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Laws

Act

1995

The Tanzania Revenue Authority Act, 1995

Tanzania, United Republic

Ministry of Finance and Planning

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THE TANZANIA REVENUE AUTHORITY ACT, 1995

ARRANGEMENT-OF SECTIONS

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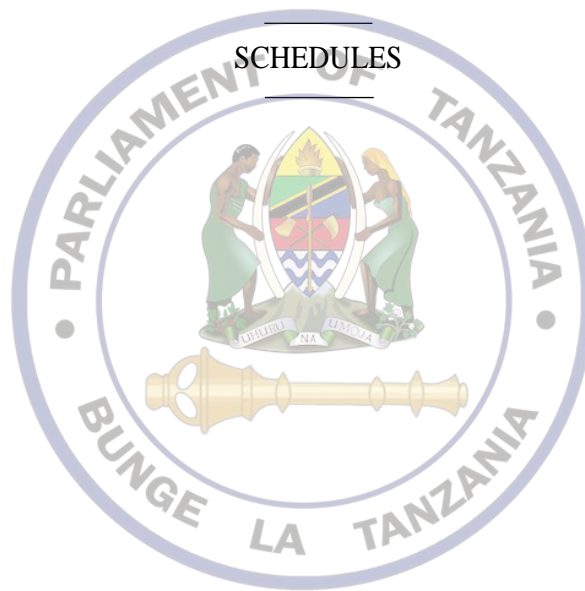
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THE UNITED REPUBLIC OF TANZANIA



No. 1.1 OF 1995

I ASSENT,

President

31-7-95

An Act to establish the Tanzania Revenue Authority as a central body for the assessment and collection of specified revenue, to administer and enforce the laws relating to such revenue and to provide for related matters.

ENACTED by the Parliament of the United Republic of Tanzania

PART I
PRELIMINARY

1. This Act may be cited as the Tanzania Revenue Authority Act, 1.995 and shall come into operation on such date as the Minister may by notice published in the *Gazette* appoint.
2. This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania.
3. In this Act, unless the context requires otherwise-
"Authority" means the Tanzania revenue Authority established by section 3;
"Board" means the Board of the Authority established by section 6;
"Chairman" means the Chairman of the Board of the Authority

Short title and commencement

Application

Interpretation

"member" means a member of the Board and includes the Chairman;
 "Minister" means the Minister for the time being responsible for finance;
 "revenue" means taxes, duties, fees, fines or other monies imposed by
 or collected under the laws or the specified provisions of the laws set
 out in the First Schedule.
 "revenue commissioner" means a person appointed as a Commissioner
 in respect of any tax.

PART II

ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY

Establish-
 ment of
 the Au-
 thority

4.-(1) There is established an Authority to be known as the Tanzania Revenue Authority which shall consist of the Board and all operating Departments.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued in its corporate name and, subject to this Act, may borrow money, acquire and dispose of property and do all such other things as a body corporate may lawfully do.

(3) The Authority shall be an agency of the Government and shall be under the general supervision of the Minister.

(4) The seal of the Authority shall be authenticated by the signatures of the Commissioner General and the Secretary to the Board.

(5) In the absence of the Commissioner General, a Commissioner designated by him for the purpose, may sign a document in his place and in the absence of the Secretary to the Board, a person performing the functions of the Secretary may sign a document in his place.

(6) Every document purporting to be an instrument issued by the Authority shall be sealed with the seal of the Authority Authenticated in the manner provided under subsection (4) and such an instrument shall be received in evidence without further proof.

