

## **TAX APPEALS COMMISSION**

AN ACT TO PROVIDE FOR THE CONSTITUTION OF A TAX APPEALS COMMISSION;  
TO SPECIFY THE POWERS OF SUCH COMMISSION AND THE PROCEDURE TO BE  
FOLLOWED IN HEARING AND DISPOSING OF SUCH APPEALS; AND TO PROVIDE  
FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :

Act Nos,

4 of 2012

20 of 2013

Short title.                   1. This Act may be cited as the Tax Appeals Commission Act, No. 23 of 2011.

Establishment of           2.  
the Tax Appeals  
Commission and  
its composition.  
[2, 4 of 2012]

(1) There shall be established a Commission to be called and known as the Tax Appeals Commission (hereinafter referred to as the Commission) which shall be charged with the responsibility of hearing all appeals in respect of matters relating to imposition of any tax, levy, charge, duty or penalty.

(2) The Commission shall comprise not more than nine members three of whom shall be appointed from amongst retired Judges of the Supreme Court or the Court of Appeal and six other members from amongst persons who have wide knowledge of, and have gained eminence in the fields of Taxation, Finance and Law, by the Minister to whom the subject of Finance is assigned. One of the members shall be appointed as the Chairman of the Commission by the Minister.

(2A) The Chairman of the Commission shall constitute three panels comprising three members each, from among the members appointed under subsection (2) one of whom shall be a Judge as specified in subsection (2) to hear and determine any matter before the Commission.

(3) Every member of the Commission shall hold office for a term not exceeding three years, and shall be eligible for reappointment.

(4) Where any member of the Commission appointed under subsection (2) is unable to perform his functions under this Act due to ill health, absence from Sri Lanka or any other reason, the Minister may having regard to the provisions of subsection (2), appoint another member in his place. Any member so appointed shall hold office for the unexpired period of the term of office of the member whom he succeeds.

Secretary to the Commission.

3. There shall be a Secretary to the Commission who shall be appointed by the Minister in charge of the subject of Finance.

Panel of Legal Advisors.  
[3, 4 of 2012]

4. (1) The Minister shall appoint a Panel of Legal Advisors (hereinafter referred to as the Panel) comprising not more than ten persons, who have gained eminence in the field of Law, for the purpose of assisting the Commission in the exercise, performance and discharge of powers, duties and functions under this Act.

(2) Not less than two members of the panel shall be nominated by the Commission to attend the hearings of the Commission and assist in the progress of the appeal proceedings and investigations if any, before such Commission.

Meetings of Members of the Commission and the Panel  
[3, 20 of 2013]

5. At the request of the Chairman, the Secretary to the Commission shall summon once a month a meeting of all the members of the Commission and the Panel. The quorum for such meeting shall be seven members.

Remuneration of the Members of the Commission and the Panel.

6. The members of the Commission and the Panel shall be remunerated in such amount as shall be determined by the Minister.

Right to appeal to the Commission against the determination given under any law specified in the Schedules.  
[4, 20 of 2013]

7. (1) A person who is aggrieved by the determination -  
(a) of the Commissioner-General of Inland Revenue appointed in terms of the Inland Revenue Act, (hereinafter referred to as the 'Commissioner-General') given in respect of any matter relating to imposition of any tax, levy, charge, duty or penalty under the provisions of any of the enactments specified in Column I of Schedule I, or Schedule II to this Act; or

(b) of the Director-General of Customs (hereinafter referred to as the 'Director- General') given in respect of any matter specified in subsection (1A) of section 10 of the Customs Ordinance (Chapter 235),

may appeal to the Commission in accordance with the provisions hereinafter set out:

Provided that, every person who wishes to appeal to the Commission under paragraph (a) shall, at the time of making of such appeal, be required to pay into a special account which shall be opened and operated by the Commission for such purpose, an amount-

(a) as is equivalent to ten per centum which is non-refundable; or Amendment of section 7 of the principal enactment.

(b) as is equivalent to twenty five per centum which is refundable subject to subsection (1A) of this section or a bank guarantee for the equivalent amount which shall remain valid until the appeal is determined by the Commission,

of the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.

(1A)

(a) The amount referred to in paragraph (a) or (b) of the proviso to subsection (1), as the case may be, shall be transferred to the Commissioner-General upon the determination of the respective appeal to which such amount is applicable and which shall be set off against the sum as assessed by the Commissioner-General as being payable by such person as tax, levy, charge, duty or penalty under any of the said enactments and which assessment is the subject of the appeal.

