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INCOME TAX ACT 1947

INCOME TAX
(APPEALS PROCEDURE FOR
BOARD OF REVIEW) REGULATIONS 2023

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In exercise of the powers conferred by section 78(16) of the Income Tax Act 1947, the Minister for Finance makes the following Regulations:

Citation and commencement

1. These Regulations are the Income Tax (Appeals Procedure for Board of Review) Regulations 2023 and come into operation on 21 August 2023.

Definitions and application

2.—(1) In these Regulations —

“appeal panel”, in relation to an appeal, means the committee or member of the Board appointed by the Chairperson under section 78(9) or (10) of the Act to exercise, discharge and perform the powers, functions and duties of the Board for that appeal;

“appellant”, in relation to an appeal, means the person who appeals to the Board under section 79(1) of the Act;

“Board” means the Board of Review constituted under section 78 of the Act;

“Chairperson” means the Chairperson of the Board;

“Deputy Chairperson” means a Deputy Chairperson of the Board;

“email” means electronic mail;

“parties”, in relation to an appeal, means the appellant and the Comptroller, and “party” means either of them;

“remote communication technology” means electronic communication by video conferencing, tele-conferencing or other electronic means;

“secretary” means a secretary to the Board.

(2) These Regulations also apply to an appeal to the Board that is pending as at 21 August 2023.

Notice of appeal and petition of appeal

3.—(1) A notice of appeal mentioned in section 79(1) of the Act must be —

(a) in Form 1 in the First Schedule; and

(b) lodged with the secretary by email.

(2) A petition of appeal mentioned in section 79(1) of the Act must be —

(a) in Form 2 in the First Schedule; and

(b) lodged with the secretary by email.

(3) Despite paragraph (1) or (2), a notice of appeal or petition of appeal may be lodged in such manner as may be directed or allowed by the Chairperson or any Deputy Chairperson authorised by the Chairperson.

(4) On receipt of a notice of appeal or petition of appeal, the secretary must immediately forward one copy thereof to the Comptroller.

Defective notice of appeal

4. If the Chairperson, or any Deputy Chairperson authorised by the Chairperson, considers that a notice of appeal does not satisfy the requirements of regulation 3, the Chairperson or Deputy Chairperson may direct the appellant to lodge a notice of appeal that satisfies the requirements of that regulation by such time and in such manner as may be directed by the Chairperson or Deputy Chairperson.

Amendment of petition of appeal

5.—(1) An appellant may, with the consent of the appeal panel, amend the petition of appeal.

(2) Any amendment of a petition of appeal under paragraph (1) is subject to such conditions as the appeal panel may determine.

Withdrawal of appeal

6.—(1) An appellant may at any time withdraw the appeal upon obtaining the permission of —

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- (a) if the appeal panel has been appointed — the appeal panel;
or
 - (b) if the appeal panel has not been appointed — the Chairperson or any Deputy Chairperson authorised by the Chairperson.
- (2) Permission that is granted under paragraph (1) is subject to any conditions that the appeal panel, Chairperson or Deputy Chairperson (as the case may be) may impose.
- (3) The appeal panel may, when granting the permission, make any appropriate consequential order, including an order for the appellant to pay the costs of the Comptroller incurred up to the time the appeal is withdrawn.

Case management

7.—(1) The Chairperson, any Deputy Chairperson authorised by the Chairperson, or an appeal panel may, at any time, make any order to secure the just and efficient conduct of proceedings and the determination of the appeal.

(2) Without limiting paragraph (1), an order may relate to one or more of the following:

- (a) the manner in which proceedings (including any case management conference and any hearing) are to be conducted, whether by using any remote communication technology or otherwise;
- (b) the orders sought by the parties, their arguments in the appeal and the points at issue between them that require clarification;
- (c) the points on which the parties have to present further arguments;
- (d) the issues on which evidence is required, the nature of the evidence required, and the manner in which the evidence is to be presented (including by using any remote communication technology);

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- (e) the appointment and instruction of experts by the parties, and the manner in which expert evidence is to be given (including by using any remote communication technology);
 - (f) the submission of affidavits or expert reports;
 - (g) the submission of any document or information by any party;
 - (h) the exchange of documents between the parties;
 - (i) the examination or cross-examination of witnesses (including by using any remote communication technology);
 - (j) the filing and exchange of skeletal arguments;
 - (k) the written or oral submissions by parties on any aspect of the appeal;
 - (l) the abridgment or extension of any time limit;
 - (m) where there is more than one appeal by the same appellant — the hearing of any of the appeals together, the sequence for hearing the appeals separately, or the adjournment of any appeal until another appeal has been heard;
 - (n) for hearing any person on any proposal for a direction concerning any matter in sub-paragraphs (a) to (m).

