ADDIS ABABA UNIVERSITY

SCHOOL OF GRADUATE STUDIES

LLM PROGRAM IN BUSINESS LAW

Evaluation of the Impact of Advance Deposit in Tax Appeals: The Case of Addis Ababa

A Thesis Submitted to the School of Law of Addis Ababa University in Partial Fulfillment of the Requirement for the Master of Laws (LLM) Degree in Business Law

By: Hikma Tessema

Advisor: Taddese Lencho (PhD)

August, 2025

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(Approval Sheet)

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Acronyms

FDRE – Federal Democratic Republic of Ethiopia

FTAC- Federal Tax Appeal Commission

FTAP – Federal Tax Administration Proclamation (Ethiopia)

FTAR – Federal Tax Administration Regulation (Ethiopia)

ICESCR – International Covenant on Economic, Social and Cultural Rights

MoR – Ministry of Revenue (Ethiopia)

PLC – Private Limited Company SARS – South African Revenue Service

SARS Act – South African Revenue Service Act

SARS TAA – Tax Administration Act (South Africa)

UDHR – Universal Declaration of Human Rights

VAT – Value Added Tax

Abstract

The requirement of advance payment, also widely known as the principles of pay now argue later, is the core of appeal under Ethiopia's tax appeal system. The Federal Tax administration proclamation, proclamation number 983/2016 under article 56 and 57 clearly state that a tax payer who wish to contest the decision of a review department is bound to pay 50% and 75% of the contested tax in advance and in case of customs the taxpayer is bound to pay 100% upfront. Although the rationale for such requirement primarily is for revenue protection and deterrence of frivolous appeals, its strict application raises questions concerning taxpayers' right to access justice and potential financial hardship specifically on small and medium taxpayers.

To this end this research explores the legal and economic impact of this requirement, advance payment, using a qualitative research design combining both empirical inquiry and doctrinal legal analysis. Literature of Ethiopian tax legislations are extensively reviewed coupled with comparative study of international practice. A semi structured interview and questionnaire were also administered to a total of 60 taxpayers from category A, B, C taxpayers and tax officials at ministry of finance and ministry of revenue, judges of the Federal Tax Appeal Commission (FTAC) and tax lawyers and auditors.

The result shows that due to its huge financial burden the advance payment requirement imposed on them taxpayers are hindered from appealing contested tax assessments thereby affecting the constitutionally guaranteed right to access justice. Many taxpayers responded that due to the deposit requirement a substantial number of meritorious grievances are often left unchallenged. Comparative analysis from other jurisdictions practice reveals that alternative mechanisms such as bank guaranty, property mortgage and pledge, case by case judicial waiver and reduced amount of advance payment are putted in place to mitigate the effect of the requirement Finally, the study reveals that the current rigid advance payment requirement disproportionately favors government revenue protection over tax payers right to access justice and finally recommends legal and policy reform such as bank guaranty, property mortgage and pledge, case by case judicial waiver and reduced amount of advance payment to ease the impact of the advance payment requirement.

Keywords: Access to justice, Advance deposit, Empirical research, Ethiopia, Qualitative, Revenue protection, Tax appeals.

1. Chapter One

Introduction

1.1. Background of the research

The principle of “pay now argue later” also known as the pay to play rule requires taxpayers to pay a certain amount of or sometimes all of the assessed tax before challenging that tax assessment.[1] This principle is backed by the rationale of protecting government revenue and discouraging frivolous appeal.[2] By prioritizing the timely collection of taxes the government tries to ensure fiscal stability and prevent revenue leakage.[3] However this principle raises a significant concern regarding taxpayer’s right to access justice since taxpayers are required to let go of a huge sum of money before getting the chance to challenge the accuracy of the tax assessment.

The friction between these two, protection of government revenue and taxpayers' right to access justice has resulted in proliferation of different legal and administrative approaches to the principle of pay now argue later across different countries. Some countries resorted to flexible mechanism such as hardship waivers[4], lower deposit requirement[5], bank guaranty[6], property mortgage and pledge[7] with the intention of balancing the potential effect associated with the requirement. Others however apply the rule strictly with potential effect particularly on small and medium taxpayers.

The federal tax administration proclamation No. 983/2016 which governs the general federal tax administration under article 56 and 57 stipulates that a payment of 50%[8] of the disputed

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[1] Aschalew Ashagre Byness, Tax Appeal Proceedings before the Tax Appeal Commission in Ethiopia: Critical Reflections, MLR, Vol. 14, No. 1, P. 218, (2020).

[2] Ibid

[3] Ibid

[4] Vietnam, Law on Tax Administration, 2019, Section 124(4) and 124(5),South Africa, Tax Administration Act 28 of 2011, s 164; South African Revenue Service, Suspension of Payment Guide (2022) https://www.sars.gov.za accessed 10 July 2025.

[5] India, Central Goods and Services Tax Act No. 26 of 2017, Section 107(6).

[6] Austria, Federal Fiscal Code (Bundesabgabenordnung), s 212a.

[7] German Fiscal Code (Abgabenordnung), S. 361.

[8] Federal Tax Administration Proclamation No. 983/2016, Federal Negarit Gazette, Extraordinary Issue, Year 22, No. 103, Articles 56(2). (Here in after cited as FTAP).

tax in case of appeal to tax appeal commission and a payment of 75%[9] of the disputed tax to the high court is a precondition to appeal. Although the principle is based on the rationale of protecting government revenue and discouraging frivolous appeal[10] It raises a significant concern regarding taxpayer's right to access justice particularly on small and medium taxpayers.

By combining doctrinal legal analysis with empirical qualitative research design this research studies the legal and economic impact the requirement imposes on taxpayers focusing on its practical influence on taxpayers residing in Addis Ababa, whether the requirement achieves its intended purpose without disproportionately infringing taxpayers right to access justice.

1.2. Statement of the Problem

In Ethiopia, the federal tax administration proclamation requires tax payers to pay 50% and 75% of the contested tax before their appeal is formally heard by the tax appellate bodies [11] While the principle is backed by the rationale of protecting government revenue and discouraging frivolous appeal it also raises a significant concern regarding taxpayers' right to access justice and financial capacity.

The primary concern the advance payment requirement poses on tax payers include the financial burden it imposes on taxpayers, specifically on small and medium taxpayers. Additionally, the requirement is posing as a constraint on taxpayers from exercising their constitutionally guaranteed right to access justice. As a result of the upfront payment requirement taxpayers even though having legitimate grievances against a tax assessment may be discouraged from pursuing appeals. This ultimately affects the fairness and accessibility of the tax dispute resolution system leading to a de facto denial of the right to appeal.

Moreover, the absence of flexible alternatives such as bank guarantees, property pledge or mortgage, judicial desecration, or exemption mechanisms means that the system may disproportionately favor revenue protection over taxpayer rights. This imbalance calls for

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[9] Ibid, Art 57(3), here 75% of the disputed tax refers to tax determined by the Tax Appeal Commission to be payable that is disputed by the taxpayer in the notice of appeal.

[10] Supra note 1

[11] Supra note 8

evaluation of the legal and economic impact of the advance deposit requirement, including whether it achieves its intended rationales without disproportionately affecting taxpayers.

1.3. Objectives of the study

General Objective

The general objective of this research is to examine how the advance deposit requirement impacts the experience of taxpayers in accessing the tax appeals system in Addis Ababa, with a view toward identifying legal and policy considerations for potential reform.

Specific Objectives:

The specific objectives of the study are to:

1) Explore how the advance deposit requirement impacts taxpayers' access to the tax appeals process in Addis Ababa.

2) Analyze the financial burdens that the requirement may pose for taxpayers.

3) To identify and analyse the lessons Ethiopia can learn from other jurisdictions in balancing revenue collection with taxpayers' access to legal remedies.

4) Develop evidence-based legal and policy recommendations, where appropriate, by drawing from the empirical data gathered from taxpayers, tax officials, and legal practitioners.

1.4. Research Questions

1) In what ways does the advance deposit requirement impact taxpayers' decisions (willingness and ability) to appeal tax assessments in Addis Ababa?

2) What financial challenges do taxpayers face as a result of this requirement?

3) What lessons can Ethiopia learn from other jurisdictions in balancing revenue protection with taxpayers' access to legal remedies?

4) What reforms can be introduced to establish a more equitable and efficient tax appeal system in Ethiopia?

1.5. Significance of the Study

This study contributes to a deeper understanding of the legal and economic impact of the advance deposit requirement on taxpayers in Addis Ababa, particularly in relation to access to justice, administrative fairness and economic impact. By combining doctrinal legal analysis with empirical insights from taxpayers, officials, and adjudicators, the research highlights how the requirement operates in practice and identifies its broader consequences for the tax dispute resolution system. The findings are expected to assist lawmakers, tax authorities, and judicial bodies in refining tax appeal mechanisms so that revenue interests are balanced with the protection of taxpayers' rights and the principles of procedural justice.

1.6. Scope and Limitations of the Research

This study focuses on assessing how the advance deposit requirement impacts taxpayers' access to the tax appeals system in Ethiopia. The scope is limited to federal taxpayers located in Addis Ababa, encompassing all three categories of taxpayers—Category A, B, and C.

