COUNCIL OF MINISTERS REGULATION NO.407/2017

COUNCILS OF MINISTERS TAX ADMINISTRATION REGULATION

This Regulation is issued by the Council of Ministers pursuant to Article 5 of the Definitions of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No.916/2015 and Article 136 of the Federal Tax Administration Proclamation No. 983/2016.

PART ONE
GENERAL

1. Short Title
This Regulation may be cited as “the Council of Ministers Federal Tax Administration Regulation No.407/2017”.

2. Definition
Unless the context requires otherwise, in this Regulation:
1) “Proclamation” means the Federal Tax Administration Proclamation No.983/2016;

3) A term used in this Regulation shall have the same meaning as in the Proclamation or the Federal Income Tax Proclamation No.979/2016, as the case may be.

PART TWO
ADMINISTRATION OF TAX LAWS

3. Supply of Confidential Information

Without prejudice to Article 8(2) of the proclamation, the Authority shall provide a confidential document or information only when a written request is submitted to the Director General or his representative and the provision of the document or information is authorized.

PART THREE
REGISTRATION

4. Documentary Evidence of Identity

1/ An application for registration by an individual shall be accompanied by any of the following documentary evidence of identity:

a) the individual’s current residence identity card or certified copy of the page of the Ethiopian or foreign current passport containing the individual’s personal information; or

b) certified copy of the individual’s current Ethiopian driver’s licence; or

(c) certified copy of the page of the individuals current foreign driver’s licence containing personal information of the individual and to which the photograph of the individual is attached; or
d) certified copy of the individual’s birth certificate;

2/ Notwithstanding the provision of sub article (1) of this article, the Authority may require the applicant to submit such other evidence as it deems necessary.

3/ An application for registration by an incorporated company must be accompanied by the certificate of incorporation or registration of the company.

4/ An application for registration by a partnership must be accompanied by the partnership deed.

5/ An application for registration by any other body must be accompanied by the certificate of registration, or other document of formation or creation.

5. Biometric Information

1/ For the purposes of registration of an individual, the Authority may require an individual to submit biometric information so as to:

a) ensure the proper identification of the individual; or

b) counteract identity theft or fraud.

2/ In this Article, “biometric information”, in relation to an individual, means biological data to authenticate the identity of the individual, and may include the following:

a) facial recognition;

b) fingerprint recognition;
PART FOUR
TAX REPRESENTATIVES

6. Tax Representative of a Non-Resident

1/ For a non-resident conducting business in Ethiopia through the activities of a person (referred to as the “agent”) constituting a permanent establishment in Ethiopia of the non-resident under Article 4(4) of the Federal Income Tax Proclamation, the agent shall be a tax representative of the non-resident for the purposes of the Proclamation.

2/ The treatment of an agent as the tax representative of a non-resident under sub-article (1) of this Article shall be in addition to any other person treated as the tax representative of the non-resident under Article 2(40) of the Proclamation.

PART FIVE
HARDSHIP CASES

7. Limit to Remission of Tax Debt

The maximum amount of tax debt and late payment interest that the Minister may remit under Article 51 of the Proclamation shall be 10,000,000 (Ten Million) birr.

PART SIX
NOTICES AND PAYMENT OF TAX

8. Manner of Filing Documents and Paying Tax

Except as otherwise provided in the Proclamation or this Regulation, a person shall file a tax declaration or other document with the Authority and pay tax in the following manner:

1/ when Article 82(2) of the Proclamation applies, by

c) vocal recognition;

d) iris or retina recognition.
electronic transmission or payment in accordance with the directions of the Authority under that Article; or

2/ in any other case, by personal delivery or post to an office of the Authority.

PART SEVEN
TAX APPEAL COMMISSION
CHAPTER ONE
POWERS OF THE COMMISSION ON A HEARING

9. Powers of the Commission

1/ The Commission may:
   a) take evidence on oath or affirmation;
   b) subject to Article 11(2) of this Regulation, proceed in the absence of a party who has had reasonable notice of a hearing; or
   c) adjourn a hearing from time to time.

2/ The President of the Commission may summon a person to appear before the Commission at a hearing to give evidence.

3/ A person summoned to appear as a witness before the Commission shall be entitled to be paid fees at such rates as are allowable for witnesses in the Federal High Court in accordance with the directive of the Commission.

CHAPTER TWO
DECISION OF THE COMMISSION

10. Discontinuance, Dismissal, or Reinstatement of Appeal Application

1/ An appellant may discontinue or withdraw an appeal to the Commission at any time by filing written notice
with the Registrar of the Commission and the Commission shall dismiss the appeal.

2/ If an applicant fails to appear in person or be represented at a hearing of the Commission, the Commission may dismiss the appeal.