Functions
 of the Au-
 thority

5.--(1) The functions of the Authority are-

- (a) to administer and give effect to the laws or the specified provisions of the laws set out in the First Schedule to this Act, and for this purpose, to assess, collect and account for all revenue to which those laws apply;
- (b) to monitor, oversee, coordinate activities and ensure the fair, efficient and effective administration of revenue laws by revenue departments in the jurisdiction of the Union Government;

- (c) to advise the Minister and other relevant organs on all matters pertaining to fiscal policy, the implementation of the policy and the constant improvement of policy regarding revenue law and administration;
- (d) to promote voluntary tax compliance to the highest degree possible;
- (e) to take such measures as may be necessary to improve the standard of service given to tax payers, with a view to improving the effectiveness of the revenue departments and maximizing revenue collection;
- (f) to determine the steps to be taken to counteract fraud and other forms of tax and other fiscal evasions;
- (g) to produce trade statistics and publications on quarterly basis; and
- (h) subject to the laws specified under paragraph (a), to perform such other functions as the Minister may determine.

(2) The Authority shall in the discharge of its functions, have power to-

- (a) study revenue laws and identify amendments or alterations which may be made to any law for the purposes of improving the administration of and compliance with revenue laws;
 - (b) study the administrative costs, compliance costs and the operational impact of all intended legislative changes and advise the Government accordingly;
 - (c) collect and process the statistics needed to provide forecasts of revenue receipt and the effect on yield of any proposals for changes in revenue laws and advise the Minister accordingly;
 - (d) negotiate and agree with the Treasury on the revenue collection targets for any given financial year;
 - (e) undertake work measurement exercises in order to determine the manpower needs for the functions of each revenue department in the Authority;
 - (f) set objectives and work targets appropriate as are of work in each revenue departments and monitor progress in achieving them;
 - (g) take such other measures as it may deem necessary or desirable for the achievement of the purposes and provisions of this Act.
- (3) Without prejudice to the generality of the functions and powers pacified in subsection (1) and (2), the Authority shall-
- (a) have power to do all such acts and things as may appear to it to be necessary, advantageous or convenient for the efficient and effective discharge of its functions; and
 - (b) act in accordance with all such directions of a general or specific character as the Minister may by writing under his hand give to the Authority.

(4) The Minister may, by an order published in the Gazette, amend the First Schedule to this Act.

Taxpayer
identifica-
tion and
exchange
of infor-
mation

C-41) The Authority shall, after consultation with the Minister by Notice published in the Gazette, provide for the establishment, maintenance and application of a system for the convenient and effectual identification of tax payers for the purpose of coordinated administration of the revenue laws of the United Republic.

(2) Without prejudice to the provisions of subsection (11), it shall be lawful for officers in the revenue departments to exchange or furnish each other with information or documents concerning any tax payer and for the purposes of the discharge of functions under this Act

Confiden-
tiality

7--(1) A member of the Authority, revenue commissioner or an other person employed in the carrying out of the provisions of this Act shall regard and deal with all documents and information relating to the income, expenditure or other financial dealings or status of any tax payer or other person involved in any operations in furtherance of the purposes of this Act, and all confidential instructions in respect of the administration of this Act which may come into his possession or to his knowledge in the course of his duties as secret to any unauthorised person.

Act, 1973
No. 33

(2) The provisions of sections 132 and 133 of the Income Tax Act, 1973, relating to the maintenance of confidentiality and to the safeguarding of the integrity of the officers and other persons discharging functions under that Act, shall apply, mutatis mutandis in relation to the maintenance of confidentiality and the safeguarding of the integrity of persons discharging functions under this Act.

Role of
Minister;

8. It shall be the duty of the Minister-

- (a) subject to other relevant written laws of the United Republic, to determine and ensure the effectual application of the fiscal policies of the United Republic;
- (b) see to the effective coordination of the policies for the collection and preservation of revenue accounts.

PART III

THE BOARD AND ITS FUNCTIONS

Establish-
ment of
Board

9--(1) There is established a Board as the governing body of the Authority which shall consist of the following members-

- (a) a Chairman appointed by the President on the recommendation of the Minister;
- (b) the Principal Secretary of the Ministry of Finance of the Union Government;
- (c) the Principal Secretary of the Ministry of Finance of the Zanzibar Government;

- (d) the Governor of the Bank of Tanzania, and
- (e) the Commissioner General of the Authority;
- (f) Secretary of the Planning Commission; and
- (g) four other members appointed by the Minister with professional knowledge and experience in finance, commerce, economics or law from among institutions of financial, commercial, legal or economic nature having no vested interests in the Authority.