(b) Any excess of the amount referred to in paragraph (b) of the proviso to subsection (1), may be set off against the taxes due and which are administrated by the Commissioner- General. Where any balance if any of such amount shall be refunded to the appellant on request made in that behalf in

writing to the Commissioner-General.

(2) A person to whom a right to appeal has accrued in terms of the provisions of the enactments specified in paragraphs (a) and (b) of subsection (1) of section 7, shall notify the Commission within thirty days of the determination being communicated to him under the respective laws, of the fact that he intends to prefer an appeal to the Commission against such determination. He shall state all relevant details of the determination in such notification including the name and address of his authorized representative, if any.

(3) Where the aggrieved person has notified the Commission in accordance with the provisions of subsection (2) that he intends to prefer an appeal to the Commission against such determination, the Commission shall forward a copy of such notification to the Commissioner-General or the Director-General, as the case may be and require him to transmit in writing, to the Commission and the aggrieved party and his authorized representative, within thirty days of receipt of the notification, his reasons for the determination against which such person seeks to appeal.

Procedure for  
preferring an  
appeal.

[5, 20 of 2013]

[5, 4 of 2012]

**8.**(1) Any person aggrieved by the determination of-

(a) the Commissioner-General, in respect of any matter relating to the imposition of any tax, levy, charge, duty or penalty; or

(b) the Director-General under subsection (1B) of section 10 of the Customs Ordinance (Chapter 235),

may if he is dissatisfied with the reasons stated by the Commissioner-General or the Director-General, as the case may be, prefer the appeal therefrom to the Commission within thirty days from the date of receipt of such reasons; or

(2) Where the Director-General fails to give such determination within the time period specified in subsection (1B) of section 10 of the said Ordinance, such person also may appeal to the Commission at the expiration of the time period specified in subsection (1B) of section 10 of the said Ordinance.

(3) The manner and the form of submitting such appeal, the procedure to be followed by the Commission in the hearing and determining of such appeal and the fees if any in respect thereof shall be determined

by the Commission by rules made, from time to time, in that behalf.

The hearing of the appeal.

[6, 20 of 2013]

[6, 4 of 2012]

9. (1) Within thirty days of the receipt of an appeal, the Secretary to the Commission shall fix a date and time and place for the hearing of the appeal, and shall give forty-two days notice thereof, both to the appellant and to the Commissioner-General or the Director-General, as the case may be.
- (2) The Commissioner-General or the Director-General, as the case may be, shall on receipt of a notice under subsection (1), transmit to the Commission the extracts of the provisions of the applicable enactments specified in Column I of Schedule I or Schedule II to this Act or any applicable provisions of the Customs Ordinance (Chapter 235), as the case may be, and the record of evidence maintained under such enactments.
- (3) Every appellant shall attend in person or by an authorized representative, on the day fixed for the hearing of the appeal by the Commission:

Provided that, where an authorized representative of the appellant is present at the hearing of an appeal, the Commission may postpone the hearing for such time as it thinks necessary to enable the attendance in person, of the appellant.

(4)

(a) in respect of an appeal under paragraph (a) of subsection (1) of section 7, the Assessor who made the assessment appealed against or a person authorized by the Commissioner-General in that behalf; or

(b) in respect of an appeal under paragraph (b) of subsection (1) of section 7, any officer authorized by the Director-General in that behalf,

Shall attend the hearing of the Commission at which such appeal is heard, in support of the determination of the Commissioner-General or the Director-General, as the case may be.

(5) The onus of proving that the assessment as determined by the Commissioner-General in terms of the respective enactments specified in Column I of Schedule I or Schedule II to this Act, is excessive or erroneous, shall be on the appellant.

(6) All appeals shall be heard in camera.

(7) The Commission shall have power to summon to a hearing, the attendance of any person whom it considers capable of giving evidence respecting the appeal and may examine him as a witness, either on oath or otherwise. Any person so attending may be allowed by the Commission to be paid any reasonable expenses necessarily incurred by him in so attending.

(8) Except with the consent of the Commission and on such terms as the Commission may determine, the appellant shall not at the hearing, be allowed to produce any document which was not produced before the Commissioner-General or the Director-General, as the case may be, or to adduce the evidence of any witness whose evidence was not led before the Commissioner-General or the Director-General, as the case may be, or adduce evidence of a witness whose evidence has already been recorded at the hearing before the Commissioner-General or the Director-General, as the case may be.

(9) At the hearing of the appeal the Commission may, admit or reject any evidence adduced whether oral or documentary, and the provisions of the Evidence Ordinance relating to the admissibility of evidence shall not apply in respect of such evidence.

