

THE UNITED REPUBLIC OF TANZANIA



NO. 22 OF 1994

Manawa I ASSENT,
President

3/11/94

An Act to establish and provide for the functioning and operation of the Tanzania Revenue Board.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Tanzania Revenue Board Act, 1994.

Short title
and com-
mence-
ment

(2) This Act shall be deemed to have come into operation on the 1st day of July, 1994.

2. In this Act, unless the context requires otherwise—

Interpre-
tation

“Board” means the Tanzania Revenue Board established by section 3;

“Chairman” means the Chairman of the Board and includes the Vice-Chairman or any other person for the time being discharging the functions of the Chairman;

“Commissioner” means the Commissioner for Research and Investigation appointed under section 13;

“member” means a member of the Board and includes the Chairman;

“Minister” means the Minister for the time being responsible for finance;

“officer” means an officer of the Board appointed under section 9(4);

“revenue” means taxes, duties, fees, fines or other monies imposed by or collected under laws administered by the revenue commissioners;

“revenue Commissioner” means the Commissioner for Customs, the Commissioner for Income Tax, the Commissioner for Research and Investigation or the Commissioner for Sales Tax and Inland Revenue;

“revenue Department” means a department administered by a revenue Commissioner.

PART II
THE TANZANIA REVENUE BOARD

Establish-
ment of
the Board

3.—(1) There is hereby established for the purposes of this Act a Board to be known as the Tanzania Revenue Board.

(2) The Board shall be a statutory organ, advisory to the Minister and overall coordinator of the implementation of revenue policies, by revenue departments, and shall operate under the general supervision of the Minister.

Composi-
tion of the
Board

4.—(1) The Board shall subject to this section consist of—

- (a) a Chairman who shall be appointed by the President, on advice by the Minister;
- (b) the Deputy Principal Secretary to the Treasury responsible for revenue;
- (c) the revenue Commissioners;
- (d) not more than six nor less than three other members appointed by the Minister.

(2) The Chairman and members of the Board other than members *ex officio*, shall be appointed from among persons who qualify for appointment by virtue of their professional knowledge and experience in taxation, commerce, economics, law or in such other matters of revenue as the Minister may determine.

Tenure of
office of
members

5.—(1) A member of the Board other than a member *ex officio*, shall hold office—

- (a) on such terms and conditions as are specified in the instrument of his appointment;
- (b) in the first instance, for a period not exceeding three years; and
- (c) shall be eligible for re-appointment only for a subsequent period not exceeding three years.

(2) The appointing authority in respect of a member may terminate or suspend the appointment of that member—

- (a) for the member's inability to perform the functions of his office;
- (b) for misbehaviour;
- (c) if the member is convicted of a criminal offence involving moral turpitude and in respect of which a maximum penalty exceeding six months imprisonment may be imposed;
- (d) for any other sufficient cause.

Functions
of the
Board

6.—(1) The functions of the Board shall be—

- (a) to monitor, oversee, coordinate activities and ensure the fair, efficient and effective administration of tax and other revenue laws by revenue departments in the jurisdiction of the Union Government;

- (b) to **advise** the Minister and other relevant organs on all matters pertaining to fiscal policy, the implementation of the policy and the constant improvement of policy regarding tax law and administration;
 - (c) to promote voluntary tax compliance to the highest degree possible;
 - (d) to take such measures as may be necessary to improve the standard of service given to tax payers, with a view to improving the effectiveness of the revenue departments and maximise revenue collection;
 - (e) to determine the steps to be taken to counteract fraud and other forms of tax and other fiscal evasions.
- (2) The Board shall in the discharge of its functions, have power to—
- (a) study revenue laws and identify amendments or alterations which may be made to any law for the purposes of improving the administration of and compliance with tax laws;
 - (b) study the administrative costs, compliance costs and the operational impact of all intended legislative changes and **advise the Government** accordingly;
 - (c) collect and process the statistics needed to provide forecasts of revenue receipt and the effect on yield of any proposals for changes in revenue laws and advise the Minister accordingly;
 - (d) consider bids by revenue departments for their annual running cost budgets, identify priorities and recommended appropriately to the Principal; Secretary to the Treasury;
 - (e) negotiate and agree with the Treasury the revenue collection targets for each revenue department and monitor their progress in achieving them;
 - (f) take or advise on the taking of measures necessary for ensuring that the revenue departments establish and maintain appropriate management and information systems;
 - (g) undertake work measurement exercises in order to determine the manpower need for the functions of each revenue department;
 - (h) set objectives and work targets for appropriate areas of work in each revenue department and monitor progress in achieving them;
 - (i) take such other measures as it may deem necessary or desirable for the achievement of the purposes and provisions of this Act.
- (3) Without prejudice to the generality of the functions and powers specified in subsection (1) and (2), the Board shall—
- (a) have power to do all such acts and things as may appear to it to be necessary, advantageous or convenient for the efficient and effective discharge of its functions; and

