

SUBSIDIARY LEGISLATION

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THE TAX REVENUE APPEALS ACT
(CAP. 408)

RULES

(Made under section 33)

THE TAX REVENUE APPEALS BOARD RULES, 2018

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THE TAX REVENUE APPEALS ACT
(Cap. 408)

RULES

(Made under section 33)

THE TAX REVENUE APPEALS BOARD RULES , 2018

PART I
PRELIMINARY PROVISIONS

Citation	1. These Rules may be cited as the Tax Revenue Appeals Board Rules , 2018.
Interpretation	2. In these Rules unless the context requires otherwise-
Cap. 408	"Act" means the Tax Revenue Appeals Act; "appellant" means a person who institutes an appeal before the Board; "applicant" means a person who files an application before the Board; "Appealable decision" means objection decision, or other decision or omission of the Commissioner General referred under section 53 (2) of the Tax Administration Act; "Board" means the Tax Revenue Appeals Board established by section 4 (1) of the Act; "Chairman" includes , Chairman and Vice chairman; "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;
Cap. 399	"Minister" means the Minister responsible for finance; "member" means the Chairman, and other members appointed in accordance with section 4(2) of the Act;

"respondent " means a person against whom an appeal or application is instituted;

"parties" means the appellant, the respondent and includes every person who is interested in the subject matter of the proceedings before the Board or Tribunal;

"Secretary" means the Secretary of the Tax Revenue Appeals Board appointed under section 6(1) of the Act ; and

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

PART II

INSTITUTION OF APPEAL

Filing of notice of appeal to the Board

3.-(1) A person who wishes to appeal to the Board shall file to the Board a written notice of intention to appeal.

(2) A notice of intention to appeal shall be filed within thirty days from the date of service of the notice of final determination of the appealable decision and the appellant shall serve copies of the notice of intention to appeal to the parties to an appeal.

(3) A notice of intention to appeal shall state whether it is intended to appeal against the whole or part of the appealable decision or tax assessed or the existence of liability to pay any tax, duty, fee, levy or charge.

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

Transmission of notice of intention to appeal

4. Where the Secretary receives a notice of intention to appeal, he shall endorse on it the date on which it was received and thereafter enter or cause to be entered into the register all relevant particulars as may be necessary to identify each such appeal.

Institution of appeal

5.-(1) An appeal to the Board shall be instituted by lodging a statement of appeal at the Registry of the Board

within forty five days from the date of service of the notice of final determination of the appealable decision.

(2) Every appeal shall be made in the Form TRB. 2 prescribed in the First Schedule to these Rules.

(3) Upon receipt of the appeal, the Secretary shall endorse the date on which he received it, and cause a copy to be served upon the Commissioner General.

Attachment of
material
documents with
appeal

6.-(1) A person who institutes an appeal to the Board shall attach all material documents which are necessary including appealable decision, for the proper determination of the appeal.

(2) Without prejudice to sub-rule (1), the appeal shall contain the following documents-

(a) where the appeal is against objection decision of the Commissioner General-

- (i) a copy of a notice of assessment of tax;
- (ii) a copy of notice of objection to an assessment submitted to Commissioner General by the appellant;
- (iii) a copy of the final objection decision of assessment of tax or any other decision by the Commissioner General being appealed against;
- (iv) a copy of a notice issued by the Commissioner General regarding the existence of liability to pay tax, duty , fees, levy or charge;
- (v) a copy of the notice of proposal on how the Commissioner wants to settle the objection (if any);
- (vi) a copy of submission made by taxpayer in response to the notice of appeal, (if any);

(b) where the appeal relates to refusal by the Commissioner General to admit a notice of

Act No. 5/2014

objection, a copy of, the decision of the Commissioner General refusing to admit a notice of objection;

(c) where the appeal relates to-

(i) refund, drawback or repayment of any tax, fee, duty, levy or charge, a statement showing the calculation by the appellant of the amount due for refund, drawback or repayment of any tax, fee, duty, levy or charge;

(ii) refusal by the Commissioner General to make any refund or repayment; a copy of the decision of the Commissioner General refusing to refund; and

(d) where the appeal relates to the decision by the Commissioner General to register, or refusal to register, any trader for the purpose of the Value Added Tax Act, a copy of the decision of the Commissioner General.

