



**ZAMBIA
REVENUE
AUTHORITY** | *Working
To Serve You
Efficiently*

The Dispute Resolution Process

Zambia Revenue Authority Brief of
Dispute Resolution Process for the Taxes
and Duties Administered by the
Commissioner General

Tax Appeals Office

Vision

“To be a world class organisation recognised as a beacon of excellence in revenue administration.”

Mission Statement

“To optimise and sustain revenue collection through integrated, efficient, cost effective and transparent systems professionally managed to meet the expectations of all stakeholders.”

FOREWORD BY COMMISSIONER GENERAL

I am pleased to present an overview of the Tax Dispute Resolution process in Zambia.

This overview gives a guide on the rights and obligations of taxpayers who are not satisfied with any decision taken by the Authority. The details on the following pages are based on the prevailing tax legislation and prescribe the procedure that is to be followed by a taxpayers who wish to dispute the accuracy of the facts relied on by the Authority's auditors in an assessment, the correctness of the interpretation of law, the amount of penalties imposed and the appropriateness of statutory procedures followed.

Kindly visit the ZRA website (www.zra.org.zm) which includes all the information contained in this booklet and the different taxing acts that are discussed in this document. You may also contact our Call Centre on +260 211 381111 or +260 971 281111 or 5972.



Kingsley Chanda

Commissioner-General

1.0 INTRODUCTION

Tax administrations across the world face various tax disputes with the taxpayers due to differences in interpretation or application of the tax laws. The importance of collecting the correct tax at the right time cannot be overemphasized. Therefore, it is essential that any disputes that may negate the timely collection of revenue are resolved expeditiously, with due regard to the law in an environment where all parties to the dispute have a say in the dispute resolution process. In this respect the Zambia Revenue Authority (hereinafter referred to as the "Authority") has a dispute resolution process which aims to:

- ensure that disputes are professionally and efficiently handled in a manner that inspires confidence on the part of taxpayers and the general public;
- provide an objective review of decisions made by the Authority's Operating Divisions;
- provide an administratively independent review of disputes under the Office of the Commissioner General where an objection, appeal or review is dismissed by the operating division;
- reduce the number of litigation cases arising from tax disputes; reduce the overall period of resolving objections, appeals or review; and
- inform the taxpayers of their rights at each stage of the dispute resolution process.

2.0 OUR COMMITMENTS

In order to ensure that the disputes are resolved expeditiously and professionally, the Authority is committed to -

- a) explain the taxpayers' rights of objection, review or appeal and the underlying process;
- b) explain the taxpayers' rights of appeal to the Tax Appeals Tribunal and the underlying process; and
- c) be timely, responsive, fair and impartial in the dispute resolution process.

3.0 TAXPAYERS' RIGHTS AND RESPONSIBILITIES

The various pieces of tax legislation administered by the Authority provide a right for the taxpayers to engage the Authority whenever the taxpayer is dissatisfied with the decision made by the Authority. However, taxpayers are also required to fulfill certain obligations which may foster dispute avoidance or effective dispute resolution.

Rights of the Taxpayer:

The taxpayer has a right to:

- a) information which will enable the taxpayer or the taxpayer's agent to fully comply with the tax laws;
- b) be informed of the underlying reasons concerning the decisions made by the Authority;
- c) object to or appeal against decisions of the Authority and ultimately to the Tax Appeals Tribunal;
- d) receive a written response explaining the decisions of the Authority regarding the taxpayers' objections and appeals; and
- e) pay the correct amount of taxes and duties that are legally due under the tax laws.

Responsibilities of the Taxpayer:

The taxpayer has a responsibility to:

- a) adhere to the objection and appeal process;
- b) heed to the Authority's explanation of the taxpayer's right of appeal and the process;
- c) provide a written statement of the facts, reasons in support and the law relating to the decisions or directives under objection or appeal;
- d) provide all relevant information requested for or on behalf of the Authority and that is helpful in resolving the taxpayer's tax dispute within a reasonable time; and
- e) engage the Authority personnel politely and with respect.

4.0 SUPPORTING LEGISLATION

The legal framework for the dispute resolution process is enshrined in the various pieces of legislation that are administered by the Authority, as follows -

- The Income Tax Act: Part XI. The provisions of the Income Tax Act are also followed as regards objections and appeals under the Property Transfer Tax Act; the Skills Development Levy Act; the Mines and Minerals Development Act relating to Mineral Royalty; and the Tourism and Hospitality (Tourism Levy) Regulations, (Statutory Instrument No. 56 of 2016).;
- The Value Added Tax Act: Part VI. The provisions of the Value Added Tax Act are also followed as regards objections and appeals under the Insurance Premium Levy Act; and
- The Customs and Excise Act: Sections 41A, 86, 99 and 190.

