

THE FEDERAL HIGH COURT APPROVES NEW TAX APPEAL RULES

Introduction

The Chief Judge of the Federal High Court recently approved the Federal High Court Tax Appeal (Procedural Rules, 2022) pursuant to the powers vested on him in his capacity as Chief Judge of the Federal High Court . The sanctioning of the new Rules is sequel to the Federal High Court (FIRS) Practice Directions, 2021 issued by the Chief Judge in May of 2021.

The new Rules took effect on January 10, 2022, repealing the preceding Federal High Court (Tax Appeal) Rules, 1992. The new Rules provide detailed guidance on how to prepare Notices of Appeal from decisions of the Tax Appeal Tribunal and other issues relating to the commencing and prosecuting tax appeals at the Federal High Court.

Below are some noteworthy provisions of the new Rules.

APPEAL AGAINST POINTS OF LAW

The new Rules in **Order 1 Rule 1** provide that any party dissatisfied with a decision of the Tribunal may Appeal against such Decision on Points of Law to the Court by filing a Notice of Appeal at the Tribunal. This is different from the provision in the preceding rules that allows any person authorised to appeal by

virtue of any Federal legislation that imposes any taxation. Additionally, bearing in mind the fact that the Federal High Court is bestowed with jurisdiction over matters relating to taxation as contained in Section 251 of the Constitution of the Federal Republic of Nigeria, 1999 it thus is unclear why this is contained in the new Rules.

REDUCING THE TIME FOR BRIEF FILING

The new Rules in **Order IV** prescribes that an Appellant shall within fifteen (15) days of service of the Records of Appeal, file and serve his Brief of Argument. The Respondent is required to file the Respondent's Brief within fifteen (15) days of service on him of the Appellant's Brief. The Appellant shall file his Reply Brief within seven (7) days after service of the Respondent's Brief of Argument and three (3) clear days before the date fixed for hearing.

The new Rules have abridged the time that Briefs of Argument are filed as the preceding rules prescribed that the Appellant's Brief of Argument shall be filed within 30 days and the Respondents Brief within 30 days of receipt of Appellant's Brief of Argument.

Order IV Rule 2 (d)
Order IV Rule 2 (e)
Order IV Rule 3(I & ii)
Order V Rule 1 (A)
Order V Rule 1 (B)

ACCELERATED HEARING OF APPEALS

Order V Rule 6 compels a Judge assigned with an Appeal from the Tax Appeal Tribunal to accord the case accelerated hearing.

REQUIREMENT FOR DEPOSIT OF JUDGMENT SUM

The new Rules in **Order V Rule 1** provides that any tax debtor desirous of appealing the decision of the Tribunal shall deposit the sum contained in the decision in an interest yielding account maintained by the Chief Registrar of the Court. An appeal shall only be heard where there is evidence of deposit.

ELECTRONIC MODE OF SERVICE

The new Rules in **Order VII Rule 1 (d)** permits service of Court Processes and Hearing Notices via electronic means, and it enlists the electronic means to include SMS, emails, WhatsApp or as may be directed by the Court. The Rule goes on further to state that printout of electronic service or proof of service shall be sufficient to the Court.

CONCLUSION

It is unarguable that the new Rules have introduced some noteworthy Rules which by its contents and if adhered to, have the potential to spawn speedy dispensation of appeals on decisions from the Tax Appeal Tribunal. This may be attained on the strength of certain Rules such as the Rule compelling a judge to hear an Appeal

expeditiously as well as abridging the time within which to file briefs. Additionally, it is essential to highlight that the new Rules are desirous of accepting technological innovations through the permission of electronic service. Perhaps in the near future, a case for electronic filing will be considered.

Notwithstanding, some of the Rules may be considered to be counter-productive such as the shortening of time to file briefs which can be described to be short. Further, the requirement to deposit money with the Tribunal has the propensity to delay access to justice as anyone who has a judgment against him at the Tax Appeal Tribunal and intends to appeal the decision will be required to deposit the judgment sum before acquiring other costs.

In all, the enactment of the new Rules has come at a good time as it further propels and aligns with the overall policy direction of the Government in improving tax administration in Nigeria. It is however essential to note that the enforcement of the new Rules is essential for it to be effective, and whilst there are commendable and noteworthy Rules, there are some grey areas that may be reviewed in the near future.