(2) The Board shall be a statutory organ, responsible for the formulation and Implementation of the policy of the Authority.

(3) The Minister may give directives to the Board regarding the performance of its functions and it shall be the duty of the Board to comply with those directives.

(4) The Board may delegate to any member the power and authority to carry out on behalf of the Authority, such functions as the Board may determine.

10.--(1) A member of the Board other than an ex- officio member shall hold office-

- (a) on such terms and conditions as are specified in his instrument of appointment;
- (b) in the first instance, for a period not exceeding three years; and
- (c) shall be eligible for re-appointment only for a subsequent period not exceeding three years.

Tenure of office

(2) The Minister may terminate or suspend the appointment of a member-

- (a) for the member's inability to perform the functions of his office;
- (b) for misbehavior;
- (c) if the member is convicted of a criminal offence involving moral turpitude and in respect of which a maximum penalty exceeding six months imprisonment may be imposed;
- (d) if the member, in any particular case, fails to comply with the provisions of paragraph 4 of the Second Schedule relating to the disclosure of interest; or
- (e) for any other sufficient cause.

11---41) The provisions of the Second Schedule shall apply to the meetings of the Board (and other matters provided for in that Schedule)- and the Minister may by Statutory instrument, amend the Schedule.

Meetings of the Board

(2) The Board may co-opt any person to participate in its deliberations, but a person so co-opted shall have no right to vote.

PART IV

POWERS AND OPERATIONS OF THE BOARD

- Powers of the Board
12. In the discharge of its functions under this Act, the board may-
- (a) direct the Commissioner General to furnish it with any information, reports or other documents which the Board considers necessary for the performance of its functions;
 - (b) give lawful instruction and orders in a prescribed legal notice to the Commissioner General in connection with the management, performance and operational policies of the operating departments;
 - (c) except as is otherwise provided in this Act, the Board has no power to intervene in the determination of tax liabilities of particular tax payers;
 - (d) formulate and devise a system for securing, through internal audit systems, and verifying the correct processing by revenue department of various cases before them, and in accordance with law and the relevant directions of the Minister; and
 - (e) establish such organizational structures as may be submitted by the Commissioner General as he may consider necessary for the discharge of the functions of the Authority.
- Exemption
- 13-(1) The Board shall recommend to the Minister, criteria or factors by reference to which any exemption, mitigation, deferment or remission may be granted.
- (2) The Minister shall by order published in the *Gazette* specify the criteria or factors recommended under subsection (1).
 - (3) The Minister may by order published in the *Gazette* exempt, mitigate, defer or remit any tax, duty or other levy on the grounds of public or other interests subject to the published criteria made in subsection (2).
 - (4) The Board may in the public interest refer back any exemption, mitigation, deferment or remission made with sufficient information relating to the matter.
 - (5) The Commissioner General shall, subject to this Act, regularly submit to the Board the total amount of tax remitted or foregone in respect of each of the criteria, specified under subsection (2).
 - (6) Notwithstanding the provisions of any other written law, where a revenue law has conferred power on a revenue commissioner to refrain from assessing any person to tax or from recovering tax from him-
- (a) the Board shall, by order published in the *Gazette*, specify criteria by reference to which, the power shall be exercised by the revenue commissioner;

(b) the Board may, from time to time, -by Notice published in the *Gazette* determine the amount of tax beyond which a revenue commissioner may not exercise this discretionary power of remission conferred on him by any law.

(7) In the exercise of its functions under this Act, the Board shall, subject to such restrictions, qualifications and instructions regarding procedure as the Minister may give in writing to the Board, have power-

- (a) to consider applications for and grant remission or abandonment of tax of amounts beyond the financial limits of the discretionary power of the relevant revenue commissioner;
- (b) to require a revenue commissioner to submit returns to the Board, at such intervals not exceeding three months, as the Board may direct, of the identity of the tax payers, the reasons for the remission and the amount of tax remitted or abandoned by him.