5.0 COMMISSIONER GENERAL'S DECISIONS

A decision made by any officer of the Authority who is duly authorized to do so through delegated powers of the Commissioner General, is taken as a decision of the Commissioner General unless withdrawn by the officer or by the Commissioner General.

Any person dissatisfied or aggrieved with the decision of the Commissioner General relating to assessments, directions or determinations has a right to make an objection or seek review of or appeal against the decision under the relevant tax legislation administered by the Authority.

6.0 OBJECTIONS, REVIEWS AND APPEALS UNDER THE VARIOUS TAX LEGISLATION

What is an Objection, Appeal or Review?

An objection, appeal or review is a written expression of a disagreement by a taxpayer to any decision made by the Commissioner General. The objection, appeal or review should be lodged with the Authority within the time frame or period stipulated by the relevant tax legislation.

The Various Tax laws use different terminologies in reference to the dispute resolution process as follows:

- (i) For dispute resolution under the Income Tax Act(including disputes relating to Mineral Royalty, Property Transfer Tax, Tourism Levy and Skills Development Levy), the following terminology is used –
 - **Objection** against the decisions of the Commissioner General regarding assessments, directives or determinations;
 - **Appeal** for waiver of late payment penalty and interest, and penalty for late return

- submission. The decision to waive is subject to the Commissioner General's discretion; and
- **Appeal** to the Tax Appeals Tribunal against the decision of the Commissioner General on an objection or determination not to allow lodging an objection out of time.
- (ii) For dispute resolution under the Value Added Tax Act (including disputes relating to Insurance Premium Levy), the following terminology is used-
- **Review** on any decision made by the Authority; and
 - **Appeal** to the Tax Appeals Tribunal against the decision made by the Commissioner General.
- (iii) For dispute resolution under the Customs and Excise Act, the following terminology is used –
- **Appeal** – The Customs and Excise Act uses the same terminology for both appeals to the Commissioner General and the Tax Appeals Tribunal.

7.0 STAGES OF THE DISPUTE RESOLUTION PROCESS

7.1 Domestic Taxes Division

First Stage – an objection, appeal or review to the Authority should be in writing and addressed to the Commissioner-Domestic Taxes Division or can be made electronically on TaxOnline. In order for an objection to be valid, the objection must;

- be made within thirty days from the date of service of the notice of assessment.
- be in writing, hand delivered or via the TaxOnline Portal; and state the grounds on which the objection, review or appeal is based with satisfactory supporting evidence.

A taxpayer can also appeal against the decision of the Authority not to allow an objection, appeal or review which is time barred.

It is important to note that, under Section 114 of the Income Tax Act;

- (i) The determination of the Commissioner General can only be questioned in any proceedings, on grounds that the determination is unreasonable; and that
- (ii) The discretion of the Commissioner General cannot be questioned in any proceedings. Hence decisions on waiver for penalties that arose from late payment of taxes and late submission of returns as well as for interest on late payment cannot be questioned in any proceedings under the Income Tax Act.

Second Stage – Where a taxpayer is dissatisfied with the decision made by the division under the first stage of the dispute resolution process, the taxpayer has the right to appeal to the Tax Appeals Tribunal within 30 days of the Notice of the decision. However, a taxpayer may elect to appeal to the Office of the Commissioner General for an independent review before proceeding to the Tax Appeals Tribunal. If the taxpayer is still dissatisfied with the decision of the Commissioner General, the taxpayer can then proceed to appeal to the Tax Appeals Tribunal within 30 days of the notice of the decision from the office of the Commissioner General.

Third Stage – Either party that is dissatisfied with the decision of the Tax Appeals Tribunal on a question of law or mixed law and facts has the right to appeal to the Supreme Court.

7.2 Investigations Department and Debt Recovery Unit

The dispute resolution process for cases handled by the Investigations Department and the

The Dispute Resolution Process

Debt Recovery Unit is twofold owing to the fact that the Investigations Department and the Debt Recovery Unit handle both Domestic Taxes and Customs matters which have different appeal procedures.

7.2.1 Domestic Tax

First Stage – an objection, appeal, or review should be addressed to the Director – Investigations (for cases under investigation) and the Commissioner – Finance (for cases under the Debt Recovery Unit) or submitted electronically on TaxOnline. In order for an objection to be valid, the objection must;

- be made within thirty days from the date of service of the notice of the determination.
- be in writing, hand delivered, or via the TaxOnline Portal;
- and state the grounds on which the objection, review or appeal is based on with satisfactory supporting evidence.
- a taxpayer can also appeal against the decision of the Authority not to allow an objection/appeal/review which is time barred.

