



Revenue  
Services  
Lesotho



# GUIDELINES FOR OBJECTIONS AND APPEALS

“Re Tjena Ka Uena”

# 1.Introduction

Where a Taxpayer is aggrieved or dissatisfied by an assessment issued or decision made by Revenue Services Lesotho (RSL) in respect of Taxpayer's tax affairs under the tax laws, such a Taxpayer has a right to object to such an assessment or decision.

Objections to assessments are provided for under the following legal instruments administered by Revenue Services Lesotho -

- a) The Income Tax Act no.9 of 1993 (as amended),
- b) The VAT Act no.9 of 2001 (as amended), and
- c) The Customs Act no.10 of 1982 (as amended).

The income tax and value added tax (VAT) regimes are premised on a self – assessment system of taxation. In a self – assessment system, Taxpayers assess their tax liabilities, file tax returns, and pay taxes due. This is otherwise referred to as a deemed assessment.

## 2. Assessments

As highlighted above, the tax return filed or submitted by the Taxpayer under the income tax or VAT regimes is deemed an assessment issued by the Commissioner General and served to the Taxpayer. The deemed assessment is treated as served to the Taxpayer on the due date for filing the return, or actual date the return is filed, whichever is later.

Where the Commissioner General is dissatisfied with the Taxpayer's submissions (deemed assessment), the Commissioner General may conduct a tax audit on the Taxpayer's books and records. A tax audit may result in an issuance of notice of amended assessment by the Commissioner General.

In the same way a Taxpayer can apply to the Commissioner General to amend a deemed assessment, detailing the grounds for such application. The Commissioner General may allow or disallow such an application. The Commissioner General or a representative of the Commissioner General may raise default or special assessments under the following circumstances:

- When a taxable person fails to lodge returns.
- When the Commissioner General is not satisfied with the returns lodged.
- When there are grounds to believe that a person will become liable to pay tax but is likely not to pay the tax due.

### 2.1 Basis for raising an Assessment.

An assessment is based on the Taxpayers' records and information about the Taxpayers' business. In the circumstance where proper records are not available, an estimated assessment will be issued to the Taxpayer.

### 2.2 Notice of Assessment

Upon ascertaining outstanding tax liability, a notice of assessment is issued to the Taxpayer specifying the following elements:

- The tax payable,
- The date the tax is due and payable,
- An explanation of the tax assessed, and

## 3. Objections

An Objection is a formal communication in writing from a Taxpayer to the Commissioner General showing dissatisfaction with a tax decision (e.g. an assessment raised) made on the Taxpayer. In the case of assessments, the burden of proof is on the Taxpayer to prove that the assessment is incorrect, and for any other tax decision, the burden is on the person objecting to the decision to prove that the decision should have been made differently.

Tax decisions which can be objected to range from those emanating from tax audits to those that result from the Commissioner refusing certain requests by the taxpayer, for instance refusal to register a Taxpayer for VAT purposes can be challenged through the objections process as an assessment.

## 4. Timelines for lodging an objection Income Tax

### 4.1 Objection to an assessment

According to the Income Tax Act, the Taxpayer has four (4) years to object an assessment issued (other than amended assessment) where such Taxpayer is dissatisfied with the assessment. The 4-year period is counted from the date the assessment was served to the Taxpayer.

### 4.2 Objection to an amended assessment

The Taxpayer has four (4) years (from the date the original assessment was served) or 60 days (from the date the amended assessment was served), whichever occurred later, to object to the amended assessment. For clarity, comparison is made between the end of the four year period after notice of original assessment is served and the end of 60 day period after notice of amended assessment is served. The event which comes later between the two is the one applicable for determining when to lodge an objection.

## Value Added Tax (VAT)

### 4.3 Objection to an Assessment

The Commissioner General may amend an assessment within four years after service of the notice of assessment and shall serve notice of the amended assessment on the person assessed.

A taxpayer who is dissatisfied with an assessment may file an objection to the assessment with the Commissioner General within 30 days after service of the notice of assessment. The 30 day period within which to file an objection is applicable for both deemed assessments and amended assessments.

## 5. Requirements for lodging an objection

Both the Income Tax and the VAT Acts require that the objection must be in writing and specify in detail the grounds upon which it is made. The objection to a tax decision must be in writing in the prescribed form precisely specifying in detail the grounds upon which it is made.

The objection to a tax decision should be accompanied by relevant document(s) or information which the Taxpayer intends to rely upon to support the objection.

