Commencement: 28 December 1998

VALUE ADDED TAX TRIBUNAL RULES

Published Gazette No. 32 of 1998

ARRANGEMENT OF RULES*

1. Citation
2. Interpretation
3. Registrar of the Tribunal
4. Office of the Tribunal
5. Place of Sittings
6. Notice of Objection
7. Entry of objection and direction for hearing
8. Notice of hearing of objection
9. Service
10. Amendment of notice of objection
11. Attendance of witness under subpoena
12. Hearing of the Objection
13. Fees of Tribunal
14. Costs
15. The Tribunal may enlarge time

SCHEDULE 1 – Notice of objection
SCHEDULE 2 – Fees
SCHEDULE 3 – Scale of advocates' costs

1. Citation
These Rules may be cited as the Value Added Tax Tribunal Rules.

2. Interpretation
In these Rules:

"the Act" means the Value Added Tax Act [Cap. 247];

"the Tribunal" means the Value Added Tax Tribunal as for the time being constituted under section 61 of the Act;

"the Registrar" means the Registrar of the Tribunal.

3. Registrar of the Tribunal
The Chief Registrar of the Supreme Court of Vanuatu will be the Registrar of the Tribunal.

4. Office of the Tribunal
The Office of the Tribunal will be at the Supreme Court Registry at Port Vila.

5. Place of Sittings
The Tribunal may sit for the hearing of an objection, or for the hearing of an interlocutory application incidental to an objection, at any place within Vanuatu which the Tribunal from time to time or at any time may deem convenient for the sitting.

6. Notice of Objection
(1) Every objection to the Tribunal shall be brought by notice of motion (in these Rules referred to as "the notice of objection") in the Form appearing in Schedule 1.

(2) The notice of objection shall state clearly and concisely the grounds of the objection. The notice shall be signed by the objector or his agent or barrister and/or solicitor and shall state therein an address for service in Vanuatu to or at which notice, process, and other documents and written communications relating to the objection may be sent by registered post or left for the objector. Service by post on delivery as aforesaid shall be deemed to be good service on the objector.

**Editor's note: This Arrangement of Rules contains links to the body of the Rules (Control + click)*

(3) The original notice of objection and one copy thereof shall be filed in the office of the Tribunal within the time notified to the objector by the Director under subsection (9) of section 26 of the Act as the time within which the objector may exercise the right to have the objection heard and determined by the Tribunal.

(4) The objector shall cause a copy of the notice of objection to be served upon the Director at his office at Port Vila, either personally or by registered post, within the time referred to in paragraph (3).

7. Entry of objection and direction for hearing

(1) Upon filing of the notice of objection the Registrar shall cause the objection to be entered in the books of the Tribunal and shall obtain a direction by the person for the time being appointed to hold the Tribunal as to day, time and place to be appointed for the hearing of the objection.

(2) Unless, on the application of the objector it is otherwise directed, the place of the hearing of the objection shall be at Port Vila. An objector may apply at any time to the person for the time being appointed to hold the Tribunal for a direction that the objection be entered for hearing at any place other than at Port Vila or, if the objection has been entered for hearing at Port Vila the place of hearing. Any such application may be made by motion on not less than four (4) days' notice to the Director.

8. Notice of hearing of objection

The Registrar shall give not less than twenty eight days' notice in writing (in the Rules referred to as "the notice of hearing") to the objector and to the Director of the day, time and place appointed for the hearing of the objection.

9. Service

Service of the notice of hearing on the Director may be effected by sending a copy of the notice by registered post to him at his office at Port Vila, or by leaving a copy of the notice at that office. Service on the objector may be effected in accordance with paragraph (2) of Rule 6.

10. Amendment of notice of objection

A Notice of objection may be amended at any time by or with the leave of the Tribunal on such terms and conditions as the tribunal may think just.

11. Attendance of witness under subpoena

At the request of the objector or the Director or by the direction of the Tribunal itself, a *subpoena ad testificandum* or *duces tecum* may be issued requiring any person to attend to give evidence or to produce documents in connection with the objection.

12. Hearing of the Objection

(1) On the day fixed for the hearing of the objection or on any other day to which the hearing may be adjourned, the objector, or his agent or barrister and solicitor, shall be heard in support of the objection.

(2) The Tribunal shall then, if it does not dismiss the objection at once, hear the Director or his officer or barrister and solicitor, and in such case the objector shall have the right of reply.

(3) Subject to the provisions of the Act or to these Rules, the Ordinary Practice and the Rules of the Western Pacific High Court (Civil Procedure) Rules of 1964 and the Rules contained in the Supreme Court Practice 1979 (English) "The White Book" of 1979 will apply, with necessary modifications in relation to an objection or a claim under these Rules.

