

TAX APPEAL COMMISSION (AMENDMENT) BILL 2023

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TAX APPEAL COMMISSION (AMENDMENT) BILL 2023

A BILL FOR AN ACT TO AMEND THE TAX APPEAL COMMISSION ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act which amends the Tax Appeal Commission, Act 2020 (*No.3 of 2020*) may be cited as the Tax Appeal Commission (Amendment) Act, 2023.
- (2) This Act shall come into force on the 1st day of July 2023.

2. Repeal and replacement of section 5 of the principal Act.

Section 5 of the principal Act is repealed and replaced by the following –

“ 5. Appealable decisions.

- (1) Subject to subsection (2), a person aggrieved by any of the following decisions made against such person, may appeal to the Tax Appeal Commission against a decision in relation to —
 - (a) the Value Added Tax Act (*No. 32 of 2014*) –
 - (i) a decision of the Comptroller of VAT on an objection under section 81;
 - (ii) an advanced VAT ruling under section 18; or
 - (iii) a decision of the Comptroller to hold a withholding agent personally liable to pay the amount of VAT which ought to have been withheld pursuant to section 23A (8);
 - (b) the Business Licence Act, 2023, –

- (i) an assessment of tax under section 39;
 - (ii) the imposition of a fixed penalty under section 53;
 - (iii) a notice of assessment made in accordance with section 43;
 - (iv) the seizure of any good or asset in accordance with section 54; or
 - (v) a decision made by the Secretary regarding a claim for a refund under section 61;
 - (c) the Real Property Tax Act (*Ch. 375*), a decision of the Chief Valuation Officer on an objection under section 13;
 - (d) the Customs Management Act (*No. 30 of 2011*), a decision of the Comptroller of Customs under section 228, 231 or 319;
 - (e) the Stamp Act (*Ch. 370*), an assessment by the Comptroller of the amount of stamp duty chargeable upon an instrument or transaction under section 27 and an advance stamp duty ruling under section 27B ;
 - (f) the Public Procurement Act, 2023 (*No. 3 of 2023*), in relation to—
 - (i) a decision of the head of the procuring entity pursuant to section 61;
 - (ii) a decision of the Chief Procurement Officer pursuant to sections 65 and 67; and
 - (iii) a decision of the Financial Secretary pursuant to sections 66, and 67.
- (2) Notwithstanding subsection (1)—
- (a) a person who waives his right in writing to appeal a decision referred to in subsection (1)(a)(i) and (1)(b)(i), shall have no right to appeal such decision to the Tax Appeal Commission;
 - (b) an appeal by a person against a decision of the Comptroller to make him personally liable for failure to withhold VAT pursuant to section 23A(8) of the Value Added Tax Act, 2014 (*No. 32 of 2014*), shall be limited to determining whether the facts on which the non-compliance was based were established, and no appeal shall be entertained on the question of the liability of the appellant to withhold the amount of VAT which the Comptroller found ought to have been withheld.
- (3) A decision of the Tax Appeal Commission in respect of an appeal pursuant to subsection (1) (f)(i) shall be appealable to the Court of

Appeal only on questions of law pursuant to section 63 of the Public Procurement Act, 2023.”

OBJECTS AND REASONS

By this amendment of the Tax Appeal Commission Act, 2020 (*No. 3 of 2020*), this Bill seeks to harmonize the provisions of the Act with recent changes to other tax legislation which empower the Tax Appeal Commission to hear appeals from the decisions of entities established in such tax legislation including, the VAT Act (*No. 32 of 2014*), the Business Licence Act (*No. 25 of 2010*), the Real Property Tax Act (*Ch. 375*), the Customs Management Act (*Ch. 293*), the Stamp Act (*Ch.370*), and the Public Procurement Act (*No.3 of 2023*).