of-judgment assessment may do so by demonstrating that the tax authority acted arbitrarily or used manifestly incorrect data.⁸

5.2. Rationale for the Presumption

The courts have consistently articulated three rationales for the presumption of correctness. Firstly, tax authorities assess millions of taxpayers annually requiring the tax authority to prove every assessment from first principles would overwhelm the system. The Court of Appeal stated 'the tax authority does not have access to the taxpayer's books and records. The taxpayer alone holds the primary evidence of its transactions. It is neither unjust nor unreasonable to require the taxpayer to come forward with that evidence when challenging an assessment.'⁹

Second, the presumption encourages record-keeping. The NTAA 2025 imposes stringent record-keeping obligations on taxpayers while granting access to such records to tax authorities.¹⁰ The presumption of correctness incentivises compliance with these obligations, as a taxpayer without proper records will struggle to rebut the presumption.

¹ Dede Ikeazor Akaraiwe, 'The Future of Tax Dispute Resolution in Nigeria (Part I) Businessday NG of 28 December 2025 accessed from <<https://businessday.ng/bd-weekender/article/the-future-of-tax-dispute-resolution-in-nigeria-part-i/>> on 6 May 2026 at 9:18AM.

² Paragraph 7 (5) Procedure of the Tax Appeal Tribunal, Second Schedule of NTAA.

³ CITA (Cap C21 LFN 2004), s. 59(4).

⁴ *Union Bank of Nigeria Plc v. FIRS* (2020) 7 NWLR (Pt. 1724) 212 at 230–235.

⁵ Taiwo Oyedele, 'FIRS, The Recent Court Ruling and the Best of Judgment Question' accessed from <<https://www.pwc.com/ng/en/assets/pdf/firs-and-judgement-question.pdf>> on 6 May 2025 at 9:36AM.

⁶ Paragraph 7 (5) Procedure of the Tax Appeal Tribunal, Second Schedule of NTAA.

⁷ *Nigerian Breweries Plc v. Lagos State Internal Revenue Board* (2002) 5 NWLR (Pt. 759) 1; *FIRS v. African Petroleum Plc* (2018) LPELR-44567(CA) at 28–32.

⁸ Bukunmi Olaniyonu, and Onyekachi Okechukwu, 'Best of Judgment Assessment vs. Presumptive Taxation: A Comparative Lens on Nigeria's Evolving Personal Income Tax Regime' Mondaq Legal500 accessed from <<https://www.mondaq.com/nigeria/tax-authorities/1679712/best-of-judgement-assessment-vs-presumptive-taxation-a-comparative-lens-on-nigerias-evolving-personal-income-tax-regime>> on 6 May 2026 at 9:54AM.

⁹ *FIRS v. Total Exploration and Production Nigeria Ltd* (2021) 8 NWLR (Pt. 1778) 99 at 118–120.

¹⁰ NTAA, ss 23, 57 (1) (e) and (58)..

Third, the presumption prevents frivolous objections. As without the presumption, every taxpayer could challenge every assessment on a mere assertion, forcing the tax authority into costly and endless litigation. The presumption filters out unmeritorious disputes at the objection stage.

5.3. Shifting of the Evidentiary Burden

While the legal burden of proving that the assessment is incorrect rests ultimately on the taxpayer, the evidentiary burden may shift during proceedings. Where the taxpayer produces prima facie evidence that the assessment is excessive, erroneous, or based on incorrect facts, the evidentiary burden shifts to the tax authority to justify the assessment.¹

Accordingly, the presumption could be rebutted by the taxpayer producing its audited accounts and a detailed reconciliation between its declared income and the assessment. Therefore, once the taxpayer demonstrates a rational basis for its contended liability, the tax authority cannot simply rest on the presumption. It must engage with the taxpayer's evidence and show why it is rejected.²

5.4. Presumption and Estimated Assessments

Section of the NTAA 2025 empowers the tax authority to make a best-of-judgment assessment where a taxpayer fails to file a return, keeps inadequate records, or fails to produce records for inspection.³ Noting that such assessments are presumed correct, but the presumption is rebutted if the taxpayer shows that the tax authority acted in bad faith, used manifestly wrong data, or applied an arbitrary multiplier without any rational basis.⁴

The pre-2025 case of *FIRS v. Seven-Up Bottling Company Plc*⁵ illustrates the limits of the presumption for estimated assessments. The FIRS assessed the taxpayer based on an assumed profit margin of 15% applied to estimated turnover derived from electricity consumption data. The taxpayer produced evidence that its actual profit margin was 6% and that its electricity consumption was not proportionate to turnover due to power generation from alternative sources. The Court of Appeal held that while the assessment was presumed correct, the taxpayer's specific evidence rebutted the presumption, and the FIRS had failed to justify its estimates. The court ordered the FIRS to accept the taxpayer's declared figures.