Second Stage – Where a taxpayer is dissatisfied with the decision made by the Director Investigations or the Commissioner Finance under the First Stage of the dispute resolution process, the taxpayer has the right to appeal to the Tax Appeals Tribunal within 30 days of the Notice of the decision. However, a taxpayer may elect to appeal to the Office of the Commissioner General for an independent review before proceeding to the Tax Appeals Tribunal.

A taxpayer who is dissatisfied with the decision of the Commissioner General has the right to appeal to the Tax Appeals Tribunal within 30 days of the notice of the decision made by the Commissioner General.

Third Stage – Either party that is dissatisfied with the decision of the Tax Appeals Tribunal on a question of law or mixed law and facts has the right to appeal to the Supreme Court.

7.2.2 Customs Cases

First Stage – an appeal should be addressed to the Director – Investigations for cases under Investigations or the Commissioner Finance for cases under the Debt Recovery Unit

A taxpayer has an obligation, to adequately explain the matter under dispute, by stating the details of the assessment or decision appealed against, facts of the case and the grounds advanced in support of the appeal together with supporting evidence, interpretation of the law, possible judicial precedents and all supporting documentation.

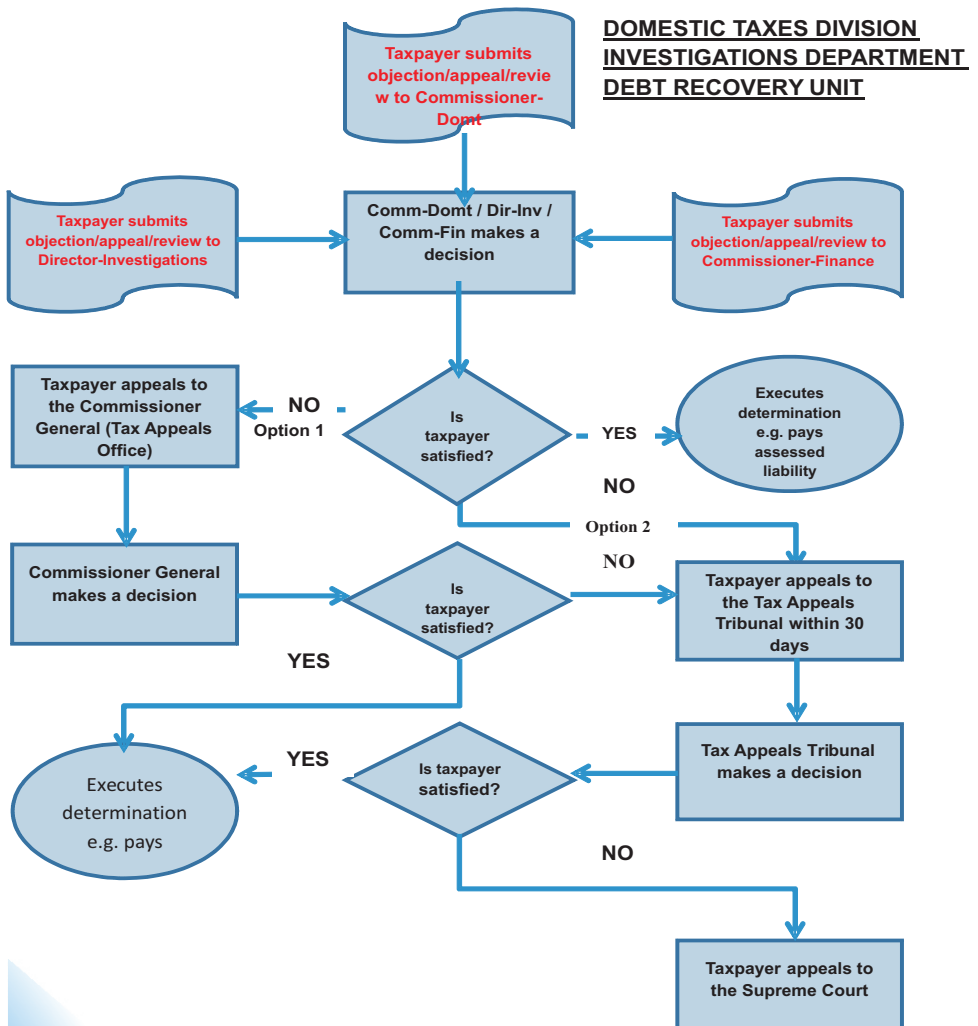
It should be noted that where goods have been seized, the taxpayer should lodge an appeal within 15 days of the notice of the seizure, failure to do so will result in the forfeiture of the goods after the expiry of thirty days from the date of the publication in the Government Gazette, of a notice issued by the Commissioner-General that the goods shall be forfeited to the State.

