L.N. 173 of 1994

INCOME TAX MANAGEMENT ACT, 1994

(ACT NO. XVIII OF 1994)

Appeals (Board of Special Commissioners) Rules, 1994

IN exercise of the powers conferred by subsection (10) of section 34 of the Income Tax Management Act, 1994, the Minister of Finance has made the following rules:—

Citation.

1. These rules may be cited as the Appeals (Board of Special Commissioners) Rules, 1994.

Interpretation.

2. In these rules, "the Act" means the Income Tax Management Act, 1994.

Convening of Board.

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

Abstention by and challenge of members.

Cap. 12.

4. (1) The Chairman and any member of the Board may abstain from sitting or may be challenged for any of the causes mentioned in section 734 of the Code of Organization and Civil Procedure.

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

Decisions by Board.

5. (1) Save as otherwise provided in these rules, the decisions of the Board shall be taken by a majority vote.

(2) The decisions of the Board shall be in writing and shall be signed by the Chairman, and the original shall be kept in the registry of the Board together with the complete record of the proceedings of each appeal.

Secretary to the Board.

6. (1) The Minister shall appoint a Secretary to the Board and such other officers as may be necessary from time to time and shall determine their duties.

(2) The Secretary of the Board 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.

Evidence and proof.

7. For the purpose of —

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

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

(c) the appointment of legal or technical referees,

the Board shall 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 therein set out:

Provided that —

(i) the clerk, agent, servant 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 this 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 at sittings of the Board.

8. For the purpose of keeping good order during the hearing of appeals, the Board shall be vested with 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.

9. (1) The Board shall hold its sittings in any place which may from time to time be decided upon by the Minister responsible for finance and its locality shall be duly published by notice in the Gazette.

(2) The records relating to the proceedings of the Board shall be kept in the registry of the Board which shall be located at a place determined and notified as aforesaid.

Signing and service of notices etc.

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

(2) The provisions of section 29 of the Act shall apply to the service of notices, warrants or orders issued by the Board.

Appeals to the Board.

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

(2) The application of appeal shall be drawn up and filed with the Secretary of the Board in duplicate, one copy of which shall be served through the Secretary on the Commissioner.

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

Provided that the Board shall not take cognizance of any grounds other than those submitted in the notice of objection or in any

other document produced before the assessment is determined by the Commissioner.

Reply by the Commissioner.

12. When an application of appeal is served on the Commissioner, he shall, not later than eight days after the date of service, file with the Secretary of the Board a reply in duplicate stating his reasons for contesting the application, one copy of which shall be served on the appellant.

Hearing of appeals.

13. (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 such filing, the Board shall appoint a day for the hearing of the appeal.

(2) Notice of the day and time appointed for the hearing of the appeal shall be given to the appellant and to the Commissioner in Form B set out in the Schedule hereto.

(3) The appellant or his agent may be assisted during the hearing of the appeal by a legal practitioner or by an accountant.

(4) The notice to be given to any person to appear before the Board to give evidence and/or to produce books or other documents shall be in the Form C set out in the Schedule hereto.

Fees and costs.

14. (1) No fees shall be levied by the Board in connection with proceedings before it except travelling expenses, if any, incurred for service.

(2) The fee payable to any member of the legal profession assisting an appellant or his agent before the Board shall be taxed on the amount of tax in contestation in accordance with Tariff E of Schedule A annexed to the Code of Organization and Civil Procedure and the fee payable to any referee appointed under the provisions of rule 7 hereof shall be taxed in accordance with Tariff G of the said Schedule A.

(3) The costs of the proceedings shall be borne by the parties, or by any of them, as the Board may direct.

(4) Neither of the parties can recover from the other in connection with proceedings before the Board any amount in respect of costs in excess of fees taxed in accordance with these rules.

Procedure.

15. Save as otherwise expressly provided by these rules, the Board shall regulate its own procedure.

Revokes L.N. 47 of 1981.

16. The Appeals (Board of Special Commissioners) Rules, 1981, are hereby revoked.

SCHEDULES

FORM A

Rule 11 (1)

I.T. Reg. No. .....

INCOME TAX MANAGEMENT ACT, 1994
(ACT NO. XVIII OF 1994)

APPLICATION OF APPEAL
TO THE BOARD OF SPECIAL COMMISSIONERS
(Section 35)

Name and address of appellant
and of his agent, if any:—

To the Secretary of the Board of Special Commissioners.

The appellant submits:—

That by Notice of Assessment dated the ..... issued by the Commissioner of Inland Revenue (hereinafter referred to as "the Commissioner"), the appellant has been informed that the amount of income tax payable by ..... for the year(s) of assessment ..... is Lm.....

That by Notice of Objection dated the ..... the appellant applied to the Commissioner for a revision of the said assessments on the following grounds:

.....

That by Notice of Refusal dated the ..... the Commissioner informed the appellant that he refused to amend the said assessment(s), as desired and that the tax payable by ..... is Lm.....

That the grounds upon which the Commissioner gave his refusal are as shown in a decision, copy of which is annexed hereto;

That the amount of the tax which is not in dispute is Lm ..... and the appellant has already paid this amount as requested by the Commissioner in the decision annexed hereto — which payment was made as follows:—

* .....

.....

.....

That, in the submission of appellant, the said grounds are not valid for the following reasons:—

.....

.....

.....

Wherefore, the appellant submits that the aforesaid assessments be amended in the following sense, viz:—

.....

.....

.....
Signature of the appellant or of his agent

Filed by ..... on the .....

.....
Secretary of the Board
of Special Commissioners

* Insert here deductions at source, and payments of provisional and settlement tax, with an indication of dates and receipts numbers, as applicable.

FORM B

Rule 13 (2)

I.T. Reg. No. .....

INCOME TAX MANAGEMENT ACT, 1994

(ACT NO. XVIII OF 1994)

NOTICE OF THE DAY AND TIME FOR THE HEARING OF AN APPEAL BEFORE THE BOARD OF SPECIAL COMMISSIONERS

(Section 35 (2))

To: .....

.....

I have to inform you that the Board of Special Commissioners will hear on ..... the ....., ...at ..... the appeal entered by ..... against the assessment(s) of income tax made upon ..... for the year(s) of assessment .....

Date .....

.....
Chairman of the Board of Special Commissioners

.....
Secretary of the Board of Special Commissioners

FORM C

Rule 13 (4)

I.T. Reg. No. .....

INCOME TAX MANAGEMENT ACT, 1994

(ACT NO. XVIII OF 1994)

NOTICE TO A PERSON TO GIVE EVIDENCE AND/OR TO PRODUCE BOOKS, ETC. BEFORE THE BOARD OF SPECIAL COMMISSIONERS

(Section 34 (7))

To: .....

You are hereby required to attend before the Board of Special Commissioners on ..... the ....., ...at ..... in order to give evidence in an appeal made by ..... concerning the assessment of income tax made upon ..... for the years(s) of assessment ..... and/or to produce .....

.....

.....

being books or documents in your custody or under your control relating to the said income.

Failure to attend as hereby required will expose you to the sanctions prescribed by law.

Date .....

.....
Chairman of the Board of Special Commissioners

.....
Secretary of the Board of Special Commissioners.

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