



# TRINIDAD AND TOBAGO GAZETTE

## (EXTRAORDINARY)

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1281

### FREEDOM OF INFORMATION ACT, 1999

#### PUBLIC STATEMENT OF THE TAX APPEAL BOARD

In Compliance with Sections 7, 8 and 9 of The Freedom of Information Act, 1999 (FOIA)

IN ACCORDANCE with sections 7, 8 and 9 of the Freedom of Information Act, 1999 (FOIA) the Tax Appeal Board is required to publish the following statements which list the documents and information generally available to the public.

The FOIA gives members of the public:

- a legal right for each person to access certain categories of information held by the Tax Appeal Board;
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
- a legal right to obtain reasons for adverse decisions made regarding an applicant's request for information under the FOIA;
- a legal right to complain to the Ombudsman and apply to the High Court for judicial review to challenge adverse decisions made under the FOIA.

### SECTION 7 STATEMENTS

#### Section 7 (1) (a) (i) – Function and Structure of the Tax Appeal Board

The Tax Appeal Board is established by section 3 of the Tax Appeal Board Act, Chapter 4:50 of the Laws of the Republic of Trinidad and Tobago (the Tax Appeal Board Act). The provisions of the Tax Appeal Board Act were contained in section 29 of the Finance Act, 1966 which came into force on January 1, 1966 and which repealed and replaced section 3 of Act No. 16 of 1963. Section 3(3) of the Tax Appeal Board Act specifies that the Board shall be a Superior Court of Record with an official seal which shall be judicially noticed.

Section 3(2) of the Tax Appeal Board Act provides that the Board shall consist of a Chairman and such other Members as may be appointed, one of whom may be the Vice-Chairman.

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Section 3(5) of the Tax Appeal Board Act makes provision for the appointment of a Registrar of the Board and such other officers, clerks and employees as are required to carry out the business of the Board.

The Board's jurisdiction is set out at Section 3(4) of the Tax Appeal Board Act as outlined here under:

The Appeal Board shall have jurisdiction to hear and determine –

- (a) appeals from the decision of the Board of Inland Revenue upon objections to assessment under the Income Tax Act;
- (b) appeals from such other decisions of the Board of Inland Revenue or of any other person under the Income Tax Act as may be prescribed by or under that Act;
- (c) such other matters as may be prescribed by or under the Income Tax Act or any other written law.

The legislation under which the Court's jurisdiction may be invoked is as follows:-

The Tax Appeal Board Act and Rules	Chapter 4:50
The Income Tax Act	Chapter 75:01
The Corporation Tax Act	Chapter 75:02
The Unemployment Levy Act	Chapter 75:03
The Petroleum Taxes Act	Chapter 75:04
The Stamp Duty Act	Chapter 76:01
The Lands and Buildings Taxes Act	Chapter 76:04
The Water and Sewerage Act	Chapter 54:40
The Customs Act	Chapter 78:01
The Value Added Tax Act	No. 37 of 1989
The Municipal Corporations Act	No. 21 of 1990
The Anti-Dumping and Countervailing Duties Act	No. 11 of 1992
The Financial Institutions Act	No. 18 of 1993
The Tourism Development Act	No. 9 of 2000.

The Vision and Mission Statements of the Tax Appeal Board as stated in its Strategic Plan covering the period 2000/2001- 2004/2005 are as follows:

- Vision:** To realize a fully computerized Court where services from the Registry to the Court and to the Court's external clients are available on-line.
- Mission:** To deliver to our clients (internal and external) a prompt and efficient system of appeals from assessment to the various taxes and duties and to deal effectively with any other matter which falls under our jurisdiction.

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**Comment:** Your Honour may wish for us to include any new Vision and Mission Statements applicable to the period 2005 – 2010.

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The Tax Appeal Board is structured along the following lines:

(1) The Court consisting of the Chairman and such other Members as may be appointed under or in pursuance of section 4 of the Tax Appeal Board Act, of whom one may be the Vice-Chairman. At present the Board consists of a Chairman and two Members. The jurisdiction and powers of the Court are usually exercised by the Chairman and two Members. However, it may also be exercised by the Vice-Chairman and two Members; the Chairman or Vice-Chairman sitting alone or with one Member; or, in relation to matters of practice and procedure, by the Chairman, Vice-Chairman or any Member who is an Attorney at Law; or by a Member in respect of matters of practice and procedure which are uncontested.

(2) The Registry which is the office of the Registrar. All appeals to the Tax Appeal Board are instituted by filing with the Registrar a notice of appeal and serving a copy thereof on the Board of Inland Revenue or other Respondent within:

- a. twenty-eight days of the notification to or the service on, the person appealing, of the decision of the Board or Respondent; or
- b. such other time as may be prescribed by the Tax Appeal Board Rules.

