L.N. 16 of 1999

VALUE ADDED TAX ACT, 1998 (ACT NO. XXIII OF 1998)

Value Added Tax (Appeals Board) Regulations, 1999

IN exercise of the powers conferred by section 75 of the Value Added Tax Act, 1998, and by paragraph (2) of item 7 of the Ninth Schedule to the Value Added Tax Act, 1998, hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:—

Citation and commencement.

1. (1) These regulations may be cited as the Value Added Tax (Appeals Board) Regulations, 1999.

(2) These regulations shall be deemed to have come into force on the 1st January, 1999.

Interpretation.

2. (1) In these regulations unless the context otherwise requires —

"appeal to the Board" means an appeal against an assessment in terms of section 43 of the Act and of item 4 of the Ninth Schedule to the Act, or a reference to the Board of a question in terms of section 44 of the Act and item 6 of the Ninth Schedule to the Act;

"Board" means the Value Added Tax Appeals Board constituted in virtue of section 45 of the Act;

"Secretary" means the person designated as secretary to the Board in accordance with paragraph (1) of item 2 of the Ninth Schedule to the Act, and includes any deputy Secretary designated in accordance with paragraph (2) of the said item while performing the duties of the Secretary.

(2) Other terms shall have the meaning assigned to them in the Act.

Convening of Board.

3. The Board may be convened by the Chairman as may be from time to time required.

Evidence and proof.

4. For the purpose of -

(a) the examination of evidence and enforcing the attendance of witnesses;

(b) the production of books and other documentary evidence;

(c) the appointment of legal or technical referees,

in any appeal to the Board, the Board shall have all such powers as are vested by the Code of Organisation and Civil Procedure in the Civil Court, First Hall and it shall, *mutatis mutandis*, be regulated by the appropriate rules set out: Cap.12.

Provided that –

(i) the clerk, agent, employee or other person confidentially employed in the affairs of the appellant, and the parents, spouse or children of such appellant, shall not be called to give evidence or to be examined except on the request of the appellant;

(ii) any person, other than the Commissioner, who has or has had any official duty, or is or has been employed, in the administration of the Act, shall not be called to give evidence or to be examined in connection with any official matter concerning the assessment under appeal except on the request of the Commissioner.

Order during sittings of the Board.

5. For the purpose of keeping good order during its sittings the Board shall have all such powers as are vested by the Code of Organization and Civil Procedure in the Court of Magistrates (Malta).

Place of sittings and registry of the Board.

6. (1) The Board shall hold its sittings in such place as may from time to time be designated by an order of the Minister published in the Gazette.

(2) The records relating to the proceedings of the Board shall be kept by the Secretary in the registry of the Board which shall be located at a place designated by an order of the Minister published in the Gazette.

Notices of the Board.

7. (1) Any notice, warrant or order issued by the Board shall be signed by the Chairman and counter-signed by the Board Secretary.

(2) The provisions of sections 72 and 73 and of paragraph (c) of subsection (3) of section 66 of the Act shall apply to notices, warrants and orders issued by the Board.

Decisions by the Board.

8. (1) Saving the provisions of paragraph (2) of this regulation, the decisions of the Board shall be taken by a majority vote.

(2) Any question regarding a cause of abstention or challenge, and any question regarding procedure in the Board, shall be decided by the Chairman.

(3) The decisions of the Board shall be in writing and shall be signed by the Chairman. The original shall be kept in the registry of the Board together with the complete record of the proceedings of each case referred to the Board.

(4) The Secretary shall cause a copy of every decision of the Board to be served on every party to the proceedings in question.

(5) A copy of every decision of the Board shall be kept by the Secretary in a register which shall be open for inspection to the public during such times as the Minister may from time to time determine. The copy shall be entered in the said register as soon as the time limit for the filing of an appeal from that decision in the Court of Appeal has elapsed, or, where such an appeal has been entered, as soon as the relative decision of the Court of Appeal has been delivered. In this latter case, the Secretary shall keep in the said register both a copy of the decision of the Board and also a copy of the decision of the Court of Appeal.