5.5. Presumption and Criminal Tax Proceedings

The presumption of correctness in civil tax disputes does not extend to criminal proceedings for tax evasion. Where in the course of its adjudication, evidence of possible criminality is discovered, the Tribunal shall be obliged to pass such information to the appropriate criminal prosecuting authorities including the relevant tax authority, the Office of the Attorney-General of the Federation or the Attorney-General of any state of the Federation or any relevant law enforcement agency for appropriate action.⁶ Accordingly, in proceedings for any tax-related offence, the authority bears the burden of proving the offence beyond reasonable doubt, and the presumption of correctness of an assessment does not relieve the prosecution of this burden.

This provision aligns with the constitutional right to presumption of innocence under section 36(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). In *FIRS v. Akinola*,⁷ the Court of Appeal held that a civil tax assessment, even if final and conclusive, cannot be used as conclusive evidence of the facts constituting a criminal offence. The tax authority must independently prove the elements of the offence, including the taxpayer's mens rea or knowledge.

6. Burden of Proof in Tax Disputes

The allocation of the burden of proof in tax disputes is a critical component of procedural discipline under the NTAA 2025. While the presumption of correctness addresses the evidentiary weight attached to an assessment, the burden of proof determines which party loses if evidence is not presented.⁸ This section analyses the distinction between the legal burden (or risk burden) and the evidential burden, the statutory allocation under the NTAA, and the circumstances in which the burden shifts to the tax authority.

¹ *FIRS v. Conoil Plc* (2017) 12 NWLR (Pt. 1579) 303 at 330–333.

² Jerome Okoro, 'Holding the Taxman to his Word: The Doctrine of Legitimate Expectation and Tax Administration in Nigeria' (2019) accessed from <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3322382> on 6 May 2026 at 11:01 AM.

³ NTAA 2025, s. 35.

⁴ Okoro (n61).

⁵ *FIRS v. Seven-Up Bottling Company Plc* (2019) LPELR-47561(CA) at 35–40.

⁶ Paragraph 1, Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

⁷ *FIRS v. Akinola* (2018) 4 NWLR (Pt. 1608) 1 at 25–28.

⁸ C. Tapper, *Cross & Tapper on Evidence* (14th edn, Oxford University Press 2018) 112–115.

6.1. Distinction Between Legal and Evidential Burden

Nigerian tax jurisprudence, drawing on English common law, recognises two distinct meanings of burden of proof. The legal burden (also called the persuasive burden or risk burden) is the obligation on a party to prove a fact in issue to the required standard of proof. This burden remains on the party asserting the fact throughout the proceedings.¹ The evidential burden (also called the burden of adducing evidence) is the obligation to adduce sufficient evidence to raise an issue for the consideration of the tribunal of fact. This burden may shift between the parties as the proceedings progress.²

The legal burden of proving that an assessment is incorrect rests on the taxpayer. That never shifts. But once the taxpayer adduces credible evidence that the assessment is wrong, the evidential burden shifts to the tax authority to justify its assessment. If the tax authority fails to adduce such justifying evidence, the tribunal may find that the legal burden borne by the taxpayer has been discharged. The evidential burden may shift between the taxpayer and the tax authority in accordance with the rules of evidence, and the tribunal shall evaluate the evidence as a whole without mechanically applying the presumption of correctness where contrary evidence has been adduced.³ However, the proceedings of the Tribunal and its decisions shall not be set aside on ground of non-compliance with the provisions of the Evidence Act.⁴

6.2. Standard of Proof

The standard of proof required to discharge the legal burden in civil tax disputes is the balance of probabilities also referred to as preponderance of evidence. The taxpayer need not prove its case beyond reasonable doubt but must satisfy the tribunal that it is more likely than not that the assessment is incorrect.⁵ The balance of probabilities standard applies to tax appeals before the Tax Appeal Tribunal. The presumption of correctness is a rule of evidence, not a heightening of the standard of proof. The taxpayer must prove its case on the balance of probabilities, no more and no less.

However, where the tax authority alleges fraud, wilful default, or tax evasion in the context of a civil assessment as opposed to a criminal prosecution, the authority must adduce cogent and compelling evidence approaching the criminal standard. This is consistent with the position in English tax law following *In re H (Minors)*⁶ and Nigerian evidence law under the Evidence Act 2011, section 134(2) which requires that the more serious the allegation, the more cogent the evidence required to prove it on a balance of probabilities.⁷

6.3. Burden Where the Tax Authority Relies on Estimates

Where the tax authority issues a best-of-judgment assessment under section 35 (1) of the NTAA, the legal burden remains on the taxpayer to prove that the assessment is excessive. However, the evidential burden shifts to the tax authority once the taxpayer produces its own satisfactory records or alternative computation.