- (b) act in accordance with all such directions of a general or specific character as the Minister may by writing under his hand give to the Board.

Meetings
of the
Board

7.—(1) The business of the Board shall be discharged at meetings of the Board which shall be held at least once in every month for the discharge of its functions, but may meet on any other occasions subject to the demands of the times.

(2) Seven members shall constitute a quorum at any meeting of the Board, and no individual member shall have authority to use the powers of the Board or act in relation to any matter unless he is so authorised by a quorum of them.

Keeping
docu-
ments
closing

(3) Subject to this Act, the Board may make rules regulating its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of those meetings, the proceedings thereat, **the of minutes, the custody, production and inspection of keeping the minutes and other things, and the opening, keeping, and auditing of accounts of the Board.**

Role of
Minister

8.—(1) It shall be the duty of the Minister—

- (a) subject to other relevant written laws of the United Republic, to determine and ensure the effectual application of the fiscal policies of the United Republic;
- (b) see to the effective coordination of the policies for the collection and preservation of revenue.

Sec-
retariat

9.—(1) There is hereby established a Secretariat of the Board which shall subject to this Act be the executive, technical and administrative organ of the Board.

(2) The Secretariat shall be headed by a Director who shall be appointed by the President from among officers of the Treasury **appropriately qualified and experienced in revenue matters from among officers of the Treasury** and shall hold office on such terms and conditions, and for such period not less than five years, as may be specified in the instrument of his appointment and shall be eligible for reappointment.

(3) **The Director shall be responsible to the Board for the proper administration and management of the functions and affairs of the Board in accordance with the policy laid down by the Minister and the directions of the Board.**

(4) Subject to the directions of the Minister in that behalf, the Board may, from time to time, appoint and employ on such terms and conditions as the Board may determine such other officers and employees as may be necessary for the effective performance of its functions.

PART III

POWERS AND OPERATIONS OF THE BOARD

10.—(1) In the discharge of its functions under this Act, the Board may— Powers of the Board

- (a) direct the revenue departments to furnish it with any information, reports or other documents which the Board considers necessary for the performance of its functions;
- (b) give lawful instructions and orders to the revenue Commissioners in connection with the management, performance and operational policies of their respective departments;
- (c) save as is otherwise provided in this Act, have no power to intervene in the determination of tax liabilities of particular tax payers;
- (d) formulate and devise a system for securing, through internal audit systems, and verifying the correct processing by revenue departments of various cases before them, and in accordance with law and the relevant directions of the Minister.

(2) The Board shall, after consultation with the Minister, in relation to the discretionary power vested in the Minister, the Principal Secretary to the Treasury, a revenue Commissioner or other authority to exempt any person from tax or exempt, mitigate, defer or remit any tax, duty or other levy on the grounds of public or other interest, determine by order published in the *Gazette*, and specify the criteria or factors by reference to which any such exemptions, mitigation, deferment or remission may be granted.

(3) Notwithstanding the provisions of any other revenue legislation, where the Board determines and specifies criteria or factors referred to in subsection (2), no exemption, mitigation, deferment or remission shall be duly granted unless it complies with the provisions of the Order made by the Board.

(4) Notwithstanding the provisions of any other written law, the Minister shall, before granting any exemption, mitigation, deferment or remission obtain the opinion of the Board as to whether any particular case falls within the published criteria.