(6) Any person may make a request in writing to the Secretary for a copy of an extract from the said register and the Secretary shall cause the requested copy to be furnished to any such person against the payment of such fees as may be determined by the Minister from time to time. Such copies may be furnished by electronic, magnetic, optic or other means.

Powers pertaining to the Secretary.

9. The Secretary shall have, *mutatis mutandis*, all such powers and duties as are by the Code of Organization and Civil Procedure vested in or imposed on the Registrar of the Superior Courts.

Appeals against assessments.

10. (1) An appeal against an assessment shall be made by an application in Form A set out in the Schedule hereto, and shall be signed by the appellant or by his agent.

(2) An application to the Board under paragraph (1) of this regulation shall be drawn up and filed with the Secretary in

duplicate, and the Secretary shall cause one copy to be delivered to the Commissioner within eight days from the date it is so filed.

(3) The Board may, at any time, allow any amendment to be made in any application for the purpose of making it clearer.

Reply by the Commissioner.

11. When a copy of an application of an appeal against an assessment has been delivered to the Commissioner in accordance with paragraph (2) of regulation 10 of these regulations, the Commissioner shall, within fifteen days from the expiration of the time limit laid down in the said paragraph, file with the Secretary a reply in duplicate stating his reasons for contesting the appeal, and the Secretary shall cause one copy of the reply to be served on the appellant.

Appointment of date of hearing of appeal.

12. (1) As soon as may be after the filing of the reply by the Commissioner, or, in default, after the lapse of the time allowed for the filing of that reply, the Board shall appoint a day for the hearing of the appeal.

(2) The Secretary shall give notice of the day and time appointed for the hearing of the appeal to the appellant and to the Commissioner.

References to the Board.

13. (1) An appeal to the Board consisting of a reference of a question to the Board made by a person other than the Commissioner shall be made by application in Form B set out in the Schedule to these regulations, and shall be signed by the appellant or by his agent.

(2) The Board shall refrain from deciding on an appeal referred to in paragraph (1) of this regulation unless the appellant shows that he had, before making his application, referred the matter to the Commissioner in writing and that:

(a) the Commissioner agreed that the question should be referred to the Board, or

(b) the Commissioner did not give a reply, or

(c) the appellant feels aggrieved by the Commissioner's reply.

(3) An appeal to the Board consisting of a reference of a question to the Board made by the Commissioner shall be made by an application in Form C set out in the Schedule to these

regulations and shall indicate the name of a person or the names of persons who, in his opinion, has or have a direct interest in the matter.

Parties to a reference.

14. (1) The parties to an appeal consisting of a reference of a question to the Board shall be:

(a) the Commissioner;

(b) where the appellant is not the Commissioner, the appellant: provided that the Board may at any time, and at the request of the Commissioner shall, require the appellant to prove his direct interest in the matter;

(c) any person indicated in an application made by the Commissioner in accordance with paragraph (3) of regulation 13 of these regulations.

(2) A decision of the Board shall be binding, with respect to the specific matter referred to the Board, on the parties to the appeal but not on any other person:

Provided that the decision shall be binding as aforesaid only if the relevant facts have been correctly stated in the application or otherwise recorded in the records of the case and shall remain binding only as long as there have been no material changes to the said facts or to the relevant provisions of the law.

Appointment of date for hearing of reference to the Board.

15. (1) As soon as may be after an application has been made in accordance with regulation 13 of these regulations, the Board shall appoint a day for the hearing of the appeal.

(2) The Secretary shall cause a notice of the day and time appointed for the hearing of the appeal to be served on all the parties to the appeal. He shall, moreover, cause a copy of the application to be served on the parties to the appeal, except for the appellant himself.

