ORDER 1 – CITATION, AND APPLICATION

1. These Rules may be cited as the Tax Appeal Tribunal (Procedure) Rules 2010.

2. These Rules shall apply in all proceedings of the Tribunal.

ORDER II – INTERPRETATION

In these Rules- “the Act” means the Federal Inland Revenue Service (Establishment) Act 2007;

“adviser” includes a chartered tax practitioner;

“appellant” means a person who files an appeal at the Tribunal under paragraphs 13 and 14 of the Fifth Schedule to the Act, and shall include a legal personal representative of a person entitled to file an appeal or a person appointed under Order 6 to proceed with an appeal on behalf of a person entitled to file an appeal;

“approved forms” means forms contained in the First Schedule to these Rules;

“Chairman” means the Chairman of the Tribunal, and where the context admits, includes a member selected to preside at any sitting of the Tribunal;

“direction” means any order or other determination by the Tribunal other than a decision, and in relation to interim proceedings includes an order and a witness summons;
“disputed decision” means a decision of the Service against which an appeal is brought under these Rules;

“hearing” means a sitting by the Tribunal in exercise of the power to decide an appeal with or without an oral hearing or interim proceedings;

“party” means in the case of an appeal, the appellant or the respondent, and includes the Service;

“register” means the register of appeals, applications and decisions kept in accordance with these Rules;

“respondent” means any party other than an appellant or applicant directly affected by an appeal;

“reply” means a response or answer by a respondent in an appeal;

“Secretary” means the person appointed as Secretary to the Tribunal pursuant to paragraph 9 (1) of the Fifth Schedule to the Act;

“the Service” means the Federal Inland Revenue Service established pursuant to section 1 of the Federal Inland Revenue Service (Establishment) Act 2007;

“tax laws” means the enactments listed in the First Schedule to the Act;

“the Tribunal” means the Tax Appeal Tribunal established pursuant to section 59 of the Act

ORDER III – FORM AND COMMENCEMENT

1. A person aggrieved by an assessment or demand notice made upon him by the Service or aggrieved by any action or decision of the Service under the provisions of the tax laws administered by the Service may appeal against such action, decision, assessment or demand notice within the period stipulated hereunder.

2. An appeal under these Rules shall be filed within a period of 30 days from the date on which the action, decision, assessment or demand notice which is being appealed against, was made by the Service:

Provided that the Tribunal may entertain an appeal after the expiration of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.
3. The Service, if aggrieved in relation to any person in respect of any provisions of the tax laws, may as in rule 2 above, file an appeal at the appropriate zone of the Tribunal.

4. An appeal to the Tribunal shall be made as in Form TAT 1 contained in the First Schedule to these Rules and accompanied by such fee as may be prescribed in the Second Schedule to these Rules;

5. An Appellant who desires to rely on evidence of witnesses at the hearing of an appeal shall file along with the notice of appeal—

(a) list of witnesses to be called at the hearing of an appeal;

(b) written statements on oath of the witnesses; and

(c) copies of every document to be relied on at the trial.

ORDER IV – PLACE OF INSTITUTING APPEALS

An appeal shall be filed in the zone from which it emanates in conformity with paragraph 1 of the Tax Appeal Tribunal (Establishment) Order 2009.

An appeal commenced in a wrong zone shall not be heard but be transferred upon the direction of the Chairman of the zone where it is commenced to the appropriate zone.

ORDER V – PARTIES AND REPRESENTATION

1. (a) An appellant may appear for himself in proceedings before the Tribunal.

(b) A partnership may act through one of its partners.

A corporate entity may act through one of its directors, officers or employees.

2. All persons may be joined in an appeal as appellants in whom any right to relief (in respect of or arising out of the same transaction or in a series of transactions) is alleged to exist whether jointly, severally or in the alternative, where, if such persons brought separate appeals, any common question of law or fact would arise and judgment may be given for such one or more of the appellants as may be entitled to relief, for such relief as he or they may be entitled to without any amendment.

3. All persons may be joined as respondents against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative and judgment may be given against such one or more of the respondents as may be found to be liable according to their respective liabilities without any amendment.
4. If it appears to the Tribunal, at or before the hearing of an appeal that all the persons who may be entitled to or who claim some share or interest in the subject matter of the appeal, or who may be likely to be affected by the result, have not been made parties, the Tribunal may adjourn the hearing of the appeal to a future day, to be fixed by the Tribunal and direct that such persons shall be made either appellants or respondents in the appeal.

5. A party may be represented at all stages of the proceedings before the Tribunal by a legal practitioner or a chartered accountant or an adviser.

**ORDER VI – NO ABATEMENT OF PROCEEDINGS**

1. Where after filing a notice of appeal, and the appellant, being an individual, dies, becomes insane or is adjudged bankrupt, or being a company, is wound up, the proceedings before the Tribunal shall not abate but may be continued by substituting in place of the appellant, the executor, administrator or other legal representative of such individual appellant or by the assignee, receiver or liquidator of such appellant company, as the case may be.