(3) For the purpose of making any order mentioned in paragraph (1), the Chairperson, Deputy Chairperson or appeal panel may conduct a case management conference with the parties through any means (including by using any remote communication technology) that the Chairperson, Deputy Chairperson or appeal panel considers appropriate.

(4) Where any party fails to comply with any order made under paragraph (1), the appeal panel may draw any inference from the failure and proceed with the hearing or determination of any issue under the appeal or make any other order that the appeal panel thinks fit.

Joinder of parties

8. The Chairperson, or any Deputy Chairperson authorised by the Chairperson, may allow a joinder of parties and order that 2 or more appeals be heard together, if —

(a) it appears to the Chairperson or Deputy Chairperson that —

(i) doing so is convenient; or

(ii) a common issue of law or fact (or both) arises in all the appeals; and

(b) all the parties to the appeals consent to the joinder.

Hearing of appeals

9.—(1) The notice of the hearing of an appeal given under section 80(1)(b) of the Act must state the composition of the appeal panel appointed to hear and determine the appeal.

(2) The parties must attend the hearing (including by using any remote communication technology), whether or not by their authorised representatives, at the date and time and in the manner so fixed.

(3) In paragraph (2), “authorised representative”, in relation to a party to an appeal, means an advocate and solicitor or an accountant representing the party at a hearing of the appeal.

Order to attend or order to produce documents

10.—(1) Any party requiring a witness to be called to give evidence before the appeal panel must, not later than 14 days before the day fixed for the hearing, notify the secretary.

(2) Upon receiving a notification in paragraph (1), the secretary must request either the Registrar of the Supreme Court or the Registrar of the State Courts to act under Order 15, Rule 4 of the Rules of Court 2021 (G.N. No. S 914/2021), and the Registrar must thereupon issue and serve upon the witness an order to attend before, or an order to produce documents to, as the case may require, the appeal panel.

(3) The request of the secretary to the Registrar of the Supreme Court or the Registrar of the State Courts under paragraph (2) must specify the documents (if any) that the witness is to produce to the appeal panel.

(4) For the purposes of paragraph (2), the Registrar of the Supreme Court or the Registrar of the State Courts is to include the following words when issuing an order for a person confined in prison to attend before an appeal panel, in lieu of the requirement stated in Order 15, Rule 4(11) of the Rules of Court 2021:

“This order to attend is sufficient authority as an order under section 38 of the Prisons Act 1933 read with section 80(5A) of the Income Tax Act 1947 for the Superintendent of Prisons to produce the named person at the time and place stated.

The requesting party undertakes to pay upon request the costs to be incurred by the prison in complying with the order to attend.”.

Adjournment

11.—(1) Before the hearing of an appeal, the Chairperson, or any Deputy Chairperson authorised by the Chairperson, may adjourn the hearing for any reasonable cause and may fix a new date for the hearing.

(2) In the course of a hearing, the appeal panel may adjourn the hearing for any reasonable cause and may fix a date for a further hearing.

(3) If a date for a hearing or further hearing is fixed under paragraph (1) or (2), the secretary must notify the parties of the time and place of the hearing or further hearing, and the manner in which the hearing or further hearing is to be conducted (including by using any remote communication technology), not later than 14 days before the date of the hearing or further hearing, unless the parties agree to a shorter period of notice.

(4) The appeal panel may, on the conclusion of a hearing, adjourn for any period to consider the appeal.

Transcription

12.—(1) A party may make an application to the Chairperson, any Deputy Chairperson authorised by the Chairperson, or the appeal panel for a hearing to be transcribed, and for a certified copy of the transcript.

(2) The application under paragraph (1) must be made not later than 14 days before the hearing.

(3) Despite paragraph (2), the Chairperson, Deputy Chairperson or appeal panel (as the case may be) may approve an application under paragraph (1) even if it is made less than 14 days before the hearing.

