

GOVERNMENT NOTICE NO. 222 published on 18/05/2018

THE TAX REVENUE APPEALS ACT

(CAP. 408)

RULES

(Made under section 33)

THE TAX REVENUE APPEALS TRIBUNAL RULES, 2018

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THE TAX REVENUE APPEALS ACT

(CAP. 408)

RULES

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THE TAX REVENUE APPEALS TRIBUNAL RULES, 2018

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Tax Revenue Appeals Tribunal Rules, 2018.
- Interpretation 2. In these Rules, unless the context requires otherwise—
- Cap 408 "Act" means the Tax Revenue Appeals Act ;
"applicant" means any person who institutes an application before the Tribunal;
- Cap. 399 "appellant" means any person who institutes an appeal before the Tribunal;
- "Board" means the Tax Revenue Appeals Board established by section 4(1) of the Act;
- "Chairman" includes a Chairman and the Vice-chairman appointed under the Act;
- "Commissioner General" means the Commissioner General appointed under section 15 of the Tanzania Revenue Authority Act, and includes any person appointed as Commissioner in respect of any tax;
- "member" means the Chairman and other members of the Tribunal appointed in accordance with section 8(2) of the Act;
- "Minister" means the Minister responsible for finance;

"Registrar" means the Registrar of the Tribunal appointed in accordance with section 10(1) of the Act;

"Respondent" means any person against whom an appeal or an application as the case may be, is instituted;

"Tribunal" means the Tax Revenue Appeals Tribunal established by section 8(1) of the Act.

PART II
INSTITUTION OF APPEALS TO THE TRIBUNAL

Filing of notice of appeal

3.-(1) Any person who wishes to appeal against a decision of the Board shall file a written notice of intention to appeal within fifteen days from the date on which the decision in respect of which it is intended to appeal against was made.

(2) The appellant shall file notice of intention to appeal in the Tribunal and serve copies to the Board, the respondent and all parties who are likely to be affected by the decision of the Tribunal on the matter intended to be appealed against.

(3) The notice of intention to appeal shall be made in the Form TRT. 1 prescribed in the First Schedule to these Rules and shall be signed by or on behalf of the appellant.

Registrar to endorse notice of intention to appeal

4. Where the Registrar has received a notice of intention to appeal, the Registrar shall endorse the date on which it was received and shall immediately send one copy of the notice to the appropriate zonal centre where the appeal shall be determined.

Institution of appeal,

5.-(1) An appeal to the Tribunal shall be instituted by lodging a statement of appeal at the registry of the Tribunal within thirty days from the date of service of the decision and proceedings of the Board in respect of which it is intended to appeal against.

(2) Every appeal shall be made in the Form TRT. 2 prescribed in the First Schedule to these Rules and shall be accompanied by all material documents which are necessary for the determination of the appeal.

(3) Without prejudice to sub-rule (2), the appeal shall be accompanied by-

- (a) a certified copy of the proceedings of the Board;
- (b) a certified copy of the decision of the Board;
- (c) a copy of the decision of the Commissioner;
- (d) certified copy of the decree or order of the Board; and
- (e) a copy of the notice of intention to appeal to the Tribunal.

(4) For the purpose of sub-rule (3), proceedings shall not necessary include exhibits and annexure presented during the hearing of the appeal.

Extension of period to institute appeal

6. The Tribunal may, where it deems just and equitable and having regard to the nature of the intended appeal and after the opposite party has been given opportunity to be heard, by order extend the period within which the appellant may institute an appeal to the Tribunal.

Payment of fees and effect of non-payment of appropriate fees

7.-(1) The appellant shall, when instituting an appeal to the Tribunal, pay appropriate fees as specified in the Second Schedule to these Rules.

(2) The Registrar shall, where the appropriate fees prescribed in the Second Schedule to these Rules have not been paid, reject the appeal.

Strike out appeal

8.-(1) The Tribunal may, in its discretion strike out an appeal where it is satisfied that any condition regarding institution of an appeal has not been complied with.

(2) Where an appeal is struck out pursuant to sub-rule (1), the Tribunal shall give reasons for rejection of such appeal.

(3) The striking out of the appeal on any ground shall not of its own force preclude the appellant from presenting a fresh appeal in respect of the same matter, subject to the law on limitation.

Statement in reply

9. The respondent may, within twenty one days from the day of service of the statement of appeal, lodge to the Tribunal a statement in reply.

PART III
ATTENDANCE OF PARTIES

Notice of hearing

10.-(1) The Registrar shall issue a fourteen-day notice of hearing to all parties to the appeal at least fourteen days before the hearing date.

(2) A notice of hearing signed by the Registrar shall specify the date, time and place of hearing and shall be served to the parties by way of summons in the Form TRT. 3 prescribed in the First Schedule to these Rules.

Proof of notice of hearing

11. The party served with a notice of hearing for purposes of determination of the appeal shall endorse each copy of the summons and submit one copy to the Tribunal.