14.-(1) The Board shall, subject to this Act regularly report to the Minister and submit an annual report to the National Assembly setting out, among other things, the total amount of tax remitted or foregone in respect of each of the criteria specified under subsection (2) of section 13.

Annual
Reports
on exemp-
tions

(2) For the more effectual implementation of this Part, the Board shall cause to be kept and maintained a full record indicating-

- (a) the names and number of persons in respect of tax exemptions granted;
- (b) the number of exemptions, mitigation and deferment of taxes and duties granted; and
- (c) the period for which and the amount of taxes and duties exempted, mitigated or deferred.

(3) The report submitted to the Minister and to the National Assembly shall be analyzed between the different statutory classes of exemption and, in the case of exemptions by publication in the *Gazette*, or in the public interest, shall be analyzed also by reference to the criteria specified by the Minister on the recommendation of the Board.

PART V

COMMISSIONER GENERAL, OFFICERS AND STAFF

15-(1) The President shall appoint a Commissioner General of the Authority on the recommendation of the Minister.

Comms-
sioner
General

(2) The Commissioner General shall hold office for the period of five years and. shall eligible for re-appointment, unless he sooner dies or resigns or vacates or is removed.

(3) The Commissioner General shall be the Chief Executive of the Authority and, subject to the general supervision and control of the Board, shall be responsible for the day-to-day operations of the Authority, the management of funds, property and business of the Authority and for the administration, organisation and control of the other officers and staff of the Authority.

(4) The President may, after the recommendation of the Minister, terminate the appointment of the Commissioner General for—

- (a) misbehavior;
- (b) the Commissioner General's inability to perform the functions of his office; or
- (c) any other sufficient cause.

(5) The Commissioner General may, subject to this Act and to any general or specific directions of the Minister or of the Board, delegate any or all of his functions on relation to a revenue law, to a revenue commissioner or any other commissioner or officer.

(6) Where the function to be delegated relates to the exercise of statutory powers a revenue or other law, the delegation under subsection (5) shall be effected by a Notice published in the *Gazette*.

Appoint-
ment of
revenue
commis-
sioners

16.-(I) The Minister shall, after consultation with the Board, appoint such number and grades of revenue commissioner or other commissioners in relation to any revenue law as he may think necessary or desirable for the efficient and effective discharge of the business and purposes of the Authority;

(2) Every revenue commissioner or other commissioners appointed under any revenue law before the commencement of this Act shall, notwithstanding anything in this Act contained, after the commencement of this Act, be deemed to have been appointed under this Act until his appointment is made under this Act to fill his place.

Secretary
and other
staff

17.-(I) The Board shall appoint a Secretary to the Board who shall be responsible for arranging the business proceedings of the Board and for such other duties as the Board may direct.

(2) The Board shall appoint other officers and staff as may be required for the performance of the functions of the Authority and on such terms and conditions as it may determine.

(3) The Board shall be responsible for the discipline and control of the Secretary, officers and other staff appointed by it.

Exemp-
tions from
personal
liability

18. An employee of the Authority shall not, in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his functions under this Act.

PART VI

FINANCIAL PROVISIONS

- 19.-(I) The funds of the Authority shall consist of money as may —
- (a) be accrued by retention of a certain percentage of the revenue collected by the Authority as shall be determined by the Minister from time to time.
- (b) be paid to the Authority by way of grants or loans subject to the approval of the Minister; and
- (c) be received by or made available to the Authority for the purpose of performing its functions, subject to the approval of the Minister.
- (2) The Authority may charge and collect fees in respect of programmes, publications, seminars, consultancy services and other services provided by the Authority.
- (3) The expenditure of the Authority shall be a charge on the Consolidated fund.
- 20.-(I) All revenue collected by, or payable to the Authority under this Act shall be credited to the Exchequer Account on a weekly basis and be payable to the Consolidated Fund.
- (2) The Commissioner General shall submit to the Board a weekly report in respect of the revenue collected.
21. The Commissioner General shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval, estimates of its income and expenditure for the next ensuing year and may at any time before the end of a financial year, prepare and submit to the Board for approval any estimated supplementary to the estimates of a current financial year.
- 22.-(I) The Authority shall keep accounts and records of its transactions and affairs and shall ensure that all moneys received are properly brought to account and all payments out of its moneys are correctly made and properly authorized and adequate control is maintained over its property and over the incurring of liabilities by the Authority.
- (2) The annual accounts of the Authority shall be audited by a competent and qualified auditor appointed by the Minister.
- (3) The Commissioner-General shall, within three months after the end of each financial year submit-
- (a) to the Minister and the Board an annual report in respect of that year, containing-