(4) The party or parties making an application under paragraph (1) must bear the costs of the transcription.

(5) If no party makes an application under paragraph (1), the Chairperson, Deputy Chairperson or appeal panel (as the case may be) may order for the hearing to be transcribed.

(6) The Chairperson, Deputy Chairperson or appeal panel (as the case may be) must certify the transcript before a certified copy of the transcript is provided to any party.

(7) The costs of the transcription may be claimed as an item of disbursement unless otherwise ordered by the appeal panel, the Registrar, the Deputy Registrar or an Assistant Registrar of the Supreme Court, as the case may be.

Notification of decision of appeal panel

13.—(1) The decision of an appeal panel in respect of an appeal —

(a) may be conveyed to the parties by the secretary by rendering a written copy of the decision to them duly signed by all the members of the appeal panel; or

(b) may be delivered orally before the parties by any member of the appeal panel.

(2) To avoid doubt, where paragraph (1)(b) applies, it is not necessary for all the members of the appeal panel to reassemble merely for the purpose of delivering the decision.

(3) Where the decision of the appeal panel is the decision of a majority, that fact must be stated.

Costs

14. In awarding costs, the Board, the Registrar, the Deputy Registrar or an Assistant Registrar of the Supreme Court (as the case may be) is to take into account the principles in Order 21 of the Rules of Court 2021.

Non-compliance with order

15. Where there is any failure to comply with an order or direction of the Chairperson, Deputy Chairperson or appeal panel, the Chairperson, Deputy Chairperson or appeal panel may exercise all or any of the following powers:

- (a) waive the non-compliance of the order or direction;
- (b) disallow or reject the submission or use of any document;
- (c) refuse to hear any argument on any issue or make a finding on the issue without a hearing;
- (d) dismiss or set aside, in whole or in part, any proceedings, or any order or direction previously made;
- (e) direct any amendment to be made to any document;
- (f) make an order on costs or any other orders that are appropriate.

Correction of error

16. The following may be corrected at any time by the Chairperson, a Deputy Chairperson authorised by the Chairperson, an appeal panel or a secretary:

- (a) clerical mistakes in any document recording a direction, an order or a decision (including a determination) of the appeal panel, or any other document issued by the Chairperson, Deputy Chairperson, appeal panel or secretary in any proceedings;

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- (b) errors arising in such a document from an accidental slip or omission.

Presiding member of appeal panel

17.—(1) For an appeal panel comprising a committee of the Board, the presiding member is —

- (a) where the Chairperson is a member of the appeal panel — the Chairperson; or
- (b) where the Chairperson is not a member of the appeal panel and —
- (i) there is only one Deputy Chairperson on the appeal panel — the Deputy Chairperson; or
- (ii) there is more than one Deputy Chairperson on the appeal panel — such Deputy Chairperson as the Chairperson may determine.

(2) Where the Chairperson or a Deputy Chairperson is absent from any meeting of a committee at which he or she ought under paragraph (1) to be presiding, the meeting is to be presided by —

- (a) where there is only one Deputy Chairperson who is a member of the committee present — the Deputy Chairperson;
- (b) where there is more than one Deputy Chairperson who is a member of the committee present — such Deputy Chairperson as may be chosen by the Deputy Chairpersons present; or
- (c) where there is no Deputy Chairperson who is a member of the committee present — such member of the committee as may be chosen by the members of the committee present.

Procedure for objection to member's appointment to appeal panel

18.—(1) Subject to these Regulations, any party is entitled to lodge with —

- (a) the Chairperson; or

(b) a Deputy Chairperson authorised by the Chairperson, an objection to the appointment of any member of the Board to an appeal panel.

(2) Despite anything in these Regulations, an objection to the appointment of the Chairperson to an appeal panel may be determined by the Chairperson.

(3) An objection to the appointment of a member of the Board to an appeal panel must state the reason for the objection.

(4) The Chairperson, or a Deputy Chairperson authorised by the Chairperson, must determine whether the reason for the objection is valid.

(5) Where the Chairperson, or the Deputy Chairperson authorised by the Chairperson, determines under paragraph (4) that there is a valid reason for the objection, the member of the Board in respect of whom the objection was made must not be appointed to the appeal panel.

