



THE REPUBLIC OF UGANDA

**THE TAX PROCEDURES CODE  
(ALTERNATIVE DISPUTE RESOLUTION  
PROCEDURE) REGULATIONS, 2023**

*S.I. No. 28 of 2023*

**STATUTORY INSTRUMENTS  
SUPPLEMENT No. 11**

**24th March, 2023**

**STATUTORY INSTRUMENTS SUPPLEMENT**

*to The Uganda Gazette No. 21, Volume CXVI, dated 24th March, 2023*

Printed by UPPC, Entebbe, by Order of the Government



**S T A T U T O R Y I N S T R U M E N T S**

**2023 No. 28.**

**THE TAX PROCEDURES CODE (ALTERNATIVE DISPUTE  
RESOLUTION PROCEDURE) REGULATIONS, 2023**

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# STATUTORY INSTRUMENTS

2023 No. 28.

## **The Tax Procedures Code (Alternative Dispute Resolution Procedure) Regulations, 2023**

*(Under section 24 (11) and (12) of the Tax Procedures Code Act, 2014)*

**IN EXERCISE** of the powers conferred upon the Minister by section 24 (11) and (12) of the Tax Procedures Code Act, 2014, these Regulations are made this 6<sup>th</sup> day of March, 2023.

### PART I—PRELIMINARY

#### **1. Title**

These Regulations may be cited as the Tax Procedures Code (Alternative Dispute Resolution Procedure) Regulations, 2023.

#### **2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Tax Procedures Code Act, 2014;

“alternative dispute resolution procedure” means a voluntary facilitated process of settling tax disputes between a taxpayer and the Commissioner where the taxpayer is dissatisfied with the decision of the Commissioner;

“court” means a court of competent jurisdiction handling a tax matter;

“settlement agreement” means an agreement between a taxpayer and the Commissioner under which both parties agree to settle a tax dispute.



PART II—ALTERNATIVE DISPUTE RESOLUTION PROCEDURE

**3. Alternative dispute resolution procedure to be voluntary**

The application of the alternative dispute resolution procedure specified in these Regulations shall be voluntary.

**4. Application for alternative dispute resolution procedure**

(1) A taxpayer who is dissatisfied with a tax decision of the Commissioner may, **within seven days** after being served with the tax decision, apply to the Commissioner for resolution of the dispute using the alternative dispute resolution procedure.

(2) The application referred to in subregulation (1), shall be in writing, using the form prescribed in the Schedule to these Regulations.

(3) Where an alternative dispute resolution procedure is commenced between a taxpayer and the Commissioner, the time within which the taxpayer is required to file an application with the Tribunal, or a suit with court shall not be affected by the alternative dispute resolution procedure.

(4) For the avoidance of doubt, the alternative dispute resolution procedure under these Regulations shall not have any effect or negate the rights of the Commissioner or taxpayer to file an application with or the suit with the court or have an effect on the rules and procedures of the Tribunal or court.

**5. Methods of alternative dispute resolution procedure**

(1) The following methods of alternative dispute resolution procedures may be applied for a tax dispute—

- (a) Conciliation; where an independent conciliator is appointed or agreed upon by the Commissioner and the tax payer, to facilitate communication between the Commissioner and the taxpayer to explore settlement but without offering an opinion on the merits of the arguments of either side; or

- (b) Negotiation; where the Commissioner and the taxpayer agree to hold discussions relating to the tax dispute through engagement in discussions and exchange of information in order to reach an amicable settlement.

(2) Where a tax payer applies to the Commissioner to resolve a disputed tax decision using the alternative dispute resolution procedure, the tax payer shall indicate the preferred method of alternative dispute resolution under subregulation (1) and where applicable, indicate a proposal for the settlement of the dispute.

**6. Disputes eligible for alternative dispute resolution procedure**

(1) The Commissioner shall, upon receipt of an application under regulation 4 (1), evaluate the application to ascertain that the application is eligible to be resolved through the alternative dispute resolution procedure.

(2) For purposes of subregulation (1), the Commissioner shall consider—

- (a) whether using the alternative dispute resolution procedure is likely to promote fairness, maximisation of resources and proper management of the tax system;
- (b) the cost benefits of litigation with respect to—
  - (i) the prospects of success in the Tribunal or court;
  - (ii) the prospects of collection of the amount due;
  - (iii) the costs associated with the collection of the tax; or
  - (iv) the costs associated with litigation;
- (c) whether there are any complex, factual or quantum issues in contention;
- (d) whether the settlement of the dispute will promote compliance by the taxpayer, a group of taxpayers or the business sector; and

- (e) whether the tax dispute is a result of a miscommunication or misunderstanding between the Commissioner and taxpayer.

