



## TANZANIA – THE GOVERNMENT ISSUES REGULATIONS TO OPERATIONALISE TAX OMBUDSMAN

The time taken in concluding litigations is essential and if legal redress or equitable relief to an injured party is available, but is not forthcoming in a timely fashion, it is effectively the same as having no remedy at all.

Similar sentiments have also been echoed by Tax Revenue Appeals Tribunal ("Tribunal") in income tax appeal No. 7 of 2012 between Commissioner General and JSC Automredtzoloto where the Tribunal reiterated that it is governed by two principles in the determination of tax appeals namely;

- the desire to ensure that tax cases are disposed of expeditiously; and
- as an avenue that has much bearing on the system of tax collection, it is important that tax cases are not subjected to undue delays.

In a bid to reduce the load of appeal cases lodged at the Appellate bodies, the Government introduced the office of Tax Ombudsman vide the Finance Act 2019 as well as providing an avenue for settlement of appeal cases presiding in such Appellate machinery through mediation vide Finance Act 2021.

The aforesaid steps had all aimed in paving the way for Alternative Dispute Resolution (ADR) which in turn would address the appeal cases backlogs constraining the Appellate machinery. In the context of office of Tax Ombudsman, all that was lacking was requisite regulations to operationalise such office.

On 4<sup>th</sup> March 2022 the Government issued the long awaited Regulations to operationalise the office of Tax Ombudsman namely Tax Administration (Administration of Tax Ombudsman Service)

Regulations, 2022 and Tax Administration (Tax Ombudsman Service Complaint Procedure) Regulations, 2022.

The Regulations aim to lay the groundwork for appointment of staff of the office of Tax Ombudsman and complaints raised by taxpayers regarding the service, procedural or administrative matters arising in the course of administration of tax laws by the Authority, Commissioner General or staffs of the Commissioner General (CG).

In light of such issued Regulations, below are key items to take note of;

### Eligibility Criteria for Lodging Complaint

Any person who is aggrieved by service rendered by the CG or staffs of the CG procedurally or administratively in the course of administration of tax laws, may lodge a complaint either orally or in writing to the Ombudsman.

For complaints that will be lodged orally, the Ombudsman may reduce such complaints into written complaints and have the Complainant append the requisite signature on the same.

### Crux of the Complaint

Matters in which the complaint may lie include;

- non-compliance with the procedures or mal-administration by the Authority in administering tax laws.
- delay in the release of documents or assets seized during the investigation of tax affairs.
- delay in responding to a complaint lodged by the taxpayer.

- non-response of letters or documents sent to the Authority.

### Procedures for Lodging the Complaint

Any person intending to lodge the complaint to the Ombudsman will be required to fill the requisite form detailing;

- name and address of the complainant.
- statement of facts giving rise to the complaint.
- a statement that the complainant has exhausted the available Authority internal complaints procedures.

Such person will also be required to furnish evidence in form of correspondences with Authority on the matter giving rise to the complaint and any other relevant document or information in resolution of such complaint.

The complaint may be lodged to the Ombudsman in person or vide authorised representative.

### Timeframe For Lodging the Complaint

Any person who intends to lodge the complaint to the Ombudsman has a window of ninety (90) days from the occurrence of events that gave rise to such complaint to do the needful.

Upon expiry of such timeframe, a person may only lodge the complaint to the Ombudsman upon fronting reasonable grounds for failure to adhere to the stipulated time frame, with resolution of such complaint contingent satisfaction of the Ombudsman in the context of grounds fronted in relation to delays in lodging the complaint by such person.

### Ineligible Complaints

The complaints will be deemed as ineligible if prior to lodging such complaints,

- the Complainant had not made a written representation to the Authority and the Authority rejected such complaint,

- the complainant had lodged the complaint to the Ombudsman prior to lapsing of thirty (30) days allotted to the Authority to respond to the complaint lodged to them; and
- the complainant is satisfied with the reply of the Authority.

### Complaints Determination

The Ombudsman is allotted a thirty (30) days window to determine the lodged complaints vide mediation, conciliation or any other relevant method deemed appropriate by the Ombudsman. The Ombudsman is legally obliged to submit findings and recommendations to the responsible Minister within fourteen (14) days after the determination of the complaints. Conclusively, the Ombudsman is duty bound to deliberate the lodged complaints judiciously.

Currently, it sometimes takes more than one (1) year for tax appeal cases to be entertained in the Appellate bodies with such delay attributed to reasons including but not limited to a litany of tax appeal cases preferred to these Appellate machinery without avenue for Alternative Dispute Resolution (ADR).

Thus, the Government's decision to introduce the office of Tax Ombudsman will play a starring role in reducing the tax appeal cases backlogs by averting unnecessary tax disputes. However, it is pertinent to ensure that there are requisite resources to entertain such complaints at the Ombudsman as well as devising relevant methodology to facilitate expeditiously resolution of lodged complaints.

In case you will require any assistance with lodging complaint to the Ombudsman, please reach out to us vide [msinai@tz.rsm-ea.co.tz](mailto:msinai@tz.rsm-ea.co.tz) or [bkombaha@tz.rsm-ea.co.tz](mailto:bkombaha@tz.rsm-ea.co.tz) or our office premises at *1<sup>st</sup> Floor, Plot 1040, Haile Selassie Road, Masaki.*

#### Caveat

This newsletter has been prepared for general guidance, and does not constitute professional advice. Accordingly, RSM Eastern Africa, its associates and its employees and agents accept no liability for the consequences of anyone acting, or refraining from acting, in reliance on the information contained herein or for any decision based on it. No part of the newsletter may be reproduced or published without prior written consent. RSM Eastern Africa is a member firm of RSM, a worldwide network of accounting and consulting firms. RSM does not offer professional services in its own name and each member firm of RSM is a legally separate and independent national firm.