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**TAX COMPLAINTS  
&  
DISPUTE RESOLUTION  
IN TANZANIA**



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**A COMPREHENSIVE GUIDE TO  
TAX COMPLAINTS  
AND  
DISPUTE RESOLUTION  
IN TANZANIA:  
A PRACTITIONER'S CONTEMPORARY OVERVIEW**



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# ◊ CONTEMPORARY MECHANISM OF SOLVING TAX COMPLAINTS AND DISPUTES IN TANZANIA.

## 1. INTRODUCTION



Tax dispute resolution mechanism is necessary in settling tax disputes arising between the Revenue Authority and Taxpayers. Most tax disputes and complaints arise among others in the areas of interpretation of tax law, tax assessments issuance with wrong figures, disallowance of expenses, custom decisions, time-barred assessments, etc. The bottom line of it all, is that; it is vital in any tax system to have a tax dispute resolution mechanism that is efficient and responsive in resolving tax complaints and disputes.

This article highlights the mechanisms and procedures of solving tax complaints and disputes arising between Tanzania Revenue Authority (hereinafter TRA) and Taxpayers.

## **2. GOVERNING LAWS**

Handling of Tax Complaints and Disputes in Tanzania is regulated by various laws including but not limited to the following:

- i. The Constitution of the United Republic of Tanzania of 1977.
- ii. The Tanzania Revenue Authority Act, [Cap 339 R.E 2019].
- iii. East Africa Community Customs Management Act of 2004.
- iv. East Africa Community Customs Management Regulations of 2010.
- v. The Tax Administration Act, [Cap. 438 R.E 2019].
- vi. The Tax Administration Regulations, GN. No 101 of 2016.
- vii. The Tax Administration (Administration of Tax Ombudsman Service) Regulations, G.N No. 105 of 2022.
- viii. The Tax Administration (Tax Ombudsman Service Complaint Procedure) Regulations, G.N No. 106 of 2022.
- ix. Tax Revenue Appeals Act, [Cap 408 R.E 2019].
- x. Tax Revenue Appeals Board Rules, G. N. No. 217 of 2018.
- xi. Tax Revenue Appeals Tribunal Rules, G.N. No. 222 of 2018.
- xii. Appellate Jurisdiction Act, [Cap 141 R.E 2019].
- xiii. The Court of Appeal Rules, G.No.368 No. of 2009.

### **3. MECHANISM OF COMPLAINTS RESOLUTION IN TANZANIA**

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The Taxpayer's service Charter of 2017 gives taxpayers, among other things, a right to impartial application of tax law when fulfilling tax obligation and the right to object to an assessment or any other decision made by TRA. However, since establishment of TRA around the year 1995 there was no formal mechanism of TRA to submit to the lofty commitments set out in the Charter.

But in the year 2019 Parliament through the Finance Act amended the Tax Administration Act (TAA) by introducing the Tax Ombudsman Service of Tanzania (TOST). That being the case, TOST has been established under Section 28A of the TAA (as it was amended by the Finance Act of 2019), whereas among other things, the office has been mandated to various powers including but not limited to reviewing and addressing any complaint by a taxpayers regarding service, procedural or administrative matters arising in the course of administering tax law by the TRA, Commissioner General or Staff of TRA.

TOST is in law an independent and impartial without interference from any institution agency or department though it is under the Ministry of Finance and as now it has started to receive and determine complaints.

### **3.1 WHO CAN LODGE A COMPLAINT TO THE TOST.**

Regulation 4(1) of the Tax Administration (Tax Ombudsman Service Complaint Procedure) Regulations, GN. No. 106 of 2022, permit any person who is not satisfied by the services rendered, procedural or administrative matter undertaken by the Commissioner General or staff of TRA in the course of administering a tax law to lodge a complaint with the Tax Ombudsman Service.

### **3.2 MANNERS FOR LODGING COMPLAINTS TO TOST.**

Lodging of complaints with the tax Ombudsman may either be made orally or in writing; moreover, it can be in person or through an authorized representative.

