

GOVERNMENT NOTICE No. 32

TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33. No. 1

RULES

MADE BY THE APPEAL BOARD UNDER SECTION 43C OF THE
INCOME TAX ORDINANCE, CH. 33. No. 1

THE APPEAL BOARD RULES, 1967

1. These Rules may be cited as the Appeal Board Rules, 1967. Short
title
2. In these Rules—
 - “appeal” includes any matter, other than an application mentioned in rule 5, which the Appeal Board is authorised to hear and determine; Interpreta-
tion
 - “Chairman” means the Chairman of the Appeal Board;
 - “Court” means the Appeal Board;
 - “Form” means a form in the Schedule to these Rules;
 - “Inland Revenue” means the Board of Inland Revenue;
 - “Registrar” means the Registrar of the Appeal Board;
 - “Registry” means the office of the Registrar.

PART I

GENERAL

3. (1) The Registrar shall keep in the Registry suitable books of record in which he shall enter a true copy of every order, judgment, directive or other decision of the Court and every document that the Court may require to be entered therein; and such entry constitutes and is the original record of such order, judgment, directive or decision. The Regis-
try
- (2) It is the duty of the Registrar—
 - (a) to keep a record of all proceedings before the Court;
 - (b) to have the custody and care of all records and documents belonging or appertaining to the Court or filed in the Registry;
 - (c) to have the custody of the official seal of the Court and to affix it to any documents as may be required by law, or as may be generally or specially directed by the Court or the Chairman;
 - (d) to obey all rules and directions that may be made or given by the Court or the Chairman, touching his duties or office, and in the event of a conflict of such rules or directions those made by the Court shall prevail;
 - (e) to have every order or judgment of the Court drawn pursuant to the directive of the Court and filed in the Registry;
 - (f) to perform such other duties and functions as may be imposed upon him by or under these Rules or any enactment.

Form A (3) Every officer, clerk and employee attached to the Court shall, whenever required so to do by the Chairman, subscribe to a declaration in the Form A.

(4) The Registrar shall, by virtue of his office, have authority to take oaths and affidavits in proceedings before the Court.

(5) In the absence of the Registrar from illness or any other cause the duties and powers of the Registrar shall, where no person has been appointed to act in his stead, be performed or exercised by such officer or clerk in the Registry as may be designated by the Chairman, or, in his absence, by another member of the Court thereunto authorised by the Chairman.

Office hours

4. The Registry shall be open on every day of the year except Sundays, Good Friday, Easter Eve, Monday and Tuesday in Easter Week, Corpus Christi, Whit Monday, Christmas Day and the next following working day, and all other days appointed to be observed as public holidays, between the hours of 9.00 a.m. and 4.00 p.m., except Saturdays, when the office will be closed at 12 noon.

Applications to the Court
Form B

5. (1) An application to the Court under these rules, or under any enactment where no other express provision is made therefor, shall be in writing, signed by the applicant, his solicitor or agent, in the Form B with such variations as circumstances may require, and shall be addressed to all the persons on whom it is to be served.

(2) The application shall be filed in the Registry and a copy thereof served on every interested party within the time prescribed for the making of the application, or forthwith, where no such time has been prescribed.

Form C

(3) Subject to the directions of the Court or of the Chairman, the Registrar shall give to the applicant and to the other interested parties at least two clear days' notice of the time and place of the hearing of the application, unless the parties agree to a shorter notice, and the notice shall follow as closely as may be Form C.

(4) On the hearing of an application, evidence may be given by affidavit, but the Court may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit, and where, after such an order has been made, the person in question does not attend, his affidavit shall not be used as evidence unless by the special leave of the Court.

(5) Notwithstanding the previous provisions of this rule, the Court may, subject to such conditions as it may impose, permit an application to be made orally at the hearing of an appeal.

