VERŻJONI ELETTRONIKA

L. N. 89 of 2012

ADMINISTRATIVE JUSTICE ACT
(CAP. 490)

Extension of Jurisdiction of the Administrative Review Tribunal (Fiscal Matters) Regulations, 2012

IN exercise of the powers conferred by article 21 of the Administrative Justice Act, the Minister for Justice, Dialogue and the Family has made the following regulations:-

Title and commencement.

1. (1) The title of these regulations is the Extension of Jurisdiction of the Administrative Review Tribunal (Fiscal Matters) Regulations, 2012.

(2) These regulations shall come into force on the 1st April, 2012.

Amendment of law in the Schedule.

2. The law specified in the First Column of the Schedule to these regulations shall have effect subject to the amendments specified in the Second Column thereof.

SCHEDULE
Amendment of Law

First Column	Second Column
Enactment	*Extent of Amendment*
Value Added Tax Act, Cap. 406.	**1.** Article 2 of the Value Added Tax Act, shall be amended as follows: (a) the definition "Board" shall be deleted; and (b) the following definition shall be added after the definition of "transport": " "Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act; ". Cap. 490. **2.** The words "Board of Appeal", wherever they occur, and the word "Board" in the first proviso to article 21(4), shall be respectively substituted by the word "Tribunal". **3.** The words "Value Added Tax Appeals Board" in article 42(3), shall be substituted by the word "Tribunal".

4. The words "Value Added Tax Appeals Board" in article 43, shall be substituted by the word "Tribunal".

5. The words "Value Added Tax Appeals Board" and the word "Board" in article 44 shall be respectively substituted by the word "Tribunal".

6. Article 45 shall be amended as follows:

(a) The marginal note thereof shall be substituted by the following:

"The Administrative Review Tribunal"; and

(b) the words "a Value Added Tax Appeals Board", shall be substituted by the words "an Administrative Review Tribunal".

7. The words "Board" in article 46, wherever it occurs, shall be substituted by the word "Tribunal".

8. The words "Board" and "Value Added Tax Appeals Board" in article 47, wherever they occur, shall be respectively substituted by the word "Tribunal".

9. The words "Board of Appeals" in the proviso to article 48(5) shall be substituted by the word "Tribunal".

10. The following article shall be added after article 48:

"The Administrative Review Tribunal.

48A. (1) The Tribunal shall be competent to hear and determine appeals in accordance with the provisions of article 46.

Cap. 490.

(2) The provisions of the Administrative Justice Act, in so far as they apply to the Tribunal, shall apply to any proceedings before the said Tribunal and the words "public administration" in the said enactment shall be construed as a reference to the Commissioner of Value Added Tax.

(3) The provisions of article 25 of the Administrative Justice Act shall apply to any proceedings pending before the Value Added Tax Appeals Board, arising out of appeals made under the Value Added Tax Act, 1994, the Customs and Excise Tax Act, 1997 and this Act, and any such proceedings shall be assigned to the Tribunal in terms of the aforesaid article 25 with effect from 1st April, 2012.

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(4) Any pending appeal before the Value Added Tax Appeals Board constituted under this Act prior to its abolition shall continue to be heard before the Tribunal and any appeal which under this Act could be made before the Value Added Tax Appeals Board shall be made before the Tribunal.

(5) Any appeal pending on 1st April, 2012 before the Court of Appeal from a decision of the Value Added Tax Appeals Board shall continue to be heard by that Court:

Provided that if the said Court were to annul a decision of the said Board and remit it back to the said Board, the remittance shall instead be made to the Tribunal which shall hear and decide that case accordingly.

(6) The Commissioner shall publish all decisions given by the Tribunal on points of law.".

11. The Ninth Schedule shall be substituted by the following:

"NINTH SCHEDULE

[Article 46]

Appeals to the Tribunal

Competence of the Tribunal

1. (1) The Tribunal shall be competent to hear any appeal against an assessment and to confirm, reduce or increase any taxable value or credit or tax assessed by the Commissioner, or cancel the assessment or make such other declaration or order as it deems fit.

(2) The Tribunal shall be competent to determine any matter referred to it in accordance with article 44.

(3) The Tribunal may, in any decision, make such order on the costs of the case as it may deem appropriate.

