

Legal Alert

Lawhill & Co. Advocates – Premier Tax & Corporate Attorneys

Issue No 1 of 19th January, 2021.

From our Tax Desk

Act now and thank us later! There is an imminent tax risk for pending objections

- ✦ *The Finance Act, 2020 poses a tax risk for inaction;*
- ✦ *Objections admitted and not determined for a period of six months are deemed to be confirmed;*
- ✦ *A Taxpayer's remedy is to file an appeal to the Board.*

Taxpayers are hereby reminded that, time is not their best ally and they should not overlook taking immediate steps. Section 52 of the Tax Administration Act, 2015 was amended by Section 72 of the Finance Act, 2020 by adding subsections 10 and 11 which provide that:-

10. The Commissioner General shall determine an objection to a tax decision within six months from the date of admission of the notice of objection.

11. Where the Commissioner General fails to determine the objection within the time prescribed under subsection (10), then tax assessment or tax decision shall be treated as confirmed and the objector shall have the right to appeal to the Board in accordance with the Tax Revenue Appeals Act.

The amendments mean that, the Commissioner General, TRA has six months from the date of admission of the notice of objection, within which she should determine taxpayer's objections. For years, the Commissioner General had wielded enormous discretionary powers as regards to the time within which to determine an objection. The six months' time limit carries with itself No exception whatsoever. Failure of the Commissioner General to determine an objection within a period of six months from when the Objections were received triggers two results. First, the tax assessments or tax decisions are treated as **confirmed** by the Commissioner General. Second, the taxpayer gets the right to Appeal to the Tax Revenue Appeals Board as against the impugned assessments or decision.

The Finance Act, 2020 entered into force on 1st July, 2020. The amendment being on a procedural and administrative law has the potential of being applied to the notices of objections admitted before 1st July, 2020. This means that objections initially filed and admitted before 1st July, 2020 and those filed and admitted after 1st July, 2020 have 6 months' time limit within which they should be determined. For notices of objections admitted before 1st July, 2020 had up to **31st December, 2020** for them to be determined by the Commissioner. Failure of which the consequences above follows. It should be noted that, once assessments are deemed confirmed; aggrieved taxpayers have 30 days (up to **30th January, 2021**) to lodge their Notices of Intention to Appeal before the Board and subsequently lodge their Statement of Appeals before the Tax Revenue Appeals Board within 45 days from the date of deemed confirmation of the decision.

Lawhill & Co. Advocates wishes to remind all diligent taxpayers to lodge their Notices of Appeal and subsequently an Appeal before the Tax Revenue Appeals Board. The amendment is procedural in nature and has time limit implications in contesting assessments before the Board. Prudent and diligent taxpayers whose objections were admitted and remain undetermined within a period of 6 months from 1st July, 2020 should

as soon as practicable prefer an Appeal to the Board. Failure to do so will constitute an automatic waiver of the right to appeal unless an application for extension of time to file an appeal with sufficient reasons for delay is lodged with the Board. It is a right time than ever to promptly act before taxpayers are succumbed with unnecessary objections, time and cost implications from the Revenue Authority.

Lawhill can confirm that the Tax Revenue Authority is eagerly waiting to apply the amendments brought by the Finance Act, 2020 should a taxpayer fail to take steps to prefer its appeal within the timeline prescribed under the law. Act now and thank us later! The consequences of not acting may be huge compared to taking a little step now.

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