Filing of documents

6. (1) Any document required or authorised under these Rules to be filed in the Registry shall be delivered at the Registry to an officer or clerk of the Court during the office hours of the Registry.

(2) On the filing of any document in the Registry and on the issue thereof of any document the date stamp of the Court shall be affixed thereto.

7. (1) Unless these Rules or the Court or the Chairman otherwise direct, a party filing in the Registry any notice, application or other document under these Rules or under any enactment shall lodge in the Registry, in addition to the original, three copies of such notice, application or other document. Copies of documents

(2) The failure on the part of an appellant to comply with this rule shall not invalidate a notice of appeal.

8. Service of any notice, request or other document provided for in these Rules may be effected— Service of documents on parties

(a) on an appellant, by personal service or by registered mail addressed to the address given in the notice of appeal;

(b) on the respondent, by delivery at, or registered mail addressed to, the office of the respondent;

(c) on any party, at any other address or on any other person notified by the said party in a Notice filed in the Registry, a copy whereof has been served on the party serving the said document.

9. (1) Subject to rule 10, appeals shall be heard at Port-of-Spain. Place and time of hearing of appeals

(2) Twenty-eight clear days' notice shall be given to the appellant and to the respondent of the date fixed for the hearing of an appeal.

10. (1) When an appeal has been set down for hearing, any party may, within seven days after the receipt by him of the notice of hearing, make application to the Court for the appeal to be heard at a time or place other than that appointed in the notice of hearing. Application for change of venue

(2) The application shall set out the reasons in support of the application.

(3) An interested party shall, within seven days after service on him of a copy of the application in accordance with rule 5, file in the Registry a statement of his consent or opposition to the application and, if the latter, shall set out his reasons therefor.

(4) Before deciding on a time or place in opposition to the wishes of a party the Court shall afford the parties an opportunity of being heard in relation to the application.

(5) The Court may grant or refuse the application or fix such other time or place for the hearing as it deems advisable in the circumstances.

(6) In fixing the time and place of hearing the Court shall have regard to all the circumstances of the case, including the matter of expense and convenience to the parties.

11. Where two or more appeals are pending, then if it appears to the Court— Consolidation of appeals

(a) that some common question of law or of fact arises in both or all of them; or

(b) that the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or

(c) that for some other reason it is desirable to make an order under this rule,

the Court may, on the application of any party, order those appeals to be consolidated on such terms as it thinks just, or may order them to be tried at the same time, or one immediately after another, or may order any of them to be stayed until after the determination of any other of them.

Postpone-
ment or
adjourn-
ment of
hearing

12. (1) The Court may postpone or adjourn the hearing of an appeal or an application if any interested party for any reasonable cause has been prevented from attending at the hearing, or if it thinks it expedient in the interests of justice.

(2) Where the postponement or adjournment is not to a definite date, the Court shall, unless the parties agree to a shorter time, give—

(a) to the parties to an appeal, at least fourteen clear days' notice; and

(b) to the parties to an application, at least two clear days' notice, of the time and place of the postponed or adjourned hearing.

Evidence

13. (1) At the hearing of an appeal the parties thereto shall be entitled to tender evidence orally and by affidavit.

(2) An affidavit containing evidence to be used at the hearing shall be filed in the Registry and a copy thereof served on every interested party not less than fourteen days before the date fixed for the hearing of the appeal.

(3) A counter affidavit for the purpose of rebutting evidence contained in a previous affidavit filed by an interested party shall be filed in the Registry and a copy thereof served on the other interested parties not less than seven days before the date fixed for the hearing of the appeal.

(4) Any party may by notice in writing require the attendance at the hearing, for the purpose of cross-examination, of the deponent to any affidavit or counter affidavit intended to be used by another party.

(5) A notice under paragraph (4) shall be filed in the Registry and a copy thereof served on the other interested parties—

(a) in the case of an affidavit four days, and

(b) in the case of a counter affidavit two days, before the date fixed for the hearing of the appeal.