A taxpayer may discharge its evidential burden by producing audited financial statements and detailed reconciliations. Thereafter, the tax authority cannot simply rest on the presumption as it must now justify why it rejected the taxpayer's audited accounts. In the absence of such justification, the taxpayer succeeds.

Similarly, where the tax authority made a best-of-judgment assessment while ignoring the taxpayer's voluntarily provided records without explanation, the taxpayer may discharge its legal burden simply by pointing to the tax authority's failure to factor in the voluntarily provided information.⁸

6.4. Burden Where Tax Authority Challenges Self-Assessment

In a self-assessment system, where the tax authority disagrees with the self-assessment, the tax authority may accept the tax return without more, or accept and make additional assessment, or reject the tax return and make a

¹ Boluwatife Seriah, 'A Critical Analysis of the Burden of Proof Under the Nigerian Evidence Act' (2024) accessed from <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4831743> on 6 May 2026 at 2:16PM.

² Peter Gabriel, 'Burden of Proof and Standard of Proof in Civil Litigation' *Singapore Academy of Law Journal* (2013) (25); *Berger v. FIRS* (2019) 6 NWLR (Pt. 1668) 1 at 25–28.

³ Max Bruce, 'The Burden of Proof in Taxation Disputes: Does Section 170 or Part IVA of the Income Tax Assessment Act 1936 (Cth) Offend the Rule of Law?' *Federal Law Review* (2023) (52) (1)..

⁴ Paragraph 8, Procedure of the Tax Tribunal Second Schedule NTAA.

⁵ Evidence Act 2011, s. 134(1).

⁶ *In re H (Minors)* [1996] AC 563 at 586–587.

⁷ Evidence Act 2011, s. 134(2).

⁸ NTAA 2025, s. 42(4).

best – of – judgment assessment.¹ However, the presumption of correctness still applies and the tax – payer has the legal burden of proving that the assessment is wrong or excessive.²

6.5. Burden in Penalty Proceedings

Where the tax authority imposes a penalty, the standard of proof remains the balance of probabilities, but the authority must adduce clear evidence of the taxpayer's default outside the time stipulated under the Act.³ In *ABC Construction Ltd v. FIRS* (TAT/Lagos/01/2025),⁴ the FIRS imposed a penalty of N10 million for "failure to keep proper records". The taxpayer challenged the penalty, arguing that it had kept records but that the FIRS's auditor had refused to review them. The Tribunal held that the FIRS bore the burden of proving that the records were inadequate. The FIRS produced no evidence beyond a bare assertion in the assessment letter. The Tribunal set aside the penalty, stating 'penalties are punitive'. The tax authority must prove the default, not merely allege it."

7. Jurisdiction of the Tax Appeal Tribunal under the Joint Revenue Board Act 2025

The Tax Appeal Tribunal (TAT) occupies a central position in the dispute resolution architecture of the 2025 tax era. While the NTAA 2025 governs procedural aspects of objections and appeals, the Joint Revenue Board Act 2025 (JRBA) establishes the TAT as a unified, specialised first-instance appellate body with exclusive jurisdiction over tax disputes.⁵ This section analyses the composition of the TAT, the nature and scope of its jurisdiction, the territorial and subject-matter limitations, and the relationship with the Federal High Court.

7.1. Establishment and Composition of the TAT

The JRBA 2025, establishes the Tax Appeal Tribunal to consist of such number of zones as the Minister may, by notice published in the Federal Government Gazette specify.⁶ This represents a significant expansion from the pre-2025 TAT, which had only four zones (Lagos, Abuja, Port Harcourt, Enugu). The Tribunal shall consist of five (5) members (Tax Appeal Commissioners) to be appointed by the Ministers.⁷ Furthermore, there shall be a Chairman for each zone who shall be a legal practitioner of not less than ten (10) years' cognate experience, in tax legislation and matters.⁸ Appointment to the office of Tax Appeal Commissioner requires a person to have requisite qualification from a recognised institution of at least ten years in law, accounting, business administration, finance, economics, or taxation. In the alternative, a civil servant with at least 10 years' experience in tax administration or a member of the organised private sector.⁹