(6) Where the Chairperson, or the Deputy Chairperson authorised by the Chairperson, determines under paragraph (4) that there is no valid reason for the objection, the Chairperson or Deputy Chairperson must inform the objecting party that the objection is rejected.

(7) A member of the Board may be appointed to an appeal panel if all objections to the member's appointment have been rejected under paragraph (6).

(8) The decision of the Chairperson or Deputy Chairperson under paragraph (5) or (6) is final.

Record of proceedings

19.—(1) The secretary must keep a record of any proceedings in the form directed by the Chairperson, a Deputy Chairperson authorised by the Chairperson, or the appeal panel (as the case may be), including the documents submitted by parties.

(2) The records of any proceedings must be signed by the presiding member of the appeal panel.

Fees

20.—(1) A petition of appeal lodged under section 79(1)(b) of the Act must be accompanied by the fee specified in item 1 of the Second Schedule.

(2) A notification given under regulation 10(1) must be accompanied by the fee specified in item 2 of the Second Schedule.

(3) The fees mentioned in paragraphs (1) and (2) must be paid to the secretary in the manner directed by the secretary.

(4) Where —

(a) a cheque or any other authorisation for the payment of the fee mentioned in paragraph (1) or (2) is subsequently dishonoured or revoked; and

(b) payment of the fee is not received by the secretary within 7 days after the date the appellant is notified of the dishonour or revocation,

the petition of appeal or notification is deemed as not having been lodged or given.

Practice directions

21.—(1) Subject to the provisions of the Act and these Regulations, the Board may regulate its own procedure for the conduct of an appeal.

(2) The Chairperson may issue practice directions in relation to the procedures provided for by these Regulations.

Revocation

22. Revoke the Income Tax (Board of Review) (Appeals Procedure) Regulations (Rg 1).

FIRST SCHEDULE

Regulation 3(1) and (2)

FORM 1

INCOME TAX ACT 1947

NOTICE OF APPEAL UNDER SECTION 79(1)

ASSESSMENT NO.

1. (*state full name and address*) upon whom the above assessment dated 20 was served on gives notice of appeal to the Board of Review for a revision of the above assessment.

2. The following members of the Board are objected to:

3. The reason for the objection to each member of the Board listed above is as follows:

4. Appellant's address for service is

Dated 20 .

*Signature of Appellant
or his or her Solicitors or Agent.*

THE COMPTROLLER OF INCOME TAX
AND TO THE SECRETARY TO THE BOARD OF REVIEW.

FIRST SCHEDULE — *continued*

FORM 2

INCOME TAX ACT 1947

PETITION OF APPEAL AGAINST ASSESSMENT NO.

The Petition of Appeal of the said

Sheweth:

1. *(Here set out the name, address and description of the appellant with details of his or her trade, occupation, business or profession).*

2. *(Here set out concisely in numbered paragraphs the facts relating to that part of the income in respect of which the assessment is disputed).*

3. By notice of assessment No. dated the Comptroller of Income Tax assessed your Petitioner for the year of assessment 20 to tax in the sum of \$ on the basis of .

4. Your Petitioner on applied to the Comptroller of Income Tax under section 76(2) of the Income Tax Act 1947 for the assessment to be reviewed and revised.

5. On , the Comptroller of Income Tax replied that he or she did not propose to amend the assessment and in consequence of the reply your Petitioner on filed with the Comptroller and the secretary to the Board of Review a Notice of Appeal under section 79(1) of the Income Tax Act 1947.

6. The grounds of the appeal are as follows:

(Here set out in numbered paragraphs the grounds on which the appeal is based).

Dated 20 .

*Signature of Appellant
or his or her Solicitors or Agent.*

SECOND SCHEDULE

Regulation 20(1) and (2)

FEES

First column

Second column

- | | |
|---|--|
| 1. Filing a petition of appeal by — | |
| (a) a company | \$200 for each assessment appealed against |
| (b) a person other than a company | \$50 for each assessment appealed against |
| 2. Issue of order to attend or order to produce documents | The fee required for the sealing of an order to attend court or order to produce documents specified in Part 1 of the Fourth Schedule to the Rules of Court 2021 |

Made on 19 August 2023.

LAI WEI LIN
*Second Permanent Secretary,
Ministry of Finance,
Singapore.*

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