(6) Notwithstanding paragraphs (4) and (5), where in the opinion of the Court there is no necessity for a deponent to attend the hearing for cross examination, the Court may dispense with the presence of the deponent.

(7) Without prejudice to the preceding provisions of this rule the Court may, at or before the hearing of an appeal, order or direct that evidence of any particular fact shall be given at the hearing in such manner as may be specified in the order or directions.

(8) The power conferred by paragraph (7) extends in particular to ordering or directing that evidence of any particular fact may be given at the hearing—

(a) by statement on oath of information or belief;

(b) by the production of documents or entries in books; or

(c) by copies of documents or entries in books.

Witness
Summons
Form D

14. (1) Where it is intended to sue out a subpoena, a praecipe for that purpose in the Form D shall be filed in the Registry.

Form E, F

(2) The writ of subpoena shall follow as closely as may be one of the Forms E. or F.

15. Where pursuant to the provisions of section 43C (8) of the Income Tax Ordinance, the Court has ordered that written submissions be filed in addition to or in place of an oral hearing—

- (a) the facts set out therein shall be verified by affidavit;
- (b) the Court may give directions as to the times within which the written arguments of an appellant and of the respondent, and the reply of an appellant shall be filed in the Registry and copies thereof served on any other party by the party filing the same;
- (c) every such written argument shall be dated and signed by counsel or solicitor submitting the same.

16. (1) At the conclusion of the hearing of an appeal or application the Court may thereupon deliver or reserve its decision.

(2) The decision may be given orally or in writing and, where it is given orally, the Court may, at the request of any party, made at the hearing or at the time when the decision is given, state its findings of fact and reasons in law for the decision.

17. The Court may, on the application of any party, extend the time for doing any act or taking any proceeding under these Rules or under any other rules of procedure governing the exercise of its jurisdiction by the Court, upon such terms as it may think fit; and any such extension may be ordered although the application for such extension is not made until after the expiration of the time appointed or allowed.

18. (1) When an appeal is against assessment of income tax the Court may make an order for the payment of costs—

- (a) by any party, in respect of proceedings in which it appears to the Court that such party has been guilty of unreasonable delay or in respect of any improper, vexatious, prolix or unnecessary steps in any proceedings or any other unreasonable conduct on his part (including, but without prejudice to the generality of the foregoing, a refusal to make any admission or agreement as to the conduct of proceedings which such party ought reasonably to have made);
- (b) by the Inland Revenue, where a ground of appeal relied on by a successful appellant raises a difficult question of law.

(2) In appeals other than those against assessment of income tax the Court may award such costs to or against any party as it thinks just.

(3) Where costs are awarded by the Court, the Court may direct that the party against whom the order is made shall pay to any other party—

- (a) his costs to be taxed by the Registrar; or
- (b) a lump sum by way of costs; or
- (c) a proportion of the costs as may be just, in which event the Court may itself assess the sum to be paid or direct that it be assessed by the Registrar.

(4) Where the costs are taxed or assessed by the Registrar under this rule, a party aggrieved by his decision may, within seven days after such decision has been given,—

(a) file in the Registry an application to the Court for a review of the said decision; and

(b) serve a copy of the application on every other interested party; and on hearing of the application the Court may vary or confirm the decision of the Registrar.

Preparation
and filing of
judgments
and orders
and amend-
ments
thereof

19. (1) Every judgment or order of the Court shall, unless it otherwise directs, be prepared by the Registrar and filed in the Registry.

(2) The Registrar shall forthwith serve on the parties to the appeal a copy of every judgment or order filed under paragraph (1).

(3) Any clerical mistake in any judgment or order of the Court, or any error therein arising from any accidental slip or omission, may at any time be corrected by the Court on the application of any party, filed in the Registry; a copy whereof has been served by the applicant on every other interested party.