The Registrar also supervises and manages other members of staff who provide support services to the Court including Accounting, Computer Aided Transcription Reporting, Information Technology, Library and General Administrative Services.

#### **Effect of the Functions of the Tax Appeal Board on members of the public**

The system of tax appeals, as operated by the Tax Appeal Board in keeping with the Tax Appeal Board Act and Rules, is accessible to all aggrieved taxpayers, including individuals, sole traders, partnerships and companies, in accordance with the procedures laid down in the various Acts and Rules under which the Court's jurisdiction may be invoked.

The Appellant and the Respondent may appear before the Tax Appeal Board in person or by an Attorney at Law. In accordance with section 8 of the Tax Appeal Board Act an appeal shall be heard *in camera* unless, on the application of the Appellant, the Board otherwise directs.

The onus of proving that the assessment or other decision complained of is excessive or wrong is on the Appellant. The decision of the Court is final on a question of fact. The Appellant or the Respondent, if dissatisfied with the decision of the Court as being erroneous in point of law, may, within twenty-one days or such other time as may be prescribed by Rules of Court, appeal against such decision. Such an appeal is instituted

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by filing with the Registrar a notice in writing in the prescribed form, requesting the Board to sign and state a case for the opinion of the Court of Appeal. The party making such a request is required to serve a copy on the Appellant or the Respondent as the case may be.

**Section 7 (1) (a) (ii) – Categories of documents in the possession of the Tax Appeal Board-**

1. Declaration of Secrecy Form A
2. Application Form B
3. Notice of Hearing of Application Form C
4. Praecepto of Subpoena Form D
5. Subpoena ad testificandum Form E
6. Subpoena duces tecum Form F
7. Notice of Appeal Form G
8. Notice of Hearing of Appeal Form H
9. Judgments and Rulings of the Court.
10. Court files in respect of every appeal filed in the Court's Registry
11. Court Files in respect of every application for an extension of time within which to file an appeal to the Court
12. Registers of appeals and applications filed with the Court
13. Registers of proceedings before the Court
14. Transcripts of trials in electronic form and on hard copy.
15. Court diaries
16. Lists of appeals and applications heard before the Court
17. Requests for the Court to sign and state a case for the opinion of the Court of Appeal
18. Registry Clerk's Manual
19. Legislation and Legal Instruments
20. Gazettes
21. Law Reports
22. Legal texts
23. Periodicals and publications on taxation and related subjects
24. Author catalogues, subject catalogues, periodical cards, newspaper clippings
25. Inventories
26. Administrative files used in the daily operations of the Board
27. Personnel files
28. Files dealing with accounting and financial management
29. Files dealing with official correspondence
30. Financial records
31. Cabinet documents
32. Policy Files
33. The Tax Appeal Board's Strategic Plan 2000/2001-2004/2005
34. Circulars
35. Circular Memoranda

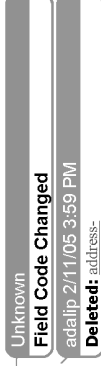


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**Section 7(1) (a) (iii) –Material prepared for publication or inspection**

The public may inspect and /or obtain copies of the material listed below between the hours of 8.30 a.m. to 4.00 p.m. on normal working days at:

The Tax Appeal Board  
 Second Floor  
 Hall of Justice  
 Knox Street  
 Port of Spain  
 Telephone: 624-3038 or 623-1330  
 Fax Number: 623-1330  
 E-mail address [txab@tstt.net.tt](mailto:txab@tstt.net.tt) or [txab@taxappeal.org.tt](mailto:txab@taxappeal.org.tt)  
 Web site: <http://www.taxappeal.org.tt>



1. Judgments and Rulings of the Tax Appeal Board (provided consent is obtained from the Appellant where necessary, having regard to proceedings being held in camera).
2. Application -Form B
3. Praeceptio of Subpoena -Form D
4. Subpoena ad testificandum –Form E
5. Subpoena duces tecum- Form F
6. Notice of Appeal-Form G
7. Inaugural Annual Report of the Tax Appeal Board
8. Annual Report of the Tax Appeal Board 2001/2002
9. Annual Report of the Tax Appeal Board 2002/2003
10. A leaflet giving information on the procedure in Court, including appropriate attire for Attorneys at Law and the manner of addressing the Bench.
11. Two Tax Appeal Board booklets entitled-  
 “Some Facts about us”; and  
 “Guidelines to Appellants and Applicants to the Court.”

**Section 7(1) (a) (iv)- Literature available by subscription**

This section is not applicable at this time.