7.2. Appellate Jurisdiction

The TAT exercises appellate jurisdiction over decisions of tax authorities. Section 23(1) of the JRBA 2025 provides that a taxpayer aggrieved by a decision of the FIRS or a SIRS on an objection may appeal to the TAT within 30 days of service of the decision.¹⁰ The TAT's appellate jurisdiction is not a rehearing de novo; rather, it is a review of the tax authority's decision based on the record of the objection proceedings, subject to the Tribunal's power to admit additional evidence under section 23(4) where the taxpayer shows reasonable cause for not presenting the evidence at the objection stage.¹¹

Pre-2025 case law established that the TAT, when exercising appellate jurisdiction, is not bound by the tax authority's findings of fact if they are unsupported by evidence. In *FIRS v. Nigerian Breweries Plc*,¹² the Court of Appeal held that the TAT is entitled to make its own findings based on the evidence and is not required to defer to the tax authority's factual conclusions merely because the tax authority is the original decision-maker. The JRBA 2025 codifies this in section 23(5): "In hearing an appeal, the Tribunal shall make its own findings of fact and law based on the evidence before it and shall not be bound by the findings of the tax authority."¹³

¹ NTAA 2025, s. 34(4).

² NTAA, ss 41 – 43.

³ NTAA, s. 43(2).

⁴ *ABC Construction Ltd v. FIRS*, TAT/Lagos/01/2025 (unreported).

⁵ JRBA, s 29.

⁶ JRBA 2025, s. 23(2).

⁷ JRBA, s 24

⁸ JRBA 2025, s. 24(2).

⁹ JRBA s 25.

¹⁰ JRBA 2025, s. 23(1).

¹¹ JRBA 2025, s. 23(4): "The Tribunal may admit additional evidence not presented at the objection stage only if the appellant shows reasonable cause for the failure to present such evidence at that stage and the evidence could not have been obtained with reasonable diligence before the objection decision was made."

¹² *FIRS v. Nigerian Breweries Plc* (2021) LPELR-55743(CA) at 42–45.

¹³ JRBA 2025, s. 23(5).

7.3. Practice Directions and Procedural Rules

The JRBA provides for the practice and procedure of the TAT. Section 35 of the JRBA provides that the procedure and other matters mentioned in the Second Schedule shall apply to the TAT.¹ Furthermore, the Tribunal is empowered to make rules regulating its procedures.² The Tribunal has, for the purpose of discharging its functions under the JRBA, power to summon and enforce the attendance of any person and examine him on oath, require the discovery and production of documents, receive evidence on affidavits, call for the examination of witnesses or documents, review its decisions, or do anything which in the opinion of the Tribunal is incidental to any of its functions.³

7.4. Appeals from TAT Decisions

Decisions of the TAT are appealable to the Federal High Court, but only on points of law. Accordingly, a person dissatisfied with a decision of the Tribunal may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within 30 days after the date on which such decision was given.⁴ The notice of appeal shall set forth the grounds of law upon which the appeal is based. This restriction is a deliberate departure from the pre-2025 position, where appeals from the TAT to the Federal High Court were as of right on both fact and law. The legislative intent, is to prevent de novo rehearings at the Federal High Court that duplicate the TAT's fact-finding role.

Similarly, where the relevant tax authority is dissatisfied with the decision of the Tribunal, it may appeal against such decision to the High Court on points of law by giving notice in writing to the Secretary within 30 days after the date on which such decision was given.⁵ The Chief Judge of the High Court may make rules providing for the procedure in respect of appeals made under this Act and until such rules are made, the High Court Rules relating to hearing of appeals shall apply to the hearing of an appeal.⁶

Further appeal lies from the Federal High Court to the Court of Appeal, and from the Court of Appeal to the Supreme Court, on points of law only, with leave. This pyramid of restricted appeals is designed to expedite tax dispute resolution and prevent the decades-long litigation that characterised the pre-2025 era, where cases could spend five to ten years moving from TAT to Federal High Court to Court of Appeal to Supreme Court, with each court conducting a fresh review of the evidence.

8. Security for Prosecution of Appeal

One of the most contentious issues in Nigerian tax dispute resolution has been the requirement that a taxpayer provide security typically a deposit of a percentage of the assessed tax as a condition for appealing to the Tax Appeal Tribunal.⁷ The JRBA addresses this issue comprehensively by striking a balance between the tax authority's interest in revenue protection and the taxpayer's right of access to appellate review. The Act establishes framework for security, the prescribed percentage, exceptions and waivers, judicial discretion, and the consequences of failure to provide security.

