

BERMUDA STATUTORY INSTRUMENT

BR 55/1981

TAX APPEAL TRIBUNAL PROCEDURE REGULATIONS 1981

*[made under section 50 of the Taxes Management Act 1976 [title 14 item 40
and brought into operation on 6 November 1981]*

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SCHEDULE

TAX APPEAL TRIBUNAL PROCEDURE REGULATIONS 1981

Citation

1 These Regulations may be cited as the Tax Appeal Tribunal Procedure Regulations 1981.

Interpretation

2 In these Regulations —

"the Act" means the Taxes Management Act 1976 [*title 14 item 40*];

"appeal" means an appeal under section 25 of the Act;

"the Chairman" means the Chairman of the Tribunal;

"the Collector" means the person responsible for the collection of the tax in question;

"party", in relation to an appeal, means the appellant or the Collector, as the case may require;

"the Tribunal" means the Tax Appeal Tribunal.

General rule for practice and procedure

3 (1) Subject to paragraph (2), the practice and procedure of the Tribunal shall, except where the Act or these Regulations otherwise specifically provide, be that of a court of summary jurisdiction *mutatis mutandis*, as far as that is applicable.

(2) If any matter of practice or procedure that is not provided for by paragraph (1) arises in an appeal, the Tribunal shall give such directions as to the course to be followed as the Tribunal thinks fit, and those directions shall be binding for the appeal.

Notice of appeal

4 Every appeal shall be commenced by the appellant serving upon the Collector a notice of appeal in Form 1 in the Schedule.

Appellant's case

5 (1) A notice of appeal shall be accompanied by a supplementary statement setting out —

(a) the grounds of appeal;

(b) all the facts which the appellant considers material and relevant to the determination of the appeal; and

(c) the appellant's contentions in law based upon such facts,

and that statement is in these Regulations called "the appellant's case".

(2) Service of notice of appeal with the appellant's case accompanying it may be effected by personal delivery to the office of the Collector between the hours of 9.00 a.m. and 4.30 p.m. on any day other than a Saturday or public holiday, or by prepaid registered post addressed to the Collector.

Agreed case

6 (1) If the Collector admits the statement of facts in the appellant's case as sufficient and correct, he shall within thirty days after receiving the appellant's case draw up and send to the appellant a document embodying —

- (a) the admitted statement of facts;
- (b) the appellant's contentions in law; and
- (c) the Collector's contentions in law,

and that document (in these Regulations called "the agreed case") shall be signed by or on behalf of each party.

(2) Within fourteen days after sending the agreed case to the appellant under paragraph (1) the Collector shall send three copies of it to the Chairman.

(3) The arguments and the decision of the Tribunal in the appeal shall be confined to the admitted statement of facts contained in the agreed case.

Collector's case

7 If the Collector does not admit the statement of facts in the appellant's case as sufficient and correct, or if he does not come to any agreement with the appellant on a statement of facts, he shall within thirty days after receiving the appellant's case serve upon the appellant a statement setting out —

- (a) those facts which the Collector admits as sufficient and correct, and those facts which he does not so admit;
- (b) all other facts which he considers relevant and material to the determination of the appeal; and
- (c) his contentions in law,

and that statement is in these Regulations called "the Collector's case".

Procedure where facts in dispute

8 If the appellant and the Collector do not agree a statement of facts, the Collector shall within fourteen days after serving the Collector's case upon the appellant send three copies each of the Collector's case and the appellant's case to the Chairman.

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Sending of appeal documents to the Chairman

9 The Collector shall send to the Chairman a certified copy of the assessment along with —

- (a) the three copies of the agreed case, where the Collector acts under regulation 6(2); or
- (b) the three copies each of the appellant's case and the Collector's case, where the Collector acts under regulation 8,

together with three copies of every other relevant document relating to the assessment, including the objection, the Collector's decision on the objection and the reason for his decision called for by section 23(4) of the Act.

Hearing date

10 Upon receipt of the documents mentioned in regulation 9 the Chairman shall fix a date for the hearing of the appeal and shall, not less than fourteen days prior to that date, give the appellant and the Collector notice of that date in Form 2 in the Schedule.