11.—(1) Notwithstanding the provisions of any other written law, where a revenue law has conferred power on a revenue Commissioner to refrain from assessing any person to tax or from recovering tax from him, then—

Further provisions regarding exemptions etc.

- (a) the Board shall, by order published in the *Gazette*, specify criteria by reference to which the power shall be exercised by the revenue Commissioner;

- (b) all references to the Minister by the revenue Commissioner in the exercise of the power shall, by virtue of this section and without further assurance, be construed as references to the Board;
- (c) the Board may, from time to time, by notice published in the *Gazette*, determine the amount of tax beyond which a revenue Commissioner may not exercise this discretionary power of remission conferred on him by any law.

(2) In the exercise of its functions under this Act, the Board shall, subject to such restrictions, qualifications and instructions regarding procedure as the Minister may give in writing to the Board, have power—

- (a) to consider applications for and grant remissions or abandonment of tax of amounts beyond the financial limits of the discretionary power of the relevant revenue Commissioner;
- (b) to require a revenue Commissioner to submit returns to the Board, at such intervals not exceeding three month, as the Board may direct; of the identity of the tax payers, the reasons for the remissions, and the amount of tax remitted or abandoned by him.

Annual
report on
exemptions

12.—(1) For the purposes of the promotion of fairness, honesty, answerability and transparency in the administration of revenue laws, the Board shall, subject to this Act, regularly report to the Minister and submit an annual report to the National Assembly setting out, among other things, the total amount of tax remitted or foregone in respect of each of the criteria specified under subsection (1) (a) of section 11.

(2) For the more effectual implementation of this Part, the Board shall cause to be kept and maintained a full and clear record indicating—

- (a) the names and number of persons in respect of tax exemptions are granted;
- (b) the number of exemptions, mitigation and deferment of taxes and duties granted;
- (c) the period for which and the amounts of taxes and duties exempted, mitigated or deferred.

(3) The report submitted to the Minister and to the National Assembly in furtherance of the purposes and provisions of this Act shall in showing the summary of the numbers of persons and amounts of exempted, mitigated or deferred taxes and duties have them analyzed between the different statutory classes of exemption and, in the case of exemptions by publication in the *Gazette*, or in the public interest, analyzed also by reference to the criteria specified by the Board.

Investigation
and
research

13.—(1) There is hereby established the office of Commissioner to be known as Commissioner for Research and Investigation.

(2) The office shall be a public office and the holder shall be appointed by the President from amongst senior civil servants qualified for appointment by virtue of professional knowledge and experience in taxation, commerce, economics, law or financial or revenue, administration, as a member, and he shall be the head of a revenue department responsible for research and investigation and answerable to the Board for the purposes of this Act.

(3) There shall be appointed for the purposes of this Act such number and grade or categories of officers as may be necessary to enable the Commissioner to discharge his functions under this Act.

(4) The officers shall be public officers and shall be under the administrative control of the Commissioner, subject to relevant civil service laws.

(5) The functions of the Commissioner shall be to take such steps as may be necessary with a view to eliminate fraud and other forms of fiscal evasion in the revenue departments.

(6) Without prejudice to subsection (5), the Commissioner shall, where it appears to him that an offence has been, is being or is likely to be, committed under any revenue law—

- (a) enquire or request the appropriate revenue Commissioner to enquire, into the matter; and
- (b) submit a report on the facts and make appropriate recommendations to the Board.

(7) In the discharge of his functions under this Act, the Commissioner may—

- (a) issue to any officer a warrant in the prescribed form for—
 - (i) the inspection of any premises, goods, or documents;
 - (ii) the seizure of any goods or documents;
- (b) order or require any person to furnish any information or produce any document in his custody or control that the Commissioner may require;
- (c) order any person to appear before him;
- (d) subject to procedure prescribed by the Board, give to any revenue Commissioner such instructions as he thinks fit for the proper handling of any matter involving fraud or other forms of fiscal evasion.