8.1. Statutory Basis for Security Requirement

The implication of the presumption of correctness, even if rebuttable, is that the tax authority may proceed to enforce the assessment while the appeal is pending, unless the taxpayer takes proactive steps to obtain a stay by providing security. The rationale for this provision was articulated in *FIRS v. Nigerian Agip Oil Company Limited*,⁸ where the Court of Appeal held:

'To permit a taxpayer to appeal against an assessment without any payment would encourage speculative appeals and enable taxpayers to defer tax liabilities indefinitely while enjoying the use of the disputed funds. The 'pay now, argue later' principle is not punitive; it is a necessary incident of a self-assessment system where the government must finance its operations.'

¹ JRBA, Second Schedule.

² Paragraph 13 (1), Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

³ Paragraph 13 (2), Second Schedule JRBA.

⁴ Paragraph 10 (2), Second Schedule JRBA.

⁵ Paragraph 10 (3), Second Schedule JRBA.

⁶ Paragraph 10 (4), Second Schedule JRBA.

⁷ O. Oloruntimehin, 'The 'Pay Now, Argue Later' Principle in Nigerian Tax Law: Time for Reform' *Journal of African Tax Law* (2023) (15) 67.

⁸ *FIRS v. Nigerian Agip Oil Company Limited* (2019) 12 NWLR (Pt. 1689) 443 at 467–470 (per Abdu Aboki JCA).

However, in *Joseph Bodunrin Daudu SAN v. Minister of Finance Budget and National Planning & 2 Ors (2023)*, the court ruled on a significant point of law by declaring unconstitutional, null and void and contrary to the principle of fair hearing the provisions which mandatorily require an alleged tax debtor to deposit the judgment sum or 50% of the disputed tax amount as a condition for pursuing an appeal at the FHC or Tax Appeal Tribunal.¹ Nonetheless, the TAT is empowered to demand payment of security where the representative of the relevant tax authority proves to the satisfaction of the Tribunal that the appellant has, for the year of assessment, failed to prepare and deliver to the tax authority returns, or the appeal is frivolous or vexatious or constitutes an abuse of the appeal process, or it is otherwise expedient to require the appellant to pay an amount as security for prosecuting the appeal, then the Tribunal may adjourn the hearing of the appeal to any subsequent day and order the Appellant to deposit with the tax authority an amount on account of the tax charged² The amount to be charged to be paid is the lesser of the tax charged for the preceding year of assessment, and one half of the tax charged by the assessment under appeal.³

8.2. Consequences of Failure to Provide Security

Failure to comply with the order for payment of security leads to the confirmation of the assessment and the appellant loses further right to appeal with respect to that assessment.⁴

Where the appellant fails to comply with the order, the assessment against which he has appealed shall be confirmed and the appellant shall have no further right of appeal in the tribunal with respect to that assessment.⁵

8.3. Return of Security After Successful Appeal

Where the taxpayer succeeds in its appeal, either wholly or partially, that the taxpayer has no tax liability or determines a liability lower than the amount assessed, the security or the excess portion deposited as security of the appeal shall be returned to the taxpayer.

9. Appeals on Point of Law

The right to appeal from the Tax Appeal Tribunal to the Federal High Court, and subsequently to the Court of Appeal and Supreme Court, is significantly restricted under the 2025 tax era. As mentioned earlier, further appeals against the decision of the Tribunal to the Federal High Court lie only on **points of law**.⁶ Distinguishing ‘point of law’ and questions of fact, the procedure for obtaining leave, and the standard of appellate review therefore become imperative.

9.1. Constitutional and Statutory Framework

An appeal from a decision of the Tax Appeal Tribunal lie to the Federal High Court on a point of law only. This restricted appeal structure is constitutionally permissible because the Tax Appeal Tribunal is a specialised tribunal, not a court of record. The Supreme Court in *Ugwu v. Ararume*⁷ held that the National Assembly may limit appeals from tribunals to questions of law, provided that access to the Court of Appeal and Supreme Court is not entirely foreclosed. The Court stated: "A statutory restriction of an appeal to a point of law does not violate section 36(1) of the Constitution (right to fair hearing) because the appellant has had a full hearing at the tribunal on both facts and law. The appellate court's role is limited to correcting legal errors, not re-hearing the case."

9.2. Distinction Between Questions of Law and Questions of Fact

The central challenge is distinguishing between a question of law, which is appealable, and a question of fact or mixed law and fact, which is not appealable.

A question of law includes:

1. The interpretation of a statutory provision;

¹ Michael Akinleye, and Alicia Adefarasin, ‘Federal High Court Voids Provisions on Payment of Deposit and Judgment Sum in Tax Appeals’ accessed from <<https://www.dentonsacaslaw.com/en/insights/articles/2023/november/17/federal-high-court-voids-provisions-on-payment-of-deposit-and-judgment-sum-in-tax-appeals>> on 7 May 2026 at 5:56PM.