Funds of the Authority

Revenue to accrue to the consolidated Fund

Estimates of Income and Expenditure of the Authority

Accounts, audit and annual reports

- (i) financial statements;
- (ii) performance indicators and any other related information;
- (iii) a report on the operations of the Authority; and
- (iv) such other information as the Board may, before or after the completion of the annual report, direct;

(4) The Commissioner General may make available to the Minister responsible for finance in Zanzibar, a copy of the annual report after the, end of each financial year.

(5) The Minister shall cause copies of each annual report to be laid before the National Assembly within two months or at the next meeting of the National Assembly after he has received them.

Quarterly reports

23. The Commissioner General shall after the end of every three months submit to the President and the Minister a report containing—

- (a) financial statements;
- (b) performance indicators and any other related information;
- (c) the operations of the authority; and
- (d) such other information as the Board may deem proper.

Internal audit and periodic audit reports

24.-(1) The Head of Internal Audit shall in addition to any other functions assigned to him by the Board or the Commissioner General, be responsible for the internal audit of the Authority's accounts and shall submit to the Commissioner General a report in respect of every three months of a financial year.

(2) The Commissioner General shall submit the report referred to in subsection (1) to the Board for its consideration at the next meeting of the Board and shall provide a copy of the report to the Minister and the Auditor-General.

PART VII

MISCELLANEOUS PROVISIONS

Vesting of assets and liabilities, subsisting contracts and pending proceedings

25.-(1) All property, except any such property as the Minister may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Revenue Departments for the purpose of giving effect to the laws set out in the First Schedule shall, on the date of commencement of this Act, and without further assurance, vest in the Authority subject to all interests, liabilities, charges, obligations and trust affecting that property.

(2) Except as otherwise provided in subsection (1) in relation to property, contracts, debts, engagements and liabilities of the Government attributable to the Revenue Departments shall remain vested in the Authority and may be enforced by or against the Authority.

(3) All legal proceedings and claims pending in respect of revenue to which: the laws set out in the First Schedule apply shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if the Act had not been enacted.

26.-41) On and after the coming into force of this Act all references to a revenue commissioner in any law or any specified provisions of the laws set out in the First Schedule shall be construed as references to the Commissioner General of the Authority.

Construction and Modification of other laws

(2) The Minister may, with the approval signified by resolution of the National Assembly and by statutory instrument amend any revenue law (other than the Constitution) for the purpose of bringing that law into conformity with this Act.

27. Any person who-for the purposes of this Act—

Offences

- (a) without lawful excuse or justification, fails to comply with an order made under this Act;
 - (b) furnishes any information or produces any document which is false or misleading a material particular.;
 - (c) obstructs any officer in the performance of his functions under this Act; or
 - (d) Otherwise contravenes this Act;
- is guilty of an offence, and liable on conviction to a fine not exceeding five, hundred thousand shillings and to imprisonment for a term not, exceeding two years.

28. The Tanzania Revenue Board, Act 1994 enacted by the Parliament of the United Republic is repealed.

Repeals Act No. 22-of 1994

29. Subject to the provisions of this Act, any right of any person, including a right of appeal, subsisting against a revenue Commissioner immediately before the commencement of this Act shall after commencement be treated as subsisting against the Commissioner General in so far as that right relates to the, duties of the Commissioner General under *this Act*,

Savings

30. The Minister may, after consultation with the Authority make regulations for better carrying out of the provisions of this Act.

