

THE UNITED REPUBLIC OF TANZANIA



No. 2 OF 1979

I ASSENT

Tulius K. Nyerere
President

5TH... MARCH, 1979

An Act to amend the Income Tax Act, 1973

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Income Tax (Amendment) Act, 1979, and shall be read as one with the Income Tax Act, 1973 (hereinafter referred to as "the principal Act") and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Short title, construction and commencement Acts, 1973 No. 33

2. Section 88 of the principal Act is repealed and replaced by the following: -

Section 88 repealed and replaced

"Interpretation

88. In this Part, unless the context otherwise requires-
"appellate authority" means an Appeals Board or the Tribunal;

"Appeals Board" means the National Tax Appeals Board established by subsection (1) of section 89 or a Zonal Tax Appeals Board established under section 89B;

"Tribunal" means the Tax Appeals Tribunal established by subsection (1) of section 90."

3. Section 89 of the Principal Act is repealed and replaced by the following: -

Section 89 repealed and Board

"National Tax Appeals Board

89.-(1) There is hereby established for the United Republic an Appeals Board to be known as the National Tax Appeals Board which shall perform the functions conferred upon it by this Act.

(2) The National Tax Appeals Board shall be composed Of-

- (a) a Chairman who shall be appointed by the President;
- (b) one Vice-Chairman or two Vice-Chairmen who shall be appointed by the President;
- (c) four other members appointed by the Minister from each region of the United Republic who shall be members of the National Tax Appeals Board only for the purposes of hearing and determining appeals Originating in the region from which they are appointed:

Provided that in relation to any region of Zanzibar the appointments shall be made after consultation with the Government of Zanzibar.

(3) The members referred to in paragraph (c) of subsection (2) shall be appointed from amongst persons who have had experience of, and shown capacity in, commercial or financial matters.

(4) The Minister shall appoint a public officer to be the Secretary of the National Tax Appeals Board:

Provided that the officer so appointed to be the Secretary shall not be a member of the National Tax Appeals Board.

(5) The Chairman and Vice-Chairman of the National Tax Appeals Board shall hold office upon such terms and conditions as may be prescribed by the President.

(6) A member of the National Tax Appeals Board, other than the Chairman and a Vice-Chairman, shall, unless he sooner resigns or in any other way ceases to be a member, hold office for such period as may be specified at the time of his appointment, and if no period is so specified, for a period of three years from the date of his appointment.

(7) In the absence of the Chairman, a Vice-Chairman may exercise all the powers and functions of the Chairman.

(8) The quorum for a meeting of the National Tax Appeals Board shall be the Chairman or a Vice-Chairman and two other members.

(9) The members of the National Tax Appeals Board, other than the Chairman and Vice-Chairman, shall be entitled to such remuneration, fees or allowances for expenses as the Minister may prescribe.

(10) The members of the National Tax Appeals Board shall not be personally liable for anything done or omitted by them in good faith in the exercise of their powers under this Act.

(11) Subject to the provisions of subsection (8), no proceeding or decision of the National Tax Appeals Board shall be 'invalid by reason only of some defect in the appointment of any Person who purports to be a member or any vacancy in its membership.-

4. The principal Act is amended by adding immediately after section 89 the following new sections: -

Addition of
new sections
89A and 89B

"Rules

89A. The Minister for the time being responsible for legal affairs may, after consultation with the Minister, make rules-

- (a) prescribing the manner in which an appeal under this Act may be made to an Appeals Board and the fees to be paid in respect of the appeal;
- (b) prescribing the procedure to be adopted by an Appeals Board in hearing and determining the appeal and, the records to be kept by the Appeals Board;
- (c) Prescribing the manner in which an Appeals Board shall be convened and the places where and the times at which it shall hold meetings;
- (d) prescribing a scale of costs which may be awarded by an Appeals Board;
- (e) for the taking of evidence on oath and the administration of oaths to witnesses by a member of an Appeals Board;
- (f) generally for the better carrying out the provisions of this Act relating to Appeals Boards and appeals to Appeals Boards.

