

EXTRAORDINARY  
**FIJI REPUBLIC GAZETTE SUPPLEMENT**

No. 12

TUESDAY, 12th APRIL

1994

[LEGAL NOTICE NO. 39]

VALUE ADDED TAX DECREE 1991

VALUE ADDED TAX TRIBUNAL RULES  
 (Section 53)

IN exercise of the powers conferred on me by Section 53 of the Value Added Tax Decree 1991, I have made the following Rules:

*Short title*

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

*Interpretation*

2. In these Rules:  
 "the Decree" means the Value Added Tax Decree;  
 "the Tribunal" means the Value Added Tax Tribunal as for the time being constituted under Section 51 of the Decree;  
 "Registrar" means the Registrar of the Tribunal.

*Registrar of the Tribunal*

3. The Chief Registrar of the High Court of Fiji shall be the Registrar of the Tribunal.

*Office of the Tribunal*

4. The office of the Tribunal shall be at the High Court Registry at Suva.

*Place of sittings*

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

*Notice of appeal*

- 6.—(1) Every appeal to the Tribunal shall be brought by notice of motion (in these Rules referred to as "the notice of appeal") in the form appearing in the First Schedule.

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

(3) The original notice of appeal and one copy thereof shall be filed in the office of the Tribunal within the time notified to the appellant by the Commissioner under subsection (5) of Section 50 of the Decree as the time within which the appellant may exercise the right of appeal to the Tribunal.

(4) The appellant shall cause a copy of the notice of appeal to be served upon the Commissioner at his office at Suva, either personally or by registered post, within the time referred to in paragraph (3).

*Entry of appeal and direction for hearing*

7.—(1) Upon the filing of the notice of appeal the Registrar shall cause the appeal 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 the day, time and place to be appointed for the hearing of the appeal.

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

*Notice of hearing of appeal*

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

*Service*

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

*Amendment of notice of appeal*

10. A notice of appeal 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.

*Attendance of witness under subpoena*

11. At the request of the appellant or the Commissioner or by the direction of the Tribunal itself, a subpoena *ad testificandum* or *ducus tecum* may be issued requiring any person to attend to give evidence or to produce documents in connexion with the appeal.

*Hearing of the appeal*

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

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

(3) Subject to the provisions of the Decree or to these Rules, the ordinary practice and the Rules of the High Court shall apply, with necessary modifications in relation to an appeal under these Rules.

*Fees of Tribunal*

13.—(1) The fees set out in the Second Schedule 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 High Court.

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

*Costs*

14.—(1) Subject to the provisions of Section 57 of the Decree, the costs of an incidental to an appeal 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 Appendix 4 of the High Court Rules.

(2) When the Tribunal directs that the cost, or any part of the costs, of an appeal be paid by the appellant 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.

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

Made the 5th day of April 1994.

T. U. TUIVAGA  
Chief Justice

*First Schedule*  
(Rule 6(1))

VALUE ADDED TAX DECREE 1991

*In the Matter of an appeal to the Value Added Tax  
Tribunal by the Appellant.*

TAKE NOTICE that the Value Added Tax Tribunal will be moved by the above-named appellant 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 Commissioner of Inland Revenue dated day of 19 , disallowing the objection by the appellant to the following assessments(s):

*(state particulars of assessment(s) appealed against)*

be revised or set aside and the State do pay to the appellant the costs of this appeal.

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

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

Dated this day of 19

Signature of appellant, or his agent,  
or barrister and solicitor  
\* Address for service:

To the Commissioner of Inland Revenue, Suva.

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

*Second Schedule*  
(Rule 13)

FEES (VAT INCLUSIVE)

	\$	c
1. On filing notice of appeal and copy .....	50.00	
2. On filing any other notice or motion and copy .....	10.00	
3. On filing an affidavit or any other document .....	5.00	
4. On sealing a writ of subpoena for a witness .....	10.00	
5. On filing a Bill of Costs and obtaining an appointment to tax .....	15.00	
6. On taxation—for every \$4 or fraction thereof allowed .....	0.66	
7. On sealing a certificate or allocatur .....	10.00	