

Tax Appeals Tribunals (Procedure Rules, 2012



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STATUTORY INSTRUMENTS

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27th July, 2012

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS 2012 No. 50.

THE TAX APPEALS TRIBUNALS (PROCEDURE) RULES, 2012 ARRANGEMENT OF THE RULES

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STATUTORY INSTRUMENTS

2012 No. 50. The Tax Appeals Tribunals (Procedure) Rules, 2012

(Under section 22(3) of the Tax Appeals Tribunals Act, Cap 345)

In exercise of the powers conferred on the Tribunal by section 22(3) of the Tax Appeals Tribunals Act, Cap. 345, these Rules are made this 16th day of July, 2012.

1. Title.

These Rules may be cited as the Tax Appeals Tribunals (Procedure) Rules, 2012.

2. Application of these Rules and other rules.

1. Subject to section 22 of the Act, these Rules apply to all proceedings of the Tribunal.
2. In addition to these Rules, the rules for service of notices and other documents in the taxing Act under which the taxation decision is being reviewed apply for the purposes of serving any notice or document required or authorised under the taxing Act.

3. Interpretation.

In these Rules, unless the context otherwise requires—

“Act” means the Tax Appeals Tribunals Act;

“Commissioner General” means the Commissioner-General of the Uganda Revenue Authority appointed under the Uganda Revenue Authority Act;

“currency point” has the meaning assigned to it in Schedule 1 of the Act;

“officer in charge” means an officer of the Tax Appeals Tribunal in charge of the registry, a regional registry or any other registry designated by the Chairperson of the Tribunal;

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“representative” means an advocate, employee, or any person authorised in writing by the applicant or the respondent to represent him or her under these Rules at the proceeding of a Tribunal;

“Tribunal” means a tax appeals tribunal established by section 2 of the Tax Appeals Tribunal Act.

4. Business of Tribunal.

The business of the Tribunal shall, unless otherwise directed by the Chairperson, be conducted during official working days and hours designated for Government business.

5. Proceedings of the Tribunal.

1. The proceedings of the Tribunal and the matters to be disposed of at the proceedings shall be determined by the Chairperson and shall be advertised and notified in such manner as the Chairperson may direct.
2. Nothing in these Rules precludes the Tribunal from disposing of any business that has not been advertised or notified.

6. Establishment of registries.

There is established a principal registry of the Tribunal at Kampala, or such other registries as the Chairperson may designate by notice in the Gazette.

7. Filing of application.

1. An appeal to the Tribunal for a review of a taxation decision shall be commenced by filing an application in the registry at Kampala or at a regional registry or such other registries designated by the Chairperson.
2. All subsequent documents required to be lodged in relation to an application under subrule (1) shall be lodged in the relevant registry.

8. Titling of application.

An application filed—

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- a. at the Kampala registry shall be entitled as an application in the Tax Appeals Tribunal at the Kampala registry;

- b. at a regional registry of the Tribunal shall be entitled as an application in the Tax Appeals Tribunal at the regional registry; and
 - c. at any other registry designated by the Chairperson shall be entitled as an application in the Tax Appeals Tribunal at that registry.
9. Status of application.
- 1. Where an application is filed at any other registry designated by the Chairperson, the officer in charge of that registry shall, after entering the application in the register, immediately notify the Registrar of the particulars of that application.
 - 2. The applicant shall immediately after filing the application at any other registry designated by the Chairperson, serve a copy of the application on the representative of the Commissioner-General nearest to that registry designated by the Chairperson.
10. Form of application; receipt of application.
- 1. An application filed with the Tribunal for review of a taxation decision shall be typed or written in block letters in quadruplicate in Form TAT 1 in Schedule 2 to these Rules and shall clearly state the reasons for the application and in numerical order, the issues on which a decision is sought.
 - 2. Where a taxpayer is unable to read or write, he or she may present the application orally to the Registrar who shall reduce it in writing.
 - 3. Upon receipt of an application, the Registrar or officer in charge of any other registry designated by the Chairperson shall deal with it as follows—
 - a. duly date, sign and stamp of all the four copies of the application;

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- b. retain the first copy for the use of the Tribunal; and
- c. return to the applicant the second, and third copies to be served on the Commissioner General or his or her representative in accordance with Rule 12.

