

OBJECTION AND APPEAL

OBJECTION

1. GENERAL

Where a person is dissatisfied with an assessment or additional assessment issued to him under the Income Tax Act or the VAT Act or the Gambling Regulatory Authority Act, he may, within 28 days of the date of the Notice of Assessment, object to the assessment in a form approved by the Director General. The form may be sent by registered post or electronically.

The taxpayer may also object against:

- a. the quantum of losses or revision of the quantum of losses available for set-off or carried forward (*for income tax*);
- b. the excess amount of input tax to be carried forward (for VAT), as determined by the MRA ;
- c. objection against non-registered advertising structure; or
- d. Objection against goods and services annual statement.

2. VALIDITY OF OBJECTION

An objection is valid if-

- a. the objection is made within the statutory delay of 28 days;
- b. the grounds of objection are clearly stated in the letter of objection;
- c. the return for the relevant year of assessment has been submitted to the MRA;
- d. tax specified in the relevant return or statement has been duly paid; and
- e. 10% of the tax assessed has been paid, as required by the law.

Regarding the requirement to pay 10% of the tax assessed at the time of lodging an objection, the taxpayer may give security by way of bank guarantee if he satisfies the MRA that he is unable to pay the 10% in cash. There is also no need to pay the 10% where the taxpayer objects exclusively to the amount of income assessed as emoluments or to the amount of personal reliefs and deductions allowed in the Notice of Assessment pertaining to income tax.

3. LATE OBJECTION

In case a person lodges an objection outside the delay of 28 days, the law allows the MRA to consider the objection as valid on condition that the person proves to the satisfaction of the MRA that he was unable to object in time because of illness or other reasonable cause.

Where the MRA refuses to allow a late objection, the taxpayer should be given a notice of refusal within 28 days of the date of the receipt of the letter of objection.

4. BANK GUARANTEE

Where the taxpayer proposes to furnish a bank guarantee in lieu of payment of 10%, he should prove to the satisfaction of the MRA that he is unable to pay the 10% on reasonable grounds - e.g. where he is facing financial constraint.

The bank guarantee should be in a form approved by the MRA.

The taxpayer is informed that the bank guarantee will be realised on determination of the objection if there is any tax liability.

5. DETERMINATION OF OBJECTION

- i. An objection is dealt with independently by Objection, Appeals and Dispute Resolution Department. The officer who has raised the assessment is in no way involved in the handling of the objection.
- ii. For the purposes of considering an objection and reviewing an assessment, the MRA may require a person to submit information and documents within a specified time.
- iii. On the basis of the documents submitted, the assessment may be maintained, revised to a lower amount or even revised to nil.
- iv. Where a taxpayer fails to furnish information and documents as requested, the assessment is lapsed.
- v. The reasons justifying any decision should be given by the MRA.
- vi. When an objection is finalised, a Notice of determination of objection is issued to the taxpayer by the MRA.
- vii. Any tax payable specified in the notice of determination together with penalty / interest should be paid within 28 days of the date of determination.
- viii. The penalty and interest shall be calculated as from the date on which the additional tax was due until the date of payment.
- ix. The objection should be determined within 4 months as from the date it was lodged; otherwise the objection is deemed to have been allowed by MRA.

- x. Additional interest accrues if payment is not made by the due date, as specified in the notice of determination.
- xi. If the taxpayer is aggrieved by the determination, he may, within 28 days of the date of the notice of determination lodge written representations with the Clerk, Assessment Review Committee.
- xii. Where a person has lodged representations at ARC against our decision to lapse an objection for non-submission of return, non-payment of 10% of amount assessed or non-production of information and documents, and prior to the hearing of the case he submits the required documents or pays the 10% of the amount assessed or furnishes a bank guarantee, he has to inform the ARC that he has complied with the requirement of the MRA and wishes his objection to be considered anew by the Director General. He has to withdraw his representations from the ARC and the Objection will be considered as from date of withdrawal.

6. REFUND OF 10% DEPOSIT

Where the objection is upheld in whole or in part, any amount of tax paid in excess of the amount determined to be properly payable should be refunded together with interest at the prevailing Repo rate from the date the payment was received by the MRA to the date it is refunded.

Where, on determination of an objection, the full amount or part of the 10% deposit paid at the time of lodging the objection has to be refunded to the taxpayer, any arrears of tax due by the taxpayer (whether for the same type of tax or not) is set-off against the tax overpaid and any balance overpaid is repaid with interest at the prevailing Repo rate from the date the 10% payment was made to the date the set-off or refund is effected.