**Section 7(1) (a) (v)- Procedure to be followed when accessing a document from the Tax Appeal Board**

*General Procedure*

The Tax Appeal Board’s policy is to respond to all requests for information, both oral and written, in a timely fashion. However, in order to exercise the rights conferred by

1281—Continued

the FOIA (for example the right to challenge a decision if one's request for information is refused), the request must be made in writing. In order to access information that is not readily available in the public domain, an application must be completed in the appropriate form, the 'Request for access to Official Documents', available at the Tax Appeal Board or any Public Authority.

#### *Addressing Requests*

To facilitate prompt handling of requests they are to be addressed to the Designated Officer of the Tax Appeal Board. (See Section 7(1) (a) (vi) for the name of the Designated Officer.)

#### *Details to be included in the Request*

Applicants are asked to provide details that would allow for ready identification and location of the records that are being requested. If insufficient information is provided, clarification will be sought from the Applicant. If the Applicant is uncertain as to the details to be included, he/she should contact the Designated Officer.

#### *Requests not handled under the FOIA*

A request under the FOIA will not be processed to the extent that it asks for information which is currently available in the public domain, for example material contained in Acts and Legal Notices, Gazettes, which can be obtained either from the Board or from another public authority.

#### *Responding to your Request*

The Tax Appeal Board is required to furnish copies of documents in its possession custody or power. With the exception of documents provided under Section 8 of the FOIA, an Applicant is entitled to one copy of a document held by the Board. If we are unable to make a legible copy of a document, we will furnish the best copy possible and give an indication of its quality in our reply.

Please note that the Tax Appeal Board is not compelled to do the following:

- (a) Create new documents;
- (b) Perform research for the Applicant.

#### *Time Limits*

The Tax Appeal Board will determine whether a request for access to information will be granted as soon as practicable but no later than 30 days after the request has been made, as required by section 15 of the FOIA. If a decision is taken to grant access to the information requested, you will be permitted to inspect the documents or be provided with copies, if you so request.

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*Fees and Refunds*

The Freedom of Information Fees and Regulations prescribe the fees incurred in making documents available. Where such fees are payable, you are entitled to receive the document(s) within seven days of payment of the relevant fees. If the Board fails to provide the information within the seven-day period, you are entitled to a refund of the fees in addition to access to the document(s) requested.

**Section 7 (1) (a) (vi)**

Officers in the Tax Appeal Board are responsible for-

1. the initial receipt of an action upon notices under section 10;
2. requests for access to documents under section 13; and
3. applications for correction of Personnel Documents under section 36 of the FOIA.

The Designated Officer is Mr. Andrew Dalip, Jr.

The Alternate Officer is Mrs. Sita Ramlogan.

Address : The Tax Appeal Board

Second Floor

Hall of Justice

Knox Street

Port of Spain

Telephone: 624-3038 or 623-1330

Fax Number: 623-1330

E-mail [address:txab@tstt.net.tt](mailto:address:txab@tstt.net.tt) or [txab@taxappeal.org.tt](mailto:txab@taxappeal.org.tt)

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**Section 7 (1) (a) (vii)- Advisory Boards, Councils, Committees and other Bodies**

This section is not applicable at this time.

**Section 7(1)(a)(viii)- Library /Reading Room Facilities**

Information in the public domain can be accessed at the Tax Appeal Board's Library situated on the Second Floor of the Hall of Justice, Knox Street, Port of Spain between the hours of 8.30 a.m. to 3.30 p.m. Monday to Friday. Information on the operations of the Board including its Act and Rules and all prescribed forms is also accessible through our website, <http://taxappeal.org.tt>.

The provision of certain documents may be subject to a small charge to cover administrative costs.

1281—Continued

### SECTION 8 STATEMENTS

Section 8 (1) (a) - The documents listed at 1-4 below are used to guide officers within the Tax Appeal Board. The documents listed at 1 to 2 can be purchased at the sales office of the Government Printery. Those at 3 to 4 are available for inspection purposes only. Judgments and Rulings of the Court are available for use in Board's Library. Where photocopies of parts of documents are requested, a small charge may apply.

1. The Tax Appeal Board Act and Rules, Chapter 4:50
2. The Laws of the Republic of Trinidad and Tobago
3. The Tax Appeal Board's Strategic Plan 2000/2001-2004/2005.
4. Judgments and Rulings of the Tax Appeal Board.

Section (8) (1) (b)-The following documents are available for the guidance of the public:

1. A leaflet on the procedure to be followed including appropriate attire for Attorneys at Law, and the manner of addressing the Bench.
2. Two Tax Appeal Board booklets entitled-
  - (a) "Some Facts about us"; and
  - (b) "Guidelines to Appellants and Applicants to the Court."

### SECTION 9 STATEMENTS

The whole of this section is not applicable at this time.