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The Tax Revenue Appeals Act, Cap 408 R.E. 2019

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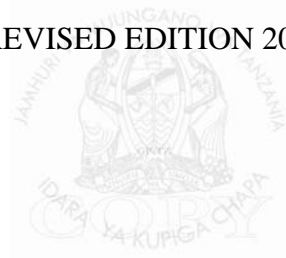


CHAPTER 408

THE TAX REVENUE APPEALS ACT

PRINCIPAL LEGISLATION

REVISED EDITION 2019



This Edition of the Tax Revenue Appeals Act, Chapter 408, has been revised up to and including 30th November, 2019 and is printed under the authority of section 4 of the Laws Revision Act, Chapter 4.

Dodoma,
30th November, 2019

ADELARDUS L. KILANGI
Attorney General

CHAPTER 408

THE TAX REVENUE APPEALS ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 408

THE TAX REVENUE APPEALS ACT

An Act to provide for the establishment of the Tax Revenue Appeals Board and the Tax Revenue Appeals Tribunal and to provide for related matters

[1st June, 2001]

[G.N. No. 126 of 2001]

Acts Nos.
15 of 2000
15 of 2004
13 of 2005
6 of 2006
16 of 2007
10 of 2015
3 of 2016



**PART I
PRELIMINARY PROVISIONS**

Short title

1. This Act may be cited as the Tax Revenue Appeals Act.

Application

2. This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Interpretation
Acts. Nos.
6 of 2006
16 of 2007
s.24
Cap.408

3. In this Act unless the context otherwise requires—
"Act" means the Tax Revenue Appeals Act;
"appellant" means any person who lodges an appeal before the Board or the Tribunal;
"assessment" means an assessment of tax as determined or ascertained in each of the respective tax law;

- Cap. 399 "Board" means the Tax Revenue Appeals Board established under section 4(1);
- "Commissioner General" means the Commissioner General appointed under section 16 of the Tanzania Revenue Authority Act and includes any person appointed as Commissioner in respect of any tax;
- Cap. 2 "Court of Appeal" means the Court of Appeal established by Article 117(1) of the Constitution of the United Republic;
- "High Court" means the High Court of Tanzania or the High Court of Zanzibar;
- "member" in respect of members of the Board, or the Tribunal means the Chairman, Vice-Chairman and other members appointed under sections 4(2)(c) and 8(2)(c);
- "Minister" means the Minister responsible for finance;
- "party" means a person or his duly authorised agent who refers a matter or dispute to the Board or lodges an appeal in the Tribunal and includes the Commissioner General or a person authorised on that behalf;
- "Register" means the Register kept by the Registrar of the Tribunal or the Secretary of the Board in which all particulars relating to application or appeals are entered;
- "Registrar" means the Registrar of the Tax Revenue Appeals Tribunal appointed under section 10(1);
- "revenue" means taxes, duties, fees, levies, fines or other monies imposed by or collected under the law or the specified provisions of the laws set out in the First Schedule to the Tanzania Revenue Authority Act;
- Cap 399 "Secretary" means the Secretary of the Tax Revenue Appeals Board appointed under section 6(1) of the Act;
- "tax" means any revenue collected or due under any written law; and

"Tribunal" means the Tax Revenue Appeals Tribunal established under section 8(1).

PART II
ESTABLISHMENT OF THE TAX REVENUE APPEALS BOARD
AND TAX REVENUE APPEALS TRIBUNAL

Establishment and
composition of
Board
Act No.
3 of 2016
s. 24

4.-(1) There is established a Board to be known as the Tax Revenue Appeals Board.

(2) The Board shall consist of-

- (a) a Chairman who shall be appointed by the Minister;
- (b) three Vice-Chairmen who shall be appointed by the Minister, one of whom shall be from Tanzania Zanzibar;
- (c) not more than twelve other members who shall be appointed by the Minister from each region who shall sit in the Board for the purposes of hearing and determining any appeal originating in the region from which they are appointed.

(3) A person may be appointed to be-

- (a) Chairman if he is a principal legal officer or a person having adequate knowledge of taxation;
- (b) member of the Board if he has knowledge of, and experience in, taxation law, commercial or financial matters.

(4) Where any appointment relates to a person from Tanzania Zanzibar, the Minister shall consult the Minister responsible for finance in the Revolutionary Government of Zanzibar.