(3) Notwithstanding the provisions of sub-rules (1) and (2) the Board may order any party to the proceedings to supply any additional documents which may be necessary for proper determination of the matter before it.

(4) Any party to the appeal may file additional documents, and serve a copy to the other party in relation to appeal at least within three days before the date fixed for hearing,

Payment of
fees

7,-(1) The appellant shall, when instituting an appeal to the Board, pay the appropriate fees prescribed in the Second Schedule to these Rules,

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

The Tax Revenue Appeals Board Rules, 2018

GN No. 217 (contd)

Extension of
time

8.-(1) The Board may, upon the application in writing by a party and depending on the circumstances of each case and after the opposite party has been given opportunity to be heard, extend the time for instituting an appeal within a specific time limit.

(2) The applicant shall, upon filing an application under this rule, serve a copy to the respondent within seven (7) days.

(3) The respondent may, upon receipt of the copy of the application, lodge a statement in reply to the application within seven (7) days or as the Board may determine.

Strike out of appeal

9.-(1) The Board 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 Board shall give reasons for such decision.

(3) The striking out of an appeal under this rule shall not preclude the appellant from instituting a fresh appeal in respect of the same matter, subject to law on limitation.

Statement in reply

10.-The respondent shall, within thirty days from the date of service of the statement of appeal, lodge to the Board a statement in reply.

PART III
ATTENDANCE OF PARTIES

Notice of hearing

11.-(1) The Secretary shall within a period of not less than fourteen days before the date fixed for hearing of an appeal serve to all parties and their witnesses, a notice of hearing.

(2) A notice of hearing shall be in the Form TRB. 3 set out in the First Schedule to these Rules and shall specify the time, date and place where it is intended that hearing will be conducted.

Proof of service
of notice of hearing

12. The party served with a notice of hearing the appeal shall endorse on each copy of the notice of hearing and submit one copy to the person who effected the service for transmission to the Board.

Attendance by
parties

13. In every proceeding before the Board, the appellant may appear in person or be represented by a person registered as tax consultant, accountant, auditor or advocate; and the Commissioner General may be represented by a person duly authorized in that behalf.

Failure to
appear

14.- (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 Board sees it fit to adjourn the hearing;
- (b) the appellant appears and the respondent does not appear, the appeal shall proceed in the absence of the respondent unless the Board sees it fit to adjourn the hearing.

(2) The party aggrieved by the order under sub-rule (1) may within thirty (30) days apply to the Board to rescind or vary the order, and the Board may rescind or vary its order upon good cause shown.

PART IV PROCEEDINGS OF THE BOARD ON APPEAL

Quorum

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

(2) The proceedings of the Board 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.

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Hearing of appeal

16.-(1) Unless otherwise directed by the Chairman, proceedings before the Board shall be open to the public.

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

(3) At the hearing of an appeal, the appellant shall state the grounds of his appeal and may support them by any relevant evidence.

(4) For the purpose of proceedings before it, the Board may take additional evidence on oath.

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

(6) At the conclusion of hearing or submissions in support of the appeal by the appellant, the respondent shall be entitled to make such submissions, supported by such evidence admissible under these Rules.

(7) The appellant shall be entitled to reply but shall not rely on any ground or evidence other than grounds or evidence enunciated or adduced at the earlier stages of the proceedings.

(8) The Chairman and members of the Board shall be entitled at any stage of hearing to ask such questions as they consider relevant to the matter involved.

(9) A witness called and examined by one party may be cross-examined by the opposite party.

(10) The Board may adjourn the hearing of the appeal for the purpose of enabling the production of further evidence by any party or for other good cause as it considers necessary, on such terms as it may determine.

