# REVENUE ADMINISTRATION (AMENDMENT) ACT, 2020

**Act 1029**

## ARRANGEMENT OF SECTIONS

*Section*


1. Section 44 of Act 915 amended
2. Section 74 of Act 915 amended
3. First Schedule to Act 915 amended
4. Fourth Schedule inserted

Act 1029

THE ONE THOUSAND AND TWENTY-NINETH

# ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

## REVENUE ADMINISTRATION (AMENDMENT) ACT, 2020

**AN ACT** to amend the Revenue Administration Act, 2016 (Act 915) to establish an Independent Tax Appeals Board, provide for the payment of a shortfall in tax liability without payment of a penalty and for related matters.

**DATE OF ASSENT:** *6th October, 2020.*

PASSED by Parliament and assented to by the President

**Section 44 of Act 915 amended**

**1.** The Revenue Administration Act, 2016 (Act 915) referred to in this Act as the "principal enactment" is amended by the substitution for section 44, of

"**Appeal against objection decision**

44. (1) A person who is dissatisfied with a decision of the Commissioner-General may, within thirty days, appeal against the decision to the Independent Tax Appeals Board referred to in this Act as "the Appeals Board" as set out in the Fourth Schedule.

(2) A person who is dissatisfied with the decision of the Appeals Board may appeal against the decision to the Court within thirty days from the date the decision was served on the person.".

**Section 74 of Act 915 amended**

**2.** The principal enactment is amended in section 74

*(a)* by the substitution for subsection (2), of

"(2) Despite subsection (1),

*(a)* the penalty imposed under this section shall be cumulatively increased by twenty percent for each subsequent application of this section to the person within the last five years; and

*(b)* a penalty shall not be imposed on a person if that person voluntarily discloses to the Commissioner-General an error inadvertently made by that person before the error is discovered by a tax officer; or before the next tax audit of that person, whichever is earlier";

*(b)* by the insertion after subsection (2), of

"(2A) Subsection (2) shall not apply

*(a)* if the person liable to pay the tax has been assessed by the Commissioner-General in respect of the tax or any matter relating to the tax;

*(b)* unless the person liable to pay the tax makes full disclosure and declares and pays the accrued liabilities before the conclusion of the audit or investigation; or

*(c)* if the person liable to pay the tax has been notified by the Commissioner-General or by a person acting for or on behalf of the Commissioner-General of an enforcement action relating to the failure to comply with an enactment administered by the Commissioner-General unless that person immediately pays off any taxes assessed or due;"; and

*(c)* by the substitution for subsection (5), of

"(5) A person who, in relation to

*(a)* the importation or exportation of goods,

*(b)* trade in services or intangible property, or

*(c)* any tax law,

mis-states or falsifies a price, quantity, volume, other substantive term of invoice or value for the purpose of tax evasion including manipulating value added tax, customs duties, income taxes, excise duties, levies or any other form

of taxes or revenue collected by the Government is treated as making a false or misleading statement to a tax officer.".

**First Schedule to Act 915 amended**

**3.** The principal enactment is amended in the First Schedule by the substitution for Part II, of

"Part II

Tax Clearance Certificate Required

| INSTITUTION | PURPOSE OF TRANSACTION |
|---|---|
| Ghana Revenue Authority | Importation of goods in commercial quantities;<br><br>Customs clearing and forwarding;<br><br>Application for licence under the Customs Act, 2015 (Act 891); and<br><br>Application for licence under the Excise Duty Act, 2014 (Act 878). |
| Lands Commission | Title registrations and transactions |
| Government Ministries, Government Agencies, Local Government Authorities and other bodies in which public funds are vested | (i) Contracts including contracts for supply of goods, works and services<br><br>(ii) Submission of tender for supply of goods, works and services<br><br>The requirements stated in paragraphs (i) and (ii) apply to each member of a consortium or joint venture, and sub-contractors engaged in the contract or tender. |
| Professional bodies | Renewal of practising licence |

".

**Fourth Schedule inserted**

**4.** The principal enactment is amended by the addition after the Third Schedule, of

**"FOURTH SCHEDULE**
Independent Tax Appeals Board
*(section 44(1))*

*Independent Tax Appeals Board*

**Establishment of an Independent Tax Appeals Board**

**1.** There is established by this Act an Independent Tax Appeals Board.

**Functions of the Appeals Board**

**2.** The Appeals Board shall hear and determine appeals against decisions of the Commissioner-General with respect to objections to tax decisions under section 43 of the Act.