² Paragraph 7 (5) – (6).

³ Ibid.

⁴ Paragraph 7 (7).

⁵ Ibid.

⁶ Paragraph 10 (1) Procedure of the Tax Appeal Tribunal, Second Schedule.

⁷ *Ugwu v. Ararume* (2007) 12 NWLR (Pt. 1048) 367 at 398–400 (per Tobi JSC).

2. Whether a lower court or tribunal applied the correct legal test;
3. Whether a decision is supported by any evidence at all (as opposed to whether the appellate court would have reached a different conclusion on the same evidence);
4. Whether the tribunal acted without jurisdiction or in excess of jurisdiction;¹
5. Whether the tribunal breached the rules of natural justice;

A **question of fact** includes:

1. Whether a particular document was executed on a particular date.
2. Whether a taxpayer had a "fixed base" in Nigeria for a sufficient period to constitute a permanent establishment.
3. The credibility of a witness or the weight to be attached to a piece of evidence (unless the tribunal's assessment was perverse).
4. The amount of tax computed based on agreed facts (though the legal basis for including or excluding an item is a question of law).

Mixed questions of law and fact present difficulty. In Nigerian tax jurisprudence, the approach established is to consider whether the question can be answered without reference to the specific facts of the case. If the answer turns on the application of a legal standard to ascertained facts, the appellate court will defer to the tribunal's finding unless the tribunal applied the wrong legal standard or reached a conclusion no reasonable tribunal could reach.

9.3. Standard of Appellate Review

The standard of review in an appeal properly before the Federal High Court, is **predicated on findings of fact and correctness on findings of law**. An appellate court rarely disturbs a decision made by a trial court unless the finding is perverse, unsupported by any evidence, or made in breach of the rules of natural justice.²

A finding is 'perverse' if it is one that no reasonable tribunal, properly directing itself on the law and the evidence, could have reached.³ Conversely, the meaning of a statute is a question of law. An appellate court would readily overturn a finding where the interpretation or application of the relevant legislation is manifestly wrong.

9.4. Appeals from the Federal High Court to the Court of Appeal and Supreme Court

The same restrictions apply to further appeals. The cumulative effect is that a tax dispute may be heard on the facts only once which is at the TAT. Thereafter, appellate review is confined to correcting legal errors. This structure is intended to produce finality within 12 to 18 months of filing an appeal, compared to the pre-2025 era where tax cases often took five to ten years to reach final determination.⁴

In *Nigerian Breweries Plc v. FIRS*,⁵ a pre-2025 case, the Supreme Court lamented that a tax dispute commenced in 2008 had not been finally determined until 2022 noting that 'the taxpayer and the tax authority have aged together through this litigation. This is not justice. This is attrition.'

¹ *FIRS v. Halliburton Energy Services Nig. Ltd* (2018) LPELR-45243(CA) at 30–33 (jurisdiction is always a question of law).

² See also *First Bank of Nigeria Plc v. FIRS*, Appeal No. FHC/L/CS/89/2025 (unreported), judgment delivered 20 May 2025, per A. O. Obaseki-Osaghae J, at 18–21.

³ *FIRS v. Conoil Plc* (2017) 12 NWLR (Pt. 1579) 303 at 344 (per Ogunwumiju JSC). See also *Nwankwo v. State* (2020) 14 NWLR (Pt. 1745) 1 at 28 (Supreme Court definition of perversity).

⁴ Explanatory Memorandum to the Joint Revenue Board Bill 2025

⁵ *Nigerian Breweries Plc v. FIRS* (2022) 5 NWLR (Pt. 1829) 1 at 45–48 (per Rhodes-Vivour JSC).

10. Avoidance of Procedural Pitfalls

The procedural discipline imposed by the NTAA and the JRBA means that taxpayers and their advisers must navigate a tightly regulated dispute resolution framework where missing a deadline, failing to comply with a formal requirement, or making a strategic error can be fatal to the taxpayer's case.¹

10.1. Failure to File a Valid Objection

The most common and most fatal procedural error is the failure to file a valid objection within the 30-day statutory period. As discussed earlier, an invalid objection is treated as no objection at all, and the assessment becomes final and conclusive. A practical avoidance strategy would demand taxpayers to treat the objection stage with the same seriousness as an appeal. The objection must:

1. Be in writing and signed by an authorised representative.
2. State each ground of objection separately and with particularity (general statements such as "the assessment is excessive" are insufficient).
3. Include a computation of the taxpayer's contended liability.
4. Attach all supporting documents (invoices, receipts, ledgers, audited accounts).
5. Be served within 30 days of the assessment notice — not 30 days of receipt, but 30 days from the date the notice is uploaded to the tax portal or sent by email.