(11) In hearing the appeal, the Board may determine the matter through mediation, conciliation or arbitration, but the rules of procedure under the Civil

Cap.33

Cap. 15

Procedure Code and the Arbitration Act with regard to the conduct of mediation and arbitration shall not apply in relation to the proceedings under these Rules.

(12) No appeal shall lie from a decision passed by the Board with the consent of the parties.

Procedure

17.-(1) The Board shall, subject to the Act and these Rules, regulate its own procedures.

(2) In conducting proceedings under these Rules, the Board shall not be bound by procedural formalities and technicalities or rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.

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

Amendment of statement of appeal or statement in reply

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

Attendance of witnesses

19.-(1) The Board may call any person to attend at the hearing and give evidence and may order any person to produce any document if it believes that such evidence or document may assist in its deliberations.

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

(3) A witness attending the hearing in compliance with the summons issued by the Board shall be paid allowances and expenses at the rates which are applicable in relation to payment of witnesses who are called by the High Court.

(4) Where a person who has been served with a witness summons to appear before the Board fails to comply with such summons, the Board may issue a warrant

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of arrest in the Form TRB. 5 set out in the First Schedule to these Rules for procuring the attendance of that person before the Board at a date, time and place specified in the warrant.

Production of
evidence

20.-(1) If the evidence in chief is required to be tendered by either party before the Board, such evidence shall be given orally or in any mode as the Board may order.

(2) In any proceedings, where the evidence of a witness who resides outside Tanzania is necessary, the Board shall have power to issue a commission or to order the evidence to be given by electronic or any mode as the Board may direct.

Withdrawal of
appeal

21.-(1) Any party to the proceedings before the Board may withdraw an appeal from the Board at any time before the Board makes a decision on that appeal.

(2) Withdrawal of an appeal before the Secretary shall be made in writing and addressed to the Board.

(3) Notwithstanding sub-rule (1), the Commissioner General may withdraw the decision which gave rise to or against which the appeal has been made.

(4) Where the appeal has been withdrawn or where the Commissioner General has withdrawn the decision giving rise to the appeal, the Secretary shall, within fourteen days from the date of receipt of the withdrawal, send to the opposite party a copy of the withdrawal and may attach any other documents relating to the matter in question.

(5) Withdrawal of an appeal or decision shall not prevent a party from applying for costs.

Decision

22.-(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 Board who heard the appeal or their successor in office to be served on each party to the proceeding.

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

Contents of decision

23. The decision of the Board shall be in writing and shall contain-

- (a) a brief description of the nature of the appeal;
- (b) a summary of all relevant evidence produced before the Board and the reasons for accepting or rejecting the evidence;
- (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

24.- (1) A decree shall be extracted from the decision and shall be signed and dated by member of the Board or secretary 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 decree shall bear the date of the day on which the decision was pronounced and, when the Chairman or the Vice Chairman or their successors in office as the case may be or the Secretary has satisfied that the decree has been drawn up in accordance with the decision and he shall sign the decree.

Execution of decision of the Board

25.-(1) The decision of the Board shall be enforced by making an application to the Board in the Form TRB. 6 as set out in the First Schedule, and the Chairman or Vice

chairman or Secretary shall thereafter issue an order authorizing execution.

Cap. 33 (2) Notwithstanding the provisions of sub-rule (I), the application for execution shall be made upon expiry of thirty days from the date on which the decision or order of the Board was made.

(3) Execution of the decree or an order issued by the Board shall be carried out in accordance with the provisions of the Civil Procedure Code.

Notice of appeal to the Tribunal

26.-(1) Any party to the proceedings before the Board who is dissatisfied with the decision of the Board and desires to appeal, shall file a notice of intention to appeal to the Tribunal and serve a copy to the Board.

(2) The notice of intention to appeal to the Tribunal shall be filed within fifteen days from the date on which the decision in respect of which it is intended to appeal was delivered and shall contain a statement as to whether the appeal is on the whole decision or order or is on a specified matter only.