### **3.3 MATTERS FROM WHICH COMPLAINTS MAY LIE.**

A person may lodge a complaint to the Ombudsman on any of the following matters:-

- i. Non-compliance of procedures or mal-administration by the TRA in administering tax law.
- ii. Delay in release of documents or assets seized during the investigations of tax affairs.
- iii. Delay in responding to a complaint submitted by a tax payer or Non response of letters or documents sent to TRA.

### **3.4 REQUIREMENT FOR EXHAUSTION OF TRA'S INTERNAL COMPLAINTS PROCEDURES**

The law requires a complainant prior to lodging a complaint with the Tax Ombudsman to ensure that, they have made a written representation to TRA and:-

- i. The Authority rejected the complaint,
- ii. The complainant did not receive any reply within a period of thirty days after the Authority received his representation or,
- iii. The complainant is not satisfied with the reply of the Authority.

### **3.5 MANNERS FOR LODGING COMPLAINTS TO TOST.**

Lodging a complaint with the Tax Ombudsman is done by filling a prescribed form as set out in the Schedule to the Tax Administration (Tax Ombudsman Service Complaint Procedure) Regulations and should contain the following information:-

- i. Name and address of complainant.
- ii. Statement of facts giving rise to the complaint,
- iii. Statement that the Complainant has exhausted the available TRA internal complaints procedure; and
- iv. Evidence of correspondence with TRA; and
- v. Any other documents or information which the complainant deems it relevant to the complaint.

### **3.6 TIME LIMITATION FOR LODGING A COMPLAINT.**

A Complaint to the Tax Ombudsman Service must be lodged within ninety (90) days after the occurrence of the event giving rise to the complaint, though a person may lodge a complaint after the expiry of the prescribed period by giving reasonable grounds of the delay to the satisfaction of the Tax Ombudsman.

### **3.7 DETERMINATION OF A COMPLAINT.**

In determining the complaint, the Ombudsman may resolve the matter amicably through mediation, conciliation, or any other method which the Ombudsman may consider appropriate and the Ombudsman may:-

- i. Uphold the complaint, either wholly or in part,
- ii. Decline to consider the complaint or
- iii. Dismiss the complaint.

### **3.8 OMBUDSMAN FINDINGS AND RECOMMENDATIONS.**

The Ombudsman is required by the law, within thirty days from the date of receiving the complaint, determine the complaint and record his findings and recommendations and submit his findings and recommendations to the Minister within fourteen days after determining the complaint.

### **3.9 DECISION OF A MINISTER.**

The Minister may, upon receipt of the findings and recommendations of the Ombudsman, issue directives to TRA and the decision of the Minister may be communicated to the complainant through the Ombudsman.



## **4. MECHANISM OF DISPUTE RESOLUTION IN TAX MATTERS IN TANZANIA**

Apart from Complaints that may be solved by TOST, when an assessment has been made by TRA and the Taxpayer disagrees, there is a mechanism provided by the tax law in order to ensure the said dispute is well resolved. The following procedures could be used by a taxpayer in resolving the said dispute.

### **4.1 LODGING OF NOTICE OF OBJECTION TO THE COMMISSIONER GENERAL OF TRA.**

Section 51 of the Tax Administration Act is to the effect that, a Taxpayer who is aggrieved by the tax decision or tax assessment of the Commissioner General of TRA is required to lodge a Notice of Objection within thirty (30) days from the date of service of tax decision or tax assessment. Whereas section 229 of the East Africa Customs Management Act requires taxpayer who is aggrieved by the TRA's custom decision to apply for review against the said decision.

When a taxpayer is out of time and has reasonable ground to warrant extension of time to file an objection against a tax decision they may apply for an extension of time to the Commissioner General and the Commissioner General has power to extend time by a period not exceeding a period of thirty days.

The Commissioner General of TRA will only admit the Notice

of Objection once the Taxpayer has within a period of thirty days from the date of service of tax decision, paid the amount of tax which is not in dispute or one third of the assessed tax decision whichever amount is greater.

