

Tanzania

Tax Revenue Appeals Act

## Tax Revenue Appeals Tribunal Rules, 2001

### Government Notice 56 of 2001

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# Tanzania

## Tax Revenue Appeals Act

### Tax Revenue Appeals Tribunal Rules, 2001

#### Government Notice 56 of 2001

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*[This is the version of this document at 31 July 2002.]*

*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[rule 2; G.N. No. 56 of 2001]*

#### Part I – Preliminary provisions (rules 1-3)

##### 1. Citation

These Rules may be cited as the Tax Revenue Appeals Tribunal Rules.

##### 2. Omitted

*[Omitted.]*

##### 3. Interpretation

In these Rules, unless the context requires otherwise—

"**Act**" means the Tax Revenue Appeals Act <sup>1</sup>;

"**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;

"**Commissioner-General**" means the Commissioner-General appointed under section [15](#) of the Tanzania Revenue Authority Act <sup>2</sup>, and includes any person appointed as Commissioner in respect of any tax;

"**member**" means the Chairman, Vice-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;

"**Tribunal**" means the Tax Revenue Appeals Tribunal established by section [8\(1\)](#) of the Act.

<sup>1</sup>

[Cap. 408](#)

<sup>2</sup>

[Cap. 399](#)

## Part II – Institution of appeal of the Tribunal (rules 4-9)

### 4. Filing of notice of appeal

- (1) Any person who wishes to appeal against a decision of the Board shall issue a written notice of intention to appeal within fourteen days from the date on which the decision in respect of which it is intended to appeal against was made.
- (2) The notice of appeal shall be filed in the Board and a copy served on the Tribunal.
- (3) The notice of intention to appeal shall be made in Form TRT. 1 prescribed in the First Schedule to these Rules and shall be signed by or on behalf of the appellant.
- (4) The Registrar shall serve copies of intention to appeal upon all parties who are likely to be affected with the decision of the Tribunal on the matter appealed against.

### 5. Registrar to transmit notice of intention to appeal

Where the Registrar has received a notice of intention to appeal, he 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.

### 6. Institution of appeal, attachment of relevant documents

- (1) An appeal to the Tribunal shall be instituted by lodging a statement of appeal at the Tribunal within thirty days from the date on which the decision of the Board in respect of which it is intended to appeal against was made.
- (2) Every appeal shall be made in the Form TRT. 2 prescribed in the First Schedules to these Rules and shall be accompanied by all material documents which are necessary for the determination of the appeal.
- (3) Without prejudice to subrule (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-General which gave rise to appeal to the Board;
  - (e) a copy of the notice of intention to appeal to the Tribunal;

*[Please note: numbering as in original]*

  - (f) evidence of payment of appropriate fees.

### 7. Payment of fees and effect of non-payment of appropriate fees

- (1) The appellant shall, when instituting appeal to the Tribunal, pay appropriate fees as specified in the Second Schedule to these Rules.
- (2) The Tribunal shall not entertain any appeal where the appropriate fees prescribed in the Second Schedule to these Rules have not been paid.
- (3) The Minister may by notice published in the *Gazette*, amend, add to, vary or otherwise after the Second Schedule.

## **8. Extension of period to institute appeal**

- (1) The Tribunal may, where it deems it 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 the appeal to the Tribunal.
- (2) The Tribunal shall not extend the period for institution of appeal unless the appellant had formerly issued the notice of intention to appeal within a period specified under rule 4(1).

## **9. Rejection of appeal**

- (1) The Tribunal may in its absolute discretion reject an appeal where it is satisfied that any conditions regarding institution of an appeal have not been complied with.
- (2) Where an appeal is rejected pursuant to subrule (1), the Tribunal shall give reasons for rejection of such appeal.

### **Part III – Attendance of parties (rules 10-13)**

## **10. Notice of parties to appear**

- (1) The Registrar shall issue a fourteen days' notice of hearing to all parties to an appeal.
- (2) A notice of hearing signed by the Registrar shall specify the date, time and place of hearing and shall be served to parties by way of summons in the Form TRT. 3 prescribed in the First Schedule to these Rules.

## **11. Proof of service of summons**

The party who has been served with summons to appear for purposes of determination of an appeal shall endorse each copy of the summons and submit one copy to the Tribunal.

## **12. Appearance and representation of parties**

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.

## **13. Warrant of arrest to procure attendance of witnesses**

- (1) A person commits an offence under the Act who, without reasonable excuse, fails to appear before the Tribunal in compliance with the summons issued under these Rules.
- (2) The Tribunal shall issue a warrant of arrest in the Form TRT. 4 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.

### **Part IV – Proceedings of the Tribunal (rules 14-24)**

## **14. Quorum**

- (1) The quorum of the Tribunal shall be three members of whom one shall be the Chairman or the Vice-Chairman.
- (2) There shall preside at any meeting of the Tribunal:
  - (a) The Chairman; or

- (b) in the absence of Chairman, the Vice-Chairman.
- (3) The determination of any matter before the Tribunal shall be by a majority of the votes of the members present.
- (4) Without prejudice to subrule (3), where there is a dissenting opinion of a member or members, the decision of the Chairman or other person presiding at the proceedings, shall be final and conclusive.
- (5) Notwithstanding that the Chairman or Vice-Chairman is not bound by the dissenting opinion of any member or members he shall record the differing opinion and reason for his disagreement.