Regional state tax systems, federal tax payers outside Addis Ababa are excluded. The emphasis on federal taxpayers allows the research to maintain a focused and manageable empirical investigation while still capturing a diverse range of taxpayer experiences. The study is confined to the perspectives of selected stakeholders, including taxpayers, tax appeal judges, legal practitioners, auditors, and officials from the Ministry of Revenue and Ministry of Finance.

Given the qualitative nature of the study, it does not aim to generate statistically generalizable findings. Instead, it seeks to offer in-depth insights into the challenges surrounding the advance deposit requirement. Limitations include potential constraints in accessing complete records from the Ministry of Revenue, limited availability or responsiveness of selected interviewees, and challenges in verifying the subjective perceptions of taxpayers. Resource and time constraints also restricted the ability to conduct longitudinal analysis or expand the study to other major cities or tax jurisdictions in Ethiopia.

1.7. Research Design and Methodology

A. Research Design

This research employs a mixed qualitative research design, combining both empirical inquiry and doctrinal legal analysis. The empirical component seeks to explore and understand the lived experiences and perceptions of federal taxpayers in Addis Ababa regarding the advance deposit requirement, alongside the viewpoints of professionals and government officials involved in the tax dispute resolution process. Through semi-structured interviews and questionnaires, the study captures firsthand accounts that illuminate how the requirement operates in practice and how it affects taxpayers' access to justice.

In parallel, the research incorporates a doctrinal analysis of relevant Ethiopian tax laws, administrative procedures, and institutional frameworks, supported by comparative examination of international practices. This doctrinal component is used to interpret the legal rules governing tax appeals, identify gaps and inconsistencies, and develop normative arguments and reform recommendations. By integrating empirical findings with doctrinal evaluation, the mixed design enables a comprehensive understanding of both the practical and legal dimensions of the advance deposit requirement.

B. Data Collection Methods

Data were gathered using semi-structured interviews and open-ended questionnaires crafted to explore participants' experiences with the advance deposit requirement and its consequences. The interviewees included officials from the Ministry of Revenue and Ministry of Finance, Judges from the Federal Tax Appeal Commission, Head of the Federal Tax Appeal Commission, Tax lawyers and auditors with practical experience, Taxpayers from Category A, B, and C.

These primary data sources were complemented by secondary sources, including domestic tax legislation, international scholarly articles, and comparative legislation from selected jurisdictions.

The interviews and questionnaires were conducted in a manner that ensured confidentiality and voluntary participation. Most were conducted face-to-face in Addis Ababa, while others were administered via phone, Google form and email based on participant availability.

C. Sampling Techniques and Sample Size

The study employs a mixed-method sampling strategy combining both random sampling and purposive sampling technique, consistent with qualitative research methodologies. Participants were selected based on their direct involvement in or knowledge of the tax appeal process and the advance deposit requirement. Selection criteria included professional experience, engagement in assessment or appeal procedures, and willingness to provide informed and voluntary responses.

The total population of taxpayers was determined using official data obtained from the Ministry of Revenue and the Federal Tax Appeal Commission. According to these institutions, in the year 2017 Ethiopian Calendar (Hamle 1–Sene 30), the Review Department decided 2,370 cases, although the department may have reviewed a larger number overall. Of the 2,370 cases decided, 986 decisions were affirmed, making those taxpayers legally eligible to file appeals before the Federal Tax Appeal Commission (FTAC). During the same period, the FTAC received only 376 appeal cases (excluding customs matters). This means that 610 taxpayers who received final decisions from the Review Department did not appeal to the FTAC. Accordingly, this group of 610 taxpayers was taken as the total population for sampling purposes.

From this population, 60 taxpayers were randomly selected using systematic random sampling to ensure diversity across Categories A, B, and C. In addition, purposive sampling was used to select key institutional respondents: 4 officials from the Ministry of Revenue and the Ministry of Finance, 3 judges and head of registrar from the Federal Tax Appeal Commission, and 10 tax professionals (lawyers and auditors). While the sample is not statistically representative, it is sufficiently diverse to capture a wide range of experiences and perspectives on the advance deposit requirement and the broader tax appeal system.

D. Data Analysis Techniques

The empirical data obtained were examined using thematic content analysis, a qualitative approach that enables the identification of patterns and insights across participant narratives. Responses were transcribed, coded, and organized into thematic categories aligned with the research questions: access to appeals, financial burden, comparative approaches, and policy alternatives.

Legal materials and comparative jurisdictional examples were also subjected to doctrinal legal analysis, allowing for an integrated interpretation of legal principles, institutional design, and policy implications. The combined empirical and normative analysis supports a well-rounded evaluation of the advance deposit requirement's impact in shaping taxpayer behavior and access to justice.

1.8. Ethical Consideration

Throughout this research, I adhered to established ethical standards applicable to socio-legal empirical studies. Participants were informed of the purpose of the study, the voluntary nature of their involvement, and their right to withdraw at any stage. Informed consent was obtained before administering questionnaires or interviews. I ensured neutrality, avoided all forms of coercion, and refrained from asking questions that could expose participants—whether taxpayers, professionals, or officials—to legal, economic, or professional risk. Sensitive tax information was handled with great care; no identifying details such as names, TINs, were disclosed, and respondents are referenced only through anonymized codes.

All data were stored securely and accessed only by me, and the findings are reported accurately, objectively, and solely for academic purposes. Confidentiality and anonymity were strictly maintained in accordance with international ethical principles. The research design, data handling, and dissemination were conducted with the aim of preventing harm, respecting participants' dignity, and ensuring the integrity of the study. The overall process followed accepted academic norms of informed consent, confidentiality, non-maleficence, and responsible reporting.

1.9. Organization of the Research Paper

The thesis is structured into four Chapters. Chapter one presents the introduction of the research while the second chapter divided into two parts first lays conceptual foundation for the understanding of advance deposit before tax appeals in general, the practice of other countries, argument for and against advance deposit, the economic and legal impact it imposes. Part two is about Ethiopian specific. The third chapter combines the research methodology and empirical findings, explaining the qualitative approach used and analyzing data collected from taxpayers, tax officials, and legal practitioners to assess the practical impact of the advance deposit requirement. The final chapter is where conclusions are made by summarizing key findings and relevant recommendations given.

2. Chapter Two

2.1. Conceptual Understanding

2.1.1. General Conditions for Admissibility of Tax Appeal

As long as the tax authority exercises its mandate to levy and collect tax, tax dispute is inevitable.[12] Tax disputes are depicted as a disagreement between the tax authority and the taxpayer, which mostly relates to tax declaration, assessment, audit, and collection.[13]

Tax disputes occur when conflict happens between the taxpayer and the tax authority concerning the meaning or enforcement of tax legislation.[14] Such disputes may involve a range of issues, including the accuracy of a tax filling the tax payer made[15], the eligibility for tax deductions or credits, over the amount of tax owed. Tax disputes can lead to lengthy legal proceedings and significant financial consequences if not resolved efficiently.[16]

In this regard, countries choose two dispute resolution mechanisms; internal review and external review. Internal review is where the taxpayer files its grievances to the tax authority or an independent department within the tax authority to get remedies. Whereas, external review usually involves institutions that are independent from the tax authority.

External review mechanisms in tax disputes subscribe mostly to three models. The first one is a model which is followed by India[17], Bangladesh[18], Nigeria[19] and Kenya that involves specialized tax tribunals, a quasi-judicial body independent of the judiciary that initially entertains tax cases. The second model is specialized tax courts which are formal courts within the judiciary that have exclusive jurisdiction over tax issues. Countries such as

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[12] Misganaw Gashaw, Zerihun Asegid, Mulugeta Akalu and Aschalew Ashagrie, Ethiopian Tax Law Textbook, Addis Ababa, June 2022.
[13] Ibid
[14] Academy of Tax Law, Tax Disputes Definition, < https:// academy of tax law. Com /glossary/ tax -disputes -definition/> accessed 10 July 2025.

[15] Ibid
[16] Ibid
[17] Income-tax Act 1961 (India), s 252, Akhilesh, 'The National Tax Tribunal (NTT) and Its Role in Indian Income Tax Law' (25 April 2025) Tricity Advocates https://tricityadvocates.com/national-tax-tribunal/ accessed 29 June 2025.

[18] Income Tax Ordinance 1984 (Bangladesh), s 11, Customs Act 1969 (Bangladesh), s 196A.

[19] Federal Inland Revenue Service (Establishment) Act 2007 (Nigeria), s 59.

Germany[20], Philippines[21] and Turkey[22] followed this model. The third one is regular courts with tax jurisdiction in which civil or administrative courts entertain tax issues just like any other issue. Countries such as France[23], Finland[24] follow this model.