But for an objection in which the taxpayer is in a tax loss position and not related to assessment of tax or notice of liability to pay tax, no amount is required to be paid for admission of the objection

#### **4.1.1. REQUEST FOR WAIVER**

Sometime a taxpayer could not be economically efficient to file objection because will be required to pay one third (in case the amount is higher than the amount not in dispute), the remedy thereof is to use an avenue provided under section 51(6) of TAA by filing an application for waiver or accepting the lesser amount.

In his book titled “**Tax Compliance in Tanzania**” the late Dr. Kibuta says that it’s quite rare to have a waiver request accepted by TRA. He noted that, TRA sees the requirement to pay one third of the disputed tax as a revenue collection measure and insist on it, without regard to the merits of the assessment objected to.

#### **4.1.2. THE REMEDY AVAILABLE FOR A TAXPAYER WHERE A REQUEST FOR WAIVER HAS BEEN REJECTED.**

There are situations where the Commissioner General rejects the application made under section 51(6) of TAA and this raises a disputable question as to what an aggrieved taxpayer should do when an application for a one-third waiver or acceptance of lesser amount is rejected by TRA.

**In Pan African Energy Tanzania Limited vs. Commissioner General (TRA)**, Civil Appeal No. 121 of 2018, the Court of Appeal held that section 16(1) of the Tax Revenue Appeals Act (TRAA) as amended by the TAA restricts the right to appeal available under section 53(1) of the TAA to objection decisions only.

This position suggested that since waiver rejection decisions did not emanate from objection proceedings, hence where non-objection decisions, any appeals to the Board based on such decisions were incompetent.

The Court of Appeal's decision has been broadly interpreted as requiring another objection on the waiver decision to be filed with the TRA before an appeal can be lodged to the Board (which in fact has proved impracticable in several attempts) or to question the decision made by the Commissioner General by way of judicial review.



## **4.2 PROCEDURES WHERE OBJECTION HAS BEEN ADMITTED.**

Once the conditions of admission of objection have been fulfilled, TRA will admit and review the objection and proceed to issue a proposal to settle the objection and here the TRA may call for any evidence or other information as it may appear necessary.

The TRA may either amend the assessment or other tax decisions in accordance with the objection or refuse to amend. Where the TRA agrees to amend the assessment or other tax decisions, the notice of the final assessment or other decisions to the taxpayer/objector but where the TRA intends to amend the assessment or other tax decisions after being supplied with any further evidence or in case decided to refuse to amend the assessment, he shall serve the objector with a notice setting out the reasons for the intention or decision.

Thereafter, the Taxpayer/objector will be required to respond to TRA's proposal by either accepting or disputing the proposal within 30 days from the date of service of TRA's notice. On receipt of the Objector's reply to the proposal, the TRA will review and proceed to issue a final determination which is the final decision as per section 52(5).

### **4.2.1. THE SIX-MONTH RULE IN DETERMINATION OF AN OBJECTION.**

The six-month principle was brought by the Finance Act of 2020 which amended TAA and set a mandatory requirement in terms of time that an objection to a tax decision or tax assessment must be determined within 6 months from the date of admission of the notice of objection from the taxpayer/ objector.

In the event that TRA has failed to determine the objection within the limited period, the matter will be deemed to be finally determined in accordance with the initial underlying tax assessment or decision of TRA and the objector will have the right to approach the Tax Revenue Appeals Board (the Board) by way of Appeal.

### **4.3. APPEALS AT THE TAX REVENUE APPEALS BOARD (TRAB).**

A Taxpayer who is aggrieved by the TRA's final determination or deemed determination under the six months' rule is legally allowed to challenge the said decision by appealing to the Tax Revenue Appeals Board. The law requires the Taxpayer to lodge the Notice of Intention to Appeal within thirty (30) days and Statement of Appeal (the actual appeal) within Forty-five (45) days, respectively from the date of service of final determination or after a lapse of six months period from the date of admission of objection (when section 51(5) or (6) of the TAA has been complied with).