3/ If an applicant fails to comply with the direction of the commission in relation to the appeal under consideration, the President may, on behalf of the Commission, dismiss the appeal.

4/ If the Commission has dismissed an appeal under sub-article (2) or (3) of this Article, the appellant may, within 30 days after receiving notification that the appeal has been dismissed, apply to the Commission for reinstatement of the appeal.

5/ If an application has been made under sub-article (4), the Commission may reinstate the appeal subject to any directions made by the President.

11. Agreement Between the Parties

If at any stage during an appeal, the parties agree in writing as to the terms of a decision of the Commission on the appeal or on a decision relating to part of the appeal:

1/ the Commission may make a decision in accordance with the terms of the agreement where the agreement relates to the terms of the decision of the Commission.

2/ the Commission may give effect to the terms of the agreement where the agreement reached relates to a decision on part of the appeal.

12. Decision to be Remitted to the Authority

1/ If, in accordance with Article 91 of the Proclamation,
the Commission remits an appealable decision to the Authority for reconsideration, the Authority, taking into account the directions of the Commission:

a) affirm the appealable decision;

b) vary the appealable decision; or

c) set aside the appealable decision and make a new decision, including increasing a tax assessment when Article 91(6) of the Proclamation applies.

2/ When the Authority varies or sets aside an appealable decision in accordance with sub-article (1) of this Article, the decision as varied, or the new decision, shall be taken to be the appealable decision that is the subject of the appeal before the Commission and the appellant may either proceed with or withdraw the appeal.

13. Correction of Decision

1/ The Commission may alter the text of a decision or written statement of reasons for a decision if satisfied that there is an error in the text of the decision or the written statement of reasons.

2/ The altered text under sub-article (1) of this Article shall be treated as the decision of the Commission.

3/ For the purpose of this Article, an error in the text of a decision or statement of reasons includes:

a) a typographical or clerical error; or

b) any inconsistency between the decision and the statement of reasons.
CHAPTER THREE

ADMINISTRATION OF THE COMMISSION

14. Place of Hearing

The hearings of the Commission shall take place at a location to be designated by the President of the Commission. Accordingly, the commission shall notify the parties the place of the hearing.

15. Costs

The Commission may make such order as it considers fair and reasonable regarding costs incurred by the parties in relation to the proceeding.

16. Filing of Documents with Commission

Any document required to be filed with the Commission shall be filed at the Registry of the Commission.

17. Address for Service of Documents

An appellant shall give the Registrar written notice of the appellant's address for service of any documents relating to the appeal.

PART EIGHT

LICENSING OF TAX AGENTS

18. Fit and Proper Person to Provide Tax Agent Services

1/ Subject to sub-articles (2) and (3) of this Article, an individual is a fit and proper person to provide tax agent services if the individual has:

a) qualification of at least first degree in taxation, accounting, business, law, economics, management or other similar discipline; and
b) at least 2 years of full-time experience in the previous 5 years in Ethiopia:

(1) in providing tax agent services under the supervision of a licensed tax agent; or

(2) as a tax officer.

2/ The Authority may regard an individual as satisfying sub-article (1)(b)(1) of this Article if the individual has experience equivalent to that specified in sub-article (1)(b)(1) of this Article in another jurisdiction.

3/ The following individuals are not regarded as a fit and proper person to provide tax agent services:

a) an individual who could not discharge his debt or who is a judicially declared bankrupt;

b) an individual who has been found guilty of misconduct by a professional body;

c) an individual who has been convicted of a criminal offence relating to dishonesty and who has not been reinstated;

d) an individual who has an unsatisfactory tax compliance record including under the repealed Proclamation.

PART NINE

MISCELLANEOUS


1/ The appointment of a person as a member of the Tax
Appeal Commission established under the repealed Proclamation (referred to as the “former Commission”) shall terminate once the Tax Appeal Commission established under the Proclamation (referred to as “new Commission”) comes into operation.

2/ A person to whom sub-article (1) of this Article applies shall be eligible for appointment as a member of the new Commission in accordance with Article 87 of the Proclamation.

3/ The reference in Article 87(3)(b) of the Proclamation to a “tax law” shall include the repealed Proclamation.

4/ If an appeal was filed with the former Commission and the appeal was not finalised before the former Commission ceased operations, the appeal shall be decided by the new Commission subject to any directions that the President of the new Commission may make.

20. **Power to Issue Directives**

The Minister may issue Directives for the proper implementation of this Regulation.

21. **Effective Date**

This Regulation shall enter into force on the date of its publication in the Federal Negarit Gazette.

Done at Addis Ababa, on this 9th day of August 2017

Hailemariam Dessalegn
Prime Minister of the Federal Democratic Republic of Ethiopia
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