

Assessments issued under section 73(3) of the Income tax Act

Section 73(3) empowers the Commissioner to raise an Assessment where a taxpayer fails to submit a return which Assessment is loosely referred to as “Estimated Assessments”. Once an Assessment is issued, it can only be vacated or amended upon receipt of a valid objection and submission of a return. Under section 73(2), the Commissioner **may** accept a return which implies that the commissioner is not bound to accept a return and income declared therein.

Where an Assessment has been issued under section 73(3) for a year of income and a return is subsequently filed for that year of income, the Commissioner may deal with the return in the following ways:

- a) Where a return is not accompanied with a valid objection*
 - i. He may ignore the returned income if it is less than income already assessed or is exactly the same.
 - ii. He may issue additional assessment under section 77 if income declared in the return is more than the income already assessed.
- b) Where a return is accompanied with a valid objection*

Where submitted, an objection **must** satisfy the provisions of section 84 for it to be valid. Upon receipt, the Commissioner will acknowledge its receipt by issuing Form IT 13 and only then can he proceed to exercise his options as laid out under section 85 as below:

- i. He may accept the return and declared income therein by processing the return in the system.
- ii. He may accept the return, subject it to such adjustments as he may consider appropriate with or without the taxpayer’s agreement and proceed to process the adjusted return accordingly. The taxpayer must be served with Form IT 23A informing him of the refusal and of the taxpayer’s rights to appeal.
- iii. He may refuse to accept the return in which case he is not obliged to process the return. He must then serve the taxpayer with Form IT 23 informing the taxpayer of the refusal and the taxpayer’s right to appeal.