Tenure of office of
Chairman and
members

5.-(1) Subject to subsection (2), the office of Chairman, Vice Chairman and members of the Board shall become vacant upon the occurrence of any one of the following events-

- (a) resignation;
- (b) in relation to a member other than a Chairman and Vice Chairman, absence without a reasonable cause from three consecutive sessions of the Board;
- (c) death or inability to perform his functions by reason of sickness;
- (d) conviction of an offence against section 21(3) of this Act.

(2) A member of the Board shall, unless his appointment is sooner terminated, hold office for a term of three years and shall be eligible for reappointment for one additional term.

Secretary of
Board
Acts Nos.
16 of 2007
s. 25
3 of 2016
s.25

6.-(1) The Minister shall appoint a suitable person, from amongst senior judicial officers or law officers from the Government or public sector to be the Secretary of the Board.

(2) The Secretary of the Board shall perform all administrative and judicial functions as provided for under this Act and as may be assigned to him by the Chairman of the Board.

Jurisdiction of
Board
Act No.
16 of 2007
s. 26

7. The Board shall have sole original jurisdiction in all proceedings of a civil nature in respect of disputes arising from revenue laws administered by the Tanzania Revenue Authority.

Appeal against tax
assessment
Cap 438
Acts Nos.
16 of 2007
s.27
10 of 2015
s. 107

7A. The Board shall not entertain any appeal arising from assessment of tax unless part VII of the Tax Administration Act is complied with.

Establishment and
composition of

8.-(1) There is established a Tribunal to be known as the Tax Revenue Appeals Tribunal.

Tribunal
Act No.
3 of 2016
s. 26

- (2) The Tribunal shall consist of-
 - (a) a Chairman who shall be appointed by the President after consultation with the Chief Justice;
 - (b) three Vice-Chairmen who shall be appointed by the President, one of whom shall be from Tanzania Zanzibar;
 - (c) not more than ten other members who shall be appointed by the Minister.
- (3) A person may be appointed to be-
 - (a) Chairman if he holds or has previously held or is qualified for appointment to a higher judicial office in the United Republic;
 - (b) member of the Tribunal if he has knowledge of, and experience in, taxation law, commercial or financial matters.
- (4) Where any appointment relates to a person from Tanzania Zanzibar, the appointing authority shall consult the President of Zanzibar.

Tenure of office
of Chairman and
members

9.-(1) Subject to subsection (2), the office of Chairman, Vice Chairman or members of the Tribunal shall become vacant upon the occurrence of any one of the following events –

- (a) resignation;
- (b) in relation to a member other than a Chairman or Vice Chairman, absence without a reasonable cause from three consecutive sessions of the Tribunal;
- (c) death or inability to perform his functions by reason of sickness;
- (d) cessation to be a judge, and, in the case of a Vice-Chairman and a member, cessation to practise on disciplinary grounds confirmed by the body authorised by law to take disciplinary measures against a person

possessing qualification in relation to which such Vice-Chairman or a member was qualified to be appointed as such; or

(e) conviction of an offence against section 21(3) of this Act.

(2) A member of the Tribunal shall, unless his appointment is sooner terminated, hold office for three years and shall be eligible for re-appointment for one additional term.

Registrar of
Tribunal
Acts Nos.
16 of 2007
s. 28
3 of 2016
s. 27

10.-(1) The Minister shall appoint a public officer, being a judicial officer or law officer, to be the Registrar of the Tribunal.

(2) The Registrar shall perform all administrative and judicial functions as provided for under this Act and as may be assigned to him by the Chairman of the Tribunal.

Jurisdiction of
Tribunal

11.-(1) The Tribunal shall have sole jurisdiction in all appeals arising from decision of the Board on disputes on which original jurisdiction is conferred on the Board.

(2) Notwithstanding subsection (1), the Tribunal shall exercise general powers of supervision over the Board in the exercise of its powers under this Act and may in that respect, call for and inspect the records of any proceedings before the Board and may revise any decision thereof.

PART III

OBJECTION TO TAX ASSESSMENT

Repealed

12. Repealed by Act No.10 of 2015 s. 108.

Repealed

13. Repealed by Acts Nos. 10 of 2015 s.108.

Repealed

14. Repealed by Acts Nos. 10 of 2015 s.108.

Finality of
assessment
Acts Nos.
15 of 2004
s.59
16 of 2007
s.31
10 of 2015
s.109
Cap.4
s.8
Cap. 438

15.-(1) Where in relation to
any assessment-

(a) no notice of objection has
been given; or

(b) a notice of objection has been given and-

(i) the assessment has been amended
under subsection (1) of section 52 of
the Tax Administration Act;

(ii) a notice of objection has been given
and the assessment has been
amended under subsection (3) of
section 52 of Tax Administration
Act in such a way that no appeal will
be available against the amendment;

(iii) an appeal has not been preferred
against any determination of an
objection by the Commissioner
General; or

(iv) the objection has been finally
determined on assessment of tax on
an appeal,

the assessment as made, or as amended, or as
determined on appeal, as the case may be, shall be final
and conclusive.