(3) Where the Commissioner is satisfied that the application is eligible for alternative dispute resolution, the Commissioner shall, within seven working days from the date of filing the application, invite the taxpayer in writing to participate in the alternative dispute resolution procedure.

(4) The Commissioner shall reject an application to resolve the dispute using alternative dispute resolution procedure where—

- (a) the settlement is likely to contravene any law of Uganda;
- (b) the matter in dispute is in regard to interpretation of the law;
- (c) it is in the public interest to have the court or Tribunal determine the tax dispute;
- (d) there is evidence of deliberate or consistent non-compliance by the tax payer on the matter in dispute;
- (e) the tax dispute relates to a case of an informer;
- (f) an application is filed out of time provided for under these Regulations; or
- (g) the tax dispute involves fraud.

(5) Where the Commissioner is satisfied that the application is not eligible for alternative dispute resolution the Commissioner shall, within fifteen working days from the date of filing the application, inform the tax payer in writing stating reasons of the rejection of the application for alternative dispute resolution procedure.

#### **7. Pre-alternative dispute resolution procedure meeting**

Where the Commissioner is satisfied that the application is eligible for resolving the dispute using the alternative dispute resolution procedure,



the Commissioner shall invite the taxpayer for an alternative dispute resolution procedure meeting for purposes of determining—

- (a) the costs of participating in the alternative dispute resolution procedure and the party to bear the costs;
- (b) the method to be adopted in the alternative dispute resolution procedure;
- (c) the timelines and schedule of the alternative dispute resolution proceedings;
- (d) the issues to be considered and resolved through the alternative dispute resolution procedure;
- (e) the terms and conditions to govern the alternative dispute resolution proceedings; and
- (f) any other matter relevant to resolving the dispute through the alternative dispute resolution procedure.

**8. Conduct of the alternative dispute resolution procedure**

(1) Each party shall, during the alternative dispute resolution proceedings, be given an opportunity to present their case, including calling witnesses whom the party wishes to rely on.

(2) The agreement of the parties to settle the dispute shall be based on the evidence submitted during the alternative dispute resolution proceedings.

(3) Where, for justifiable cause, a party fails to appear on the date of the alternative dispute resolution proceedings, the parties may schedule another date for the proceedings or close the alternative dispute resolution proceedings, if it is appropriate to do so.

(4) Where, in the course of resolving a dispute, a matter arises which, in the opinion of the parties requires specific expertise or competence, the parties may, upon agreement, call upon a subject matter expert to participate in the alternative dispute resolution proceedings for the purpose of providing the required expertise.



(5) The alternative dispute resolution proceedings shall be subject to the following conditions—

- (a) upholding and maintaining decorum and confidentiality;
- (b) upholding the integrity and fairness of the process;
- (c) fair and diligent participation in the proceedings;
- (d) the making of full disclosure of material facts and documentation relevant to the dispute;
- (e) commitment to the alternative dispute resolution process and attendance of all scheduled proceedings;
- (f) strict adherence to the agreed timelines, except under reasonable circumstances, which shall be communicated to the other party.

(6) Where the Commissioner or tax payer fail to abide by the conditions in subregulation (5), the parties may terminate the alternative dispute resolution proceedings.

**9. Withdrawal from alternative dispute resolution proceedings**

(1) A party may, at any stage of the alternative dispute resolution proceedings, before arriving at a settlement, by notice in writing, withdraw from the alternative dispute resolution proceedings on any of the following grounds—

- (a) where either party opts to withdraw from the proceedings or both parties mutually agree to terminate the proceedings;
- (b) if a party fails to attend two consecutive sittings of the alternative dispute resolution proceedings;
- (c) where the parties are of the opinion that the dispute cannot be resolved due to negative conduct by one or both parties;

- (d) where both parties determine that a settlement cannot be reached; or
- (e) any other ground that the Commissioner or taxpayer considers reasonable.

(2) Where the Commissioner or tax payer withdraws from the alternative dispute resolution proceedings, the alternative dispute procedure shall be terminated and the decision of the Commissioner being objected to shall be maintained against the taxpayer, unless it is overturned by the Tribunal or the court.

#### **10. Representation**

In the alternative dispute resolution proceedings—

- (a) a tax payer may appear—
  - (i) in person;
  - (ii) through a tax agent;
  - (iii) through an employee of the tax payer; or
  - (iv) through an advocate; and
- (b) the Commissioner may appear by himself or herself or by a tax officer or may be represented by an advocate.