You may refer to the Summary of Objection below

Summary for Objection

1. OBJECTION TO BE FILED UNDER SECTIONS

- 131A / 131AA / 131C / 132 of the Income Tax Act 1995
- 20D / 38 of the Value Added Tax (VAT) Act
- 69 of the Environment Protection Act 2002
- 121 of the Gambling Regulatory Authority (GRA) Act 2007
- 15, 19B, 23, 24 ,24A, 61 and 156 A of the Customs Act 1988
- 5, 22, & 52 of the Excise Act 1994
- 5 of the Customs Tariff Act 1969

2. OBJECTING ON AN APPROPRIATE APPROVED FORM

- Where a taxpayer / importer is not satisfied with an assessment issued under:-
 - the Income Tax Act 1995
 - the Value Added Tax (VAT) Act
 - the Environment Protection Act 2002
 - the Gambling Regulatory Authority (GRA) Act 2007
 - the Customs Act 1988
 - the Excise Act 1994, and
 - the Customs Tariff Act 1969

he may object to the assessment / claim by filling in an appropriate Notice of Objection. The Notice of Objection should be duly filled in and sent by registered post within 28 days of the date of the Notice of Assessment.

3. E Objection

Taxpayers may also file their objections electronically.

4. PAYMENT OF 10% ON OBJECTION TO ASSESSMENTS RAISED UNDER

- Section 131A(2) of the Income Tax Act
- Section 38(2) of the VAT Act
- Section 69 of the Environment Protection Act
- Section 121 (2) of the Gambling Regulatory Authority (GRA) Act

Where a taxpayer objects to an assessment issued under the Acts mentioned above, he has to pay 10% of the tax payable under the assessment for his objection to be considered valid, except where he objects

- to the amount assessed as emoluments; or
- to the amount of income exemption threshold (IET) allowed in the assessment; or
- to revised losses.

5. MODE OF PAYMENT

Payment may be made by cash or cheque at MRA cash counters, Eham Court, Port Louis from Monday to Friday from 09.00 hrs to 15.30 hrs.

A copy of the Notice of Objection should be produced while effecting payment.

Cheques should be drawn to the order of the Director-General MRA crossed ‘MRA A/c’ or Account Payee Only” may be sent by post. The Tax Account Number (TAN), the name of the Entity and the Assessment No. should be written on the verso of the cheque.

6. PAYMENT IN FOREIGN CURRENCY

- a. Payment in foreign currency i.e. US Dollar, EURO, GBP, SGD, CHF & ZAR, should be made through bank transfer. You may liaise with Mrs. Indira REETUN (Indira.Reetun@mra.mu), Harris GHOORBIN (Harris.Ghoorbin@mra.mu) & Krishna JOKHOO (Krishna.Jokhoo@mra.mu) for bank details before making the bank transfer.
- b. Except for foreign currencies mentioned in (a) above, all payments should be made in equivalent Mauritian rupees.

7. FURNISHING OF BANK GUARANTEE

- a. In case the taxpayer is unable to pay the 10% of the tax payable under the assessment because of cash flow problems he may give security by way of a bank guarantee. However the provision of a bank guarantee is not an automatic alternative in lieu of the payment of 10%. The taxpayer must still show that the business has liquidity problems. The burden lies on him to prove to the Director General that he has reasonable grounds for not being able to pay the 10% in one sum. “Reasonable grounds” is not defined, but includes, the following:
 - i. Cash flow problems – a letter from the taxpayer explaining his financial problem and a copy of his latest bank statements in respect of all accounts held by him should be produced by taxpayer.
 - ii. Where the taxpayer is in receivership or in winding-up process.
 - iii. Where a taxpayer is no longer in business and is not deriving any income, he must demonstrate that he is in severe financial difficulties.
- b. On determination of the objection,
 - i. the taxpayer has to pay the amount of 10% of the tax claimed in the notice of assessment in case the assessment is maintained or where the revised tax payable exceeds the amount of 10%.
 - ii. if the revised tax is less than the amount of 10%, he will have to pay the full amount.
- c. The bank guarantee will be enforced to realize the amount of tax due unless the taxpayer pays, as specified above.

8. OBJECTIONS TO CLAIMS

TAXPAYERS MAY OBJECT TO CLAIMS ISSUED TO PERSONS DISSATISFIED

- I. FOR NON / LATE SUBMISSION OF:-
 - a. RETURN OF EMPLOYEES (ROE) under S93 OF INCOME TAX ACT
 - b. TAX DEDUCTION AT SOURCE (TDS) STATEMENTS under S111K OF INCOME TAX ACT
 - c. STATEMENT BY COMPANY HAVING ANNUAL TURNOVER EXCEEDING Rs 100m – S123B(5) OF THE INCOME TAX ACT

- II. FOR FAILURE TO USE ELECTRONIC FISCAL DEVICE UNDER SECTION 20B OF THE VAT ACT

- III. FOR MISUSE OF OR TAMPERING WITH ELECTRONIC FISCAL DEVICE UNDER SECTION 20C OF THE VAT ACT

- IV. IN RESPECT OF NON-REGISTERED ADVERTISING STRUCTURE UNDER SECTION 7A OF THE ADVERTISEMENT REGULATION ACT.
 - (a)

WITHIN 28 DAYS OF THE CLAIM IN A FORM APPROVED BY THE DIRECTOR GENERAL.