(3) The notice of intention to appeal shall be of such number of copies which may be necessary to be served to all parties.

(4) A notice of intention to appeal to the Tribunal shall not operate as a bar to the execution of the decree or order appealed from unless the Board orders otherwise.

PARTY MISCELLANEOUS PROVISIONS

Application

27 The Board may entertain any application pursuant to these Rules by way of chamber summons supported by an affidavit.

Saving provision

28. In all proceedings pending in the Board, preparatory or incidental to, or consequential upon any proceeding in Board 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, if it is impracticable in any such proceedings to apply the provisions of these Rules, the practice and procedure heretofore obtaining shall be followed.

Revocation
GNNO.
57of 2001

29. The Tax Revenue Appeals Board Rules, 2001 are hereby revoked.

FIRST SCHEDULE

(Made under rule 3)

FORM TRB.I

THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT

IN THE MATTER OF INTENDED APPEALS No..... OF

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

NOTICE OF INTENTION TO APPEAL

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

TAKE NOTICE that the Appellant being aggrieved byof the Commissioner-General issued onday of yearintends to appeal to the Tax Revenue Appeals Board against the Whole/part of the decision or matter giving rise to appeal.

The address of service of the appellant is

Dated this day of year

Signed

By or on behalf of the Appellant/Advocate/
Tax Consultant/ Auditor /accountant

To: The Secretary of the Board at

Lodged in the Board at

On the day of year

Secretary/Officer in charge

Copy be served to the respondent.

This..... day of year.....

Signature

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FORM TRB. 2

(To be filled in triplicate)

THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT.....

APPEAL No..... YEAR.....

IN THE MATTER OF

..... APPELLANT
AND
..... RESPONDENT

STATEMENT OF APPEAL
(Made under rule 5(2) rule 5(2))

I. PARTICULARS OF APPELLANT

- (a) Name.....
- (b) Nature of business.....
- (c) Postal address.....
- (d) Physical address of appellant: Plot..... Street...
Town/City.....
- (e) Telephone No.....Fax No..... E-Mail.....
- (f) TIN No.....
- (g) Income Tax File No.....
- (h) VAT Number (if registered).....

2. PARTICULARS OF THE TAX DISPUTE

- (a) Office where taxation decision was made.....
- (b) Type of tax (specify by a tick the appropriate item)

INCOME TAX IMPORT DUTY
EXCISE DUTY WITHHOLDING TAX
STAMP DUTY VAT OTHERS (specify)

- (c) Assessment No.....Year of income.....
- (d) Customs Single Bill of Entry No.....Date.....
- (e) Bank payment Advice Form No.....Date.....
- (f) Amount of tax in dispute or objected to.....
- (g) Date of service of taxation decision: Date..... Month..... Year.....

3. STATEMENT OF FACTS AND REASONS IN SUPPORT OF THE APPEAL:

(If space provided is not adequate, attach as many additional pages as needed for the statement.)

4. LIST OF BOOKS, DOCUMENTS OR THINGS TO BE PRODUCED BEFORE THE BOARD,
IF ANY:

(Give brief description of each.)

5. NAMES OF WITNESSES, IF ANY, AND THEIR ADDRESS:

Dated this day of year.....

Signed

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

(for official use only)

6. By Secretary/Officer in Charge:

Date of filing appeal.....

Signature.....

Official stamp of Secretary.....

7. Copy be served to the Commissioner General

Date.....

Signature.....

Official stamp of or on behalf of the Commissioner General

The Tax Revenue Appeals Board Rules, 2018

GN. No. 217 (contd)

FORM TRB. 3

THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT.....

APPLICATION/APEAL No. OF..... YEAR

IN THE MATTER OF

.....APPLICANT /APPELLANT
AND
..... RESPONDENT

NOTICE OF HEARING
(Made under rule 11(2))

TO

TAKE NOTICE that the above application/appeal will be heard / mention by the Board on the
.....day of year at o'clock in the forenoon/afternoon
at.....(Indicate place).

