



THE REPUBLIC OF UGANDA

Tax Appeals Tribunal

8th Floor NIC Building Plot 3 Pilkington Rd, P. O. Box 7019 Kampala-Uganda East Africa

CIRCULAR No. 2 of 2024

Date: 28 November 2024

To: All Users of the Tax Appeals Tribunal

Invitation for Comments on Proposals for Streamlining Procedure at the Tax Appeals Tribunal

We are pleased to share with you a copy of the above proposals for your comments. As part of our stakeholder's engagement process, we invite you to review the document and provide your valuable comments and feedback.

We kindly request that you submit your comments by 15th December, 2024 to solomon.wamai@tat.go.ug.

Your input will be invaluable in shaping the final version of the document. If you have any questions or concerns, please do not hesitate to reach out to us.

Thank you for your time and consideration.

Yours faithfully,

Rachael Kisakye
Registrar

Copy: The Commissioner, Legal and Board Affairs
Uganda Revenue Authority

STREAMLINING PROCEDURE AT THE TAX APPEALS TRIBUNAL

Objective: Moving from “hearing and determining” to “resolving” tax disputes

1. Background

The Tax Appeals Tribunal (“the Tribunal”) was established in 1997 by the Tax Appeals Tribunal Act, Cap. 341.

The mandate of the Tribunal is to resolve tax disputes between taxpayers and the Uganda Revenue Authority. This mandate is pursuant to Article 152 of the Constitution of the Republic of Uganda.

Over time, the number of tax disputes has grown significantly following the decision in *Rabbo Enterprises (U) Ltd & Mt. Elgon Hardware Ltd v Uganda Revenue Authority, SCCA No. 12 of 2004*, which confirmed the Tribunal’s status as a court of first instance for tax matters. Following this decision, the number of disputes filed before the Tribunal have more than quadrupled since 2017 to date. This upward trajectory is continuing as the Tribunal receives an average of 35 - 40 new disputes every month.

2. Implications

Consequently, the above state of affairs has led to the accumulation of case backlog. The Tribunal targets to resolve disputes within six months; therefore, any dispute that is not resolved within six months is considered backlog.

As at 15 November 2024, the Tribunal had a total case load of over 450 cases with a value of Shs 1.1 trillion. Approximately 70% of the disputes are older than six months.

Therefore, the Tribunal is continually reviewing its process and procedures with the primary objective of improving service delivery, increasing the rate of case disposal and consequently reducing case backlog.

In light of the above, with effect from 1 January 2025, the Tribunal will be implementing the following measures which will improve efficiency in the dispute resolution process.

3. Proposed measures

One of the fundamental tenets of a tax tribunal is that proceedings should be conducted with as minimal formality and technicality as possible.

However, over time, there has been a proliferation of formalities and technicalities imported from courts of judicature. This delays the resolution of disputes and also limits access to the tribunal by ordinary citizens who are easily intimidated by formalities and technicalities.

Therefore, going forward, the Tribunal will increasingly adopt an administrative review approach and restrict judicial procedures to matters that primarily involve questions of legal interpretation.

The ultimate objective is to focus on tax dispute resolution rather than hearing and determining disputes as is the practice with proceedings of an adversarial nature.

This approach will require the direct involvement of the persons that participated in the proceedings that gave rise to the dispute, namely, the assessing officers on the part of the Uganda Revenue Authority and the Applicant's personnel who were involved in the audit and objections process (collectively referred to as "the parties").

Therefore, effective 1 January 2025:

1. Proceedings at the Tribunal will begin with conferencing. Attendance will be mandatory for both parties. The parties may choose to attend by themselves or with their advisors / advocates. However, conferencing will not take place without the parties. During conferencing:
 - a) Parties will be required to explain the history, context, facts and substance of the dispute and the basis for the respective positions taken;
 - b) Parties will be required to present the documents and information that they relied on during the audit and objection stages of the dispute.
2. Where it is determined that the dispute is primarily reconciliation related, the Tribunal will refer the matter to a mediator to guide the parties through reconciliation. Where it is established that a matter is primarily a question of law or requires interpretation, the Tribunal will fix the matter for hearing.
3. At the end of conferencing, the Tribunal will guide the parties on the information or evidence required to resolve the dispute. The information will either be provided to the mediator or form part of the joint trial bundle for matters proceeding to trial. This is aimed at curbing the practice of providing documentation that is not relevant to the dispute.
4. Timelines will be given for mediation with specific action points. Parties that are referred for mediation will be required to periodically report back to the Tribunal on the progress of the mediation. This will curb the practice of non-attendance of mediation sessions.
5. At hearings, the Tribunal will adopt an inquisitorial approach aimed at establishing how the tax law has been applied to the facts. As assessments are based on the tax law, both the Applicant and the Respondent should readily explain the basis for their positions.

6. For the rapid and meritorious resolution of disputes, the Tribunal will exercise its discretion to defer the determination of certain preliminary objections to the determination of the substantive matter.
7. Consent settlements should indicate the basis for settlement. It will no longer be sufficient for parties to present a consent that varies the disputed tax without the appropriate basis.
8. Small claims: The Tribunal will hold circuits once every two months for one week for applications where the tax in dispute is below Shs. 150 million. The objective will be to resolve such disputes there and then.
9. Representatives to provide written instructions from the Applicants: All persons appearing in the Tribunal on behalf of Applicants will be required to file letters of instruction from the Applicant. The Tribunal has had incidents where matters have been withdrawn by representatives who have not been authorized to act on behalf of the Applicant.
10. Creation of a Tribunal Users Committee: The Tribunal will invite stakeholders to nominate representatives to the Tribunal Users Committee that will meet quarterly to give the Tribunal feedback on its services. A separate communication will be circulated in this regard.