9. FORMS AVAILABLE

Notices for Objection	Forms
Income Tax	(OADR/Form 01)
VAT	(OADR/Form 02)
EPF	(OADR/Form 03)
GRA	(OADR/Form 04)
Customs Customs Tariff Excise	(OADR/Form 05)
Format of the bank guarantee	(OADR/BG)

are available at:

MRA Service Counter

MRA, Efram Court

Cnr Mgr. Gonin & Sir Virgil Naz Streets

Port Louis

Hotline: 207 6010

Tel: 207 6000

Fax: 211-8099

Email: headoffice@mra.mu

Objections, Appeals & Dispute Resolutions (OADR) Department

Level 6, Belfort Tower

Cnr Dauphine & Joseph Rivière Streets

Port-Louis

Tel: 207 5000

Fax No: 207-5050

Email: <mailto:objectionsappealsDR@mra.mu>

May be downloaded from MRA website: <http://www.mra.mu>

10. SUPPORT SERVICES

For further information you may contact MRA Service Counter or OADR Department at address shown above.

APPEAL

1. REPRESENTATIONS TO THE ASSESSMENT REVIEW COMMITTEE (ARC)

Any person who is aggrieved by a decision, determination, notice or claim of the MRA may within 28 days of the date of the decision, determination, notice or claim, as the case may be, lodge with the Clerk to the Assessment Review Committee (ARC), written representations specifying the reasons for asking for a review of the decision, determination, notice or claim, as the case may be.

As from 1st September 2018, where representations are made to Assessment Review Committee in respect of a determination of objection made by the Mauritius Revenue Authority (MRA) under the Income tax Act, Value Added Tax (VAT) Act and Gambling Regulatory Act, the person lodging the representation is required to pay 5% of the amount determined as specified in the notice of determination.

2. In relation to income tax, the taxpayer may make representations to the ARC with regard to any of the following issues

- (a) Decision as to whether an amount is emoluments;
- (b) Request to submit returns in respect of a period beyond the time limit of 3 years;
- (c) Request to furnish information or to produce books and records relating to a period beyond the time limit of 3 years;
- (d) Request to submit bank accounts or deposit details of persons suspected of dealings in dangerous drugs or dangerous weapons;
- (e) Where an objection is deemed to have lapsed or where the MRA refuses to consider a late objection;
- (f) Where a taxpayer is dissatisfied with the determination of an assessment / additional assessment or the determination of the amount of losses / additional losses available for set-off or carry forward / determination of claims.

3. With regard to VAT, the representations may relate to

- (a) Decision as to whether or not a supply of goods or services is a taxable supply;
- (b) Decision relating to the registration or cancellation of registration;
- (c) Where an objection is deemed to have lapsed or where the MRA refuses to consider an objection;
- (d) Where taxpayer is dissatisfied with the determination of an assessment; Under the VAT Act the revision of the amount of excess to be carried forward is considered as an assessment;
- (e) Where a person is notified to pay tax which has been erroneously refunded, exempted or reduced.

4. PAYMENT OF TAX UNDER APPEAL AT THE ARC

Where representations have been made at the ARC, the payment of tax determined on objection is suspended. However, interest on any outstanding tax keeps on accruing until payment.

5. HEARING OF REPRESENTATIONS

- i. The aggrieved person and the MRA are entitled to take part in the hearing.
- ii. A panel may conduct a hearing or part of it in camera where it considers that publicity would prejudice the interests of justice or that it is necessary or expedient to do so for the protection of the privacy of persons concerned in the proceedings.
- iii. Representations shall be accompanied by a written statement of case and a witness statement.
- iv. The statement of case must provide facts of the case, grounds of the grievances and submissions on any point of law.
- v. The ARC has to fix hearing of the case within 2 months from the date representations were lodged.
- vi. The ARC is required to give its decision on the representations heard by it not later than 4 weeks from the end of the hearing. The applicant and the MRA may with the approval of the ARC negotiate and settle the dispute. In such a case, the revised tax computation is filed at the ARC. After the case is heard, the decision is communicated to the taxpayer and the MRA by the ARC. Any tax outstanding is claimed with interest.

6. APPEAL TO SUPREME COURT

Any party who is dissatisfied with the decision of the ARC on a point of law may lodge an appeal with the Supreme Court.

The aggrieved party should, within 21 days of the date of the decision of the ARC, lodge a written application requiring the ARC to state and sign a case for the opinion of the Supreme Court on the grounds specified in the case.

A copy of the appeal should at the same time be forwarded to the other party.

7. PAYMENT OF TAX UNDER APPEAL AT THE SUPREME COURT

Irrespective of whether or not an appeal is made to the Supreme Court against the determination of the ARC, the tax determined by the ARC should be paid or refunded, as the case may be.

8. APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Where the taxpayer or the MRA is dissatisfied with the judgment of the Supreme Court on a point of law an appeal may be lodged to the Judicial Committee of the Privy Council.

14 January 2019