#### **11. Settlement agreement**

(1) Where the Commissioner and the taxpayer, agree to settle the tax dispute using the alternative dispute resolution procedure, the issues agreed upon shall be set out in a settlement agreement which shall be signed by the Commissioner and the tax payer or by persons authorised to sign on their behalf.

(2) The settlement agreement referred to in subregulation (1), shall contain—

- (a) the background to the dispute and the issues of contention;

- (b) the processes and specific actions undertaken during the alternative dispute resolution proceedings;
- (c) the agreed issues and issues not agreed to;
- (d) the taxes payable or, where applicable, the taxes that are not payable, and the justification;
- (e) the terms of the settlement agreement;
- (f) the undertakings given by each party, if any;
- (g) the agreed mode of payment and payment plan, where applicable; and
- (h) the withdrawal of any proceedings pending before the Tribunal or court, where applicable.

**12. Alteration of assessment upon signing of settlement agreement**

(1) Where the Commissioner and tax payer reach a settlement agreement to adjust the tax liability of the tax payer, the Commissioner may alter or amend the assessment for purposes of giving effect to the terms contained in the settlement agreement.

(2) The altered or amended tax assessment referred to in subregulation (1) shall not be subject to an objection or appeal to the Commissioner, except—

- (a) to correct an arithmetical error in the alternative dispute resolution decision;
- (b) to commence the execution or enforcement procedure;
- (c) to correct an error on the face of the amended or altered assessment;

- (d) to set aside the alternative dispute resolution decision; or
- (e) where the content of the altered tax assessment is not in line with the terms of the alternative dispute resolution decision.

#### PART III—ENFORCEMENT OF THE SETTLEMENT AGREEMENT

#### **13. Recognition and enforcement of settlement agreement**

(1) A settlement agreement shall be recognised as binding and enforceable against the Commissioner or tax payer, as the case may be, like any other tax decision made by the Commissioner.

(2) Where the settlement agreement provides that the tax liability of the tax payer be adjusted, the Commissioner shall, within fourteen days from the date of signing of the settlement agreement amend the assessment, to give effect to the terms of the settlement agreement.

#### **14. Violation of settlement agreement**

Where the Commissioner or tax payer fails to comply with, or violates a settlement, the tax payer or Commissioner may apply to court to enforce the settlement agreement.

#### **15. Alternative dispute resolution procedure register**

The Commissioner shall establish and maintain a register of disputes settled under the alternative dispute resolution procedure, which shall contain—

- (a) the amount of revenue collected or recovered through the alternative dispute resolution procedure;
- (b) the estimated amount of savings in costs if the dispute was to be resolved by the Tribunal or court;
- (c) the amount of revenue potentially foregone; and
- (d) any other information that Commissioner receives in the process of the alternative dispute resolution procedure.



**16. Maintenance of records**

The Commissioner shall maintain records of each settlement agreement signed between the Commissioner and a taxpayer for at least ten years from the date of signing the settlement agreement.

**SCHEDULE**

*Regulation 4 (2)*

**FORM**

**Application to the Commissioner to request to resolve a tax dispute using the alternative dispute resolution procedure in accordance with section 24(11) of the Tax Procedures Code Act, 2014.**

**Notes:**

1. *Where the space provided is insufficient, please use an extension page and attach it to this application form.*
2. *Pages attached shall be sequentially numbered and the total number thereof shall be stated in the field provided.*

Details of Applicant (For purposes of further correspondence)					
Full Name (s)	TIN	Telephone No.	Name of Agent (if not the applicant)	Telephone No.	E-mail Address
<b>Address for delivery of documents</b>					
Registered business name or name of the applicant applicant					
Postal address				Code	
Physical address					
E-mail address					
Business Telephone Number					
<b>Nature of dispute:</b> <i>(Indicate with an 'X' in the applicable block(s))</i>					

Income Tax	Excise Duty	VAT	Penalty	Refund
If 'Other' please specify				
Period of assessment				
Amount of tax in dispute	Date of objection decision			
Reference Number				
Proposed mode of ADR				
Taxpayers narration of the dispute				

**Grounds for application for alternative dispute resolution procedure**

- 1
- 2
- 3
- 4
- 5

6

7.

**No. of pages attached to this form, if any:**

Please attach appeal documents (*statements of facts, memorandum of appeal and any other relevant documentation*)

**Please attach settlement proposal**

MATIA KASAIJA (MP),  
*Minister of Finance, Planning and Economic Development*



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