Reports of
decisions

20. (1) The Court may, from time to time, compile and publish reports of matters brought before it and of its decisions thereon, or the Court or the Chairman may authorise any person to compile and publish such reports.

(2) Where the hearing of an appeal or application has been held in camera, no such report shall contain—

(a) the name of the appellant or any other particulars which, in the opinion of the Court or the Chairman, are likely to identify the appellant, if the appellant objects thereto;

(b) any other particulars which, in the opinion of the Board or the Chairman, can be omitted from the report without affecting its usefulness or value.

Application
of Rules of
the Supreme
Court

21. Except as otherwise provided in the Income Tax Ordinance or in these Rules or in any enactment, the Rules of the Supreme Court relating to applications to a Judge in Chambers and as to taxation of costs shall, with the necessary modifications, if any, apply to appeals and applications to the Court.

PART II

INCOME TAX APPEALS

Interpreta-
tion

22. In this Part—

“Ordinance” means the Income Tax Ordinance, Ch. 33, No. 1.

Extension
of time for
appealing

23. (1) An application for an extension of the time for appealing under section 43D (3) of the Ordinance shall contain grounds of appeal which *prima facie* show good cause for the appeal, and together therewith there shall be filed an affidavit setting forth the reasons for the application.

(2) A copy of the affidavit shall be attached to every copy of the application served on an interested party.

(3) When the time for appealing is extended a copy of the order granting such extension shall be annexed to the notice of appeal.

24. (1) A notice of appeal given under section 43D (2) of the Ordinance shall— Notice of appeal

- (a) be signed by the appellant or his solicitor, or his agent duly authorised in writing;
- (b) contain in the grounds of appeal specified therein a statement of the several allegations of fact and the points of law or other reasons which the appellant intends to submit in support of the appeal;
- (c) contain an address at which documents may be served upon the appellant or his solicitor or agent;
- (d) follow as closely as may be Form G. Form G

(2) Where the notice of appeal is signed by an agent the authorisation signed by the appellant in that behalf shall be filed in the Registry together with the notice of appeal.

25. Six photostat or certified copies of all documents relevant to the decision appealed from, which they are required by section 43D (6) of the Ordinance to forward to the Court, shall be filed in the Registry by the Inland Revenue. Inland Revenue to supply documents in sextuplicate

26. (1) In addition to the documents referred to in section 43D (6) of the Ordinance, the Inland Revenue shall, within twenty-one days after the service upon them of a notice of appeal— Filing of statement of case by Inland Revenue

- (a) file in the Registry a statement of case setting out—
 - (i) the assessment, directive or other decision of the Inland Revenue appealed from;
 - (ii) the material facts upon every point specified in the notice of appeal as a ground of appeal;
 - (iii) the reasons in support of such assessment, directive or other decision; and
- (b) serve a copy of the said statement on the appellant.

(2) The Court may cause the statement of case to be sent back to the Inland Revenue for amplification or amendment, and the Inland Revenue shall within the time specified by the Court—

- (a) amplify or amend the statement of case and file the same in the Registry;
- (b) serve a copy of the amended or amplified statement on the appellant.

27. (1) Within fourteen days after the copy of the statement of case is served on the appellant the appellant may, if he thinks fit, file in the Registry an answer admitting any of the material facts set out in the statement or setting forth the material facts as alleged by him. Filing of answer by appellant

(2) Where the appellant files an answer under paragraph (1), he shall within the time specified in paragraph (1) serve a copy of the answer on the Inland Revenue.

28. (1) A statement of case or answer may be amended and filed— Amendment of case and answer

- (a) at any time by leave of the Court;
- (b) without leave at any time before notice of hearing has been given.

(2) A copy of the statement of case or answer as amended shall be served on every other interested party by the party amending the same forthwith after the filing of the said document or within such time as may be allowed by the Court, or agreed between the parties.