All the above countries have provided general conditions in which the taxpayers should meet to file an appeal before the relevant body. This are the requirement to exhaust administrative remedies, compliance with the time limit to file the appeal, the issue of standing or legal interest of the appellant, the jurisdiction of the tribunal or the court to entertain the case, the form and format of the appeal and lastly the payment of court fee to lodge the appeal.[25]

The conditions for tax appeal are all designed to ensure effective, sound, and fair dispute resolution. Exhaustion of administrative remedies promotes efficiency by encouraging resolution before court involvement. Time limits protect tax authorities from frivolous and delayed appeals and promote consistency and closure. The standing requirement ensures only affected taxpayers can appeal, preventing abuse by third parties. Jurisdiction guarantees that cases are heard by competent bodies with proper expertise, avoiding conflicting decisions, especially in federal systems. Proper form and format ensure clarity and completeness of appeals, aiding efficient processing. Court fees help fund the judiciary and deter frivolous suits, ensuring better resource use.

2.1.2. The Concept of Advance Deposit Requirements

2.1.2.1. Definition and Purpose

Self-assessment is currently being used as a primary tool for tax administration. In this regard, the taxpayer is required to declare his/her tax return annually, which can be acceptable by the tax authority.[26] However, it is also possible that the tax authority prepared its own assessment if the taxpayer does not submit a tax return or if it believes that the

[20] Finanzgerichtsordnung (Germany), BGBl. I 1965 S. 1477.

[21] Republic Act No 1125, An Act creating the court of tax appeal (16 june1954), as amended by RA No 9282(30 march 2004) and Republic Act No9503(12 June 2008) (Philippines)

[22] Law on Administrative Jurisdiction Procedures No 2577 (Turkey).

[23] Code de justice administrative (France), arts R. 311-1 to R. 311-3.

[24] Administrative Judicial Procedure Act 586/1996 (Finland).

[25] It should be noted that court fee is different from advance deposit since the former is a fixed amount that should be paid to the court, not the tax authority.

[26]Carika Keulder, “Pay Now Argue Later” Rule Before and After the Tax Administration Act, PELJ, Vol. 16, No. 4, P. 126, (2013).

self-assessment is not correct.[27] If the taxpayer disagreed with this assessment, he/she can file an objection to the review department and then to appellate bodies.

The taxpayer has to meet the above discussed general conditions to file an appeal. Besides the general conditions, there are specific conditions provided for tax cases, including the advance deposit requirement, also known as pay now argue later rule.[28]According to this rule, the taxpayer has to pay a certain portion of the assessed amount before challenging a tax decision in tax appellate bodies.

At its core, the Pay Now Argue Later principle presumes that the taxpayer's liability is unquestionable, and any objection or appeal that is lodged merely seeks to alter the amount of an already established tax obligation.[29] In civil cases, filing an appeal can preclude the creditor from recovering the amount that the debtor owes.[30] As opposed to other civil cases in tax cases, filing an appeal does not preclude the tax authority from recovering the assessed amount. In fact, paying a certain portion of the amount is a requirement to pursue an appeal.[31] The amount of the tax that should be paid to pursue appeal is different. Countries such as Tanzania require the taxpayer to pay the amount of tax which is not in dispute or one third of the assessed tax decision whichever amount is greater.[32] In other instances, India under its Central Excise Tax Act required the payment of 7.5%-10% of the assessed amount based on the type of the case to pursue an appeal.[33]

In its opinion on the pay now argue later rule, the South African Court posits that this rule is adopted in open and democratic societies.[34] The court further opines that the widespread adoption of pay now argue later rule suggests that it is reasonable based on the rules of freedom, dignity and equality. In the same case, the Constitutional Court provides that the

[27] Ibid.

[28] Supra note 1

[29] Ame Rebecca Masuku, Pay Now Argue Later Tax Liability Principle (2018) 51(3), Comparative and International Law Journal of Southern Africa, 380.

[30] Civil Procedure Code of the Empire of Ethiopia, 1965, Decree No 52, Neg. Gaz, Extraordinary Issue No. 3, (here in after CPC).

[31] FTAP), Art 56–57

[32] Tanzania, Tax Administration Act, Chapter 438, Section 51(5), (2019).

[33] India, Central Excise Tax Act, Section 35F, (1944).

[34] Metcash Trading Ltd vs. Commissioner, South African Revenue Service and Another [2001] 1 SA 1141.

VAT Act, which is the source of contention, has two objectives; first, not to delay the payment and protect the tax authority; second, to provide refund mechanisms and protect the taxpayer.

2.1.2.2. Arguments For and Against the Advance Deposit Rule

Advance deposit requirement has garnered a lot of support and criticism from stakeholders. To start with the support, one of the arguments for its existence is its function as a deterrent against frivolous or vexatious litigation.[35] By requiring taxpayers to pay a portion of the disputed tax before their appeal is entertained, tax systems aim to filter out baseless claims intended solely to delay payment.[36] Lang argues that such preconditions serve as procedural safeguards that preserve the efficiency and integrity of tax adjudication systems by discouraging abuse and conserving judicial resources for meritorious cases.[37] This approach aligns with the broader administrative principle found in jurisdictions that assume the correctness of the tax authority's assessments unless proven otherwise.[38]

Advance deposit requirements are also defended on the basis that they safeguard public revenue.[39] The rationale here is that permitting automatic suspension of tax obligations upon appeal would encourage taxpayers to withhold payment under the guise of legal challenge, thus undermining the government's fiscal operations.[40] This is particularly relevant in developing countries, where tax revenue forms a critical component of national budgets[41] The "pay now, argue later" model adopted in countries like South Africa and India reflects this perspective, with statutory provisions enabling tax authorities or tribunals to request partial payment of disputed taxes prior to entertaining an appeal.[42]

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[35] Interview with Ato Mulay woldu, Tax Policy Department Head, Ministry of Finance, (Addis Ababa, Ethiopia, July 16, 20215).

[36] Interview with Serkalem Eniyew, Senior Legal Expert, Ministry of Finance, (Addis Ababa, Ethiopia, July 22, 20215).

[37] Michael Lang, Procedural Rules in Tax Law in the Context of European Union and Domestic Law (Linde 2010).

[38] Interview with Serkalem Eniyew, Interview with Ato Teshome Wolde, Legal Service Directorate and coordinator for the Monitoring of Civil Cases, Ministry of Revenue, Interview with Natay Eba, Tax and Corporate Legal Director at Mehrtab and Getu advocates LLP and a lecturer of law at Haramaya and Arsi University

[39] Interview with Serkalem.

[40] Ibid.

[41] Richard M Bird and Oliver Oldman, Taxation in Developing Countries (4th edn, Johns Hopkins University Press 1990).

[42] South Africa, Tax Administration Act 28 of 2011, s 164; India, Income Tax Act, s 220(6), and related CBDT instructions on stay of demand.

Another principal justification for the imposition of an advance deposit requirement in tax appeals is it affords the tax authority the power for speedy collection of taxes.[43] Advance deposit requirement ensures the payment of the tax without unnecessary delay due to the appeal proceeding.[44] Moreover, In the Capstone case, the court held that advance deposit rule prevents frivolous and vexatious objections and appeals that aim to delay the payment of the tax.[45] Additionally, it ensures that the tax authority performs its duties without causing dire financial constraints to the government.[46] Proponents of advance deposit rule in South Africa and Nigeria argue that it does not impede taxpayer's right to access justice. In both countries, there are mechanisms that protect the taxpayer's right to access justice. For instance, in South Africa, the VAT Act provides that the taxpayer can request the commissioner for the suspension of advance deposit payment.[47] According to the South Africa Constitutional Court, this rule complies with the constitutional provision that requires any limitation on the rights to be reasonable and justifiable.[48]

In the case of Nigeria, the advance deposit rule is applied in limited instances. The law gives the tribunal discretion to order the taxpayer to pay a certain amount of the tax if one of these requirements is fulfilled.[49] The first is that the Federal Inland Revenue Service (FIRS) has to prove that the appellant failed to submit tax returns.[50] The second is that FIRS has to prove that the appeal is frivolous or vexatious or an abuse of the process.[51] The third is without proving abuse if the FIRS show that an advance deposit can expedite the appeal process.[52] Limiting advance deposit rule for only these instances safeguards the right to access justice.

Another argument raised supporting advance deposit is the amount that the taxpayers required to pay as advance deposit is less than the assessed amount.[53] Taxpayers are required

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43 Interview with Mulay, Interview with Serkalem.
44 Ibid
45 Capstone 556 (Pty) Ltd vs. Commissioner, South African Revenue Service and the Minister of Finance, [2016] 1 SA 123.

46 Supra note 29, P. 380.

47 South Africa, Value Added Tax Act No. 89, Section 36, (1991).

48 Supra note 34.

49 Nigeria, Federal Inland Revenue Service (Establishment) Act 2007, No. 13, Fifth Schedule, Paragraph 15(7).

50 Ibid
51 Ibid
52 Ibid
53 Melkamu Belachew, Powers and Functions of The Federal Inland Revenue Authority and The Position of The Tax Appeal Commission, (May2003).

to pay 50% or less than 50% of the assessed amount which hardly affects the financial position of the taxpayers.[54] Moreover, the existence of refund mechanisms if the taxpayer succeeds can be another argument to allow advance deposit.[55] In South Africa, the tax authority not only should refund the excess amount to the taxpayer but it also has to pay interest.[56] Finally, such requirements are justified as a reflection of the presumption of validity accorded to tax assessments.[57] Tax assessments made by the revenue authority are presumed correct, and the burden of proof lies with the taxpayer to show otherwise. [58] Advance deposit requirements thus serve as both a legal expression of this presumption and a practical tool to ensure that only genuine grievances reach the adjudicative stage. Others also note that, when transparently implemented and accompanied by safeguards such as discretionary waiver provisions, advance deposits can enhance tax compliance and streamline dispute resolution.