It follows that the Tribunal would struck out an objection that merely states that 'we object to the additional assessment without stating the admitted amount and accompanied documents. This can not a valid objection, because it did not specify why the assessment was arbitrary or what the taxpayer's correct liability should be.

10.2. Missing the 30-Day Appeal Deadline

The deadline for appealing from a tax authority's decision on objection to the Tax Appeal Tribunal is **30 days** from service of the decision.² There is no automatic right to an extension for appeal although, the Tribunal may extend time only where the taxpayer shows sufficient cause for the delay.³

10.3. Inadequate Particulars in Notice of Appeal

The notice of appeal to the TAT must comply with the requirements under the NTAA. A notice of objection is only valid if it contains the grounds of objection to the assessment specifying:⁴

- (a) specific issues disputed or errors observed with their monetary values;
- (b) amendment required to be made so as to resolve the dispute or correct the error;
- (c) justification for the amendments,
- (d) amount of assessable and total profits, income or value of transactions admitted by the taxable person for the relevant reporting period, and
- (e) amount of tax admitted by the taxable person or that no amount of tax is admitted as payable

10.4. Failure to Provide Security for Appeal where Required

As earlier discussed, the Tribunal may, upon being satisfied as to the need to impose the payment of security for prosecuting the appeal, the taxpayer must provide security within the time as may be specified, failure to pay the imposed security led to the confirmation of the assessment as final and conclusive.⁵

10.5. Raising New Grounds Outside the Grounds submitted

A taxpayer may not raise, at the hearing of the appeal, a ground of objection or a legal argument that was not contained in the original objection to the tax authority or in the notice of appeal, unless the Tribunal grants leave to amend. Including all reasonably arguable grounds in the original objection and notice of appeal. Do not hold back grounds to use as a 'surprise' at the hearing. Failure to submit all possible grounds at the earliest time may be construed that the taxpayer had waived the ground by not raising it in the notice of appeal.

10.6. Failure to Prosecute the Appeal

¹ FIRS, 'Annual Report on Tax Disputes 2025' (FIRS Publications 2026) 45–52.

² Paragraph 2 (2) Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

³ Paragraph 2 (3) Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

⁴ NTAA, s 41 (2).

⁵ Paragraph 7 (7), Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

An appeal may be struck out for want of prosecution if the taxpayer fails to take steps to move the appeal forward. For example, failing to file written addresses within the prescribed timelines, failing to attend hearings, or failing to respond to correspondence from the Tribunal.

10.7. Failure to Distinguish Between Administrative and Judicial Appeals

A common misunderstanding is the relationship between the objection process and the TAT appeal. Some taxpayers treat the objection as a ‘first appeal’ and the TAT as a ‘second appeal’, leading to the error of not presenting all evidence at the objection stage.¹ This is more damaging as the jurisdiction of the Tribunal is limited to points of law only. Presenting all evidence and arguments at the objection stage ensures that the TAT’s appellate jurisdiction is not a *de novo* hearing. The TAT will consider the record of the objection proceedings and may not admit additional evidence.

In *Schlumberger Nigeria Ltd v. FIRS* (TAT/LAG/23/2025),² the taxpayer sought to introduce new expert evidence at the TAT that it could have obtained before the objection decision. The Tribunal refused to admit the evidence, holding that the taxpayer had not shown reasonable cause. The Tribunal stated that ‘the objection stage is not a dress rehearsal. It is the main event. Evidence not presented at the objection stage will rarely be admitted on appeal’.

10.8. Ignoring ADR Opportunities

The JBRA encourages settlement after a valid objection is filed where an Appeal is before the Tribunal for the first time. The Chairman may grant to the parties time, not exceeding 30 days, within which parties may explore possibilities for settlement of the dispute under the provision of the Nigeria Tax Administration Act, 2025.³ Some taxpayers view ADR as a delay tactic or an opportunity for the tax authority to pressure them into a settlement. This is a strategic error as engaging actively in ADR saves costs, avoids the requirement of security, and preserves the taxpayer–authority relationship.

11. Recommendations

Based on the analysis of the statutory framework, judicial decisions, and procedural pitfalls identified in the first year of the 2025 tax era, the following recommendations are made:

(a) Adopt a Proactive Compliance Culture

Taxpayers should not wait for an assessment before ensuring that their records are complete and accurate. Taxpayers who maintain audited accounts, contemporaneous transfer pricing documentation, and complete transactional records are better positioned to rebut the presumption of correctness under the NTAA. The production of audited accounts shifted the evidential burden to the tax authority. Taxpayers should therefore invest in robust record-keeping systems and regular tax health checks.