(2) Nothing in this section shall prevent the
Commissioner General from making any additional
assessment which does not involve re-opening of any
matter that has been determined on an appeal or an
assessment.

(3) When any fraud or any gross or wilful
neglect has been committed by or on behalf of any
person in connection with or in relation to any tax, duty
or levy the Commissioner General may make an
additional assessment on that person notwithstanding
that it involves re-opening a matter which has been
determined on such appeal.

**PART IV
APPEALS GENERALLY**

Right of appeal to
Board and to
Tribunal
Cap.438
Acts Nos.
15 of 2004
s.60
16 of 2007
s.32
10 of 2015
s. 110

16.-(1) Any person who is aggrieved by an objection decision of the Commissioner General made under the Tax Administration Act may appeal to the Board.

(2) Deleted

(3) The Board shall not entertain an appeal pursuant to this section unless-

(a) a notice of appeal is served upon the Commissioner General within thirty days following the date on which a notice of final determination of assessment of tax or any other decision by the Commissioner General in accordance with subsection (1) is served on the appellant; and

(b) the appeal is lodged with the Board within forty-five days following the date on which the notice of final determination of assessment of tax or any other decision by the Commissioner General in accordance with subsection (1) is served on the appellant.

(4) A party who is aggrieved by the decision of the Board may appeal against that decision to the Tribunal within thirty days from the date of service of the decision and proceedings of the Board and shall serve to the opposite party the notice of intention to appeal within fifteen days from the date of the decision.

(5) The Board or Tribunal, may extend the limit of time set under subsection (3) or subsection (4) of this section if it is satisfied that the failure by a party to give notice of appeal, lodge an appeal or to effect service to the opposite party was occasioned by absence from the United Republic, sickness or other reasonable cause, subject to such terms and conditions as to costs as it may consider just and appropriate.

Cap 438 (6) Where an objector prefers an appeal to the Board or to the Tribunal, any tax deposited pursuant to section 51 (5) of the Tax Administration Act shall continue to remain deposited with Commissioner General pending the final determination of the appeal.

Powers of Board and Tribunal **17.-(1)** The Board and the Tribunal shall respectively have the power—
(a) to take evidence on oath;
(b) to resolve any complaint or appeal by mediation, conciliation or arbitration;
(c) to issue warrants of arrest for failure to comply with summons;
(d) to order payment of costs in relation to any matter referred to the Board or the Tribunal;
(e) to dismiss any matter before it; and
(f) to adjourn the hearing of any proceedings before it.

Cap. 33 (2) Notwithstanding subsection (1), the Board or the Tribunal shall have the power to summon and hear any witness and receive evidence in the manner and to the same extent as if it were a court exercising civil jurisdiction in a civil case and the provisions of the Civil Procedure Code, relating to summoning of witnesses, the taking of testimony on oath, and noncompliance with a witness summons shall apply in relation to an appeal before the Board but the Tribunal may not admit any fresh evidence save in the circumstance in which the High Court may admit fresh evidence on a first appeal in a civil case.

PART V

PROCEEDINGS OF THE BOARD AND TRIBUNAL

Procedure on hearing **18.-(1)** Proceedings of the Board and Tribunal shall be of judicial nature and shall be conducted on such occasions and at the places as the Chairman may direct.

- (2) In every proceedings before the Board and before the Tribunal –
- (a) the appellant shall appear either in person or by his duly authorised agent on the day and at the time fixed for hearing of the appeal but if it is proved to the satisfaction of the Board or Tribunal, as the case may be, that owing to absence of the appellant from the United Republic, or due to sickness or any other reasonable cause, he is prevented from attending or cause to be represented at the hearing of the appeal on the date and the time fixed for hearing, the Board or the Tribunal, as the case may be, may adjourn the hearing of the appeal for such reasonable time as it may think appropriate;
 - (b) the onus of proving that the assessment or decision in respect of which an appeal is preferred is excessive or erroneous shall be on the appellant;
 - (c) the appellate authority may confirm, reduce, increase or annul the assessment concerned or make such other order thereon as it may think fit;
 - (d) the costs of the appeal shall be in the discretion of the appellate authority;
 - (e) the appellate authority shall, within fifteen days of its decision, cause a notice of such decision and of the date thereof to be issued and such notice shall be served on the parties to the appeal;
 - (f) where the decision of the appellate authority results in any amendment to an assessment, the assessment shall be amended accordingly and the Commissioner General shall cause a notice setting out such amendment and the amount of tax payable to be served on the person assessed.