After receiving a statement of appeal, respondent will be required to file reply thereto within 30 days from the date of service. Thereafter, the Board will hear and determine the appeal and proceed to issue a judgment and decree in accordance with the procedures stipulated under the Board's Rules.

#### **4.4. APPEALS AT THE TAX REVENUE APPEALS TRIBUNAL (TRAT)**

In the event any party to proceedings before the Board is dissatisfied with the Board's decision, a party may appeal further to the Tax Revenue Appeals Tribunal. A party (Taxpayer or TRA) is required to lodge the Notice of Intention to Appeal within fifteen (15) days from the date of the Board's decision to the Tribunal and serve copies to the Board.

Thereafter, the Taxpayer will be required to lodge a Statement of Appeal (actual appeal) to the Tribunal within thirty (30) days from the date of service of the Board's decision and proceedings.

After receiving a statement of appeal, respondent will be required to file reply thereto within twenty-one (21) days from the date of service of the statement of appeal. Thereafter, the Tribunal will hear and determine the appeal and proceed to issue a judgment and decree in accordance with the procedures stipulated under the Tribunal's Rules.

#### **4.5. APPEALS TO THE COURT OF APPEAL OF TANZANIA.**

A party, either Taxpayer or TRA who is aggrieved by the decision of the Tribunal is legally allowed to appeal to the Court of Appeal of Tanzania. A party will be required to lodge a Notice of Appeal to the Tribunal within fourteen (14) days from the date of the Tribunal's decision and the registrar of the Tribunal will transmit the same to the Court of Appeal within seven (7) days.

Thereafter, the party will be required to lodge the Memorandum and Record of Appeal (the actual appeal) with the Court within 60 days from the date of lodging the Notice of Appeal as per rule 90(1) of the Court of Appeal Rules and the same was cemented in **Baruani Ramadhani Mbwana vs. Commissioner General TRA**, Civil Appeal No. 359 of 2021. Court of Appeal of Tanzania at Dar es Salaam (Unreported).

#### **NB:**

Appeals to the Court of Appeal are only narrowed down to matters of law as it was stated in **Q-Bar Limited vs. Commissioner General TRA**, Civil Appeal No.163 of 2021, Court of Appeal of Tanzania at Dar es Salaam (Unreported), and the decision thereof are final.

Though a party aggrieved by the Court's findings at this stage may challenge the Court's decision through an application for review or reference in accordance with the Court of Appeal Rules.

## **5. SETTLEMENT OF MATTERS OUT OF COURT.**

Apart from the above processes, tax law in Tanzania allows a Taxpayer or the Tanzania Revenue Authority to engage in amicable settlement when the appeal is pending before the TRAT or TRAB. The application for amicable settlement is made at any stage of the proceedings before the judgment of the TRAB is pronounced. The amicable settlement is aimed at expediting the resolution of tax disputes in Tanzania. Henceforth, Taxpayers have a room to settle the tax disputes out of Court while there is a pending appeal at the Board or Tribunal. Once the settlement of a tax dispute is successful, both parties report the status to the Board or Tribunal and the appeal will be marked as settled.



## 6. CONCLUSION.

The above laid down procedures enables the complaints and disputes to be settled and facilitate the government to collect its revenue in a manner that cannot adversely affect taxpayers economically.

A main preoccupation of those responsible for designing tax systems and the overriding theme of the current existing tax dispute setup is minimizing disputes and complaints concerning the interpretation and application of income tax law and ensuring that any disputes are resolved fairly, effectively, and objectively. These overtones can be gleaned from a reading of the relevant law and certainly from retaining the services of an experienced taxation law practitioner. Lyson Law Group Tax department will always be there to assist your taxation affairs.

For more information on taxation law, tax compliance and dispute handling, do not hesitate to contact us on **[info@lysonlaw.co.tz](mailto:info@lysonlaw.co.tz)** or phone Number **+255 742 850 702**.



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