Appearance and representation of parties

12. In every proceeding before the Tribunal, parties other than the Commissioner General may be represented by a person registered as tax consultant, accountant, auditor or advocate and the Commissioner General may be represented by any person duly authorized in that behalf.

Failure to appear

13.-(1) Where, on any day fixed for the hearing of an appeal-

(a) the appellant does not appear, the appeal may be dismissed, unless the Tribunal sees it fit to adjourn the hearing; and

(b) the appellant appear and the respondent does not appear, the appeal shall proceed in the absence of the respondent unless the Tribunal sees it fit to adjourn the hearing

(2) Any party aggrieved by sub-rule (1) may upon showing good cause, within thirty days from the date of the decision or order, apply to the Tribunal to rescind, vary or set it aside, upon good cause shown.

PART IV
PROCEEDINGS OF THE TRIBUNAL

Quorum

14.-(1) The quorum of the Tribunal shall be three members of whom one shall be the Chairman.

(2) The proceedings of the Tribunal shall be presided over by the Chairman.

(3) For the purpose of determining any matter, the Chairman shall not be bound by the opinion of any member but, if he disagrees with the opinion of any member, he shall record the opinion of such member or members differing with him and reasons for his disagreement.

Hearing
appeal

of

15.-(1) The hearing before the Tribunal shall be open to the public unless the Tribunal, at the request of either party or on its own motion, directs that the hearing be closed to the public.

(2) Where the nature of the appeal permits, the Tribunal may order that the appeal be disposed of by way of written submissions.

(3) For the purpose of proceedings before the Tribunal, the Tribunal may take additional evidence on oath, either orally or by affidavit, as it shall deem fit.

(4) Except with the consent of the Tribunal and upon such terms and conditions as the Tribunal may determine, the appellant may not at the hearing rely on any grounds other than the ground stated in the statement of appeal and may not adduce any evidence other than the evidence which was previously made available before the Board.

(5) Notwithstanding the provisions of the preceding sub-rule, the Tribunal may, on an application by either party or at his own instance, call witnesses and such additional evidence as is necessary for further clarification of the issues raised at the hearing of the appeal.

(6) At the conclusion of the submission and of any evidence on behalf of the appellant, the respondent shall be entitled to make such submissions, supported by such relevant evidence, as may be necessary.

(7) The appellant shall be entitled to reply but may not rely on any ground or evidence not stated or adduced at the earlier stages of hearing.

(8) In hearing the appeal, the Tribunal may determine the matter through mediation, conciliation or arbitration as provided by the Act, but the rules of procedure under the Civil Procedure Code and under the Arbitration Act with regard to the conduct of mediation, conciliation and arbitration shall not apply.

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Procedure

16.-(1) Subject to the Act and these Rules, the procedure of the proceedings before the Tribunal, shall be in the discretion of the Tribunal.

(2) The proceeding before the Tribunal shall be conducted with as little formality and technicality as possible, and the Tribunal shall not be bound by rules of evidence but may inform itself on any matter in such manner as it deems appropriate.

(3) Where the Act and these Rules are silent in relation to any particular practice or procedure, the proceedings of the Tribunal shall be conducted in accordance with such rules of practice and procedure as the Tribunal may specify.

(4) The Tribunal shall have such assistance in carrying out its lawful processes, orders, rules, decrees, or commands as is available to an ordinary court in Tanzania.

Records of
appeal

17.-(1) The records of proceedings on appeal shall be taken down in writing by the Chairman of the Tribunal at that proceeding or by any person authorized to do so, in the form to be decided upon by the Chairman.

(2) The records of every proceedings of the Tribunal shall be signed by the Chairman and the members present.

(3) Notwithstanding sub-rule (1), the proceedings of appeal at the hearing of an appeal may be recorded in short hand or by mechanical means or electronic means and if certified by the Tribunal be deemed to be a true record of such proceedings.

Amendment of
statement of
appeal

18. The Tribunal may at any stage, on its own motion or on an application by either party, direct that the statement of appeal or statement in reply as the case may be, be amended in such terms as it deems fit.

Witnesses and
production of
evidence

19.-(1) The Tribunal may call any person to attend at the hearing and give evidence including the production of any document if the Tribunal is of the view that evidence may assist its deliberations.

(2) The summons for attendance of witnesses shall be issued by the Tribunal in the Form TRT. 4 prescribed in the First Schedule to these Rules.

(3) A witness attending hearing shall be paid allowances and expenses at the rate specified by the Tribunal.

(4) The Tribunal shall issue a warrant of arrest in the Form TRT. 5 prescribed in the First Schedule to these Rules to procure attendance before it of a person who, being served with summons to appear and without reasonable excuse, fails to do so.

Withdrawal
of appeal

20.-(1) An appellant may at any time in the course of hearing, informally apply to the Tribunal for leave to withdraw the appeal and the Tribunal may grant the application upon such terms as to costs or other conditions as it deems fit.