**Composition of the Appeals Board**

**3.** (1) The Appeals Board shall comprise

*(a)* a chairperson of not less than ten years' experience in tax practice who is a lawyer of not less than ten years standing at the Ghana Bar or a retired Superior Court Judge;

*(b)* two retired officers of the Ghana Revenue Authority not below the rank of Chief Revenue Officer, who qualify for appointment as tax consultants;

*(c)* two other persons with the same qualification as the chairperson in subparagraph *(a)*;

*(d)* two representatives of the Chartered Institute of Taxation, Ghana nominated by the Institute, each of whom has not less than ten years of tax practice;

*(e)* two representatives of the Institute of Chartered Accountants, Ghana nominated by the Institute each of whom has not less than ten years of practice; and

*(f)* two representatives from the private sector who are women.

(2) The chairperson and members of the Appeals Board shall be appointed by the Minister.

**Tenure of office of members of the Appeals Board**

**4.** (1) A member of the Appeals Board shall hold office for a period of not more than four years from the date of appointment and is eligible for re-appointment for another term only.

(2) A member of the Appeals Board may at any time resign from office in writing addressed to the Minister.

(3) A member of the Appeals Board who is absent from three consecutive meetings of the Appeals Board without sufficient cause ceases to be a member of the Appeals Board.

(4) The Minister may by a letter addressed to a member revoke the appointment of that member.

(5) Where a member of the Appeals Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability may result in the declaration of a vacancy.

(6) Where there is a vacancy

*(a)* under subparagraph (2) or (3) or subparagraph (2) of paragraph 6;

*(b)* as a result of a declaration under subparagraph (5), or

*(c)* by reason of the death of a member,

the Minister shall appoint a person to fill the vacancy for the unexpired term.

(7) Despite subparagraph (1), where a matter before the Appeals Board is pending on the date of expiry of the tenure of office, the Appeals Board shall continue to discharge the duties of the Appeals Board for a period of not more than six months from the date of expiry of the tenure of office for the purposes of disposing of the matter.

**Business of the Appeals Board**

**5.** (1) The chairperson of the Appeals Board shall empanel members of the Appeals Board at a place and time, as and when necessary, for purposes of adjudicating a matter before the Appeals Board.

(2) The chairperson may constitute more than one panel at any given time.

(3) The Appeals Board is duly constituted for its work by three members of the Appeals Board which shall constitute a panel.

(4) Where the chairperson is not a member of the panel constituted in subparagraph (3), the chairperson shall designate a member of the panel who has similar qualification of the chairperson to preside at sittings of the panel.

(5) A panel duly constituted under this Act may invite an expert to assist the panel in the discharge of the functions of the panel.

(6) The decision of a panel shall be considered as the decision of the Appeals Board.

**Disclosure of interest**

**6.** (1) A member of the Appeals Board who has an interest in a matter for consideration by the Appeals Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Appeals Board in respect of the matter.

(2) A member of the Appeals Board who fails to disclose an interest or takes part in the decision or deliberation without disclosing that interest ceases to be a member of the Appeals Board and in addition commits an offence and is liable on summary conviction to

*(a)* a fine of not more than one hundred and fifty penalty units or a term of imprisonment of not more than six months; and

*(b)* forfeit to the Republic property which was acquired whether directly or indirectly with the benefit resulting from the decision or deliberation.

**Allowances of members of the Appeals Board**

**7.** Members of the Appeals Board shall be paid allowances approved by the Minister.

*Administrative and Financial Provisions*

**Secretariat of the Appeals Board**

**8.** (1) The Ministry of Finance shall provide a secretariat for the Appeals Board from where the Appeals Board shall operate.

(2) The Minister shall designate a public servant with legal and administrative background as the Executive Secretary to the Appeals Board.

