

28 June 2018



New Tax Board and Tribunal Rules now operational

- Set the procedures, fees and timeframe for filing appeals before the Board and Tribunal
- Board and Tribunal not bound by procedural technicalities and formalities or rules of evidence
- Prescribe the format which appeals should take
- Non-compliance with Rules renders appeals incompetent
- Provides for quorum of the Board and Tribunal
- Provides for procurement and attendance of witnesses as well as production of evidence
- Application for execution to be filed after 30 days of decision
- Notice of intention to appeal to the Tribunal or Court of Appeal not a bar to execution

Last month the Minister for Finance and Planning promulgated the Tax Revenue Appeals Board Rules 2018 (GN No. 217 of 2018) and Tax Revenue Appeals Tribunal Rules 2018 (GN No. 222 of 2018). These Rules provide for, inter alia, the procedures for filing appeals before the Tax Revenue Appeals Board (the Board) and the Tax Revenue Appeals Tribunal (the Tribunal) against the decisions of the Commissioner General of the Tanzania Revenue Authority.

According to the Rules, appeals before the Board are commenced by an aggrieved party filing a notice of intention to appeal within 30 days from the date of receiving the final determination of the appealable decision. The statement of appeal must be filed within 45 days after receiving the appealable decision. Likewise, an appeal before the Tribunal is commenced by filing a notice of intention to appeal within 15 days and the statement of appeal must be filed within 30 days from the date the appealable decision of the Board was made. The Board and Tribunal have powers, upon an application by a party and being satisfied that there exist reasonable grounds, for late filing of an appeal to extend the time within which to file an appeal.

Appeals to be filed in accordance with prescribed formats in the schedules to the Rules and must be accompanied with prescribed fees. The Board and Tribunal will strike out appeals that do not comply with the conditions regarding the institution of appeals as provided for by the Rules.

The Rules provide expressly that the Board and Tribunal have the discretion to regulate their own procedures. In the same regard, the Rules provide that the Board and Tribunal are not bound by procedural technicalities and formalities or rules of evidence but may inform themselves on any matter as they may deem appropriate.

All applications before the Board and Tribunal must be made by way of a chamber summons supported by an affidavit.

For further information on legal updates please contact:

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About FB Attorneys

FB Attorneys is an all service law firm based out of Dar es Salaam, Tanzania.

We cover all aspects of the law and specialise in all corporate and commercial matters including Mining, Oil & Gas, Tax, Litigation, Competition, Banking & Intellectual Property law.

FB Attorneys has been ranked as a tier 1 law firm by the IFLR 1000 in the Energy & Infrastructure and Financial & Corporate sectors, tier 1 by Legal 500 and band 2 by Chambers and Partners General Business Law.

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LEGAL UPDATE

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The rules state that where the appellant fails to appear on the date fixed for hearing, the Board or Tribunal may dismiss the appeal for non-prosecution and where the appellant appears and the respondent does not appear, the Board or Tribunal may proceed to hear the appeal in the absence of the respondent.

The quorum of the Board and Tribunal is three members of whom one shall be a Chairperson. The Chairperson is not bound by the opinion of members. However, the Rules require the Chairman to record the reasons for disagreeing with the any of the member's opinion.

According to the Rules, the decision of the Board and Tribunal may be enforced by making an application to the Board or Tribunal in a prescribed format. The application for execution can only be made 30 days after the decision of the Board or Tribunal. The Chairperson, Vice Chairperson or Secretary of the Board must issue an order authorizing such execution.

A person who is aggrieved by the decision of the Board, must file a notice of intention to appeal to the Tribunal and serve a copy to the Board. This notice of intention to appeal must be filed within 15 days from the date the appealable decision of the Board was made. As regards to appeals against the decision of the Tribunal, a notice of intention to appeal must be filed to the Tribunal within 14 days after the appealable decision of the Tribunal was made. The Tribunal must transmit the same to the Court of Appeal within 7 days. It is worth noting that the notice of intention to appeal does not operate as a bar to execution.

These Rules will apply to existing appeals but without affecting anything that was done in the past based on the old Rules.

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