Second Stage - Where a taxpayer is dissatisfied with the decision made by the Director - Investigations, or the Commissioner Finance, the taxpayer can appeal to the Tax Appeals Tribunal within 30 days of the Notice of the decision. However, a taxpayer may elect to appeal to the Office of the Commissioner - General for an independent review before proceeding to the Tax Appeals Tribunal.

A taxpayer who is dissatisfied with the decision of the Commissioner General has a right to appeal to the Tax Appeals Tribunal within 30 days of the notice of the decision made by the Commissioner General.

It is important to note that any person who intends to commence proceedings in a court of law or the Tax Appeals Tribunal against the Authority for anything done or decision made by the Authority under the Customs and Excise Act or any other law relating to customs and excise is required by Section 164(1) of the Customs and Excise Act to give a One (1) month notice to the Authority, in writing, of such person's intention to commence the proceedings against the Authority.

Third Stage - Either party that is dissatisfied with the decision of the Tax Appeals Tribunal on a question of law or mixed law and facts has the right to appeal to the Supreme Court.



7.4 Customs Services Division

First Stage - an appeal to the Authority should be made in writing addressed to the Station Manager. The taxpayer should adequately explain the matter under dispute by stating the details of the assessment or decision appealed against, facts of the case and the grounds of contention together with supporting evidence, interpretation of the law, possible judicial precedents and all supporting documentation

It should be noted that where goods have been seized, the taxpayer should lodge in an appeal within 15 days of the notice of the seizure, failure to do so will result in the forfeiture of the goods after the expiry of thirty days from the date of the publication in the Government Gazette, of a notice issued by the Commissioner-General that the goods shall be forfeited to the State.

Second Stage - Where a taxpayer is dissatisfied with the decision of the Station Manager, the taxpayer can appeal to the Commissioner – Customs Services Division.

Third Stage - Where a taxpayer is dissatisfied with the decision made by the Commissioner –Customs Services, the taxpayer can appeal to the Tax Appeals Tribunal within 30 days of the Notice of the decision. However, a taxpayer may elect to appeal to the Office of the Commissioner - General for an independent review before proceeding to the Tax Appeals Tribunal.

A taxpayer who is dissatisfied with the decision of the Commissioner General has a right to appeal to the Tax Appeals Tribunal within 30 days of the notice of the decision.

Fourth Stage - Either party that is dissatisfied with the decision of the Tax Appeals Tribunal on a question of law or mixed law and facts has the right to appeal to the Supreme Court. However, the appeal process for determinations made by:

- the Audit and Business Risk Department (ABR)
- Credibility and Controls Department (C&C)
- International and Policy Department (I&P)

begins at the Second Stage mentioned above, where the aggrieved taxpayer will lodge an appeal with the Commissioner – Customs Services.