11. Extension of time for filing application.

- 1. Where an application is not filed with the Registrar within forty five days from the date the applicant was served with a notice of the taxation decision, the Tribunal may, in its discretion, upon the application of the applicant in writing, extend the time for making an application.
- 2. An application for extension of time shall be in writing supported by an affidavit stating reasons why the applicant was unable to file an application against the Commissioner General in time.

3. A copy of the application for extension of time shall be served on the Commissioner General by the applicant within five days of filing with the Registrar.
4. The Commissioner General may respond to the application by filing an affidavit within fourteen days from the date of service of the application.
5. The Tribunal shall set down the hearing date for the application.
6. The Tribunal may grant the extension of time if it is satisfied that the taxpayer was unable to file the application for the following reasons—
 - a. absence from Uganda;
 - b. illness; or
 - c. any other reasonable cause.

12. Service on Commissioner General.

1. An applicant shall, within five days after filing an application with the Tribunal serve a copy of the application on the Commissioner General.

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2. Service of an application on the Commissioner General under subrule (1) shall be by delivering or tendering to him or her or his or her authorised representative the second, third and fourth copies of the application; the second and fourth copies shall be stamped and dated as evidence of service and returned to the applicant, while the third copy shall be retained by the Commissioner General.
3. An acknowledgement of service on the application form shall be signed by the Commissioner General or his or her representative, which shall be returned to the Registrar as proof of service.

13. Lodging of material documents.

1. The Commissioner General shall, not later than thirty days after being served with an application under rule 12, cause to be lodged with the Registrar in Form TAT. 2 in Schedule 2 to these Rules, two copies of—
 - a. the notice of the decision;
 - b. a statement giving reasons for the decision; and
 - c. all documents in the Commissioner General's possession or under his or her control which are necessary to enable the Tribunal to review the decision.
2. The notice of the Tribunal to the Commissioner General specifying documents to be produced shall be in Form TAT.3 in Schedule 2 to these Rules.

3. An acknowledgment schedule on the application form shall be signed by the Commissioner General or his or her representative which shall be returned to the Registrar as proof of service.

14. Maintenance of registers and files.

1. The Registrar or an officer in charge of any other Registry designated by a Chairperson shall maintain—
 - a. a register of all applications in which the particulars of every application are entered by service number in every year, according to the order in which the applications are admitted and which shall contain—

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- i. the serial number of the application;
- ii. the date of the application;
- iii. the name and address of the applicant;
- iv. a brief description of the tax decision giving rise to the application;
- v. the date of the hearing;
- vi. the names of witnesses;
- vii. a list of documents including those requested for by the Tribunal;
- viii. the decision or order of the Tribunal and the date on which it was made;
- ix. the date on which the remedy was executed;
- x. the particulars of execution of the decision or order;
- xi. the application for appeal to the High Court, if any, and the

date of appeal; and

- xii. the final disposal of the application; and
 - b. a file for each application containing—
 - i. particulars of the application;
 - ii. notices of the decision;
 - iii. a statement giving reasons for the decision;
 - iv. a list of all material documents including those requested for by the Tribunal;

- v. the record of the proceedings and the evidence given by the parties and their witnesses;
- vi. the submissions of the parties; and
- vii. the decision of the Tribunal.

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15. Notice to parties to appear.

1. The Registrar or officer in charge of any other registry designated by the Chairperson shall give all parties to an application, not less than fourteen days notice of the date fixed for the first hearing of the application in Form TAT.4 in Schedule 2 to these Rules.
2. Dates for subsequent hearings may be fixed at the discretion of the Tribunal.

16. Summons for witnesses.

1. The Registrar shall, before the date for the hearing of an application, issue summons in Form TAT. 5 in Schedule 2 to these Rules, requiring attendance at a date, time and place specified in the summons, of the witnesses as may be required.
2. A person summoned as a witness before the Tribunal is entitled to be paid the same allowance as that paid to the witnesses in the High Court.

17. Summons to produce books, etc.

At any time before the hearing or after the registrar has issued summons, either party may, on application to the Registrar obtain summons for witnesses whose attendance to give evidence or to produce a book, document or thing named in the summons may be required.

18. Mode of service of summons.

1. A witness summons or other notice requiring service shall, if practicable, be served personally on the person named in the summons by delivering or tendering to him or her a duplicate of the summons or other notice.
2. A person upon whom a summons or notice is served shall sign or put his or her signature or mark in acknowledgement of receipt of the summons or notice upon the back of the original of the summons or notice, which shall then be returned to the Tribunal.
3. Where a person refuses to acknowledge receipt of summons or notice under subrule (3), the person who has effected service of summons or notice shall record in writing the refusal on the back of the notice or summons.