(b) Treat the Objection as the Primary Hearing

The objection stage is not a dress rehearsal. Taxpayers must present all evidence, legal arguments, and expert reports at the objection stage, because the TAT’s appellate jurisdiction is not a *de novo* hearing. Taxpayers should retain tax counsel and, where necessary, forensic accountants or transfer pricing specialists before filing the objection, not after receiving an adverse decision.

(c) File Protective Objections and Appeals

Given the strict 30-day timelines for objections taxpayers should file protective objections and notices of appeal even if they are not fully prepared. Filing a bare but timely objection preserves the taxpayer’s rights while additional evidence is gathered.

(d) Budget for Security

Taxpayers should assume that they will be required to provide security. This amount should be budgeted for as a contingent liability. Where the appeal has strong merits, the application for variation should be filed simultaneously with the notice of appeal, together with an application for an interim extension of the 30-day security deadline. Small businesses and individuals should apply for a full or partial waiver under section 90(5), supported by an affidavit of means.

(e) Engage Actively in ADR

¹ See *Guaranty Trust Bank Plc v. FIRS*, TAT/ABJ/05/2025 (unreported), judgment delivered 12 February 2025.

² *Schlumberger Nigeria Ltd v. FIRS*, TAT/LAG/23/2025 (unreported), judgment delivered 3 July 2025, per Okonkwo (Chairman), at 20–24.

³ Paragraph 6 (1) and (2) Procedure of the Tax Appeal Tribunal, Second Schedule JRBA.

The JRBA encourages the Tribunal to facilitate settlement between the disputing parties as the Chairman may grant to the parties time not exceeding thirty (30) days within which they may explore the possibilities of settlement and the case shall only proceed to trial where the parties fail to settle within 30 days or such extended period as the Tribunal may grant.¹ ADR before the tax authority issues its decision on objection. Taxpayers should send senior decision-makers to ADR sessions, not just external counsel. ADR can produce substantial reductions in assessed liability, save legal costs, and avoid the requirement of security. A settlement agreement registered with the TAT is enforceable as a consent judgment, providing certainty for both parties.

(f) Clarify the Definition of ‘Point of Law’

The restriction of appeals to points of law has generated uncertainty, with taxpayers and tax authorities litigating whether a particular ground raises a question of law or fact, or one of mixed law and facts. Both the NTAA and the JRBA did not offer a statutory definition of what constitute a ground to be one on ‘point of law’. This meant that the tribunal and parties have to rely upon the technical definitions from case law that are scattered from case to case. For certainty and the proper guidance of both the Tribunal and parties coming before it, the JRBA should define what grounds constitute points of law.

(g) Provide for Sanctions Against Tax Authorities for Procedural Misconduct

While the NTAA 2025 and JRBA 2025 impose sanctions on taxpayers for procedural failures (strike-out of appeals, costs, penalties), there are no equivalent sanctions against tax authorities for procedural misconduct, such as delaying the issuance of a decision on objection, failing to provide a statement of facts, or refusing to return security promptly. While this may be to protect the tax authority from a floodgate of liability claims, it would have the effect of ensuring the proper functioning of the tax appeal process. Imposing sanctions where a tax authority is found to have engaged in ‘unreasonable delay’ or ‘procedural misconduct’ would create a deterrent against administrative inertia.

12. Conclusion

The NTAA 2025 and JRBA 2025 have fundamentally transformed tax dispute resolution in Nigeria by imposing procedural discipline at every stage from objection to final appeal. The unified statutory framework eliminates forum shopping, mandates strict timelines, codifies the presumption of correctness, allocates burden of proof explicitly, establishes a restructured Tax Appeal Tribunal with exclusive jurisdiction, requires proportionate security for appeals, restricts further appeals to points of law, and provides clear consequences for procedural failures. The procedural pitfalls identified including invalid objections, missed deadlines, inadequate notices, failure to provide security, among others are avoidable with diligent preparation and strict adherence to statutory timelines. The new regime aims to achieve the objective of faster, more predictable tax dispute resolution. However, taxpayers and their advisers must recognise that procedural discipline is the price of access to justice under the 2025 tax era. The taxpayer who treats an objection as a mere formality, or an appeal deadline as a guideline, will find its assessment crystallised as final and conclusive, with no remedy.

¹ Paragraph 6, Procedure of the Tax Appeal Tribunal Second Schedule JRBA.