On the other hand, there are opponents of the advance deposit rule which argue for its prohibition. One of the arguments raised against the advance deposit rule is that it deters taxpayers from accessing the courts.[59] The court in the Metcash case reasoned that the law substitutes the tax authority for the court in determination of liability and enforcement. Moreover, it precludes the court from issuing interlocutory relief.[60] The court opined that in this instance the taxpayer is deterred from accessing courts and "The prospect that an eventual successful appeal might reverse the situation is no answer to the actual infringement which endures until then."[61]

Another argument raised against advance deposit is that it infringes the taxpayer's right to equality before the law.[62] In other civil cases, the debtor is not required to pay unless the appeal proceeding concluded. Hence, requiring taxpayers to pay a certain amount when the

[54] Ibid

[55] Ibid
[56] South Africa, Tax Administration Act No. 28, Section 190(1), (2011).
[57] Supra note 53, Interview with Serkalem Eniyew, Interview with Teshome.
[58] United States v Janis 428 US 433 (1976); see also Kevin Holmes, The Concept of Income: A Multi-Disciplinary Analysis (IBFD 2001) 411–415. Interview with Serkalem Eniyew, Interview with Teshome.

[59] Interview with Tibebe Zewdu, Managing Partner at TBeST law LLP (Addis Ababa, Ethiopia, 8 July 2025) , Interview with Frehiwot Worku, judge of the FTAC (Addis Ababa, Ethiopia July 22, 2025), Mulgeta Ayalew, FTAC, President, (Addis Ababa, Ethiopia July 23, 2025)
[60] Supra note 34.
[61] Ibid.

[62] Olumide Kolawole Obayemi, Tax Appeal Procedure in Nigeria: Requirement for Payment of Security Prior to Filing an Appeal against Adverse Tax Assessments and Adverse Tax Rulings, UCCLJ 3(1), P. 156, (2023).

issue is still in the process, contravene the right to equality before the law.[63] It is further argued that advance deposit rule can be amounting to forcing taxpayers to admit the decision before the case is adjudicated by the court which infringes the taxpayer's right to fair hearing.[64]

Another argument raised against advance deposit is its effect on the taxpayer's right to property. Anyone should not be arbitrarily deprived of property except in terms of the law.[65] In this regard, only courts should be empowered to decide on this matter. Moreover, the advance deposit rule has an implication on the small-scale taxpayer's financial status.[66] Large businesses can mobilize and pay the advance deposit. However, small businesses do not have the ability to mobilize that amount which eventually precludes them from pursuing an appeal process.[67]

2.1.3. Legal and Economic Implications

2.1.3.1. Access to Justice

Access to justice is recognized as a constitutional right in jurisdictions such as South Africa[68], India[69], and Germany[70]. This right guarantees that every human being gets access to courts or other organs that have the power to adjudicate the case.[71] In the case of tax disputes, access to justice is frequently discussed in relation to advance deposit rules. The requirement for taxpayers to pay an advance deposit as a precondition for filing a tax appeal raises serious concerns regarding the right of access to justice, which is a fundamental principle of constitutional and international human rights instruments[72]. Access to justice encompasses

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[63] Ibid
[64] Ibid
[65] Cobus Fritz, Reconsidering the "Pay Now, Argue Later" Approach of South Africa in relation to Disputed Taxes: Lessons from Canada and Australia, P. 28, JJS, Vol. 46 No. 1, (2021).

[66] Interview with Tibebe Zewdu; Interview with Natae Ebba.
[67] Ibid
[68] Constitution of the Republic of South Africa, 1996, s 34.

[69] Constitution of India 1950, art 39A.

[70] Basic Law for the Federal Republic of Germany [Grundgesetz], art 19(4).
[71] House of Commons Library, Access to Justice (Debate Pack CDP-2017-0001, 9 January 2017)

<https://researchbriefings.files.parliament.uk/documents/CDP-2017-0001/CDP-2017-0001.pdf>accesse d 10 July 2025.

[72] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 8, UDHR, art 10; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), arts 2(3), 14; European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (adopted 4 November 1950, entered into force 3 September 1953) art 6(1):

the ability of individuals to seek redress before an impartial and independent tribunal without undue barriers, particularly financial ones.[73] When a tax system mandates that part or all of the disputed tax must be paid in advance, it effectively creates a financial filter that may prevent economically disadvantaged taxpayers from exercising their right to challenge potentially unlawful or excessive tax assessments. This barrier disproportionately affects small and medium tax payers, individuals with cash flow constraints, leading to systemic inequality in tax enforcement.[74]

The European Court of Human Rights (ECtHR) has repeatedly held that access to courts must be practical and effective, not theoretical and illusory.[75] The same principle is echoed in Aït-Mouhoub v France, where the Court invalidated procedural bars that served to deprive a claimant of judicial remedy due to inability to comply with formalities.[76]

Furthermore, imposing advance deposits contradicts the presumption of innocence in administrative adjudication, as it assumes the taxpayer is liable before they are heard.[77] It also reverses the burden of proof, requiring taxpayers to risk financial loss to assert their rights.[78] Scholars have argued that such measures infringe upon basic procedural fairness and can result in what has been called "constructive denial of justice", especially in developing country contexts.[79] In Kenya, in both the 2022 and 2023 Finance Acts, advance deposit is proposed to be included. However, in both instances, the legislature decided not to include advance deposit requirements because it infringes the right to access justice.[80]

African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217 (ACHPR), art 7(1).

[73] Mauro Cappelletti and Bryant Garth, Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective, (1978) 27, Buffalo Law Review,181.
[74] Interview with Tibebe Zewdu; Interview with Natae Ebba.
[75] Golder v United Kingdom (1975) 1 EHRR 524 (ECtHR).

[76] Aït-Mouhoub v France App No 22924/93 (ECtHR, 28 October 1998).
[77] Interview with Natae Ebba.
[78] Pasquale Pistone and Jeffrey Owens, 'The Burden of Proof in Tax Law: Comparative and Theoretical Perspectives' in Michael Lang et al (eds), Procedural Rules in Tax Law in the Context of European Union and Domestic Law (IBFD 2010) 29–34.

[79] Richard M. Bird and Eric M. Zolt, 'Taxation and Inequality in Developing Countries: Lessons from the Recent Experience of Latin America' (2015) 66(2) University of Toronto Law Journal 239.

[80] Renne Omondi, 'Deposits Before Tax Appeals to the High Court' (Oraro and Company Advocates, 25 May 2022) accessed 13 June 2025 and '20% of Contested Taxes as Security Deposit is a Barrier to Accessing Justice' (CM Advocates LLP, 25 May 2022) accessed 13 June 2025.

In the case of South Africa, the High Court and the Constitutional Court made conflicting decisions in the Metcash case.[81] The former opined that advance deposit rule excludes the powers of the court from the process even if justice requires and is tantamount to replacing the court by the tax authority. Then the court concludes that advance deposit is inconsistent with the constitutional right to access justice.

However, when the Constitutional Court reviewed the case, it overturned and opined that advance deposit rule complies with the constitutional rule that requires limitations on rights to be reasonable and justifiable. [82]

When it comes to Australia, the tax authority can recover the assessed amount even if the case is pending before the court.[83] However, unlike South Africa, in Australia that taxpayer is not required to pay when filing an objection.[84] The Australian law is more convenient to taxpayers in that it defers payment if the taxpayer provides security, pays 50% of the assessed amount or enters into payment arrangement.[85] In this regard, compared to South Africa, the Australian law is more sympathetic towards taxpayers and protects their right to access justice.

Although the intention behind advance deposit requirements may be to deter frivolous appeals and protect government revenue, the imposition must be balanced against the constitutional imperative to provide fair, equitable, and accessible adjudication mechanisms.[86] Discretionary models, income-based waivers, or alternatives such as bank guarantees have been introduced in jurisdictions like India and Canada to address these concerns, ensuring the preservation of revenue interests without eroding fundamental rights.[87]

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[81] Supra note 34.

[82] Ibid

[83] Australia, Taxation Administration Act No. 1 as amended up to Act No. 159/2008, Section 14ZZR, (1953).

[84] Sikhulile Sithandiwe Zulu, An Enquiry into the Constitutionality of the 'Pay Now, Argue Later' Principle and the Appointment of a Third Party on behalf of the Taxpayer for Tax Purposes under the Tax Administration Act, Submitted in Partial Fulfillment of the Requirements for the Degree of Master of Laws (Taxation) at University of KwaZulu-Natal, P. 43, (2020).

[85] Ibid.

[86] Ibid

[87] OECD, Tax Dispute Resolution: OECD Comparative Survey (OECD Publishing 2021) 55–58.