1867

4. Where it is not practicable or possible to effect personal service of a summons or notice in the manner provided in this rule, service of the summons or notice may be made by—
 - a. leaving the duplicate of the summons or notice for him or her with any adult person residing with him or her, an adult member of the family, his or her employer or employee; or
 - b. affixing the duplicate to a conspicuous place in the house or homestead in which the person named in the summons or notice ordinarily resides or by affixing the duplicate in a conspicuous place in his or her office or place of work and also to a conspicuous place in the Tribunal offices and the summons or notice shall be taken to have been duly served; or
 - c. publishing the particulars of the summons or notice in a newspaper circulating it in the area or any other media.
5. Every summons or notice issued under these Rules and requiring service shall be served by an officer of the Tribunal or any other person authorised to do so by the Tribunal including a chief, an officer of a local council or a police officer.
6. Any notice or summons served on an advocate, representative or an agent of a party by registered post or by leaving it at the chambers, office, or ordinary residence and whether it is for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the advocate, representative or agent represents and, unless the Tribunal otherwise directs, shall be effectual for all purposes as if it had been served on the party in person.
7. A summon, warrant, order, notice or other formal document issued by the Tribunal shall be signed by the Registrar or a person authorised by him or her, and shall be sealed with the seal of the Tribunal.

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19. Arrest warrant for witnesses.

Where, without sufficient cause, a witness does not appear in obedience to a summons the Tribunal may on the proof that proper service has been effected on the witness issue a warrant of arrest in Form TAT 6 in Schedule 2 to these Rules for the witness to be brought before the Tribunal at a date, time and place specified in the warrant.

20. Non appearance of the respondent.

1. Where on the date fixed for the hearing of an application, the applicant appears but, the respondent does not appear, the Tribunal may, if satisfied that a summons or notice notifying the respondent of the time and place for the hearing has been duly served upon the respondent, proceed to hear the evidence of the applicant if any, *ex parte*.

2. Where the hearing is not completed, the Tribunal may adjourn the hearing to another day and require the applicant to serve the respondent notice of the new date.
3. Where the respondent wishes to rejoin the proceedings, he or she shall apply to do so before submissions are made.

21. Order of addresses.

1. Subject to section 21(1)(b) of the Act, the Tribunal shall at the hearing of an application, hear the applicant and his or her witnesses first and the respondent shall be given an opportunity to cross examine the witness, where any.
2. At the close of the case of the applicant the evidence of the respondent shall be heard, and the applicant shall be given the opportunity to cross examine each witnesses followed by re-examination by the respondent after which the parties may make oral or written submissions.
3. The Tribunal may, at any time, put questions to either party or to any witness and may, at its discretion, call additional evidence as is necessary for further clarification of the issues raised at the hearing of the application.

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4. The Tribunal may, for sufficient reason, at any time after beginning the hearing of the application, adjourn the hearing; and in every such case, the Tribunal shall fix another convenient day for further hearing and disposal of the application.

22. Amendment of pleadings.

A party may at any time before the closure of the case, orally apply to amend its pleadings and the Tribunal may at its discretion allow such application provided the amendments do not raise new issues.

23. Recording of evidence.

1. The evidence of the parties and that of a witness shall be taken down in writing by the members of the Tribunal at that proceeding, or by a person authorised to do so, in a form to be decided upon by the members and when completed shall be signed by the members of the Tribunal at that proceeding.
2. Notwithstanding subrule (1), the evidence given at the hearing of an application may be recorded in short hand or by mechanical means, the transcript of anything recorded shall, if certified by members of the Tribunal at that proceeding to be correct, be deemed to be a true record of the evidence for the purposes of the proceeding.

24. Decision to be made in presence of parties.

After concluding the hearing of the evidence and submissions of the parties, the Tribunal shall, as soon as is practicable, make a written decision which shall on notice, be read in the presence of both parties

or of their advocates or representatives and shall cause a copy, duly signed and certified by the members of the Tribunal which heard the application, to be served on each party to the proceeding.

25. Contents of decision.

The written decision of the Tribunal shall contain—

- a. the nature of the application;

1870

- b. a summary of the relevant evidence produced before the Tribunal 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 applicant or respondent is entitled; and
- e. an order for costs or other relief.