Regulations

SCHEDULE

FIRST SCHEDULE

(section 4(1)(a))

1. The Income Tax Act, 1973.
2. The Customs Tariff Act, 1976.
- 1 The East African Customs Management Act, 1970.
4. The Sales Tax Act, 1976.
5. The Excise Tariff Ordinance (Cap. 332),
6. The Stamp Duty Act, 1972.
7. The Road Toll Act, 1985.
8. The Hotel Levy Act, 1972.
9. The Car Benefit Tax Act, 1991.
10. The Estate Duty Act, 190.
11. The Airport Service Charges Act, 1962.
12. The Motor Vehicle (Tax on Registration and Transfer) Act, 1972,
13. The Specified Buildings Tax Act, 1993.
14. The Motor Vehicle Surtax Act, 1994.
15. The Port Service Charges Act, 1973.
16. The Video Tax Act, 1988.
17. The Traffic (Foreign Vehicles Rules) Act, 1973.
18. The Training Levy Act, 1972.
19. The Housing Levy Act, 1985; and
20. The Customs and Excise Management Act, 1977.
21. The Foreign Commercial Vehicles Licensing Act, 1970.
22. The Land Ordinance (Cap. 113).
23. The East African Excise Management Act, 1970,
24. The East African Community Mediation Agreement, 1987; and
25. Any other law which may come into force enacted to mobilize and collect revenue.

SECOND SCHEDULE

(section 1(1)(a))

Meetings
of the
Board

1-0) The first meeting of the Board shall be convened by the Chairman and, sub-sequentially the Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board, but it shall meet at least once every month.

Tanzania Revenue
Authority Act

(2) The Chairman shall preside at every meeting of the Board and in his absence the members present may appoint a member from among themselves to preside at that meeting,

(3) The Chairman or, in his absence, a member appointed by the Board to act in his place may, at any time call a special meeting upon written request by a majority of the members.

(4) Notice of Board meeting shall be given in writing to each member at least five days before the day of the meeting but an urgent meeting may be called at least not less than five days notice at the request of two or more members.

2. Subject to sub-paragraph (4)(b) of paragraph 4 of this Schedule, five members shall form it quorum for it meeting of the Board.

Quorum

3.--(1) All questions proposed at a meeting of the Board shall be decided by majority of the votes of the members present and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

Decision
of the
Board

(2) A decision may be made by the Board without it meeting by circulation Of the relevant papers among the members of the Board and by the expression of the views of the majority of the members in writing but any member shall be entitled to require that the decision be deferred and the Matter on which a decision is sought be considered at a meeting of the Board.

4.--(1) A member of the Board who has a direct or indirect personal interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to the Board.

Disco-
sure of in-
terest

(2) A disclosure of interest under sub-paragraph t 1) shall be recorded in the minutes of the meeting of the Board and the member making such disclosure shall not, unless the Board otherwise determines in respect of that matter-

- (a) be present during any deliberation on the matter by the Board;
- (b) take part in the decision of the Board.

(3) For the purpose of -the making of a decision by the Board under shb-paragraph (2) in relation to a member who has made a disclosure under sub-paragraph (1), the member who has made such disclosure shall not-

- (a) be present during the deliberations of the Board for the making Of the determination* or
- (b) influence any other member or participate in the making by the Board of the determination.

(4) When there is no quorum for the continuation of a meeting only because of the exclusion of a member from -the deliberations on a matter **in which** he has disclosed a personal interest, the other Members present may-

- (a) postpone the consideration of the matter until a quorum, without that member, is realised; or
- (b) proceed to consider and decide the matter as if there was a quorum.

Minutes of proceedings

5.-(1) The Board shall cause the minutes of all proceedings of its meetings, to be recorded and kept and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

(2) The Chairman of the Board shall submit to the Minister a copy of the minutes of each meeting of the Board as soon as the minutes have been confirmed.

Residual power of Board to regulate its proceedings

6. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

Passed in the National Assembly on the 27th April, 1995