2.1.3.2. Revenue Protection

The imposition of an advance deposit requirement in tax appeal procedures is often justified as a mechanism for protecting public revenue[88]. The underlying rationale is that tax assessments issued by the revenue authority are presumed correct[89] and immediately enforceable unless overturned on appeal. In the absence of an advance deposit requirement, taxpayers may exploit the appeals process merely as a delay tactic, postponing payment obligations and thereby undermining the government's fiscal stability[90]. In developing economies with narrow tax bases, such delays can significantly affect the liquidity of government revenue, obstructing the implementation of public policies and the provision of essential services.[91] Advance deposit requirements seek to remedy this by ensuring that a portion of the assessed tax is secured pending adjudication, thereby minimizing revenue leakage. For example, Tanzania's Tax Administration Act requires taxpayers to pay either the undisputed amount or one-third of the assessed tax, whichever is greater, before their appeal is admitted.[92] This model reflects an intention for fiscal safeguard aimed at ensuring that the state does not suffer from protracted litigation initiated in bad faith. Similarly, South Africa's "pay-now-argue-later" principle under Section 164 of the Tax Administration Act allows the revenue authority to enforce collection during disputes, unless the taxpayer obtains a suspension.[93] Such systems are grounded in the belief that the integrity and enforceability of tax administration depend on the immediacy and certainty of revenue collection.

However, the use of advance deposits as a tool for revenue protection is not without criticism. Critics argue that while revenue interests are legitimate, they must be balanced against constitutional guaranteed rights such as access to justice and fair hearing.[94] A blanket requirement to deposit a portion of the tax assessed, irrespective of the taxpayer's financial capacity or the merits of the appeal, risks prioritizing fiscal expediency over judicial fairness.

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[88] Interview with Mulay; Interview with Serkalem.
[89] Interview with Teshome.
[90] Interview with Mulay; Interview with Serkalem; Interview with Teshome.
[91] Richard M. Bird and Eric M. Zolt, 'Tax Policy in Developing Countries: Looking Back—and Forward' (2008) 86(4) National Tax Journal 329.
[92] Supra note 32, 2015, s 51(5).

[93] South Africa, Tax Administration Act 28 of 2011, s 164.
[94] Supra note 37.

It may also disincentivize genuine claims, leading to erroneous assessments going unchallenged, which ultimately compromises tax legitimacy and voluntary compliance.[95]

Notably, jurisdictions such as Canada and the United Kingdom have adopted more flexible approaches. In Canada, disputed taxes generally need not be paid before appeal, though interest continues to accrue.[96] In the UK, payment of the assessed tax is typically deferred pending the outcome of an appeal to the First-tier Tribunal, thereby protecting both revenue interests and access to justice through procedural safeguards.[97] These models demonstrate that revenue protection can be achieved without imposing rigid financial barriers at the outset of the appeal process.

In the Metcash case, the High Court is of a belief that deferring the payment after the appeal process would not have a huge impact due to the greater scheme of the national tax.[98] In this regard, proponents of this argument held that the government, not the taxpayers, should bear the financial burden during the appeal process.

However, some arguments support the revenue protection reasoning for advance deposit. Tax is the primary source of government revenue, which means to operate most of public services tax revenue is essential.[99] If the law prohibits advance deposits, frivolous and vexatious objections and appeals can delay the collection of tax which may cause a budget deficit for public services.[100] Thus, it is "in the public interest in obtaining full and speedy settlement of tax debts".[101] In this context, advance deposit rule is a justifiable way for the tax authority to avoid revenue erosion and prevent any instances of tax default by the taxpayer.[102]

2.1.3.3. Fairness and Equity

Advance deposit rule is aggressive in its nature and there is a possibility that it infringes the rights under various countries' constitutions.[103] To mitigate this aggressiveness, countries adopt various mechanisms including the suspension of enforcement. For instance, South

95 Pasquale Pistone, Taxpayer Protection in the Context of Cross-Border Tax Disputes, (2014) 68, Bulletin for International Taxation 193.

96 Canada, Income Tax Act RSC 1985, s 225.1.

97 HM Revenue and Customs, appeal a Tax Decision (2024) https://www.gov.uk/tax-appeals accessed 10 July 2025.

98 Supra note 26, P. 136.

99 Interview with Mulay, Interview with Natae

100 Ibid

101 Supra note 101.

102 Interview with Serkalem.

103 Supra note 29, P. 388.

Africa and Germany allow for suspension of enforcement which enables the taxpayers to defer the payment of the tax until the conclusion of the appeal process. However, not all countries prescribe the rule for the suspension of advance deposit which may cause unfair influence on taxpayers.

In taxation, equity refers to the principle that the burdens and benefits of the tax system should be distributed fairly, both horizontally (among equals) and vertically (across different income levels).[104] A rigid advance deposit requirement can undermine both dimensions of equity. For instance, a small business assessed with a large disputed tax liability may lack the liquidity to pay the deposit and would therefore be effectively excluded from the right to appeal, even if the assessment is legally contestable.

2.1.3.4. Financial Burden/ Compliance Cost

One of the main criticisms of advance deposit requirements is the financial burden it imposes due to expensive compliance costs.[105] If small businesses fail to mobilize the resource to pay advance deposit in time, they may lose the opportunity to challenge unreasonable assessment and they will be liable for tax without accessing any dispute resolution mechanism.[106] In these situations, enforcement actions including seizure or foreclosure of assets will ensue. In worst scenarios, it may bankrupt small businesses especially where the required advance deposit is excessively high relative to the taxpayer's capacity to pay. There are countries, where advance deposit is requirement to lodge an appeal and the percentage is as high as 100%[107], which imposes substantial financial burden to the small taxpayers.

2.1.3.5. Administrative Efficiency

Tax administration systems, particularly dispute resolution mechanisms aim to be efficient in collection of taxes. In this regard, proponents of advance deposit argue that it can be an instrument to ensure that the tax authority collects the taxes. It achieves this purpose by discouraging taxpayers from lodging frivolous and vexatious appeals and complies with the

[104] Anthony C. Infanti, Tax Equity, 55 Buffalo Law Review 1191 (2008). Available at: https://scholarship.law.pitt.edu/fac_articles/146

[105] Era Dabla-Norris et al, Tax Administration and Firm Performance: New Data and Evidence for Emerging Market and Developing Economies, IMF Working Paper WP/17/95, P. 4, (2017).

[106] Interview with Tibebe Zewdu.

[107] In Ghana, to lodge an appeal on import duty case, it is a requirement to pay 100% of the disputed amount. Ghana, Revenue Administration Act, Section 42/5, (2016).

assessment of the tax authority.[108] Advance deposit increases efficiency not only to the tax authority but also dispute resolution mechanisms.[109] It deters cases that may create a backlog if allowed to be filed freely and expedited resolution of cases.[110]

2.1.4. Advance Deposit Requirements in Comparative Perspective

2.1.4.1. Developed Countries

Developed countries do not share a common framework regarding advance deposit. Their practice can be roughly categorized into three. The first category is the one that rejects advance deposit altogether. For instance, in Japan, the taxpayer can lodge an appeal without being required to pay an advance deposit.[111] Taxpayers may file an objection (kōgi) to the district director of the tax office, and if dissatisfied, they can further appeal to the National Tax Tribunal.[112] The right to file these administrative appeals is unconditional, i.e., not contingent upon paying the disputed tax first. Another country that does not have an advance deposit requirement to lodge an appeal is New Zealand. Under the Tax Review Authorities Act, the general conditions for the admissibility of the appeal have been provided.[113] However, the Act does not prescribe advance deposit as a condition to lodge an appeal.

The other category is countries that do not require advance deposit to lodge an appeal but allow for collection of tax during the appeal process. In these countries, the tax authority can collect the assessed amount even before the appellate body makes a ruling on the issue. However, taxpayers have the option of applying for suspension of enforcement. In Australia, the taxpayer can apply for deferral of payment by furnishing security, pay 50% of the tax or enter into payment arrangement.[114] In the United Kingdom, there is a practice called hardship application in which a taxpayer who is unable to pay requests for the hearing of the case even if the amount is not paid. The hardship application is formally recognized under the United Kingdom VAT law[115] and practiced in other types of tax. In Germany, the tax authority can

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108 This notion is reflected in Capstone 556 (PTY) LTD vs. Commissioner, South African Revenue Service and the Minister of Finance, [2016] 1 SA 123 case and Nigeria Federal Inland Revenue Service (Establishment) Act 2007, No. 13, Fifth Schedule, Para 15(7).
109 Interview with Mulay.
110 Ibid; Interview with Serkalem.