Application for directions

11 At any time prior to the date of the hearing either the appellant or the Collector may apply in writing to the Chairman for directions relating to any matter in the appeal, and the Chairman may make such order upon the application as he thinks fit.

Notice to produce documents

12 (1) Either party may at any time not later than seven days before the date of the hearing give to the other party notice in writing to Produce at the hearing any document in his possession or power.

(2) If a party to whom a notice affecting a document has been given under paragraph (1) does not comply with the notice, secondary evidence of the contents of the document may be given at the hearing by or on behalf of the party who gave the notice.

Testimony

13 (1) At the hearing of an appeal any fact or facts may be proved by affidavit, but the Tribunal may either of its own motion or on the application of either party require the deponent to any affidavit to attend to be cross-examined on the affidavit, and the Tribunal may adjourn the hearing in order to secure the attendance of any such deponent.

(2) The Tribunal shall have the powers of a court of summary jurisdiction in relation to the summoning of witnesses, the examination of persons on oath and the administering of oaths.

Decisions of the Tribunal

14 In the determination of an appeal the decision of a majority of the members of the Tribunal shall prevail, except that it shall be for the Chairman alone —

- (a) to determine any question of law arising in the appeal; and
- (b) to decide whether a question is or is not a question of law.

Default of appearance

15 (1) Where an appellant does not appear at the time and place appointed for the hearing, then the Tribunal, upon the request of the Collector and upon proof that notice of the hearing has been given to the appellant, may, subject to paragraph (2), confirm the assessment appealed against.

(2) If any question of law arises the Tribunal may, before giving its decision, call upon the Collector for argument in support

Service of documents

16 The provisions of section 49 of the Act relating to the serving or giving of certificates, notices, forms and other documents by the Collector shall —

- (a) apply mutatis mutandis to the serving, sending or giving by the Collector of documents under these Regulations, and in furtherance of that purpose the appellants shall furnish at the foot or end of the appellant's case an address for service; and
- (b) be deemed to extend mutatis mutandis to the serving, sending or giving by the Tribunal or the Chairman of any document that the Act or these Regulations authorize or require it or him to serve, send or give.

Enlargement and abridgement of time

17 Where these Regulations fix a time for the doing of an act in connexion with an appeal, that time —

- (a) may be enlarged by the Chairman if he is satisfied upon application made to him by a party that the time ought to be enlarged;

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(b) may be enlarged or abridged by the Chairman if both parties agree.

Revocation

18 [omitted]

SCHEDULE

Government of Bermuda Form 1 (Reg. 4)

THE TAXES MANAGEMENT ACT 1976

THE TAX APPEAL TRIBUNAL PROCEDURE REGULATIONS 1981

Tax Appeal No. of

Notice of Appeal

To: The Tax Commissioner

TAKE NOTICE THAT I ⁽¹⁾ of ⁽²⁾ require you to treat my objection dated the⁽³⁾ as an appeal and to forward it to the Tax Appeal Tribunal

I enclose herewith a statement of the appellant's case in accordance with Regulation 5 of the Tax Appeal Tribunal Procedure Regulations 1981.

Dated this [blank] day of [blank] 19 [blank]

.....
Signature of appellant or
his duly authorized representative.

[Form 1 amended by 1996:14 effective by notice in the Official Gazette]

⁽¹⁾ Full name of appellant.

⁽²⁾ Full address of the appellant.

⁽³⁾ Date when objection made under section 23 of the Act.

Government of Bermuda Form 2 (Reg. 10)

THE TAXES MANAGEMENT ACT 1976

THE TAX APPEAL TRIBUNAL PROCEDURE REGULATIONS 1981

In the Tax Appeal Tribunal

Tax Appeal No. of

[*blank*] Appellant

vs

[*blank*] Respondent

NOTICE IS HEREBY GIVEN that the appeal in the above matter will be heard at [*blank*] o'clock in the fore/afternoon on the [*blank*] day of [*blank*] 19 [*blank*] at Hamilton, and that you may appear in person or by your duly authorized representative; in the event, however, of your failing to appear personally or by your representative, the Tax Appeal Tribunal may proceed to hear and determine the appeal in your absence.

Dated this [*blank*] day of [*blank*] 19 [*blank*]

.....
Chairman,
Tax Appeal Tribunal

[Amended by
1996 : 14]