(3) The Executive Secretary shall, subject to this Act,

*(a)* receive applications for appeals;

*(b)* issue notices;

*(c)* keep a record of the proceedings of the Appeals Board;

*(d)* keep or cause to be kept and maintained, a register of notices and rulings of the Appeals Board;

*(e)* have the custody, and keep an account, of fees and other moneys payable or paid to the Appeals Board and keep proper accounts of the moneys; and

*(f)* perform any other function and exercise any other power conferred by Regulations made under section 107.

(4) An appeal, application or any other document required to be filed under this Act shall be filed in the office of the Executive Secretary.

(5) The Executive Secretary shall cause every decision of the Appeals Board to be communicated to the parties.

**Sources of money of the Appeals Board**

**9.** (1) The source of money for the Appeals Board is the sums of money approved by Parliament.

(2) The moneys of the Appeals Board shall be applied for the purpose for which the Appeals Board is established and in accordance with the directions of the Minister.

*Procedures of the Appeals Board*

**Proceedings of the Appeals Board**

**10.** (1) Proceedings of the Appeals Board shall be conducted at a time and in a place determined by the chairperson.

(2) In proceedings of the Appeals Board,

*(a)* the appellant shall appear in person or by the duly authorised agent of the appellant on the day and at the time fixed for hearing of the appeal;

*(b)* where the appellant is absent, the Appeals Board may adjourn the hearing to another date and time if it is proved to the satisfaction of the Appeals Board that the appellant was prevented from attending or caused to be represented at the hearing of the appeal on the date and the time fixed for hearing due to

(i) the absence of the appellant from the country;

(ii) sickness; or

(iii) any other reasonable cause;

*(c)* the onus of proving that the assessment or decision in respect of which an appeal is preferred shall be on the appellant;

*(d)* the Appeals Board may confirm, reduce, increase or annul the assessment appealed against or make any other order as the Appeals Board considers fit;

*(e)* where the decision of the Appeals Board results in an amendment to an assessment, the Commissioner-General shall amend the assessment accordingly and cause a notice setting out the amendment and the amount of tax payable to be served on the person assessed;

*(f)* paragraph *(e)* shall not prevent the Commissioner-General from making any adjusted assessment which does not involve re-opening of any matter that has been determined on an appeal or an assessment; and

*(g)* where any fraud or any gross or wilful neglect has been committed by or on behalf of any person in connection with or in relation to any tax, duty or levy the Commissioner-General may make a further adjustment on that person despite the fact that the further adjustment involves re-opening a matter which has been determined on appeal.

**Hearing of an appeal**

**11.** (1) The Executive Secretary shall notify all parties in writing of the time and place of the hearing, and shall give the parties not less than fourteen days' notice.

(2) An appeal shall be heard in camera.

(3) Parties may appear in person at a hearing or be represented by any other person being an advocate or any other person registered as a tax consultant, accountant or auditor.

(4) The Commissioner-General may be represented by any person duly authorised.

(5) Where a party to the proceedings or a person duly appointed by the party fails to appear at the hearing, the Appeals Board shall consider the appeal in the manner that the Appeals Board considers fit.

(6) A party to a proceeding may give evidence before the Appeals Board orally, by affidavit or in any other manner that the Appeals Board considers fit.

(7) The Appeals Board shall not be bound by the rules of evidence.

(8) The Appeals Board may, for the purposes of the expeditious determination of an appeal, engage persons with relevant expertise.

**Withdrawal of appeal**

**12.** A person may, in writing, withdraw an appeal at any time before a decision is made.

**Decision of the Appeals Board**

**13.** (1) The Appeals Board shall deliver the decision of the Appeals Board in writing at the end of a hearing.

(2) The Executive Secretary shall, within fourteen days of the delivery of the decision, serve all parties to the proceedings copies of the decision duly endorsed and the date of issue marked on it.

(3) A decision of the Appeals Board may be made available to the public.

(4) A person who fails to comply with an order of the Appeals Board without reasonable excuse commits an offence under this Act and is liable to the penalty specified in section 78.

**Effect of an appeal**

**14.** Unless the Court otherwise orders, an appeal to the Court shall not operate as a stay of execution of an order of the Appeals Board.

*Miscellaneous*

**Indemnity of members of the Appeals Board**

**15.** A member of the Appeals Board, the Executive Secretary or any other person empowered to perform a function under this Act is not personally liable for an act done or omitted to be done, if the act or omission is done in good faith during the performance of a function under this Act.".

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