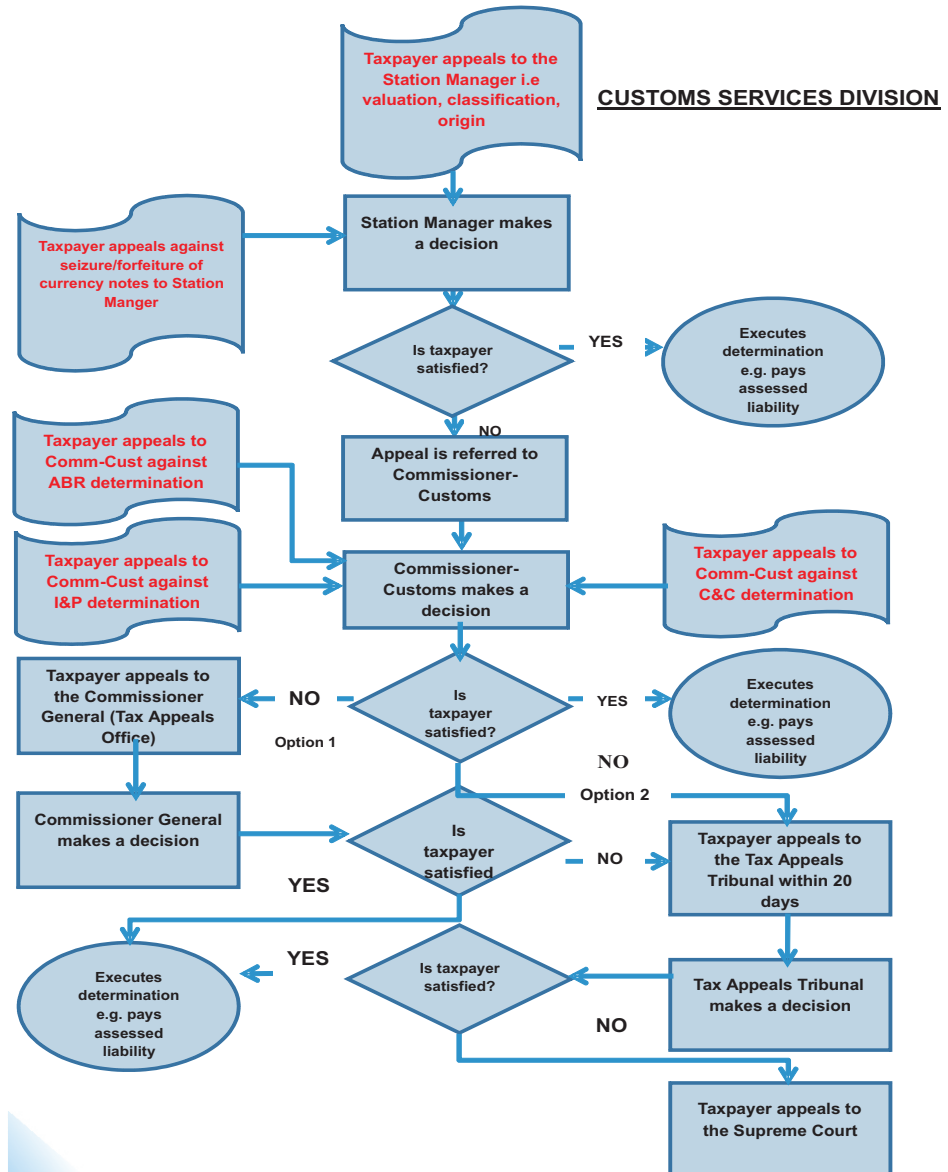
It is important to note that any person who intends to commence proceedings in a court of law or the Tax Appeals Tribunal against the Authority for anything done or decision made by the Authority under the Customs and Excise Act or any other law relating to customs and excise is required by Section 164(1) of the Customs and Excise Act to give a One (1) month notice to the Authority, in writing, of such person's intention to commence the proceedings against the Authority.

7.4.1 Currency Notes

Any person aggrieved by the seizure and forfeiture of their currency notes may appeal to the Office of the Commissioner-General against the seizure and forfeiture within 30 days from the date of seizure.

If the person whose currency notes have been seized and forfeited is dissatisfied with the decision made by the Commissioner General, the person has a right to appeal to the Tax Appeals Tribunal within 30 days of the notice of the decision by the Commissioner General. Either party that is dissatisfied with the decision of the Tax Appeals Tribunal on a question of law or mixed law and facts has the right to appeal to the Supreme Court.

Below is a depiction of the Customs Services dispute resolution process to be followed by the taxpayer.



8.0 THE TAX APPEALS OFFICE

The Tax Appeals Office is a Unit under the Office of the Commissioner General. The Unit handles all appeals made to the Office of the Commissioner - General where a matter is fit to be before the Tax Appeals Tribunal but the Taxpayer elects to appeal to the Commissioner General before proceeding to the Tax Appeals Tribunal.

The Unit handles all disputes which taxpayers may have except the following -

- (i) appeal for waiver of late payment penalties'
- (ii) appeal for waiver of late payment interest;
- (iii) appeal for waiver of late return penalties; and
- (iv) premature disputes that have to be raised, or have not been finalized, with the operating division (e.g. disagreement with audit findings before assessment is raised); as these are not valid objections.

9.0 THE TAX APPEALS TRIBUNAL

The Tax Appeals Tribunal is created by the Tax Appeals Tribunal Act No. 23 of 2015 and mandated to hear and determine appeals from decisions of the Commissioner-General under the Customs and Excise Act, the Income Tax Act, the Property Transfer Tax Act, the Value Added Tax Act and other tax legislation.

The Tax Appeals Tribunal is further mandated to adjudicate on any matter prescribed by the Minister of Finance, by statutory instrument, to be a matter against which an appeal may be made under the foregoing Acts.

If a taxpayer is not satisfied with the decision of the Tax Appeals Tribunal, the taxpayer has a right to appeal to the Supreme Court.