(8) Where a revenue Commissioner, other than the Commissioner, has reasonable ground to believe that an offence of a type to be prescribed by the Board, has been, is being, or is likely to be, committed against any revenue law, he shall—

- (a) forthwith report the matter to the Commissioner; and

(b) if so requested by the Commissioner enquire into the matter in accordance with such instructions as the Commissioner may give to him.

(9) In this section, the term "officer" means an officer appointed.

Tax payer
identification and
exchange
of information

14.—(1) The Board shall, after consultation with the Minister, by notice published in the *Gazette*, provide for the establishment, maintenance and application of a system for the convenient and effectual identification of tax payers for the purpose of coordinated administration of the revenue laws of the United Republic.

(2) Without prejudice to the provisions of section 15, it shall be lawful for officers in the revenue departments to exchange or furnish each other with information or documents concerning any tax payer and for the purposes of the discharge of functions under this Act.

Confidentiality

15.—(1) Every member, revenue Commissioner or officer of the Board, the Secretariat and every other person employed in the carrying out of the provisions of this Act shall regard and deal with all documents and information relating to the income, expenditure or other financial dealings or status of any tax payer or other person involved in any operations in furtherance of the purposes and provisions of this Act, and all confidential instructions in respect of the administration of this Act which may come into his possession or to his knowledge in the course of his duties as secret.

Act, 1973
No. 33

(2) The provisions of sections 132 and 133 of the Income Tax Act, 1973, relating to the maintenance of confidentiality and to the safeguarding of the integrity of the officers and other persons discharging functions in relation to or under that Act, shall apply, *mutatis mutandis* in relation to the maintenance of confidentiality and the safeguarding of the integrity of persons discharging functions under or in relation to this Act.

PART IV

MISCELLANEOUS PROVISIONS

Training
of persons

16.—(1) The Board shall formulate and ensure the advantageous and regular execution of appropriate programmes for the training of its officers and other employees in the skilled and efficient performance of their functions under this Act.

(2) The Board shall, by virtue of this section and without any further assurance undertake the responsibility for the management of the Institute of Tax Administration, directing the allocation of its resources and be the authority for approving the curriculum and content of the courses offered at the Institute.

(3) The Board shall, subject to any directions in that behalf of the Minister, promote the training by the revenue departments of their officers and other persons such as may be necessary for ensuring the efficient performance of their duties under this Act.

17. A member or officer of the Board, Secretariat or the employee of the Commissioner shall not, in his personal capacity, be liable in civil or criminal proceeding in respect of any act or omission done in good faith in the performance of his functions under this Act.

Exemption from personal liability

18.—(1) The Board may, with the approval of the Minister, determine the fees allowances or other payments payable to members and the manner of payment.

Remuneration

(2) The officers and other employees or staff of the Board and the Secretariat, shall be paid such salaries, allowances and other payments as the Board shall determine from time to time.

19.—(1) The Board shall within three months of the close of the financial year prepare and submit to the Minister a full and detailed report concerning all its activities and business transacted in that year.

Annual report to be laid before National Assembly

(2) The provisions of subsection (1) shall not be construed as substituting the annual report for any other report prescribed by other provisions of this Act.

“(3) The Minister shall after a receipt of the annual report from the Board submit it before the National Assembly at its next sitting”.

20.—(1) Any person who for the purposes of this Act—

Offences

(a) without lawful excuse or justification, fails to comply with an order made under this Act;

(b) furnishes any information or produces any document which is false or misleading a material particular;

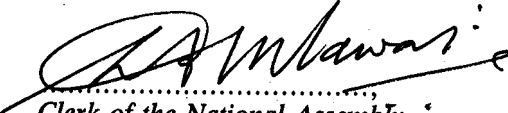
(c) obstructs any officer in the performance of his functions under this Act; or

(d) otherwise contravenes his Act, is guilty of an offence, and liable on conviction to a fine not exceeding five hundred thousand shillings and to imprisonment for a term not exceeding two years.

21.—(1) The Minister may, after consultation with the Board, make such regulations as he may deem necessary for the better carrying into effect of the provisions of this Act.

Regulations

Passed in the National Assembly on the Twenty-Fifth day of August, 1994.


Clerk of the National Assembly