Extent to which parties bound by statements

29. (1) Subject to section 43D (5) of the Ordinance and to rule 28, where an answer is filed by the appellant, it shall not be competent, on the hearing of the appeal, for the appellant or the Inland Revenue to rely upon any facts or contentions of law not set out in the notice of appeal, statement of case or answer.

(2) Where no answer is filed by the appellant, the statement of case shall not be conclusive as to the matters set forth therein either against the appellant or the Inland Revenue.

Notice of hearing of the appeal

30. Subject to rules 9 and 10, notice appointing the time and place of hearing of the appeal may be given by the Registrar to the parties at any time after the expiration of six weeks from the filing of the notice of appeal, or after the expiration of three weeks from the last day allowed for the filing of an answer under rule 27, whichever shall be the later, and the said notice shall follow as closely as may be Form H.

Form H

Settlement and withdrawal of appeals

31. (1) Where under section 43F (1) of the Ordinance the Inland Revenue and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision of the Inland Revenue should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled,—

(a) if the agreement is in writing a copy thereof shall, within three days after it is arrived at, be filed in the Registry by the Inland Revenue;

(b) if the agreement is not in writing and under section 43F (3) of the Ordinance it is confirmed by notice in writing given by the Inland Revenue to the appellant or by the appellant to the Inland Revenue, a copy of the notice of confirmation shall within three days after it is given be filed in the Registry by the Inland Revenue.

(2) Where under section 43F (2) of the Ordinance the appellant gives notice in writing to the Inland Revenue that he desires to repudiate or resile from an agreement entered into under section 43F (1) of the Ordinance, the Inland Revenue shall file in the Registry a copy of such notice within three days after their receipt of such notice.

(3) Where under section 43F (4) (a) of the Ordinance the appellant notifies the Inland Revenue, whether orally or in writing, that he desires not to proceed with the appeal, the Inland Revenue shall, within three days after the giving to them of such notification, file in the Registry—

(a) if the notification is in writing, a copy thereof;

(b) if the notification is oral, a notice to that effect and specifying the date of such notification.

(4) Where within twenty-one days of the giving of the notification referred to in paragraph (3) the Inland Revenue give to the appellant notice in writing that they are willing or unwilling, as the case may be, that the appeal should be treated as withdrawn, they shall within three days after giving such notice file in the Registry a copy of such notice.

Fees of Court

32. No fees of Court shall be payable in respect of proceedings under this Part.

SCHEDULE

(rule 3)

FORM A

Declaration of Secrecy made by an Officer, Clerk or employee attached to the Appeal Board, and having official duty under the Income Tax Ordinance, Ch. 33. No. 1.

I do solemnly and sincerely declare that I will regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or the items of the income of any person coming to my knowledge by virtue of my office or employment in the Appeal Board as secret and confidential and that I will not at any time communicate or attempt to communicate such information or anything contained in such documents, returns, lists or copies to any person—

(a) other than a person to whom I am authorised by the Governor-General to communicate it; or

(b) otherwise than for the purposes of the Income Tax Ordinance.

Declared before me this.....day of.....19.....

Magistrate

(rule 5)

FORM B

(Application)

TRINIDAD AND TOBAGO

No.of 19.....

BEFORE THE APPEAL BOARD

In re theOrdinance/Act

Between

A.B.

Appellant

And

X.Y.

Respondent

Application is hereby made to the Appeal Board for an order/direction pursuant to rule of the Appeal Board Rules, 1967, (section of the Ordinance/Act) that

Dated thisday of19.....

Signature of Applicant or his Solicitor or Agent

To the Registrar of the Appeal Board and

To

of

(rule 5)

FORM C

(Notice of hearing of Application)

TRINIDAD AND TOBAGO

No. of 19.....

BEFORE THE APPEAL BOARD

In re the Ordinance/Act

Between

A.B.

Appellant

And

X.Y.

Respondent

TAKE NOTICE that the Appeal Board will on the day of
19..... at o'clock in the noon at
hear the application of the appellant/respondent dated the day of
19.....