(2) Notwithstanding the provisions of sub-rule (1), an appellant may at any time after instituting his appeal and before the appeal is called on for hearing, lodge in the registry a written notice that he does not intend further to proceed with the appeal and upon receiving such notice the Registrar shall mark the appeal withdrawn.

(3) The appellant shall, before or within seven days after lodging the notice of withdrawal, serve copies of it on each respondent.

(4) If all the parties to the appeal consent to the withdrawal of the appeal, the appellant may lodge in the registry the document or documents signifying the consent of the parties and thereupon the appeal shall be struck out

of the list of pending appeals.

(5) If all the parties to the appeal do not consent to the withdrawal of the appeal, the appeal shall stand dismissed with costs, except as against any party who has consented, unless the court, on the application of the appellant, otherwise orders”.

(6) An application under sub-rule (5) shall be made within fourteen days after the lodging of the notice of withdrawal.

Decision

21.-(1) After conclusion of the hearing of the evidence if any and submissions of the parties the Chairman shall, as soon as is practicable, pronounce its decision in the presence of the parties or their advocates or representatives and shall cause certified copies duly signed by the members of the Tribunal who heard the appeal or their successor in office to be served on each party to the proceeding.

(2) The Chairman or the Registrar, as the case may be or their successors in office may certify copies of decision or decree of the Tribunal and furnish such copies to the parties.

Contents of
decision

22. The decision of the Tribunal shall be in writing and shall contain:

- (a) a brief description of the nature of the appeal;
- (b) affirmation or varying or setting aside the decision of the Board;
- (c) the reasons for the decision;
- (d) the relief or remedy, if any, to which the parties are entitled; and
- (e) An order as to costs.

Decree

23. (1) A decree shall be extracted from the decision and shall be signed by the Chairman or the Registrar, as the case may be or their successors, in office.

(2) The decree shall agree with the decision; it shall contain the number of the appeal, the names and descriptions of the parties and particulars of the claim and

shall specify clearly the relief granted or other determination of the appeal.

(3) The Tribunal may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.

(4) The decree shall bear the date of the day on which the decision was pronounced and, when the Chairman or Registrar as the case may be or their successors in office, has satisfied himself that the decree has been drawn up in accordance with the decision sign the decree.

Execution of
decision

24.-(1) The decision of the Tribunal shall be enforced by making application to the Tribunal in the Form TRT. 6 as set out in the First Schedule, and the Chairman or Registrar as the case may be shall thereafter issue an order authorizing execution.

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(2) Execution of the decree or order issued by the Tribunal shall be in accordance with the provisions of the Civil Procedure Code or any other law.

(3) The application for execution shall be made upon expiry of thirty days from the date on which the decision of the Tribunal was made.

Appeal to the
Court of Appeal

25.- (1) A person who desires to appeal to the Court of Appeal shall lodge a notice of intention to appeal in triplicate at the Tribunal within fourteen days and the Registrar of the Tribunal shall within seven days, transmit the same to the Court of Appeal.

(2) A notice of intention to appeal to the Court of Appeal shall not operate as a bar to the execution of the decree or order appealed from.

PART V MISCELLANEOUS PROVISIONS

Application

26.- The Tribunal may entertain any application

The Tax Revenue Appeals Tribunal Rules, 2018

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pursuant to these Rules by way of chamber summons supported by an affidavit.

Saving provision

27. In all proceedings pending whether in the Tribunal or Board, preparatory or incidental to, or consequential upon any proceeding in Tribunal at the time of the coming into force of these rules, the provisions of these rules shall thereafter apply, but without prejudice to the validity of anything previously done:

Provided that,

- (a) if and so far as it is impracticable in any such proceedings to apply the provisions of these rules, the practice and procedure heretofore obtaining shall be followed; or
- (b) in any case of difficulty or doubt the practice applicable to a civil court in such circumstance may be adopted.

Revocation
G.N. NO.
6 of 2001

28. The Tax Revenue Appeals Tribunal Rules, 2001 are hereby revoked.

FIRST SCHEDULE

(Made under rule 3)

FORM TRT. 1

THE UNITED REPUBLIC OF TANZANIA

IN THE TAX REVENUE APPEALS TRIBUNAL AT.....

IN THE MATTER OF INTENDED APPEAL NO. OF.....

BETWEEN

.....APPELLANT

AND

.....RESPONDENT

NOTICE OF INTENTION TO APPEAL

(Made under section 16(4) and rule 3(3))

TAKE NOTICE that the Appellant being aggrieved by the decision of the Board issued on.....day of.....year..... Intends to appeal to the Tribunal against the whole/part of the decision.

The address of service of the Appellant is

Dated this.....day of.....year.....

Signed.....

By or on behalf of the Appellant/Advocate/Tax Consultant/Accountant.

To: The Registrar of the Tribunal at.....

Lodged in the Tribunal at.....on the.....day of.....year.....

.....
Registrar/Officer In-charge

Copy served to the Secretary to the Board this.....day ofyear.....

.....
Secretary

Copy be served to the Respond