Zonal Tax
Appeals
Boards

89B.- (1) Notwithstanding the provisions of section 89, the Minister may, by order in the *Gazette*, establish for any area or the United Republic an Appeals Board to be known as a Zonal Tax Appeals Board and may in the same Order provide for the composition of that Appeals Board and the appointment of its members.

(2) Where a Zonal Tax Appeals Board has been established under this section-

- (a) the National Tax Appeals Board established by subsection (1) of section 89 shall cease to hear and determine appeals originating in the area specified in the order and those appeals shall be heard and determined by the Zonal Tax Appeals Board established under this section;
- (b) the provisions of sections 93 and 94, and any rules made under section 89A shall apply, in so far as they are applicable, in relation to appeals to Zonal Tax Appeals

Boards as they apply in relation to appeals to the National Tax Appeals Board."

Section 93
repealed and
replaced

5. Section 93 of the principal Act is repealed and replaced by the following-

"Right of
appeal to
Appeals
Board and
Tribunal

93.-(1) Any person who has been served with a notice under subsection (3) of section 92 may appeal to an Appeals Board against the decision of the Commissioner:

Provided that an Appeals Board shall not entertain any appeal under this section unless--

- (i) the appellant had previously given notice of appeal in writing to the Commissioner within thirty days after the date of service upon him of the notice under subsection (3) of section 92; and
- (ii) the appeal is lodged with the Appeals Board within forty-five days of the date of service upon the appellant of the notice under subsection (3) of section 92.

(2) If the Commissioner or the appellant is aggrieved by a decision of an Appeals Board on appeal under subsection (1) of this section, he may appeal against the decision to the Tribunal within thirty days after the date on which a notice of the decision has been served upon him and after giving notice of appeal in writing to the other party to the original appeal within fifteen days after the date on, which the notice of the decision has been saved upon him.

(3) The decision of the Tribunal on any appeal under subsection (2) shall be final and no appeal shall he against that decision to any court or other authority.

(4) Where a party to an appeal or a person intending to appeal has failed to give notice of appeal within the period specified in this section, he may apply to the appellate authority to which the appeal is intended to be made for an extension of the time in which to give the notice of appeal, and the appellate authority may, on being satisfied that the delay was occasioned by absence from the United Republic, sickness or other reasonable cause, and that there has been no unreasonable delay on the part of the applicant, grant the extension subject to such terms as to costs as the appellate authority may consider just.

(5) An appellate authority shall not entertain any appeal unless the appellant has, before lodging the appeal, deposited with the Commissioner the whole of the tax assessed under the assessment or, as the case may be, the amended assessment, together with any interest due under section 101:

Provided that the Commissioner may, if he considers it proper and just in any particular case that the appellant should be exempted from the provisions of this subsection, issue a certificate under his hand exempting the appellant from depositing the tax assessed under the assessment or, as the case may be, the amended assessment, or such proportion of the tax as may be specified in the certificate together with any interest due under section 101."

6.-(1) For the Purposes Of this section, the expression "former Appeals Board" means the Tax Appeals Board for any region of Tanganyika, the Tax Appeals Board for Zanzibar or the Tax Appeals Board for Pemba established by section 89 (1) repealed by this Act. Savings and transitional provisions

(2) Notwithstanding the repeal of section 89-

- (a) all proceedings pending before any former Tax Appeals Board immediately before the commencement of this Act may be continued and concluded or commenced *de novo* and concluded before an Appeals Board established by subsection (1) of section 89;
- (b) the Income Tax (Appeals Boards) Rules, 1975, shall be deemed to be rules made under section 89A, and shall remain in force in relation to appeals to Appeals Boards established by subsection (1) of section 89 or under subsection (1) of section 89B until they are revoked and new rules made under section 89A. G.N. 1975 No. 218

Passed in the National Assembly on the twenty-third day of January, 1979.



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Clerk of the National Assembly