Appeals against assessments

2. (1) An appeal against an assessment shall not be valid unless:

(a) a return for the tax period to which the assessment refers has been delivered to the Commissioner before the appeal is entered;

(b) all tax payable by the appellant which is not in dispute has been paid;

(c) it is made within thirty days from the date of the service of the notice against which the appeal is made;

(d) it is made on such form and in such manner as may be prescribed; and

(e) a payment of such fees for lodging an appeal as may be prescribed under the Administrative Justice Act has been made.

Cap. 490.

(2) The onus of proving that any taxable value assessed by the Commissioner is excessive or that any credit assessed by the Commissioner is insufficient shall lie on the appellant.

(3) The Tribunal may refuse to consider any evidence as sufficient for the purpose of paragraph (2) if the appellant has failed to keep the records and documents required to be kept by this Act or fails to produce such records or documents.

(4) The Tribunal shall deliver its decision in writing and shall cause a copy of the decision to be given to the appellant.

Evidence and proof

3. 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 Tribunal, the Tribunal shall also have all such powers as are vested by the Code of Organization 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;

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(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.

Payment of the tax

4. (1) When a valid appeal has been made against an assessment, the payment of so much of the tax assessed which is in dispute may be kept in abeyance until the appeal is finally determined, provided that the running of interest on the said tax shall not be meanwhile suspended.

(2) The running of the period referred to in article 58(2) shall be suspended in respect of any tax or administrative penalty for any time during which the payment thereof may be kept in abeyance in terms of this item.

(3) Where the tax payable as a result of a decision of the Tribunal on an appeal against an assessment exceeds the tax shown to be payable in the said assessment, the excess shall be payable by not later than the end of the month during which the said decision is served on the appellant and interest at the rate specified in article 21(4) shall be due on such excess from the said date for any period during which such excess remains unpaid.

References to the Tribunal

5. (1) A reference to the Tribunal of any matter referred to in article 44 may not be made unless it has first been raised in correspondence with the Commissioner and shall be made by means of an application in writing which shall state clearly all the facts relevant to that matter and the manner in which, in the opinion of the applicant, that matter should be determined.

(2) A reference to the Tribunal on a question referred to in article 44(k) (the imposition of an administrative penalty) shall not be valid unless it is made by not later than two years from the date on which a notice of the imposition of the administrative penalty in question was given to the person on whom it was imposed.

(3) The Tribunal shall, after hearing all parties having an interest in the matter, and obtaining all relevant information, decide the matter and cause its decision to be served on the parties.

Appeals against Assessments

6. (1) An appeal against an assessment shall be made by an application in Form A set out in Annex A of this Schedule, which form shall be signed by the appellant or by his agent.

(2) An application to the Tribunal under paragraph (1) 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 twenty days from the date it is so filed.

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

Reply by the Commissioner.

7. When a copy of an application of an appeal against an assessment has been delivered to the Commissioner in accordance with paragraph (2) of item 5 above, the Commissioner shall, within twenty 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.

Reference to the Tribunal.

8. (1) An appeal to the Tribunal consisting of a reference of a question to the Tribunal made by a person other than the Commissioner shall be made by application in Form B set out in Annex B of this Schedule, which form shall be signed by the appellant or by his agent.

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(2) An application to the Tribunal under paragraph (1) 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 twenty days from the date it is so filed.

(3) When a copy of an application under paragraph (1) has been delivered to the Commissioner in accordance with paragraph (2), the Commissioner shall within twenty 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.

(4) The Tribunal shall refrain from deciding on an appeal referred to in paragraph (1) 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 Tribunal,

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

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

(5) An appeal to the Tribunal consisting of a reference of a question to the Tribunal made by the Commissioner shall be made by an application in Form C set out in Annex C of this Schedule and such form 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.

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

(a) the Commissioner;

(b) where the appellant is not the Commissioner, the appellant, provided that the Tribunal may at any time, and at the request of the Commissioner, 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 item 7.

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(2) A decision of the Tribunal shall be binding, with respect to the specific matter referred to it, 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.

10. (1) After an application has been made in accordance with item 7, the Tribunal 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 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.".