SCHEDULES

FORMULA A
FORM A

Regolament 10
Appelli kontra stima (artikolu 43)
Regulation 10
Appeal against an assessment (section 43)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (ATT NRU. XXIII TA' L-1998)
VALUE ADDED TAX ACT (ACT NO. XXIII OF 1998)

APPELL LILL-BORD TA' L-APPELLI
APPEAL TO THE APPEALS BOARD

Numru tar-reġistrazzjoni tal-VAT ta' l-appellant
VAT registration number of appellant

				–				

Isem u indirizz ta' l-appellant
Name and address of appellant

Isem u indirizz ta' l-aġent jekk għandu
Name and address of agent (if any)

Is-Segretarju
Bord ta' l-Appelli dwar Taxxa fuq il-Valur Miżjud

The Secretary
Value Added Tax Appeals Board

Permezz ta' stima li ġġib id-data ta' _____ (kopja mehmuża) maħruġa mill-

By an assessment dated _____ *(copy enclosed) issued by the Commissioner*

Kummissarju tal-VAT (hawnhekk iżjed 'il quddiem imsejjaħ "Il-Kummissarju") u mibgħuta lill-
of VAT (hereinafter referred to as "the Commissioner") and served on the appellant on the

appellant fi _____ l-appellant ġie mgħarraf li l-ammont ta' Taxxa fuq il-Valur

_____ *the appellant has been informed that the amount of Value Added Tax*

Miżjud li għandu jitħallas minnu għaż-żmien/żminijiet ta' taxxa _____ hu Lm _____.

payable by him for the tax period/s _____ *is Lm* _____.

B 122

Skond id-denunzja/denunzji mibgħuta mill-appellant lill-Kummissarju għall-imsemmi żmien/imsemmija
In accordance with the returns delivered by the appellant to the Commissioner for the said tax

żminijiet ta' taxxa:
period/s:

* l-ammont ta' taxxa li għandu jitħallas hu Lm _____

* *the amount of tax payable is Lm* _____

* m'għandha titħallas ebda taxxa
* no tax is payable

(* ħassar fejn jinħtieġ)
(* *delete as necessary)*

It-taxxa li m'hemm ebda kwistjoni dwarha kif ukoll 5% ta' l-ammont ta' taxxa li hemm kwistjoni dwarha
The tax not in dispute as well as 5% of the amount which is in dispute or Lm50, whichever is the higher,

jew Lm50, skond liema ikun ogħla, u dritt amministrattiv ta' Lm25 ġew imħallsa lill-Kummissarju (skond
and an administrative fee of Lm25 have been paid to the Commissioner (receipt/s number/s _____

riċevuta/i numru/i _____ bid-data/i _____).

dated _____ *refer/s).*

L-appellant iħoss ruħu aggravat mill-imsemmija stima għal dawn ir-raġunijiet li ġejjin:
The appellant feels aggrieved by the said assessment on the following grounds:

_____

_____

_____

_____

L-appellant għalhekk jitlob li l-imsemmija stima għandha tiġi mibdula kif jidher hawn taħt:
The appellant therefore submits that the said assessment should be amended as follows:

_____

_____

_____

_____

_____
Firma ta' l-appellant jew ta' l-aġent tiegħu
Signature of the appellant or of his agent

Ippreżentat minn _____ fi _____
Filed by *on the*

_____
Segretarju
Secretary

FORMULA B
FORM B

Regolament 13 (1)
Referenza ta' kwistjoni lill-Bord minn persuna li mhix il-Kummissarju (artikolu 44)
Regulation 13 (1)
Reference of a question to the Board by a person other than the Commissioner (section 44)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (ATT NRU. XXIII TA' L-1998)
VALUE ADDED TAX ACT (ACT NO. XXIII OF 1998)

APPELL LILL-BORD TA' L-APPELLI
APPEAL TO THE APPEALS BOARD

Isem u indirizz ta' l-appellant
Name and address of appellant

Isem u indirizz ta' l-aġent jekk għandu
Name and address of agent (if any)

Is-Segretarju
Bord ta' l-Appelli dwar Taxxa fuq il-Valur Miżjud

The Secretary
Value Added Tax Appeals Board

L-appellant kien kiteb lill-Kummissarju tat-Taxxa fuq il-Valur Miżjud diversi ittri*
The appellant wrote to the Commissioner of Value Added Tax various letters including*

fosthom ittra bid-data ta' _____ li kopja tagħha qed tiġi hawn mehmuża, fuq

a letter dated _____ a copy of which is enclosed, on a matter/s referred to

kwistjoni/kwistjonijiet li għaliha/għalihom jirreferi/u l-paragrafu/i _____ ta' l-artikolu 44 ta' l-Att.

in paragraph/s _____ of section 44 of the Act.