## 6. Procedure to be followed when lodging objection

The steps below outline the procedure to be followed when making an objection:

- a) Download notice of objection form from RSL website (RAT6) through the following link: [https://www.rsl.org.ls/objections\\_and\\_appeals](https://www.rsl.org.ls/objections_and_appeals)
- b) Fill the Notice of Objection Form
- c) Attach supporting documents.
- d) Submit Notice of Objection Form to any RSL Digital Service Centre or send through an email together with supporting documents (attachments) to [objections@rsl.org.ls](mailto:objections@rsl.org.ls)

## 7. Obligations of a Taxpayer upon lodging an objection

The Taxpayer who has lodged an objection must pay the tax due in full together with any additional taxes, if there are any. However, the law does allow Taxpayers to request the Commissioner General to extend the time for payment of income tax beyond the date on which it is required to be paid, on good cause shown.

## 8. What is an Objection Decision?

An objection decision, otherwise referred to as a Commissioner General's objection decision, is a reasoned determination or ruling made by the Commissioner General, provided in writing in response to the Taxpayer's objection. The Commissioner General has an obligation to serve the Taxpayer with a written notice of the objection decision.

In his/her objection decision, the Commissioner General may:

- allow the objection in whole or part and amend the assessment to the extent of the allowance; or
- disallow the objection and confirm the assessment.

## 9. Timeline for making an objection decision by the Commissioner General

In connection with the Income Tax Act, the Commissioner General has ninety (90) days to serve the Taxpayer with the written notice of objection decision. The 90-day period is counted from the date the objection is received. However, the VAT Act states that the Commissioner General shall issue an objection decision within sixty (60) days from the date of receiving the objection. Please note that if more time is needed for issuing an objection decision, due to exceptional circumstances or the complexity of a matter, the Commissioner General shall duly notify the Taxpayer and inform them of an alternative timeline.

## 10. Important Note

The two-tier internal appeal process was introduced to make the internal objections processes more meaningful. This means that when a taxpayer makes an objection within the stipulated timelines outlined above, the matter is firstly handled by a relevant Commissioner, in most instances, the Commissioner Core Operations (CCO). The CCO will engage both the Taxpayer and the relevant RSL team and then arrive at a decision. It is after this stage that the Taxpayer can file their objection with the Commissioner General.

# Appeal to the Revenue Appeals Tribunal

## 11. Revenue Appeals Tribunal

When an objection is first received, it is reviewed by the Manager Clearance Hub, and make a decision on the matter.

If the Taxpayer is not satisfied with the decision of the Manager Clearance Hub, they can internally appeal to the Deputy Commissioner Revenue Operations. The Deputy Commissioner Revenue Operations will review the objection decision, make a decision, and send the response to the Taxpayer within seven (7) days.

If the Taxpayer is not satisfied with the decision of the Deputy Commissioner Revenue Operations, they can internally appeal to the Commissioner Core Operations. The Commissioner Core Operations will review the objection decision, decide, and send the response to the Taxpayer and Frontline office within fourteen (14) days.

If the Taxpayer is not satisfied with the Commissioner Core Operations' decision, a Taxpayer can internally appeal to the Commissioner General. The Commissioner General will review the objection decision, call for verbal presentations from the Taxpayer, Clearance Hub with leadership concerned and Customs Advisory Services to get clarity on the matter, then make a decision and send the response to the Taxpayer.

The Taxpayer who is still dissatisfied with the decision of the Commissioner General may appeal to the Revenue Appeals Tribunal using the process outlined in clause 12 below.

## 12. Appeal to the Revenue Appeals Tribunal

### 12.1 Revenue Appeals Tribunal

After the Commissioner General issues an objection decision, the Taxpayer may still appeal to the Revenue Appeals Tribunal if they are still dissatisfied with the Commissioner General's objection decision. This should be done within thirty (30) days of receipt of the objection decision disallowing the objection.

### 12.2 Requirements for lodging an appeal

- (a) A Taxpayer shall deliver to the Commissioner General a notice of appeal in a prescribed form.
- (b) The notice shall set out in full the terms of the order sought and shall be supported by a statement of grounds of appeal.

### 12.3 Decision of the Tribunal

A decision of the tribunal is made as quickly as practicable after completion of proceedings. The tribunal shall issue a written decision, including its findings of fact and opinion and the decision shall be final and conclusive.

#### Disclaimer

This guideline was developed using the law and administrative procedures that are currently applicable and in force. Taxpayers will be notified of any amendments to the law that change the substance of the contents of this guideline.