You are accordingly required to appear before the Board and bring witnesses with you.

If no appearance is made by you or by any person authorized by you to act on your behalf, the
application/appeal may be heard and decided in your absence.

Given under my hand and the seal of the Board this..... day of year

Secretary

Acknowledgement of receipt of Notice.

Name.....

Signature .. .

THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT

APPLICATION/APEAL No.....OF YEAR

IN THE MATTER OF
.....APPLICANT/APELLANT
AND
..... RESPONDENT

WITNESS SUMMONS
(Made under rule 19(2))

TO

WHEREAS your attendance is required as a witness on behalf of the
..... during the hearing of the above application/appeal, you are by this
summons required to appear before this Board on the day of
..... year at O'clock in the
forenoon/afternoon and bring with you or send the following books, documents or thing to the
Board.

Failure to respond to or obey this summons renders you liable to penalties under the Act.
Given under my hand and the seal of the Board this day ofyear

Secretary

ACKNOWLEDGEMENT OF SERVICE OF SUMMONS

Full Name
Address
Date..... Signature

Application for execution of decree.. Form No. CC. ...

The Tax Revenue Appeals Board Rules, 2018

GN. No. 217 (contd)

FORM TRB. 5

THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT.....

APPLICATION/APPEAL No.....OF.....YEAR

IN THE MATTER OF

..... APPLICANT/APPELLANT
AND
..... RESPONDENT
WARRANT OF ARREST OF WITNESS
(Made under rule 19(4))

TO

WHEREAS has been duly served with summons (certified copy attached) but has failed to attend, you are by this warrant ordered to arrest and bring the saidbefore the Board.

You are further ordered to return this warrant on or before the day of year with an endorsement certifying the day on and manner in which this warrant has been executed.

Given under my hand and the seal of the Board this.....day of year

Secretary

The Tax Revenue Appeals Board Rules, 2018

Application for execution of decree.....

**THE UNITED REPUBLIC OF TANZANIA
IN THE TAX REVENUE APPEALS BOARD
AT.....**

IN THE MATTER OF

..... DECREE HOLDER

AND

..... JUDGMENT DEBTOR

APPLICATION FOR EXECUTION OF DECREE

(Made under rule 25(1))

I, decree holder, hereby apply for execution of the decree herein as set forth below

Date of decree:

Whether any appeal preferred from decree:

Payment or adjustment, if any:

Previous application, if any, with date and result:

Amount with interest due upon
The decree or other relief granted
Thereby together with particulars
If any cross decree

Amount of costs. If any,
awarded:
Against whom to be executed:

Mode in which the assistance of
the Board is required :

	Shs.	Cts.	Shs.	Cts.
Principal				
Interest at %				
Less subsequent Payment				
Less amount of cross decree if any				
Total or balance costs as in the decree				
Costs subsequently incurred				
Total				

I, decree that what is stated herein is true to the best of my knowledge and belief.

GN. No. 217 (contd.)

Dated this day of 20.....

Decree holder

—————
SECOND SCHEDULE
—————

FEES FOR LODGING APPEALS

(Made under rule 7)

1. Upon lodging notice of appeal.	Shs. 10,000.00
2. Upon lodging statement of appeal	Shs. 100,000.00
3. For preparation of proceedings & Judgment/Ruling	Shs. 10,000.00
4. For preparation of Decree/Order.	Shs. 10,000.00
5. Annexure to the pleadings.	Shs. 5,000.00
6. Application for issue of witness summons	Shs. 10,000.00
7. Upon lodging Applications.	Shs. 30,000.00
4. Application for execution of a decree or order	Shs. 20,000.00
5. Perusal fee	Shs. 5,000.00

Dodoma
4th April, 2018

PHILIP I. MPANGO,
Minister for Finance and Planning