B 781

ANNEX

FORMULA A
FORM A

Appell kontra stima (artikolu 43)
Appeal against an assessment (article 43)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (Att Nru. XXIII tal-1998)
VALUE ADDED TAX ACT (Act No. XXIII of 1998)

APPELL LIT-TRIBUNAL TAR-REVIŻJONI AMMINISTRATTIVA
APPEAL TO THE ADMINISTRATIVE REVIEW TRIBUNAL

Numru ta' reġistrazzjoni tal-VAT tal-appellant
VAT registration number of the appellant

				-				

Isem u indirizz tal-appellant
Name and address of appellant

Isem u indirizz tal-aġent, jekk għandu
Name and address of agent, if any

Is-Segretarju
Tribunal tar-Reviżjoni Amministrattiva

The Secretary
Administrative Review Tribunal

Permezz ta' stima li ġiet 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 the Value Added Tax*

B 782

Miżjud li għandu jitħallas minnu għaż-żmien/żminijiet ta' taxxa _____ hu € _____.
that is to be paid for the tax period/periods _____ is € _____.

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

imsemmija żminijiet ta' taxxa:
tax period/s:

* l-ammont ta' taxxa li għandu jitħallas hu € _____
** the amount of tax payable is €_____*

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

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

It-taxxa li m'hemm l-ebda kwistjoni dwarha u dritt amministrattiv ta' €58 tħallas lill-Kummissarju skont riċevuta/i numru/i _____ bid-data _____
The tax not in dispute and the administration fee of €58 has been paid to the Commissioner against receipt/s number/s _____ 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 tal-appellant jew tal-aġent tiegħu
Signature of the appellant or of his agent

Ippreżentat minn _____ fi _____
Filed by _____ *on the* _____

B 783

FORMULA B
FORM B

Referenza ta' kwistjoni lit-Tribunal minn persuna li mhix il-Kummissarju (artikolu 44)
Reference of a question to the Tribunal by a person other than the Commissioner (article 44)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (Att Nru. XXIII tal-1998)
VALUE ADDED TAX ACT (Act No. XXIII of 1998)

APPELL LIT-TRIBUNAL TAR-REVIŻJONI AMMINISTRATTIVA
APPEAL TO THE ADMINISTRATIVE REVIEW TRIBUNAL

Isem u indirizz tal-appellant
Name and address of appellant

Isem u indirizz tal-aġent, jekk għandu
Name and address of agent, if any

Is-Segretarju
Tribunal tar-Reviżjoni Amministrattiva

The Secretary
Administrative Review Tribunal

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 _____ tal-artikolu 44 tal-Att.
in paragraph/s _____ of article 44 of the Act.

B 784

Il-Kummissarju:
The Commissioner has:

*qabel li kwistjoni għandha tkun referita lit-Tribunal
**agreed that the matter should be referred to the Tribunal*

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

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

(kopja 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' €58 tħallas lill-Kummissarju skont riċevuta numru _____ bid-
The administration fee of €58 has been paid to the Commissioner against receipt number _____

data _____
dated _____

Fil-fehma tal-appellant, it-Tribunal għandu jikkonsidra dan li ġej:
In the opinion of the appellant the following considerations should be taken into account by the Tribunal:

_____
_____
_____
_____

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

_____
_____
_____
_____

_____ _____

Data
Date

Firma tal-appellant jew tal-aġent tiegħu
Signature of the appellant or of his agent

B 786

FORMULA Ċ
FORM C

Referenza ta' kwistjoni lit-Tribunal mill-Kummissarju (artikolu 44)
Reference of a question to the Tribunal by the Commissioner (article 44)

ATT DWAR IT-TAXXA FUQ IL-VALUR MIŻJUD (Att Nru. XXIII tal-1998)
VALUE ADDED TAX ACT (Act No. XXIII of 1998)

APPELL LIT-TRIBUNAL TAR-REVIŻJONI AMMINISTRATTIVA
APPEAL TO THE ADMINISTRATIVE REVIEW TRIBUNAL

Is-Segretarju
Tribunal tar-Reviżjoni Amministrattiva

The Secretary
Administrative Review Tribunal

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

għalihom jirreferi/u l-paragrafu/i _____ tal-artikolu 44 tal-Att.
paragraph/s_____ of article 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 lit-Tribunal din/dawn il-kwistjonijiet li ġejja/ġejjin:
The Commissioner refers the following question/s to the Tribunal:

_____
_____
_____
_____

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 — Kummissarju tat-Taxxa fuq il-Valur Miżjud
Date — *Commissioner of VAT*

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