111 Japan, Act on General Rules for National Taxes No. 66, S 105, (1962).

112 Ibid Article 75 (Objection) and Article 103–107 (Appeal to the NTT).

113 New Zealand, Tax Review Authorities Act, 1994, Section 26.
114 Australia, Taxation Administration Act No. 1, Schedule 1, Section 255-15, (1953).
115 United Kingdom, Value Added Tax, 1994, Chapter 23, Section 84(3)(b).

collect the tax even when the case is pending before the appellate body. However, the tax authority can grant suspension of enforcement if there is a serious doubt about the legality of the decision or if the enforcement can cause unreasonable hardship for taxpayers which is not justified by the overriding public interests.[116]

The third category of countries is similar to the second category in that advance deposit is not a requirement to lodge an appeal and the tax authority can pursue the collection of the tax before the appeal process culminates. The difference between the second and third categories is evident in suspension of enforcement. In the second category, suspension applications are often granted and the system protects the taxpayer's rights. However, in the third category suspension is discretion of the tax authority and it is hard to get which makes it a harsh system to taxpayers compared to the second category. For instance, in France, the taxpayer should explicitly request for the suspension and provide the basis for the request.[117] If the amount is more than 4,500 euro, the taxpayer has to furnish security.[118]

2.1.4.2. Developing Countries

Similar to developed countries, developing countries do not share a common legal framework regarding advance deposit. To understand developing countries, we can categorize them into four. The first one is that advance deposit is not required to lodge an appeal. Countries in this category include Kenya and Brazil. In two separate instances[119]The Kenyan National Treasury has proposed the introduction of an advance deposit as a requirement to lodge an appeal.[120]However, in both instances, the legislature rejected the proposal due to contravention of the Constitution and public outcry.[121] Brazil is another country that falls under this category. The Brazil tax law provides that enforceability of tax credit shall be suspended upon fulfillment of certain conditions including complaints and appeals.[122]

The second category is countries where the taxpayer can lodge an appeal without paying advance deposit and the recovery of the tax can be suspended by submitting an application. In

[116] Germany, Fiscal Courts Act (Finanzgerichtsordnung), S 69(2), (1965).

[117] France, Tax Procedures Code, 2020, Section L277.

[118] Ibid, R277-7.

[119] Kenya, Finance Act 2022 and Finance Act 2023 (Kenya) proposed to amend the Tax Appeals Tribunal Act No. 40 of 2013.

[120] Ibid – the 2022 amendment proposed 50% of the disputed amount; the 2023 amendment reduced it to 20%.
[121] Supra note 80.
[122] Brazil, National Tax Code, 1966, Section 151.

Vietnam the law provides that no enforcement should be applied when the tax arrears are frozen during the freezing period. It further guarantees payment by installment in twelve months if the heads of agencies allow that arrangement and it is guaranteed by credit institutions.[123]

The third category is countries where taxpayers can lodge an appeal without paying advance deposit but suspension of enforcement is difficult to obtain. For instance, in South Africa, the tax authority can collect the tax even before the case goes to appeal when it is in objection stage.[124] The other country in this category is Botswana which shows similar features as South Africa.[125]

The fourth category is the country where paying an advance payment is a prerequisite to lodge an appeal. This model aims to protect the government revenue and avoid frivolous and vexatious suits. Developing countries that follow this model are found in south Asia. For instance, India provides advance deposit in different tax laws. In Central Goods and Services Tax Act, the taxpayer has to pay 10% of the assessed amount to file appeal to the Appellate Authority [126] and 20% to the Appellate Tribunal.[127] In the case of excise tax, the taxpayer has to pay 7.5%-10% based on the type of the case.[128] The other country in south Asia that follows this model is Bangladesh. Under Bangladesh Income Tax Ordinance, the taxpayer has to pay 10% of the assessed amount to lodge an appeal.[129] In Indonesia, it is provided that submitting an application for appeal does not postpone the taxpayer's obligation to pay the tax. In fact, the law clearly states that if the case is brought against the amount of tax due, the taxpayer should pay as high as 50% of the assessed amount.[130]

[123] Vietnam, Law on Tax Administration, 2019, Section 124(4) and 124(5).

[124] South Africa, Tax Administration Act No. 28 of 2011, Section 164(1).
[125] Botswana, Income Tax Act, (Chapter 52:01) 1995, Section 88(1).
[126] India, Central Goods and Services Tax Act No. 26 of 2017, Section 107(6).

[127] Ibid, Section 112(8).

[128] India, Central Excise Tax, Section 35F.

[129] Bangladesh, Income Tax Ordinance 1984, Section 158.

[130] Indonesia, Tax Court Law No. 14 of 2002, Section 36(4).

2.1.4.3. African Context

African countries have different Rules regarding advance deposit in tax cases. For instance, in Kenya, the legislature rejected the National Treasury proposal to introduce advance deposit.[131] This is due to concern for its possible effect on the right to access justice.[132] Another country in Africa that should be discussed is Rwanda. Rwanda follows the Germany and Belgium model in that the tax authority can recover the tax prior to the appellate court's final decision unless the commissioner suspends the tax recovery.[133]

Another African country that extensively dealt with advance deposit requirements is Nigeria. The relevant law on the issue is the Federal Inland Revenue Service (Establishment) Act. This Act gives discretionary power to the Tribunal to order the appellant to deposit advance payment.[134] However, Tax Appeal Tribunal (Procedure) Rules and the Federal High Court (Federal Inland Revenue Service) Practice Directions have been issued which contain conflicting provisions. In both laws, advance deposit is a requirement to lodge an appeal. This causes confusion with the Federal Inland Revenue Service (Establishment) Act because under the latter law, advance deposit is a discretionary power of the Tribunal, not a mandatory requirement.

The Tribunal can order the advance deposit: if the Federal Inland Revenue Service (FIRS) proves that the appellant failed to submit tax returns; if FIRS proves that the appeal is frivolous or vexatious or an abuse of the process; without proving abuse if the FIRS show that an advance deposit can expedite the process.

The Tribunal has passed conflicting decisions regarding this issue. In Multichoice Nigeria vs. FIRS case, the Tribunal agreed with FIRS that advance deposit is a condition precedent to lodge an appeal.[135] However, in the subsequent two decisions, Investment Holdings

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[131] Supra note 119.
[132] Ibid
[133] Rwanda, Laws on Tax Procedures No. 026 of 2019, Section 53.

[134] Nigeria, Federal Inland Revenue Service (Establishment) Act 2007, No. 13, Fifth Schedule, Paragraph 15(7).
[135] Multichoice Nigeria Limited v Federal Inland Revenue Service (Tax Appeal Tribunal (Lagos Zone), 24 August 2021) (deposit struck-out appeal for failure to pay 50% security pursuant to paragraph 15(7), Fifth Schedule, Federal Inland Revenue Service (Establishment) Act 2007)

Limited[136] vs. FIRS and Emenite Limited vs. FIRS[137]The Tribunal held that an advance deposit is not a mandatory requirement to lodge an appeal. It ruled that the Tax Appeal Tribunal (Procedure) Rules are subsidiary to the Federal Inland Revenue Service (Establishment) Act. Hence, in case of conflict with the superior law, they shall have no effect.[138]

There are also African countries that made advance deposit mandatory to lodge an appeal. For instance, in Ghana, in the case of import duties, the taxpayer has to pay the full amount of the tax in dispute. However, in other taxes the requirement is to pay 30% of the tax in dispute.[139]Tanzania is another country where paying advance deposit is a requirement to lodge an appeal. According to the Tanzanian tax administration law, any taxpayer should pay the amount of tax that is not in dispute or one-third of the assessed amount whichever amount is greater to lodge an appeal.[140]

2.1.5. Alternative Models to Advance Deposit Requirements

2.1.5.1. Bank Guarantees

A widely adopted alternative to advance cash deposits in tax appeals is the use of bank guarantees, which serve as a non-cash financial security that protects government revenue while avoiding undue financial hardship for the taxpayer. A bank guarantee is a financial instrument issued by a commercial bank to ensure that the taxpayer will pay the amount that is determined by the court.[141] Unlike advance deposit, which requires immediate payment of a substantial amount, a bank guarantee does not require to furnish the whole amount in cash. Under this model, instead of paying a portion of the disputed tax upfront, the taxpayer obtains a guarantee from a licensed financial institution (typically a bank), assuring the tax authority

[136] Investment Holdings Ltd v Federal Inland Revenue Service (Tax Appeal Tribunal, Lagos Zone, 8 March 2022, Appeal No TAT/LZ/CIT/062/2021) – deposit requirement struck down as mandatory under procedural rules inconsistent with parent statute.

[137] Emenite Ltd v Federal Inland Revenue Service (Tax Appeal Tribunal, South-East Zone, 13 May 2022, Appeal No TAT/SEZ/012/2021) – reconfirmation that security deposit is discretionary and contingent on proving statutory triggers

[138] Supra note 62; Bonwo and Ighodalo, 'Tax Appeal Tribunal Rules on Security Deposit Requirement for Prosecution of Tax Appeals' (12 September 2022) accessed 13 June 2025.

[139] Ghana, Revenue Administration Act, 2016, Section 42(5).
[140] Tanzania, The Tax Administration Act, 2015, Section 51(5).