(10) After hearing the evidence, the Commission shall on appeal either confirm, reduce, increase or annul, as the case may be, the assessment as determined by the Commissioner-General or may remit the case to the Commissioner-General with the decision of the Commission on such appeal. Where a case is so remitted by the Commission, the Commissioner-General shall revise the assessment in order that it is in conformity with such amount as stated in the decision of the Commission.

(11) The decision of the Commission shall be final and be notified to the appellant, and the Commissioner-General or the Director-General as the case may be.

Determination of appeals by the Commission.

[7, 20 of 2013]

[7, 4 of 2012]

**10.** The Commission shall hear all appeals received by it and make its determination in respect thereof, within two hundred and seventy days from the date of the commencement of its sittings for the hearing of each such appeal:

Provided that, all appeals pending before the respective Board or Boards of Review in terms of the provisions of the respective enactments specified in Column I of Schedule I, or Schedule II to this Act, notwithstanding the fact that such provisions are applicable to

different taxable periods as specified therein shall with effect from the date of coming into operation of the provision of this Act be deemed to stand transferred to the Commission, and the Commission shall notwithstanding anything contained in any other written law make its determination in respect thereof, within twenty four months from the date on which the Commission shall commence its sittings for the hearing of each such appeal.

Costs to be recovered with assessment if Commission does not reduce or annul the assessment.

- 11.** Where under subsection (10) of section 9 the Commission does not reduce or annul an assessment in respect of which an appeal had been preferred in terms of this Act, the Commission may order the appellant to pay as costs a sum not exceeding rupees five thousand, in addition to the assessed amount, which shall be added to the tax charged by the assessment, and recovered therewith.

Appeals on a question of law to the Court of Appeal.  
[8, 20 of 2013]

**11A.**

- (1) Either the person who preferred an appeal to the Commission under paragraph (a) of subsection (1) of section 7 of this Act (hereinafter in this Act referred to as the 'appellant') or the Commissioner-General may make an application requiring the Commission to state a case on a question of law for the opinion of the Court of Appeal. Such application shall not be entertained unless it is made in writing and delivered to the secretary to the Commission, together with a fee of one thousand and five hundred rupees, within one month from the date on which the decision of the Commission was notified in writing to the Commissioner-General or the appellant, as the case may be.
- (2) The case stated by the Commission shall set out the facts, the decision of the Commission, and the amount of the tax in dispute where such amount exceeds five thousand rupees, and the party requiring the Commission to state such case shall transmit such case, when stated and signed to the Court of Appeal, within fourteen days after receiving the same.
- (3) For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982 -
- (a) all proceedings before the Court of Appeal on any case stated under this section or incidental to the hearing, determination or disposal of any such case, shall be deemed to be civil proceedings before the Court of Appeal of the value of five thousand rupees or of such greater

amount as is set out by the Commission in the stated case as the amount of the tax in dispute;

(b) every such case stated shall, together with all books, documents and papers annexed thereto by the Commission, be deemed to be a single exhibit in civil proceedings before the Court of Appeal; and

(c) the Commissioner-General, if he is the appellant, shall be deemed to be a Government officer suing, or if he is the respondent to the appeal, a Government officer being sued, in a suit *virtue officii*.

(4) At or before the time when he transmits the stated case to the Court of Appeal, the party requiring it shall send to the other party, a notice in writing informing him that a case has been stated on his application and shall supply him with a copy of the stated case.

(5) Any two or more Judges of the Court of Appeal may cause a stated case to be sent back to the Commission for amendment, and the Commission shall amend the case accordingly.

(6) Any two or more Judges of the Court of Appeal may hear and determine any question of law arising on the stated case and may in accordance with the decision of Court upon such question, confirm, reduce, increase or annul the assessment determined by the Commission, or may remit the case to the Commission with the opinion of the Court, thereon. Where a case is so remitted by the Court, the Commission shall revise the assessment in accordance with the opinion of the Court.

(7) The Court of Appeal may, pending the determination of the case stated to such Court, make an interim determination as regards the amount of tax recoverable by the Commissioner-General in respect of the amount of tax in dispute, on the basis of a report furnished by the Commissioner-General.

(8) In any proceedings before the Court of Appeal under this section, the Court may make such order in regard to costs in the Court of Appeal and in regard to the sum paid under subsection (1), as the Court may deem fit.