13. Fees of Tribunal

(1) The Fees set out in Schedule 2 shall be charged and paid in respect of the matters therein specified.

(2) The fees to be charged and paid in respect of matters not specified in the said schedule shall be the fees payable in respect of similar matters in civil proceedings in the Supreme Court.

Provided that no fees shall be charged or be payable by the Director in relation to any act, application or proceeding by him in relation to an objection.

14. Costs

(1) Subject to the provisions of section 67 of the Act, the costs of an incidental to an objection shall be in the discretion of the Tribunal but, unless the Tribunal in any particular case for good reason shall think fit otherwise to order, legal practitioners' costs shall not exceed the maximum allowance prescribed by the scale of costs set out in Schedule 3.

(2) When the Tribunal directs that the cost, or any part of the costs, of an objection be paid by the objector or by the State, the Tribunal may specify the amount of such costs to be paid or may direct that the costs be taxed by the Registrar or the Taxing Master.

(3) The Tribunal may allow as costs of an objection the allowances and expenses of witnesses attending the hearing of the objection in accordance with the Rules for the time being in force in the Supreme Court of Vanuatu in relation to allowances and expenses of witnesses attending at trials before the Supreme Court, and for that purpose any reference in such Rules to the Chief Registrar for the Supreme Court, shall be deemed to be a reference to the Registrar of the Tribunal.

(4) The Tribunal may allow such other necessary costs or allowances as may seem to the Tribunal to be fair and reasonable.

15. The Tribunal may enlarge time

The Tribunal may for good cause enlarge any period of time prescribed by these Rules.

SCHEDULE 1

(Rule 6(1))

VALUE ADDED TAX ACT [Cap. 247]

In the matter of an objection to the Value Added Tax Tribunal by the Objector

TAKE NOTICE that the Value Added Tax Tribunal will be moved by the above-named Objector upon such day and time at such place as may be appointed for the sitting of the Tribunal for an Order that the decision of the Director of the Value Added Tax dated …….. day of …….. 20……, disallowing the objection by the Objector to the following assessment(s).

(state particulars of assessment(s) objected against)

be revised or set aside and the state do pay to the Objector the costs of this objection.

And further take notice that the grounds of this objection are as follows:

(set out clearly and concisely the grounds of objection which, save with the leave of the Tribunal, shall be the reasons stated in the objection to the assessment.)

Dated this ……. day of ……. 20…….

Signature of Objector,
Or his agent or barrister
And solicitor

*Address for service:
……..

To the Director of the Value Added Tax, Port Vila.

**The objector must ensure that the address for service given is adequate to secure that notices, etc., post to or left at that address will reach him without delay.*

SCHEDULE 2

(Rule 13)

FEES (VAT INCLUSIVE)

		Vatu
1.	On filing notice of objection and copy ……..	10,000
2.	On filing any other notice or motion and copy ……	5,000
3.	On filing an affidavit or any other document ……	2,000
4.	On sealing a Writ of Subpoena for a witness ……..	5,000
5.	On filing a Bill of Costs and obtaining an appointment to tax ……...	5,000
6.	On taxation – for every VT 1,000 or fraction thereof allowed ……	500
7.	On sealing a certificate or allocateur ……..	5,000

SCHEDULE 3

(Rule 14)

SCALE OF ADVOCATES' COSTS

Part 1

FIXED COSTS IN UNDEFENDED CASES

(To be endorsed on Notice of Motion/Objection together with Court Fee)

Where the subject matter or amount does not exceed 50,000 VT	2,000 VT
Where the subject matter or amount exceeds 50,000 VT but does not exceed 100,000 VT	2,500 VT
Where the subject matter or amount exceeds 100,000 VT but does not exceed 200,000 VT	3,000 VT
Where the subject matter or amount exceeds 200,000 VT but does not exceed 500,000 VT	5,000 VT
Where the subject matter or amount exceeds 500,000 VT but does not exceed 1,000,000 VT	7,000 VT
Where the subject matter or amount exceeds 1,000,000 VT	10,000 VT
Thereafter, ¼% for every 500,000 VT, or part thereof, exceeding 1,000,000 VT	

PART 2

COSTS IN DEFENDED CASES

(For use on taxation and when itemised bill of costs is required)

	Where the assessments of the amount which the Director considers is the tax payable under the V.A.T. Act 1998 amount to:			
	100,000 VT or under	**Over 100,000 VT and not exceeding 200,000 VT**	**Over 200,000 VT and not exceeding 500,000 VT**	**Over 500,000 VT**
SUMMONSES, MOTIONS, OBJECTIONS etc.				
1. Preparing Notice of Motions, Objection, Claim, Defence (other than a general denial) counterobjection or counterclaim including all particulars annexed or judgment summons and fair copy	300	600	1,500	2,000
2. For each copy required for service	100	100	100	100
3. Preparing request for further particulars of objection or claim or counterobjection or counterclaim and fair copy	200	200	400	400
4. Preparing further particulars and fair copy	200	200	400	400