2. Where an appeal has been filed, and the respondent, being an individual, dies, becomes insane or is adjudged bankrupt, or being a company, is wound up, the proceedings before the Tribunal shall not abate but may be continued by substituting in place of the respondent, the executor, administrator or other legal representative of such individual respondent or by the assignee, receiver or liquidator of such respondent company, as the case may be.

**ORDER VII- SERVICE OF PROCESSES**

1. Any notice or process filed at the Tribunal shall have endorsed on it the addresses for service within the zone of all the parties.

2. Personal service.
A notice or process shall be deemed to have been properly served if delivered
(a) personally to the appellant or his representative,

(b) in the case of a partnership to a partner, or an officer or representative of the partnership

(c) in the case of a company to a director, or an officer of the company or its representative.

3. Where personal service on a party cannot be effected, the Tribunal may on the application of any of the parties order substituted service to be effected by any of the underlisted methods-
(a) advertisement in a newspaper circulating within the jurisdiction of the Tribunal;

(b) delivery of the process to an adult person at the usual or last known place of residence or business of the party; or

(c) delivery of the process to a person who is an agent of the party; or

(d) pasting the process at a conspicuous part of the last known place of residence or business of the party; or

(e) registered post or courier service.

4. The Tribunal may dispense with proof of service where the party served acknowledges receipt of the relevant process.

5. (1) Service of notices and processes shall be effected between the hours of six o’clock in the morning and six o’clock in the evening.

(2) Save in exceptional circumstances and as may be ordered by the Tribunal, service shall not be effected on a Saturday, Sunday or a public holiday.

6. In all cases where service of any notice or process has been effected by an officer of the Tribunal or by a party, proof of service as in Form TAT 2 to the First Schedule to these Rules, signed by the officer or party shall on production be prima facie evidence of service.

ORDER VIII – MODE OF ENTERING OF APPEARANCE

1. A respondent shall within 30 days after the service of a notice of appeal on him enter appearance by delivering to the Secretary a respondent’s reply as in Form TAT 3 to the First Schedule to the Rules acknowledging receipt of the notice of appeal and stating therein whether he contests the appeal.

2. If the respondent contests the appeal, he shall state his reasons for doing so.

3. A respondent who desires to rely on evidence at the hearing of the appeal shall file along with the respondent’s reply — (a) list of witnesses to be called at the hearing of the appeal;

(b) written statements on oath of the witnesses; and

(c) copies of every document to be relied on at the hearing.

4. All processes shall be signed by the respondent or his legal practitioner, chartered accountant or adviser.
5. On the receipt of the relevant documents, the Secretary shall record the appearance in the Cause Book, stamp the copies of the respondent’s reply with the official stamp showing the date on which he received the documents and deliver a copy to the appellant or the person representing him at the hearing.

ORDER IX – DEFAULT OF APPEARANCE

1. If on the day of hearing or on the adjourned date, the appellant does not appear and is not represented, the appeal may be struck out.

2. When an appeal has been struck out owing to the non-appearance of the appellant, the Tribunal may, if it thinks fit, direct the appeal to be re-listed for hearing.

3. If on the day of hearing or on any adjourned date, the appellant appears, the Tribunal may whether the respondent appears or not, proceed to the hearing or further hearing and determination of the appeal and shall give its decision according to the merits of the appeal.

4. Where an appeal has been heard in default of the appearance of the respondent and any decision has been given, the Tribunal may entertain an application from the respondent to set aside such decision and to re-hear the appeal.

5. Any decision or order obtained where one party does not appear at the hearing may be set aside by the Tribunal upon such terms as may seem just, upon an application made within 14 days or such longer period as the Tribunal may allow for good cause shown.

ORDER X – COMPUTATION OF TIME

1. Where by these Rules or by any order made by the Tribunal, any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding and such time is not limited by hours, the following rules shall apply-

   (a) the limited time shall not include the day of the date or the happening of the event, but commences at the beginning of the following day;

   (b) the act or proceeding shall be done or taken at the latest on the last day of the limited time;

   (c) where the time limited is less than five days, no public holiday, Saturday or Sunday shall be reckoned as part of the time;
(d) when the time expires on a public holiday, Saturday or Sunday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards not being a public holiday, Saturday or Sunday.

2. The parties shall not by consent enlarge or abridge any time prescribed by these Rules for taking any step, filing any document, or giving any notice.

3. (1) The Tribunal may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorized by these Rules, or by any decision, order or direction to do any act in any proceedings.

(2) The Tribunal may extend any such period as is referred to in sub-rule(1) of this rule although the application for extension is not made until after the expiration of the period.

**ORDER XI- APPLICATIONS**

1. An application may be made at any stage of the proceedings.

2. Applications may be made orally or in writing by any party giving reason(s) for the prayer(s) sought.

3. Where the Tribunal considers it necessary, it may order written addresses to be filed by the parties.

**ORDER XII- AMENDMENTS**

A party may at any time amend the notice of appeal or any other process on such terms as the Tribunal may deem fit.

**ORDER XIII- CONSOLIDATION**

Consolidation.

Form TAT 4.

Where two or more notices of appeal have been filed— in respect of the same matter; or

in respect of several interests in the same matter, or

which involve substantially the same issues,
the Tribunal may suo motu or upon application made in Form TAT 4 contained in the First Schedule to these Rules by any party consolidate the appeals and hear them together.