[141] Bank Guarantee' (Investopedia, updated 2 November 2023) https://www.investopedia. com /terms /b/bank guarantee. asp#toc -what -is- a- bank- guarantee accessed 26 June 2025.

that payment will be made if the taxpayer's appeal is ultimately unsuccessful.[142] This arrangement is particularly advantageous in balancing the dual objectives of revenue protection and access to justice.[143] By allowing taxpayers to preserve liquidity and avoid operational disruption during litigation, bank guarantees mitigate the economic burden of prepayment, especially for capital-intensive businesses or cash-constrained taxpayers.[144]

Countries, including India, Germany, and Austria, recognize bank guarantees as acceptable forms of security during tax litigation especially where the taxpayer demonstrates financial hardship. The Indian Supreme Court in Nicolas Piramal India Ltd. v. Union of India affirmed that compelling upfront payment, even in disputed claims, must be tempered by principles of proportionality and fairness.[145] Likewise, Austria's Federal Fiscal Court allows for the suspension of tax collection during appeal upon submission of an adequate security, including bank guarantees, in accordance with Section 212a of the Federal Fiscal Code.[146] This alternative model is also practiced in Vietnam. In case of frozen arrears, the law permits payment by installment in twelve months. However, to be afforded this, the taxpayer has to be guaranteed by credit institutions.[147]

Such flexible security mechanisms preserve the integrity of revenue collection without obstructing judicial recourse. Furthermore, bank guarantees introduce a layer of institutional oversight, as financial institutions typically assess the legal merits of the taxpayer's position before issuing the guarantee, thereby discouraging frivolous litigation.[148] This incentive structure makes the bank guarantee model more efficient and equitable than a rigid advance deposit system.

Nonetheless, some challenges remain. To furnish a bank guarantee strong relationship with banks is required which can be onerous to small taxpayers.[149] Moreover, fees banks may charge to provide guarantee can be burdensome to small taxpayers. However, even with these

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[142] Ibid
[143] Interview with Tibebe Zewdu; interview with Mulgeta.

[144] Supra note 79.

[145] Nicolas Piramal India Ltd. v. Union of India [2004] 163 ELT 20 (SC).

[146] Austria, Federal Fiscal Code (Bundesabgabenordnung), s 212a.
[147] Vietnam, The Law on Tax Administration, 2019, Section 124(4) and124(5).

[148] Interview with Bamlak Tigistu, consultant and attorney at law, (Addis Ababa, Ethiopia July 08, 2025)

[149] Ibid

limitations, the bank guarantee model is a more flexible and rights-sensitive mechanism than blanket advance deposit rules.[150]

2.1.5.2. Sureties or Collaterals

Another alternative to the advance deposit requirement is the provision of sureties or collateral in lieu of cash prepayment. These instruments serve the same essential function as advance deposits securing the government's interest in potential tax recovery while alleviating the immediate financial burden placed on taxpayers.[151] In contrast to the often-rigid impact of mandatory advance payments, sureties or collateral allow for a more flexible, proportionate, and accessible approach to safeguarding tax revenue during dispute resolution.[152]

Sureties involve a third party, typically an individual or institution that guarantees the taxpayer's liability, promising to pay the assessed amount if the appeal is unsuccessful.[153] Collateral, on the other hand, refers to assets (movable or immovable property, securities, or other forms of wealth) pledged by the taxpayer as a guarantee of future payment.[154] These models are more dynamic and adaptable than cash deposits, particularly in jurisdictions where businesses or individuals possess valuable but illiquid assets.[155]

In Germany, under Section 361 of the Abgabenordnung (Tax Code), taxpayers can request suspension of enforcement during appeal proceedings by offering security through guarantees, mortgages, or other acceptable collateral.[156] Similarly in France, a taxpayer may challenge a tax assessment of more than 4,500 euro, by furnishing a security, otherwise the tax authority may continue with the enforcement even when the case is pending.[157] These systems aim to balance revenue protection with constitutional rights of access to justice.

The main advantage of sureties and collaterals over advance deposits is that they preserve taxpayer liquidity, avoid penalizing honest taxpayers with temporary cash-flow challenges, and still ensure that revenue remains protected in the event the assessment is upheld.[158]

[150] Ibid
[151] Ibid
[152] Ibid, Interview with Tibebe Zewdu; Interview with Natae.
[153] Black's Law Dictionary (11th edn, Thomson Reuters 2019) https: // legal. Thomson Reuters. Com /en /products/blacks-law-dictionary accessed on 18 June 2025.

[154] Ibid
[155] Interview with Bamlak.
[156] German Fiscal Code (Abgabenordnung), s 361.
[157] France, Tax Procedures Code, 2020, Section R277-7.
[158] Interview with Bamlak.

Moreover, they provide administrative flexibility, as the tax authority retains discretion in assessing the adequacy and reliability of the security offered.[159] In practice, this model is also less likely to discourage appeals, thereby fostering procedural fairness and improving taxpayer trust in the system.[160]

However, this alternative is not without limitations. Some taxpayers may lack suitable collateral or guarantors, especially among low-income earners. Additionally, the asset may require upkeep which increases the cost of tax administration.[161] Moreover, if the tax authority wins and tries to recover the tax, it can be difficult to liquidate the asset.[162]

2.1.5.3. Judicial Waiver and Partial Payment

Another alternative to rigid advance deposit requirements in tax appeals is the model of judicial waiver or partial payment, which introduces flexibility and safeguards access to justice while still considering the need for revenue protection. Under this approach, courts or quasi-judicial tax tribunals are granted discretionary power to waive or reduce the required prepayment, either entirely or partially, based on a reasoned assessment of the taxpayer's financial condition, the merits of the case, or overriding public interest.[163] This mechanism directly addresses the central criticism of blanket advance deposit rules, that they may unduly bar taxpayers, particularly individuals and small businesses from seeking redress, thereby denying them access to justice.

The Indian tax appeal system illustrates the evolution toward this model. While statutes such as the Income Tax Act, 1961 and the Central Excise Act, 1944 initially imposed mandatory pre-deposit requirements, courts developed jurisprudence enabling waiver or modification of such conditions. In Union of India v Jesus Sales Corporation, the Supreme Court affirmed the principle that appellate authorities have the discretion to waive pre-deposit entirely or direct partial payment, particularly where full payment would impose "undue hardship" on the appellant.[164] This approach is now codified in Section 35F of the Central Excise Act,

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[159] Ibid

[160] Ibid

[161] Interview with Mulay; Interview with Serkalem

[162] Ibid

[163] Interview with Shehir Shemelo, Partner at RSM Consultancy (Addis Ababa, Ethiopia, June 4, 2025).

[164] Union of India v Jesus Sales Corporation [1996] 4 SCC 69 (India SC).

amended to mandate a fixed percentage (7.5% or 10%) of the duty demanded as a pre-deposit, but still subject to judicial interpretation in hardship cases.[165]

In South Africa, while the default principle under Section 164 of the Tax Administration Act, 2011 is "pay now, argue later," taxpayers can apply to suspend payment, and the South African Revenue Service (SARS) must consider good prospects of success, financial distress, and public interest factors before making a decision.[166]

Unlike rigid advance deposit requirements that apply uniformly regardless of taxpayer capacity or case strength, judicial waiver and partial payment models preserve the right of the taxpayer to appeal while also protecting government revenue.[167] These models allow the judiciary to distinguish between genuine litigants and those abusing the process, thereby filtering frivolous claims without precluding meritorious appeals.[168] Moreover, this model encourages tax compliance and trust in the system by reinforcing the idea that justice is not conditioned on wealth.[169]

Judicial waiver and partial payment however also have disadvantages such as it can cause inconsistency since decision to waive can vary across tax officials and judges and also open the door to corruption.[170] Moreover, evaluations of waiver applications can slow the appeal process which affects the dispute resolution mechanisms.

2.2. Legal and Institutional Framework of Tax Appeals in Ethiopia

2.2.1. Overview of the Ethiopian Tax Dispute Resolution System

Since 1995, the FDRE Constitution has adopted the federal structure as a foundational principle for state organization that distributes powers and responsibilities between the federal and regional governments.[171] To this end articles 95 to 99 of the Constitution establish a detailed framework for the division of taxation powers between the Federal Government

[165] India, Central Excise Act 1944, s 35F, as amended by Finance Act 2014.
[166] South Africa, Tax Administration Act 28 of 2011, s 164; South African Revenue Service, Suspension of Payment Guide (2022) https://www.sars.gov.za accessed 10 July 2025.

[167] Interview with Bamlak.
[168] Ibid
[169] Ibid
[170] Interview with Mulay.
[171] Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, (1995), Art. 1 and 50, Proclamation No 1, Neg. Gaz. Year 1 No. 1 (Hereinafter FDRE Constitution).

and the States, as exclusive federal[172], exclusive state[173],concurrent taxation powers, where both federal and state governments jointly levy and collect taxes[174] and finally there are taxes undesignated to either[175] reflecting the country's federal structure.

In this regard, distribution of taxation power between the federal and regional governments has an effect on the dispute resolution mechanism. This means that all the institutions that are established under the federal government are also established in regional states. However, despite their constitutional right to enact laws on tax that are assigned to them including dispute resolution mechanisms, regional states were using the laws of the federal government.[176] The only area that regional states enact their law is agricultural income taxes.[177] Hence, similar to other tax laws, tax dispute resolution mechanisms in regions are similar to the federal one.[178] Tax dispute resolution mechanisms are different from other commercial disputes.[179] In other commercial disputes, the issue is adjudicated by courts determined according to the rules of subject-matter and territorial jurisdiction.[180] However, tax disputes go through three stages of the appeal process. The first one is the Review Department that is established under the Ministry of Revenue.[181] The second one is the Federal Tax Appeal Commission (FTAC) that is an independent body accountable to the Ministry of Justice.[182] The third one is courts of law that entertain tax issues in appellate jurisdiction.[183]

[172] Ibid, Art. 96.