(9) For the purposes of enabling the Commissioner-General or any other party to appeal to the Supreme Court against any order of the Court of Appeal under subsection (6), and for the purpose of the application of the provisions of any written law relating to appeals



to the Supreme Court from the decisions of the Court of Appeal -

(a) an order made by the Court of Appeal under subsection (6) shall, together with any order of that Court under subsection (8), be deemed to be a final judgment of the Court of Appeal in a civil action between the Commissioner-General and such other party;

(b) the value of the matter in dispute in such civil action shall be deemed to be five thousand rupees:

Provided that, where the Commission in the stated case, set out an amount higher than five thousand rupees as the amount of the tax in dispute, the value of the matter in dispute in such civil action shall be deemed to be that higher amount; and

(c) in respect of any such appeal, the Commissioner-General shall not be required to make any deposit or pay any fee or furnish any security prescribed by such written law.

No suit or prosecution to lie.

**12.** No suit or prosecution shall lie against any member, officer or servant of the Commission for any lawful act done or omitted to be done in good faith under this Act or which is done on the directions of the Commission.

Rules.  
[8, 4 of 2012]

**12A.** (1) The Commission may make rules in respect of all or any of the matters in respect of which rules are required to be made under this Act.

(2) All rules made by the Commission under subsection (1) shall be approved by the Minister and published in the Gazette.

Repeals.  
[9, 20 of 2013]  
[9, 4 of 2012]

**13.** The provisions of the enactments specified in Column I of Schedule I are hereby amended or repealed in the sections or parts thereof as are specified in Column II of that Schedule to the extent and in the manner as shall be specified therein.

Interpretation.  
[10, 20 of 2013]  
[11, 20 of 2013]  
[10, 4 of 2012]

**13A.** For the purposes of this Act, unless the context otherwise requires-

'Assessor' shall have the same meaning as assigned to it in the Inland Revenue Act;

'Inland Revenue Act' means the Inland Revenue Act, No. 10 of 2006 and includes where necessary and appropriate, the

Inland Revenue Act, No. 28 of 1979 and Inland Revenue Act,  
No. 38 of 2000.

Sinhala text to  
prevail in case of  
inconsistency.  
[11, 4 of 2012]

- 14.** In the event of any inconsistency between the Sinhala and  
Tamil texts of this Act, the Sinhala text shall prevail.

**'Schedule I**

<b>Column I</b>	<b>Column II</b>
<b>Names of Enactments</b>	<b>Applicable Amendment</b>
1. Inland Revenue Act, No. 10 of 2006	(a) by the repeal of sections 166, 167, 168, 169 and 170; and  (b) by the substitution in subsection (2) and (3) of section 172 thereof for the words "Board of Review"  of the words and figures "Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011".
Inland Revenue Act, No.38 of 2000	(a) by the repeal of sections 137, 138, 139, 140 and 141 ; and (b) by the substitution in subsection (2) and (3) of section 143 thereof for the words 'Board of Review' of the words 'Tax Appeals Commission established by the Tax Appeals Commission Act, No.23 of 2011'.
Inland Revenue Act, No.28 of 1979	
2. Value Added Tax Act, No.14 of 2002	
3. Nation Building Tax Act, No.9 of 2009	
4. Economic Service Charge Act, No.13 of 2006	

(a) by the repeal of sections 118, 119, 120, 121 and 122 ; and (b) by the substitution in subsection (2) and (3) of section 124 thereof for the words 'Board of Review' of the words 'Tax Appeal Commission established by the Tax Appeals Commission Act, No.23 of 2011'.

by the repeal of sections 35 and 36

Section 8 is hereby amended by the substitution for the words and figures "Chapter XXII relating to appeals other than sections 166, 167, 168 and 169 of the words and figures 'Chapter XXIII relating to appeals other than sections 166, 167, 168, 169 and 170.'

Section 11 is hereby amended by the substitution for the words 'relating respectively

to appeals' of the words and figures 'relating respectively to appeals other than the provisions in sections 166, 167, 168, 169 and 170'

5. Stamp Duty (Special Provisions) Act, No. 12 of 2006.

Section 11 of the Stamp Duty (Special Provisions) Act is hereby amended by the substitution for the words 'Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessment , Appeals, Determination of Appeals' of the words "Chapters XVIII to XXIV of the Inland Revenue Act relating to Assessments , Appeals, Determination of Appeals, other than sections 166, 167, 168, 169 and 170 relating to appeals to Board of Review'

## **Schedule II**

Name of Enactment

1. Turnover Tax Act, No. 69 of 1981

2. Goods and Services Tax Act, No. 34 of 1996.