**ORDER XIV- DISCONTINUANCE OF APPEALS**

An appellant may –

(a) at any time before the hearing of an appeal withdraw the appeal by filing a notice of discontinuance as in Form TAT 5 signed by the appellant or his representative stating that the appeal is withdrawn; or

(b) at the hearing of the appeal and with the leave of the Tribunal, withdraw the appeal.

Where an appeal is withdrawn after hearing has commenced, a fresh appeal may not be filed in relation to the same matter except with the leave of the Tribunal.

**ORDER XV– HEARING**

The Tribunal shall have the power to conduct its proceedings in a manner it deems fit to ensure speedy dispensation of justice.

The hearing of an appeal shall be commenced by the appellant presenting documents and statements which he intends to rely upon as well as any witnesses he desires to call.

The respondent or his representative may in like manner present any document or statement he intends to rely upon as well as any witnesses he desires to call.

At the hearing of an appeal, the Tribunal shall admit all relevant evidence, oral or documentary, adduced by the appellant or the respondent or any person appearing on their behalf.

(1) The oral examination of a witness during his evidence in chief shall be limited to confirming his written deposition and tendering in evidence all documents or other exhibits referred to in his deposition.

(2) Thereafter the other party may cross-examine the witness who may then be re-examined.

Where the Tribunal deems it necessary, it may call upon or, as the case may be, permit any party to produce any additional document or call additional witnesses or file any affidavit to enable it to issue proper directions or orders.
(1) Where the Tribunal, on application of any party, directs that any person shall be summoned to give evidence, or tender any document, the Tribunal may order the deposit of such amount of money before the issue of a summons, as in Form TAT 6 in the First Schedule to these Rules, as will cover the expenses of such person in so attending.

(2) Where a witness does not appear to a summons, the Tribunal upon proof of service of the summons, a note of which shall be made on the record book, may issue a warrant as in Form TAT 7 in the First Schedule to these Rules to bring such witness before the Tribunal at such time as may be convenient.

ORDER XVI– DATES

The Secretary, upon the direction of the Chairman, shall fix hearing dates for appeals and issue hearing notices as in Form TAT 8 of the First Schedule to these Rules.

ORDER XVII– ADJOURNMENTS

The Tribunal may adjourn matters suo motu or on the application of the parties.

ORDER XVIII — WRITTEN ADDRESSES

Written addresses shall be filed by parties or their representatives at the close of evidence as may be ordered by the Tribunal.

Parties or their representatives shall rely upon and adopt their written addresses before a decision.

Unless otherwise directed by the Tribunal, each party may be given 15 minutes to make oral argument to emphasize and clarify his written address.

ORDER XIX — DETERMINATION OF APPEAL

The decision of the Tribunal shall be given after the hearing of all evidence and adoption of written addresses by the parties.

The decision of the Tribunal may be unanimous or taken by a majority of members and the decision shall record whether it was a unanimous or majority decision:

Provided that where there is a tie the Chairman or presiding member shall have a casting vote.
The decision of the Tribunal shall be recorded in a document which, save in the case of a decision by consent, shall contain a statement of the reasons for the decision and shall be signed by the Chairman.

The Secretary shall issue a certified copy of the decision to a party upon application or to any other interested party.

**ORDER XX— ENFORCEMENT OF DECISION**

The enforcement of a decision of the Tribunal shall be in accordance with the provisions of the Act.

**ORDER XXI – FEES**

The fees set out in the Second Schedule to these Rules shall be payable in respect of matters to which they relate.

**ORDER XXII – MISCELLANEOUS**

While considering an appeal, the Tribunal may not be confined to the grounds set forth in the notice but may have the power to consider any matter arising out of or relevant to the appeal:

Provided that both parties to the appeal shall be given an opportunity to be heard on such matters raised.

The Tribunal shall at any stage of proceedings, issue such directions or orders as it may consider appropriate to meet the justice of the case and in so doing shall place emphasis on substance rather than form.

3. The Forms set out in the First Schedule or forms to the like effect, may be used in all proceedings to which they are applicable with such modifications as the circumstances may require.

4. Where any matter arises in respect of which no provisions or no adequate provisions are made in these Rules, the Tribunal shall adopt such procedure as will in its view do substantial justice between the parties.

**ORDER XXIII — IRREGULARITIES**

1. An irregularity resulting from failure to comply with the provisions of these Rules or any direction issued by the Tribunal before a decision is given or an error of a clerical nature shall not of itself render the proceedings void.
The Tribunal may, upon the irregularity being brought to its attention, give such directions as it deems fit to cure the irregularity before delivering its decision.

ORDER XXIV — APPEALS

1. Any party dissatisfied with a decision of the Tribunal may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary within 30 days from the date on which such decision was given.

2. Secretary to compile Record of proceedings, etc.

Upon receipt of a notice of appeal, the Secretary shall cause the notice to be given to the Chief Registrar of the Federal High Court along with the record of proceedings and all the exhibits tendered at the hearing before the Tribunal.