Dated this day of 19.....

.....
Registrar

To

of

and

To

of

(rule 14)

FORM D

(Præcipe of Subpœna)

THE APPEAL BOARD

Seal writ of subpœna on behalf of

the directed to

Returnable.....

Dated this day of 19.....

.....
*Signature of Appellant or Respondent
or his Solicitor or Agent*

FORM E
(Subpœna ad testificandum)
THE APPEAL BOARD

(rule 14)

ELIZABETH THE SECOND, by the Grace of God, Queen of Trinidad and Tobago and Her other Realms and Territories, Head of the Commonwealth.

- 1. To
- 2.
- 3.

GREETING :

WE COMMAND YOU that, all excuses ceasing, you and each of you do personally be and appear before the

APPEAL BOARD

at
on theday of, ato'clock in the.....noon, to testify the truth according to your knowledge in an appeal pending in the Appeal Board, wherein is Appellant and is Respondent, on the part of.....and herein fail not at your peril.

WITNESS the Chairman of the Appeal Board, at the day ofin the year of Our Lord one thousand nine hundred and

Registrar

FORM F
(Subpœna duces tecum)
THE APPEAL BOARD

(rule 14)

ELIZABETH THE SECOND by the Grace of God, Queen of Trinidad and Tobago and Her other Realms and Territories, Head of the Commonwealth.

- 1. To:
- 2.
- 3.

GREETING :

WE COMMAND YOU that, all excuses ceasing, you and each of you do personally be and appear before the

APPEAL BOARD

at on the day of, at o'clock in the.....noon, to testify the truth according to your knowledge in an appeal pending in the Appeal Board, wherein is Appellant and is Respondent, on the part of, and that you bring with you and then and there produce and show all and singular, those things which you know, or which the said paper writing doth import of, in or concerning the present appeal now pending in the said Board, and herein fail not at your peril.

WITNESS the Chairman of the Appeal Board, at the day ofin the year of Our Lord one thousand nine hundred and

Registrar

FORM G

(Notice of Appeal)

TRINIDAD AND TOBAGO

No.....of 19.....

BEFORE THE APPEAL BOARD
IN re THE INCOME TAX ORDINANCE

Between

A.B.

Appellant

And

THE BOARD OF INLAND REVENUE

Respondent

NOTICE OF APPEAL to the Appeal Board is hereby given from the assessment/decision/
directive of the Board of Inland Revenue dated the day of
..... 19..... wherein (a tax in the sum of \$.....
was levied) in respect of income of the appellant for the income year 19.....

2. The grounds of appeal are as follows:—

(a) *Statement of allegations of fact;*

(b) *Statement of the reasons to be advanced in support of appeal.*

3. The address for service of the said A.B. is

.....

Dated this, day of19.....

.....
*(Signature of Appellant or his
Solicitor or Agent)*

To the Registrar of the Appeal Board

and

To the Board of Inland Revenue.

FORM H

(rule 30)

(Notice of Hearing of Appeal)

TRINIDAD AND TOBAGO

No.....of 19.....

BEFORE THE APPEAL BOARD

IN *re* THE INCOME TAX ORDINANCE

Between

A.B.

Appellant

And

THE BOARD OF INLAND REVENUE

Respondent

TAKE NOTICE that the Appeal Board will hear this appeal on the
 day of19.....ato'clock in thenoon
 at

Dated the.....day of.....19.....

Registrar

To.....

of.....

and

To the Board of Inland Revenue.

Made by the Appeal Board this 23rd day of March, 1967.

C. A. KELSICK
*Chairman*P. B. BURKE
*Member*M. D. McCONNIE
*Member*E. WATERMAN
*Member*A. R. JULUMSINGH
Member

Approved by the Governor-General this 20th day of April, 1967.

G. L. BOWEN
Secretary to the Cabinet