## 15. Hearing of appeal

- (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 discretion, directs that the hearing be closed to the public.
- (2) For the purpose of proceedings before the Tribunal, the Tribunal may:
  - (a) Take evidence on oath;
  - (b) proceed in absence of a party who has had reasonable notice of the proceedings; and
  - (c) for sufficient reasons adjourn the hearing of the proceedings for a period not exceeding seven days from the date of adjournment.
- (3) The appellant shall state the grounds of his appeal.
- (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 ground other than grounds stated in the appeal and may not adduce any evidence other than the evidence which was previously made available before the Board.
- (5) Notwithstanding subrule (4) of rule 15, the Tribunal may, at any time put questions to either party, and may at its discretion, call witness 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 statement 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 enunciated 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<sup>3</sup> and under the Arbitration Act<sup>4</sup> with regard to the conduct of mediation, conciliation and arbitration shall not apply.

## 16. Procedure

- (1) In any proceeding before the Tribunal, the procedure of the Tribunal shall subject to the Act and these Rules be within the discretion of the Tribunal.
- (2) A proceeding before a Tribunal shall be conducted with as little formality and technicality as possible, and the Tribunal shall not be bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.

<sup>3</sup>

[Cap. 33](#)

<sup>4</sup>

[Cap. 15](#)

- (3) Where the Act and these Rules are silent in relation to any particular practice or procedure, the proceedings of a 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.

### **17. Records of appeal**

- (1) The records of proceedings of appeal shall be taken down in writing by the members of the Tribunal at that proceeding or by any person authorized to do so, in the form to be decided upon by the Chairman and members.
- (2) Notwithstanding subrule (1), the records of appeal at the hearing of an appeal may be recorded in short hand or by mechanical means, and if the parties to the proceeding agree, the transcript of anything so recorded shall, if certified by the members of the Tribunal at that meeting to be correct, be deemed to be a true record of such evidence for the purposes of those proceedings.
- (3) The records of every meeting of the Tribunal shall be signed by the Chairman or Vice-Chairman and the members present.

### **18. Amendment of statement of appeal**

The Tribunal may, at any stage and time on its discretion or on application by the party to the proceedings direct that the statement of appeal be amended in such terms as it deems fit.

### **19. Witnesses and production of evidence**

- (1) The Tribunal may call any person to attend at the hearing and give evidence including the production of any document if the Tribunal believes that evidence will assist its deliberations.
- (2) The summons for attendance of witnesses shall be issued by the Tribunal in the Form TRT. 5 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.

### **20. Withdrawal of appeal**

- (1) The appellant may withdraw his appeal from the Tribunal at any time before the decision is made on it.
- (2) Withdrawal of an appeal before the Tribunal shall be made in writing and addressed to the Tribunal.
- (3) Where the appeal has been withdrawn the Register shall within fourteen days 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.

### **21. Decision**

After conclusion of the hearing of the evidence and submissions of the parties the Tribunal shall, as soon as is practicable, make a decision in the presence of the parties or their advocates or representatives and shall cause a copy duly signed and certified by the members of the Tribunal which heard the appeal to be served on each party to the proceeding.

## 22. Contents of decision

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 reason for the decision;
- (d) the relief or remedy, if any, to which the parties are entitled; and
- (e) an order as to costs.

## 23. Execution of decision

- (1) The decision of the Tribunal shall be enforced by making application to the Tribunal which shall issue a decree or order authorizing execution.
- (2) Execution of the decree or order issued by the Tribunal shall be executed in accordance with the provisions of the Civil Procedure Code <sup>5</sup>.
- (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.

## 24. Appeal to the Court of Appeal

- (1) Any person who is aggrieved by the decision of the Tribunal shall be entitled to appeal to the Court of Appeal of Tanzania.
- (2) A notice of Appeal shall be filed in triplicate at the Tribunal within fourteen days and the Registrar of the Tribunal shall forward the same to the Court of Appeal.
- (3) An appeal to the Court of Appeal shall be on matters of law only and the provisions of the Appellate Jurisdiction Act, 1979, and the Court of Appeal Rules <sup>6</sup> shall apply *mutatis mutandis*.
- (4) A notice of intention to appeal to the Court of Appeal shall not be a bar to the application for a decree or order for execution.

## First Schedule

### Forms

[Editorial note: The forms have not been reproduced.]

<sup>5</sup>

[Cap. 33](#)

<sup>6</sup>

[Cap. 141](#)

**Second Schedule**  
**Fees for lodging appeals**

1.	Upon lodging notice of appeal	Shs.	10,000.00
2.	Upon lodging statement of appeal	Shs.	100,000.00
3.	For preparation of records of appeal	Shs.	20,000.00
4.	Application for extension of time to appeal	Shs.	30,000.00
5.	Application for execution of a decree or order	Shs.	20,000.00