Il-Kummissarju:
The Commissioner has:

* qabel li l-kwistjoni għandha tkun riferita lill-Bord ta' l-Appelli
* *agreed that the matter should be referred to the Appeals Board*

* ma weġibx l-imsemmija ittra
* *has not replied to the said letter*

* wieġeb l-ittra permezz ta' diversi ittri* fosthom ittra bid-data ta' _____ (kopja
* *replied to the notice by means of various letters* including a letter dated* _____

mehmuża) u l-appellant iħoss ruħu aggravat bit-tweġiba tal-Kummissarju.
(copy enclosed) and the appellant felt aggrieved by the Commissioner's reply.

(* ħassar fejn ma japplikax)
(delete where not applicable)*

Deskrizzjoni korretta tal-fatti relevanti kollha tinsab fl-ittra fuq imsemmija lill-Kummissarju bla ħsara
A correct description of all the relevant facts is contained in the above-mentioned letter to the

għaż-żidiet/kjarifiki li ġejjin:
Commissioner subject to the following additions/clarifications:

_____

_____

_____

Id-dritt amministrattiv ta' Lm25 tħallas lill-Kummissarju skond riċevuta numru _____ bid-
The administrative fee of Lm25 has been paid to the Commissioner against receipt number _____

data _____.
dated _____.

L-appellant jirreferi lill-Bord il-kwistjoni li ġejja:
The appellant refers the following question to the Board:

_____

_____

_____

Fl-opinjoni ta' l-appellant għandhom jitqiesu dawn il-konsiderazzjonijiet li ġejjin:
In the opinion of the appellant the following considerations should be taken into account:

_____

_____

_____

_____

_____

_____

u l-kwistjoni/kwistjonijiet għandha/għandhom tiġi/jiġu deċiża/i kif ġej:
and the question/s should be determined as follows:

_____

_____

_____

_____ _____

Data
Date

Firma ta' l-appellant jew ta' l-aġent tiegħu
Signature of the appellant or of his agent

FORMULA Ċ
FORM C

Regolament 13 (3)
Referenza ta' kwistjoni lill-Bord mill-Kummissarju (artikolu 44)
Regulation 13 (3)
Reference of a question to the Board by the Commissioner (section 44)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (ATT NRU. XXIII TA' L-1998)
VALUE ADDED TAX ACT (ACT NO. XXIII OF 1998)

APPELL LILL-BORD TA' L-APPELLI
APPEAL TO THE APPEALS BOARD

Is-Segretarju
Bord ta' l-Appelli dwar Taxxa fuq il-Valur Miżjud

The Secretary
Value Added Tax Appeals Board

Il-Kummissarju jixtieq jirreferi lill-Bord għad-deċiżjoni tiegħu kwistjoni/kwistjonijiet li għaliha/għalihom
The Commissioner wishes to refer to the Board for its decision a matter/s referred to in

jirreferi/u l-paragrafu/i _____ ta' l-artikolu 44 ta' l-Att.

paragraph/s _____ *of section 44 of the Act.*

Il-persuna/i, li fl-opinjoni tal-Kummissarju, għandha/għandhom interess dirett f'din il-kwistjoni hi/huma:
The person/s who, in the opinion of the Commissioner, has/have a direct interest in this question is/are:

_____

_____

_____

_____

Dan li ġej huwa deskrizzjoni korretta tal-fatti relevanti kollha kif magħrufa mill-Kummissarju:
The following is a correct description of all the relevant facts as known to the Commissioner:

_____

_____

_____

_____

_____

_____

Il-Kummissarju jirreferi lill-Bord din/dawn il-kwistjoni/kwistjonijiet li ġejja/ġejjin:
The Commissioner refers the following question/s to the Board:

Fl-opinjoni tal-Kummissarju għandhom jitqiesu dawn il-konsiderazzjonijiet li ġejjin:
In the opinion of the Commissioner the following considerations should be taken into account:

u l-kwistjoni/kwistjonijiet għandha/għandhom tiġi/jiġu deċiża/i kif ġej:
and the question/s should be determined as follows:

Data
Date

Kummissarju tat-Taxxa fuq il-Valur Miżjud
Commissioner of VAT