[173] Ibid, Art. 97.

[174] Ibid, Art. 98

[175] Ibid, Art. 99

[176] Taddese Lencho, Income Tax Assignment under the Ethiopian Constitution: Issues to Worry About, MLR, Vol. 4, No. 1, P. 43, (2010).

[177] Ibid, P. 43

[178] Aschalew Ashagre, Tax Appeal Procedures in Ethiopia (Amharic),2014, MLR, Vol. 8, No.1, P. 210.

[179] Tadesse Lencho, The Ethiopian Tax System: Excesses and Gaps, 2012, MSILR, Vol. 20, No. 2, P. 372.

[180] Federal Courts Proclamation No. 1234/2021, Federal Negarit Gazeta, 27th Year No. 80.

[181] FTAP, Art. 54.

[182] Ibid article 56.

[183] Ibid article 57

2.2.2. Institutional Framework, Jurisdictional Mandates, and Procedural Aspects of Tax Appeal Institutions under Ethiopian Law

2.2.2.1. Review Department

The Ministry of Revenue is the primary organ of the government mandated to establish and administer a sustainable federal revenue system.[184]As part of this mandate, it issues tax decisions and enforces tax laws, which may lead to disputes between taxpayers and the authority. To provide a redress mechanism, the Federal Tax Administration Proclamation (from now on FTAP) allows a dissatisfied taxpayer to file a notice of objection to the Review Department.[185]Thus, the Review Department, organized under the Ministry of Revenue, functions as the first tier in Ethiopia's tax appeal system.

The FTAP grants the Review Department the mandate to review tax decisions issued by the authority.[186] These include assessments (excluding self-assessments), applications for amending self-assessments, recovery costs, interest for late payment, and other related matters.[187]

The FTAP does not specify the internal structure of the Review Department. However, a directive issued by the Ministry of Revenue provides that Review Departments exist in all branch offices and are accountable to branch managers.[188] Structurally, these departments are part of the Ministry's administrative wing and follow the same organizational scheme as other departments, which compromise their neutrality.[189] This setup undermines impartiality and violates the principle that no one should adjudicate their own case.[190] The directive sets out the composition of the Review Department, which includes a head, experts, secretary, record officer, assistant, and other necessary staff.[191] In the case of large taxpayer branches, two coordinators and one vice head are additionally required.[192]Where workload demands it,

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[184] Definition of Powers and Duties of Executive Organs Proclamation, (2021), Art. 27, Proclamation No. 1263, Neg. Gaz. Year 28 No. 4.

[185] FTAP, Art. 54.
[186] FTAP, Art. 55(1).
[187] FTAP, Art. 2/34.
[188] Directive Issued to Define the Working Procedures of the Tax Complaints by the Review Department, (2013), Art. 6/1, Directive No. 171 (Amharic).

[189] Mebit Ayehu, The Powers and Proceedings of the Review Departments in Tax Disputes: The Law and Practice of the Review Department in the Head Office and Large Taxpayers Branch Office, LLM Thesis, Addis Ababa University, P. 22, (2022).
[190] Ibid
[191] Supra note 189, Art. 4(1).

[192] Ibid, Art. 4(2).

multiple teams may be formed with approval from the Minister, chaired by the coordinators or vice head.[193]Members must have experience in legal, audit, or tax assessment departments, and at least two must be experts in law and accounting.[194] Hence, according to the directive, the Review Department shall have six members and in case of large taxpayer branches nine members.[195] While branch managers may appoint staff based on education and relevant experience, they may also transfer qualified experts from other branches.[196] The Minister may independently appoint qualified individuals.[197]

The Review Department does not have the authority to alter tax decisions; it only recommends outcomes to the branch manager.[198] It may propose to uphold, reduce, or increase the assessed tax. If an increase is recommended, the case must be returned to the original tax assessor for reconsideration.[199]

The FTAP and the Directive enumerate procedural requirements for taxpayers wishing to lodge objections. Objections must be submitted within 21 calendar days of receiving the tax decision.[200] For customs-related disputes, the deadline is 15 working days.[201] Despite the apparent discrepancy, both deadlines are substantively similar, as the FTAP includes non-working days.[202]

Taxpayers must submit their objections in writing and, in cases of amended assessments, may only object only to the alterations, reductions and additions made to the original assessment.[203] They must also pay any undisputed amount or furnish a payment agreement to that effect.[204] For an objection to be valid, it must clearly state the grounds of challenge,

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[193] Ibid, Art. 4(3) and 5.
[194] Ibid, Art. 7(4).

[195] Ibid staffing includes head of department, two legal and accounting experts, secretary, record officer, assistant and in the case of large taxpayer branches additional two coordinators and vice head.

[196] Supra Note 189, Art. 7 (1) & (2).

[197] Ibid
[198] FTAP, Art. 55(1).

[199] Ibid, Art. 55(3).

[200] Ibid, Art. 54(1).

[201] Customs Proclamation, (2014), Art. 154(1), Proclamation No. 859, Neg. Gaz. Year 20 No. 82.

[202] Aschalew Ashagre Byness, P. 49, (2020).

[203] FTAP, Art. 54(2).
[204] Supra note 189, Art. 8(4).

proposed amendments, and justifications.[205] Additional requirements include the taxpayer's full name, TIN, address, the content of the disputed decision, the issuing branch office, and supporting evidence.[206] During hearings, at least three or two-thirds of the Review Department members must be present to form a quorum.[207] The directive does not guarantee taxpayers the right to be heard; hearings are discretionary.[208] In practice, communication is primarily through written submissions, and hearings, when granted, are not open to the public.

Under FTAP, the burden of proof lies with the taxpayer to demonstrate that the tax decision is incorrect.[209] This is justified on the ground that taxpayers have access to the relevant records and facts.[210] As tax disputes are civil in nature, taxpayers must prove their case on a balance of probabilities.[211]

The Review Department must reach a decision within 180 days by a majority vote.[212] Its recommendation must then be referred to the Minister or the branch manager, who may affirm, vary, or remand the case with instructions.[213]The recommendation must include a summary of the objection, both parties' arguments, issues to be decided, and the legal and evidentiary basis for the recommendation.[214]

2.2.2.2. Federal Tax Appeal Commission

The FTAC is an independent administrative tribunal that hears and decides disputes brought by taxpayers who are challenging legally appealable decisions made by tax authorities. Before 2018, the FTAC was accountable to the Prime Minister.[215] However, after that, its accountability changed to the Ministry of Justice.[216] This sudden decision of the government

[205] FTAP, Art. 54(3).
[206] Supra note 189, Art. 15(2).

[207] Ibid, Art. 11(1).

[208] Aschalew, supra note 171, P. 54, (2020). The author claims that even though the Review Department hears from taxpayers the hearing is not an open hearing.
[209] FTAP, Art. 59.
[210] Ministry of Finance and Economic Cooperation, Technical Notes on Federal Tax Administration Proclamation No. 983/2016 (2018) 137.
[211] Ibid
[212] Supra note 189, arts 11(2), 17(1).

[213] Ibid, Art. 11/4.

[214] Ibid, Art. 12/1.
[215] Ibid, Art. 86(3).
[216] Supra note 184, art 40(2)(e).

garnered diverse responses in which some argue that it is challenging for the Prime Minister to supervise the FTAC and others argue that the FTAC shall be accountable to the Prime Minister because that would enhance its independence and accountability.[217]

The FTAC has a president and necessary staff that are appointed by the Prime Minister.[218] Regarding the requirement for membership of the FTAC, the individual may be appointed if he/she is a lawyer with experience in tax and commercial law, if he/she is a member of the Institute of Certified Public Accountants with experience in tax matters, if he/she has engaged as tax officer with technical and administrative experience in tax matters or if he/she has a special knowledge, experience or skills relevant for the functions of the FTAC.[219]

The FTAP also provides who cannot be a member of the FTAC. These are a tax officer or an individual who ceased to be a tax officer for less than two years, an individual who has been liable for a penalty or convicted of an offence under related with tax avoidance or evasion, an individual who has been convicted of corruption under the Corruption Crimes Proclamation or any other laws or an individual who is an un discharged bankrupt.[220]

The FTAP provides that the members of the FTAC may be appointed on full-time or part-time basis and the term shall be three years with the possibility of re-appointment.[221] It further provides the instances that can terminate the tenure of the member of the FTAC including being employed or engaged as a tax officer, being liable for a penalty or convicted of an offence under the tax law relating with tax avoidance or evasion, being convicted of crime of corruption under Corruption Crimes Proclamation or any other law or being an un discharged bankrupt.[222]

A taxpayer who is aggrieved by the decision of the Review Department can file a notice of appeal at FTAC within thirty days after the service of the decision.[223] However, the FTAC can extend the time limit if the taxpayer submits a written application and shows good cause for

[217] Aschalew Ashagre Byness, Tax Appeal Proceedings before the Tax Appeal Commission in Ethiopia: Critical Reflections, MLR, Vol. 14, No. 1, P. 207, (2020).

[218] FTAP, Art. 86(2) cumulative with Art. 87(1).

[219] Ibid, