

IN THE TAX APPEAL TRIBUNAL
IN THE SOUTH – SOUTH ZONE
HOLDEN AT BENIN CITY

APPEAL NO: TAT/SSZ/008/2019

BETWEEN

UNITED BANK FOR AFRICA

APPELLANT/APPLICANT

AND

RIVERS STATE BOARD OF INTERNAL REVENUE

RESPONDENT

WITNESS STATEMENT ON OATH OF OLADEJO ADEYEMI.

I, Oladejo Adeyemi, Male, Christian, Adult, Nigerian, Member of the Chartered Institute of Taxation of Nigeria and a Chartered Accountant of Karaa Place, 4th Floor, 5 Acacia Drive, Osborne Phase 2, Ikoyi, Lagos State do make oath and state as follows:

1. I am a Manager in Andersen Nigeria, Tax Consultants to the Appellant in this Appeal.
2. The facts deposed to in this Statement are facts within my personal knowledge and facts that have come to my knowledge as a result of my review of documents in the normal course of my employment in Andersen Nigeria.
3. I have the consent and authority of the Appellant and that of my employer to depose to this affidavit.
4. The Appellant is a company formed and organized under the Companies and Allied Matters Act, 2020 and is engaged in the business of banking.
5. That the Respondent is an agency of the Rivers State Government created to administer the relevant tax laws applicable in Rivers State.
6. The Respondent conducted a tax audit in respect of withholding tax (WHT) due on interest expense of the Appellant covering the 2011 - 2017.
7. Further to the said tax audit exercise, the Respondent by letter dated 5th November 2018, issued a demand notice for **NGN1,100,129,918** against the Appellant. Attached and marked **Exhibit UBA 1**, is a copy of the demand notice dated 5th November 2018. The Appellant shall rely on the said demand notice at the hearing of this Appeal.
8. The details of the additional WHT as contained in the assessment Demand Notice dated 5th November 2018 are as follows:

S/N	Description	Amount (Naira)
1.	WHT outstanding	839,793,830
2.	Penalty at 10%	83,979,383
3.	Interest at 21%	176, 356,704
4.	TOTAL	1,100,129,918

9. Dissatisfied with the additional WHT assessment, the Appellant caused its tax consultants First Innovation Consults Limited, to serve the Respondent with a notice of objection dated **22nd November 2018**. Attached and marked Exhibit **UBA 2, is a copy of the Notice of Objection**. The Appellant shall rely on the Notice of Objection at the hearing of this Appeal. Notice is hereby given to the Respondent to produce the original Notice of Objection at the hearing of this Appeal.
10. The grounds of the Appellant's notice of objection are as follows:
- a) The Respondent's demand notice overstated the Appellant's interest expense for 2011 – 2017.
 - b) The demand notice understated the Appellant's WHT on interest remittances for 2011 – 2017.
 - c) The demand notice failed to consider the Appellant's WHT remittances made to the Federal Inland Revenue Service.
 - d) The demand notice failed to account for and consider tax-exempt and non-taxable interest expenses incurred by the Appellant.
 - e) The assessment contained in the demand notice has no basis in the records if the Appellant for 2011 - 2017.
11. In response to that Appellant's notice of objection, the Respondent, by a letter dated 25th February 2019 requested for further information from the Appellant particularly the following:
- a) Monthly bank returns (2011 - 2014);
 - b) Withholding tax payable ledger (2011 - 2017);
 - c) Evidence of WHT payment receipts (2015); and
 - d) Breakdown of interest expense in the financial statement into product types (saving, time/term deposit, call/current deposit, domiciliary account, interbank takings, and borrowing etc.) and State by State Internal Revenue Service, Federal Inland Revenue Service, and exempted items, etc.

Attached and marked **Exhibit UBA 3**, is a copy of the letter dated 25th February 2019. The Appellant shall rely on the said letter at the hearing of this appeal.

12. The Appellant complied with the request of the Respondent by forwarding a letter dated 6th May 2019 in which the Appellant supplied information which the Respondent requested for. Attached and marked **Exhibit UBA 4, is a copy of the letter dated 6th May 2019**. The Appellant shall rely on the letter dated 6th May 2019 at the hearing of this appeal. Notice is hereby given to the Respondent to produce the original letter at the hearing of this Appeal.
13. The Respondent did not consider the information submitted by the Appellant, but instead issued a notice of refusal to amend (NORA) dated 28th June 2019 on grounds that the Appellant did not provide the following information:
- a) Breakdown of interest expense in the audited financial statement (2011 -2017);
 - b) Nationwide data; and
 - c) Monthly bank returns (2011 - 2014).

Attached and marked **Exhibit UBA 5**, is a copy of the NORA. The Appellant shall rely on the NORA at the hearing of this appeal.

14. The Appellant has provided all information/documents necessary for the Respondent to conduct its audit and discharge the Appellant.
15. Specifically, the Appellant has provided ALL the information and data breakdown requested by the Respondent.
16. The Appellant has no obligation to provide the Respondent with information regarding customers who are not resident in Rivers State.
17. Notwithstanding the fact that the Appellant has no obligation to provide the Respondent with the information itemized in the Respondent's NORA, the Appellant offered to grant the Respondent access to the same at its office.
18. The Respondent has not provided the Appellant with the particulars of transactions which resulted in the assessment contained in the demand notice dated 5th November 2018.
19. The Respondent has not stated or showed or provided the basis for the additional assessment imposed on the Appellant.
20. On Friday, 18th July 2019, at 3pm in the offices of the Appellant at 57, Marina Lagos, Amaka Ike-Okonkwo, the Team Lead, Tax Compliance of the Appellant informed me and I verily believe her to be true as follows:
 - a) The Appellant has no records of any unremitted WHT on interest arising from any transactions with individuals in the years 2011 – 2017.
 - b) The Appellant has remitted all WHT from all sources due from it to the Respondent for the years 2011 – 2017.
 - c) The Respondent has admitted in its demand notice that the Appellant has remitted WHT in the sum of **NGN 824,402,470** for the years 2011 – 2017.
21. The Respondent has not provided the basis for the imposition of **NGN 1,100,129,918** as additional WHT for the years 2011 – 2017.
22. The Appellant has duly deducted and remitted ALL taxes due to the Respondent for the period of assessment 2011 to 2017. Attached and marked Exhibit UBA 6 is evidence/receipts of remittance of WHT on interests issued by the Respondent to the Appellant for the period of assessment 2011 to 2017.
23. Exhibit UBA 6 referred to in paragraph 22 above all the remittances due to the Respondent from all the branches located in Rivers State within the jurisdiction of the Respondent.
24. The Respondent in its demand notice, imposed interest and penalty even though the additional assessment has not been established and not final and conclusive.
25. Based on the foregoing, the Honourable Tribunal is urged to grant all the reliefs sought by the Appellant in this Appeal.

26. I make this statement in good faith believing its contents to be true and correct and in accordance with the Oaths Act.



DEPONENT

The Registry of the Tax Appeal Tribunal
South- South Zone Benin City Edo State

This.....day of2021.

BEFORE ME

COMMISSIONER FOR OATHS