26. Evidence by affidavit and interrogatories.

1. Where the Tribunal requires evidence to be received by means of affidavits or interrogatories, the affidavits or interrogatories and answers to affidavits or interrogatories shall be by such means and in such form as the Tribunal may direct.
2. In any proceeding where the evidence of a witness who resides outside Uganda is necessary, the Tribunal shall have the power to issue a commission or letter of request to examine that witness abroad.
3. A party may present its evidence to the Tribunal either orally, or by affidavit or by statement on oath or by combination of any of these methods.

27. Functions of the Registrar.

The functions of the registrar are—

- a. to receive and register applications, notices of decisions and all documents or things relating to the applications;
- b. to issue and serve notices and summons of the Tribunal;
- c. to keep all documents, books, things or records of the proceedings of the Tribunal;
- d. to handle taxation of costs;

1871

- e. to issue interim orders as prescribed under the Civil Procedure Rules; and

f. to exercise the powers of the Registrar as prescribed under the Civil Procedure Rules.

28. Application fees.

1. The fees payable for filing an application under these Rules shall be in accordance with Schedule 3 to these Rules.
2. The fees payable for filing a miscellaneous application shall be one currency point and it is non refundable

29. Application of Advocates (Remuneration and Taxation of Costs) Rules.

1. Where the applicant is represented by an advocate, the scale of costs applicable to costs in the High Court and Magistrates Courts for instructions to prosecute or defend an application before the Tribunal shall be those prescribed in the Advocates (Remuneration and Taxation of Costs) Rules.
2. In cases where the applicant is represented by a person other than an advocate, the costs applicable shall be such costs as may be determined by the Registrar.

30. Other applications to the Tribunal.

Any other application to the Tribunal may be made by Notice of Motion or by Chamber Summons as specified in the Civil Procedure Act and Rules, or by letter or orally subject to what the Tribunal may direct.

31. Applicability of the Rules of Practice and Procedures.

1. In any matter relating to the proceedings of the Tribunal for which these Rules do not provide, the rules of practice and procedure of the High Court shall apply.
2. The Tribunal may direct the modification of the use of any rule of practice or procedure of the High Court.

1872

32. Repeal and saving.

1. The Tax Appeal Tribunals (Procedure) Rules 1999 (S.I. 345- 1) are repealed.
2. Notwithstanding the repeal specified in subrule (1)—
 - a. all things lawfully done under the repealed rules which are in force and effect immediately before the commencement of these rules including decisions or directions given under the repealed rules shall so far as consistent with these Rules and anything done under them continue in force and effect after the commencement; and

- b. where any proceedings in respect of a review of a taxation decision have been commenced before the date of commencement of these Rules any step in the proceedings taken in accordance with the repealed Rules shall be deemed to have been validly taken for purposes of the corresponding provision of these Rules, and where the proceedings under the repealed Rules have been commenced but have not been concluded, the proceedings may be continued and concluded as if the Tribunal were a Tribunal under these Rules.

1873

Rule 3, 28

CURRENCY POINT Currency point is equivalent to twenty thousand shillings.

1874

TO BE FTT .LED TN OUADRUPLTCATE.

F UGANDA

FORM TAT. 1

APPLICATION

(Under Section 16 of the Act and rule 10)

Tn the Tax Appeals Tribunal at..... registry

application no..... year

Tn the matter of

..... APPLICANT

AND

..... RESPONDENT

.....

.....

.....

ot No.

..... Street:.....

enter /Town/City.....

.....

... Email.....

.....

.....

.....

2. Particulars of the tax dispute.

a. Office where taxation decision was made

b. Type of tax (specify by a tick in the box below as appropriate)

Income Tax Excise duty

Import commission

others (Specify)

Import duty Withholding

VAT

c. Assessment No..... Year of income.....

d. Customs 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.

Statement of facts and reasons in support of the application.

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

1876

5. List of books, documents or things to be produced before the tribunal if any. (Give brief description of each)
6. Names of witnesses, if any, and their addresses.

Dated this..... Day of Year

Signature of applicant/Advocate for the applicant/ agent of applicant

(FOR OFFICIAL USE ONLY)

7. By registrar/officer-in-charge.

Date of filing of application

Signature

Name of the officer.....

Official stamp of registrar/officer.....