Appeals
affecting two
or more
persons
Act No.
10 of 2015
s.111

19.Where any appeal is lodged under this Part against any decision or act of the Commissioner General which affects, or is likely to affect two or more persons, then-

- (a) a person lodging an appeal shall serve a copy of all the appeal documents on all other such persons who shall be entitled to appear on the hearing of the appeal as if they were parties thereto;
- (b) if the Board considers that any other person be joined, it may order that a copy of all the appeal documents shall be served on such other person who shall be entitled to appear on the hearing of the appeal as if he were a party thereto.

Opinion of
members

20. For purposes of determining any matter, the Chairman or the Vice-Chairman as the case may be, 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.

Disclosure
of
interest

21.-(1) Where a member present at a sitting of the Board or the Tribunal at which any matter in which a member or immediate family of a member is directly or indirectly interested in a private capacity, is the subject of consideration, that member shall as soon as is practicable after or before the commencement of the proceedings of the Board or the Tribunal, disclose that interest and shall not, unless the Board and the Tribunal otherwise direct, take part in the determination of the appeal or give an opinion on any question relating to that matter.

(2) A disclosure of interest made by a member shall be recorded as part of the proceedings in relation to the matter under determination.

(3) A member who sits and takes part in the proceedings of the Board or the Tribunal in contravention of subsection (1) commits an offence against this Act.

Hearing

22.-(1) The Secretary or the Registrar, as the case may be, shall advise all parties in writing of the time and place of the hearing, and shall give the parties not less than fourteen days notice.

(2) A hearing of appeal shall be in public unless a party to the proceedings otherwise applies and the Board or the Tribunal directs that the proceedings or part of it, be heard in camera.

(3) Parties may appear in person at a hearing or be represented by any other person being an advocate or any other person registered as tax consultant, accountant or auditor and the Commissioner General may be represented by any person duly authorised on that behalf.

(4) If a party to the proceedings or a person duly appointed by him fails to appear at the hearing, the Board or the Tribunal shall consider the appeal in the manner it thinks fit.

(5) Evidence before the Board and the Tribunal may be given orally or through affidavits or in such other manner as the Board or the Tribunal may deem fit.

(6) During the proceedings, the Board or the Tribunal shall not be bound by the rules or practice as to evidence and may seek to be informed in relation to any matter in such manner as it thinks fit as may result in the expeditious determination of an appeal.

Witnesses

23.-(1) The Board or the Tribunal may call any person to attend at a hearing and give evidence including the production of any document if the Board or the Tribunal believes such evidence will assist in its deliberations.

(2) A person summoned to attend and give evidence to the Board or the Tribunal shall be paid allowances and expenses at the rates specified by the Board or the Tribunal.

Enforcement of
decisions of Board
and Tribunal

24.-(1) The Board or Tribunal, as the case may be, may deliver its decisions at the end of a hearing, but in any case the decision shall be in writing and sent to all parties to the proceedings within fourteen days of the delivery of the decision.

(2) The Secretary or the Registrar, as the case may be, shall serve to all parties copies of all decisions duly endorsed and the date of issue marked on.

(3) Any decree or order of the Board or the Tribunal given in the exercise of its jurisdiction under this Act shall be enforceable and executed as if it were a decree or order issued by a court of law.

(4) An appeal shall not operate as a bar for execution of any decree or order of the Board or Tribunal as the case may be.

Appeal to Court of
Appeal
Act No.
3 of 2016
s. 28
Cap. 141

25.-(1) Any person who is aggrieved by the decision and decree of the Tribunal may prefer an appeal to the Court of Appeal.

(2) Appeal to the Court of Appeal shall lie on matters involving questions of law only and the provisions of the Appellate Jurisdiction Act and the rules made thereunder shall apply *mutatis mutandis* to appeals from the decision of the Tribunal.

Costs
Act No.
16 of 2007
s.33

26.-(1) The Tribunal or the Board may issue an order to award costs as it considers appropriate to any party to the proceedings to be paid by the other party within such period as the Tribunal or the Board may determine.

(2) The Registrar or the Secretary shall, in addition to the functions conferred upon him under the Act, assess bill of costs in relation to any costs, which

may be payable in respect of which proceedings have been conducted by the Tribunal or the Board.

(3) An appeal against the decision of the Registrar or the Secretary regarding taxation of costs shall be heard by the Chairman or Vice-Chairman.

PART VI

OFFENCES AND PENALTIES

Offences and
penalties

27.-(1) Any person who-

- (a) being required to attend the proceedings pursuant to the provisions of this Act, fails without reasonable excuse to attend or fails to take an oath or make affirmation as required by the Board or the Tribunal;
- (b) being summoned to produce any document, book or paper which is in his possession or under his control, without reasonable excuse, fails or refuses to produce it;
- (c) makes any statement which he knows to be false or which he has no reason to believe to be true;
- (d) omits or suppresses any information required by the Board or the Tribunal in the exercise of its jurisdiction or relevant to the exercise of such jurisdiction;
- (e) in any manner misleads, obstructs, insults or disturbs the Board or the Tribunal; or
- (f) sits and takes part in the proceedings of the Board or Tribunal contrary to section 21(3),

commits an offence and on conviction shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) A member of the Board or the Tribunal who is convicted under subsection (1)(f) shall, in addition to the sentence which may be imposed by the court, be disqualified from being a member of the Board or the

Tribunal as the case may be.

PART VII FINANCIAL AND MISCELLANEOUS PROVISIONS

Sources of
funds of Board
and Tribunal

28.-(1) The funds of the Board and the Tribunal shall consist of—

- (a) the sums of money as may be appropriated by the National Assembly;
- (b) such donations, grants or bequeaths as the Board and the Tribunal may receive from any person or organisation; and
- (c) any other income which may be paid to the Board or the Tribunal in the cause of the discharge of its functions.

(2) The funds of the Board and the Tribunal shall be applied for the purposes for which the Board and the Tribunal is established and in accordance with the directions of the Minister.

Accounts and audit

29. The Secretary and the Registrar shall each respectively keep proper books of accounts in accordance with Government financial accounting system and shall be audited by the Controller and Auditor General.

Remuneration

30. The Chairman, Vice-Chairmen and members of the Board and the Tribunal shall be entitled to remuneration as the Minister may determine or as may be stipulated in the letters of appointment.

PART VIII GENERAL PROVISIONS

Indemnity of
Chairman,
members of Board
and Tribunal

31. No act done or omitted to be done by the Board or the Tribunal, the Secretary, the Registrar or any other person empowered to perform any function

under this Act shall, if done or omitted to be done in good faith during or in the exercise or purported performance of any function provided under this Act, render any member of the Board or the Tribunal, the Secretary or the Registrar or such any other person personally liable.

Seal of Board or
Tribunal

32.-(1) The Board and the Tribunal shall each have a seal to be kept under the custody of the Secretary or Registrar

(2) The affixing of the seal of the Board or Tribunal on any document shall be authenticated by the signature of either the Chairman, the Vice Chairman or Secretary or Registrar, as the case may be.

(3) A document purporting to be an instrument issued by the Board or the Tribunal and authenticated in the manner prescribed under subsection (2) shall be deemed to be a valid instrument and admissible in evidence.

Minister may
make rules

33. The Minister may, in consultation with the Chief Justice, make rules generally laying down the procedure applicable for the conduct of proceedings by the Board or the Tribunal and the manner in which appeals from the Tribunal may be lodged to the Court of Appeal.

Transitional
provisions
Act No.
33 of 1973

34.-(1) Subject to subsection (2), the Tax Appeals Board and Tax Appeals Tribunal established under the Income Tax Act are hereby dissolved.

(2) Every decision or order of the National Tax Appeals Board or Tax Appeals Tribunal which shall not have been fully executed or enforced before the date on which the Board or the Tribunal commences business, may be executed and enforced after that day as if it were a decision or order of the Board or the Tribunal established under this Act.

(3) Proceedings of every appeal in the National

Tax Appeals Board or Tax Appeals Tribunal which shall not have been fully heard before the date on which the Board or the Tribunal commences business shall be continued with and finally determined within six months from the date on which the Board or the Tribunal commences business and any appeal which shall not have been fully heard and finally determined after expiration of six months shall, without any further assurance be transferred and be heard by the Board or the Tribunal, as the case may be.

Savings

35. Nothing in this Act shall be construed as derogating the powers of any court in which any matter which was filed in before the commencement of business by the Board or the Tribunal and which remain pending before such court but which the Board or the Tribunal has jurisdiction to entertain from continuing, concluding and finally making decision and necessary order on it.