

GOVERNMENT OF ZAMBIA

ACT

No. 11 of 1998

Date of Assent: 21st April, 1998

An Act to establish the Revenue Appeals Tribunal to hear appeals under the Customs and Excise Act, the Income Tax Act and the Value Added Tax Act; to repeal the provisions relating to appeals under the Customs and Excise Act, the Income Tax Act and the Value Added Tax Act; and to provide for matters connected with or incidental to the foregoing.

[24th April, 1998

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Revenue Appeals Tribunal Act, 1998, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title

2. In this Act, unless the context otherwise requires—

Interpretation

“ Commissioner-General ” means the person appointed Commissioner-General under the Zambia Revenue Authority Act;

Cap. 321

“ Chairperson ” means the person appointed Chairperson of the Tribunal under section *four*;

“ former tribunals ” means the Tariff Appeals Court, the Tax Appeal Court and the Value Added Tax Appeals Tribunal established under the Customs and Excise Act, the Income Tax Act and the Value Added Tax Act, respectively;

Cap. 322

Cap. 323

Cap. 331

“ member ” means a member of the Tribunal;

“ Registrar ” means the person appointed Registrar of the Tribunal under section *five*;

“ Tribunal ” means the Revenue Appeals Tribunal established under section *three*;

“ Vice-Chairperson ” means the person appointed Vice-Chairperson under section *four*.

Establishment of Tribunal

Cap. 322

3. There is hereby established the Revenue Appeals Tribunal whose functions shall be—

(a) to hear and determine appeals under the Customs and Excise Act in the following circumstances:

(i) where an importer of any goods is of the opinion that the goods are incorrectly classified by the Commissioner-General under any item of the Customs Tariff and the importer, pays the amount demanded as duty by the Commissioner-General or furnishes security to the satisfaction of the Commissioner-General for the payment of that amount, and the importer appeals to the Tribunal against such classification within three months after the payment of such amount or furnishing of such security;

(ii) where a person who intends to import goods or manufacture goods within Zambia and is of the opinion that the goods of the class or kind that the person intends to import or manufacture, as the case may be, are incorrectly classified by the Commissioner-General under any item of the Customs Tariff and that person appeals to the Tribunal against such classification; or

(iii) where the Commissioner-General has determined the value of any goods intended for importation into Zambia or manufactured within Zambia and any person aggrieved by such determination appeals to the Tribunal;

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(b) to hear appeals under the Value Added Tax Act in respect of any of the following matters:

(i) the registration, or the cancellation, of registration of a supplier;

(ii) the refusal to register a supplier;

(iii) the tax assessed to be payable on any supply of goods or services or on the importation of any goods;

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- (iv) the amount of any input tax that may be credited to any taxable supplier;
- (v) the application of any administrative rule providing for the apportionment or disallowance of input tax;
- (vi) any notice under section *twenty-five* of the Value Added Tax Act; Cap. 331
- (vii) the requirement of the Commissioner-General for the provision of security;
- (c) to hear appeals against assessment of tax under the Income Tax Act; and Cap. 323
- (d) to hear and determine any matter prescribed by the Minister, by regulation, to be a matter against which an appeal may be made under this Act.
4. (1) The Tribunal shall consist of the following members appointed by the Minister: Members of Tribunal
- (a) three legal practitioners of not less than seven years standing recommended by the Judicial Service Commission and who, in the opinion of the Judicial Service Commission, have sufficient knowledge of, and experience in, tax matters;
- (b) two qualified accountants certified as such by the Zambia Institute of Certified Accountants; and
- (c) two persons from the business community.
- (2) The Minister shall appoint a Chairperson and Vice-Chairperson from amongst the members who are legal practitioners.
- (3) A member of the Tribunal shall, subject to subsection (4), hold office for a period of four years from the date of appointment but may be eligible for re-appointment for one further term.
- (4) The office of a member of the Tribunal shall become vacant—
- (a) upon the member's death;
- (b) if a member is absent without reasonable excuse from three consecutive meetings of the Tribunal of which the member had notice;

(c) if the member is an undischarged bankrupt; or

(d) if the member who is a legal practitioner or an accountant ceases to practice as such on disciplinary grounds confirmed by the Law Association of Zambia or the Zambia Institute of Certified Accountants, respectively.

(5) If a vacancy occurs in accordance with subsection (4), a new member may be appointed in accordance with subsection (1), but that member shall hold office only for the unexpired part of the term.

(6) The Minister may appoint alternate members of the Tribunal who shall have and may perform the functions of a member during the member's illness or absence.

(7) A member of the Tribunal shall be paid such remuneration and allowances as the Minister may determine.

(8) The Minister may, by regulation—

(a) regulate the organisation, administration and procedure of the Tribunal; and

(b) empower the Tribunal to summon and compel the attendance of witnesses, to require the production of documents, to award costs and to do and require all such acts and things as may be necessary for the performance of the Tribunal's functions under this Act.

Registrar of
Tribunal

5. There shall be a Registrar of the Tribunal, who shall have such functions as may be conferred by regulation made under subsection (8) of section *four*.

Appeal to
High Court

6. (1) Either party to an appeal to the Tribunal may appeal to the High Court from the decision of the Tribunal on any question of law or question of mixed law and fact but not on a question of fact alone.

(2) The High Court shall hear and determine any such appeal and may refer the matter back to the Tribunal for rehearing, confirmation, reduction, increment or annulment of the assessment or decision determined by the Tribunal and may make such further or other order on such appeal, whether as to costs or otherwise, as the High Court may deem fit.

Transitional
provisions

7. (1) On or after the commencement of this Act, reference in any written law or other document to the Tariff Appeals Court, the Income Tax Appeal Court and the Value Added Tax Appeals Tribunal shall be read and construed as references to the Tribunal.

(2) On or after the commencement of this Act, reference in any written law or other document to the Chairman of the Income Tax

Appeals Court, President of the Tariff Appeals Court and the Chairman of the Value Added Tax Appeals Tribunal shall be read and construed as Chairperson of the Tribunal.

8. (1) Section *thirty* of the Value Added Tax Act, sections *two hundred and four, two hundred and five* and *two hundred and six* of the Customs and Excise Act and section *one hundred and seven* of the Income Tax Act are hereby repealed.

Repeal and
savings
Cap. 331
Cap. 323
Cap. 322

(2) Notwithstanding the provisions of subsection (1)—

- (a) any appeal or proceedings pending before any former tribunal before the commencement of this Act shall be continued by or recommenced before the Tribunal; and
- (b) any right or benefit accruing or liability incurred before any former tribunal shall continue in accordance with and subject to this Act.