1877

8. By Commissioner General.

Application No..... TAT..... / 20.....

PARTIES:

Service of copy of application on Commissioner General

Date

Signature

Official stamp of or on behalf of the Commissioner General.

NOTE:

Part 8 of this form to be detached and returned to the Registrar as proof of service.

1878

To be filed in duplicate

UGANDA

Form TAT. 2

LODGING OF MATERIAL DOCUMENTS BY COMMISSIONER GENERAL

(Under section 17(1) of the Act and rule 13)

In the Tax Appeals Tribunal at registry

Application No..... year.....

In the matter of

..... APPLICANT

AND

..... RESPONDENT

Pursuant to Section 17 (1) of the Tax Appeals Tribunal Act Cap 345 and rule 13 of the Tax Appeals Tribunals (Procedures) Rules, I hereby lodge with the Registrar of the Tribunal two copies of each of the following—

- a. the notice of the decision;
- b. a statement giving reasons for the decision;
- c. every other documents in the decision maker's possession (give brief description of each)

(If space is not sufficient, use separate sheet)

Date on which copy of application was served on Commissioner General

Official stamp.....

Commissioner General

Date.....

1879

F UGANDA

TAX APPEALS TRIBUNAL Form TAT. 3

NOTICE TO LODGE SPECIFIED DOCUMENTS OR THINGS

(Under section 17(2) of the Act and rule 13(2))

In the Tax Appeals Tribunal at..... registry

application no..... year

In the matter of

..... APPLICANT

AND

..... RESPONDENT

TO:

Take notice that you are required to lodge with the Tribunal on or before the

..... day of..... year..... , the

following documents or things, which, in the opinion of the Tribunal, are in your possession or under your control—

(Given brief description of each document)

Given under my hand and seal of the Tribunal this day

of..... Year ...

Registrar

1880

THE REPUBLIC OF UGANDA

TAX APPEALS TRIBUNAL Form TAT. 4

NOTICE TO PARTIES TO APPEAR

(Under section 38 of the Act and rule 15)

Tn the Tax Appeals Tribunal at..... registry

application no..... year

Tn the matter of

..... APPLTCANT

AND

..... RESPONDENT

TO:

Take notice that the above application will be heard by the Tribunal on the

..... day of..... year..... at..... o clock in the

forenoon/afternoon.

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

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

Given under my hand and seal of the Tribunal this day

of..... Year ...

Registrar

1881

F UGANDA

TAX APPEALS TRIBUNAL

Form TAT. 5

WITNESS SUMMONS

(Under section 21(2) of the Act and rule 16)

In the Tax Appeals Tribunal at..... registry

application No..... year

In the matter of

..... APPLICANT

AND

..... RESPONDENT

TO:

Whereas your attendance is required as a witness on behalf of the

..... during the hearing of the above

application, you are by this summons required to appear before this Tribunal on

the day of year..... at..... o'clock in the

forenoon/ afternoon and to bring with you or send the following books, documents or thing to the Tribunal—

1882

Failure to respond or obey this summons renders you liable to penalties under the Act.

Given under my hand and seal of the Tribunal this day

of..... Year ...

Registrar

Acknowledgement of service of summons

Full Name.....

Address.....

Date and Time.....

1883

F UGANDA From TAT.6

WARRANT OF ARREST OF WITNESS

(Under section 31 of the Act and rule 19)

In the Tax Appeals Tribunal at..... registry

application No..... year

In the matter of

..... APPLICANT

AND

..... RESPONDENT

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 said before the Tribunal.

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 seal of the Tribunal this day

of..... Year ...

Registrar

1884

Rule 28

APPLICATION FEES

where the tax amount in dispute is between

Fees

000/= to Ushs. 5,000,000/=

one currency point

000/= to Ushs. 50,000,000/=

five currency points

000/= to Ushs. 100,000,000/=

ten currency points

0,000/= to Ushs. 1,000,000,000/=

fifteen currency points

000,000,000/=

twenty currency points

1885

Cross references

1. Advocates (Remuneration and Taxation of Costs) Rules, S.L 267 - 4.
2. Civil Procedure Act, Cap.71.
3. Civil Procedure Rules, Cap.71 - 1
4. Tax Appeals Tribunal Act, Cap.345
4. Uganda Revenue Authority Act, Cap.196

ASA MUGENYT, Chairperson Tax Appeals Tribunal.

1886

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