5. For each copy required for service.	100	100	100	100
6. Preparing witness summons or subpoena (If *duces tecum*, discretion to taxing master to allow higher fee)	200	200	400	400
7. Copy of service, each witness (If *duces tecum*, discretion as under Item 6)	100	100	100	100
8. Preparing notice to produce or admit facts; for each page or part thereof	200	200	400	400
9. Preparing motion paper or any other necessary notice, and fair copy	200	200	400	400
10. Preparing notice of discontinuance and fair copy	150	150	300	300
11. Preparing notice of appointment to tax costs and fair copy	150	150	300	300
INSTRUCTIONS				
12. To sue or defend in any proceedings	500	1,000	2,000	2,500
13. For affidavit	250	250	500	500
14. For interlocutory application	250	250	500	500
15. For trial, each day and part thereof	1,000	1,500	3,000	4,000
16. For proof of each witness allowed on taxation	250	250	500	500
17. To admit facts	250	250	500	500
DRAWING				
18. Admission of facts and fair copy	200	200	400	400
19. Affidavit and fair copy, per page	250	250	500	500
20. Accounts, statements and other documents when required by the Tribunal or the opposing party, per page	100	100	200	200
21. Bill of costs for taxation and fair copy, per page	200	200	400	400
22. Writ of execution, committal order or warrant and fair copy	200	200	400	400
COPIES				
23. Of all documents for which no special provision has been made, per page	100	100	100	100
ATTENDANCES				
24. To enter summons, judgment summons or motion, or to file conterobjection, or counterclaim further particulars, answer to interrogatories, admission of facts, affidavit of documents, Particulars of objection, claim in interpleader proceedings etc.	200	200	400	400
25. On adverse party or his advocate with copy of any document (taxing master to take time and distance into account).	300	300	500	500
26. To issue subpoena or to discontinue action	200	200	400	400
27. To apply for costs on receiving notice of discontinuance	200	200	400	400
28. To inspect documents or produce same for inspection	100	100	200	200
29. To obtain or give any necessary consent or admission or to swear an affidavit	100	100	200	200
30. On hearing of judgment summons	300	300	500	500

31. On an interlocutory application or any other application not otherwise provided for	300	300	500	500
32. On trial:				
(a) when case adjourned, not part heard	200	200	400	400
(b) When judgment given in default	250	250	500	500
(c) When case defended for each hour but not exceeding per diem	1,000 4,000	1,500 4,500	2,000 5,000	2,500 6,000
33. To hear reserved judgment	300	300	500	500
34. To obtain appointment for taxation	200	200	400	400
35. To tax bill of costs	300	300	500	500
36. To issue writ of execution	200	200	400	400
37. For any other attendance	200	200	400	400
LETTERS etc.				
38. Letter before action	200	200	400	400
39. Letter in lieu of attendance which could properly be allowed under item 37	200	200	400	400
40. Perusing any necessary document, per page	100	100	200	200
GARNISHEE PROCEEDINGS				
41. Inclusive charge to cover: Instructions for summons; Instructions for affidavit; Drawing affidavit and fair copy; Attending swearing; Copy to serve; Preparing summons and fair copy; Copy to serve **NOTE:** Any step or attendance not specifically provided for by Item 41 shall be according to the general scale.	1,000	1,500	2,000	2,500
TRAVELLING ALLOWANCES AND EXPENSES				
42. For every day or portion of a day during which, in the opinion of the taxing master, an advocate is engaged in travelling from his place of business in the Republic of Vanuatu to the place of trial and returning therefrom, and for every day which, in the opinion of the place of trial, prior to or subsequent to the trial, such an amount per diem as the taxing master may think reasonable but not exceeding	1,000	1,500	2,000	2,500
43. In respect of travelling and subsistence expenses, an advocate shall be entitled to charge the amounts actually and necessarily incurred provided that such amounts are considered reasonable by the Taxing Master in the particular circumstances of the case. If an advocate attends in more than one cause, he will be entitled to a proportionate charge, under this and the preceding item, in each cause only.				
NOTE: No allowance or expenses shall be claimed in respect of Items 42 and 43 if another advocate has his place of business at the place of trial and his services were available on an agency basis unless special circumstances are shown				
44. Where the work done is non-contentious business or judgment is given for some relief other than any of those specifically provided for in this scale, such costs shall be allowed under this scale as the Court may direct.				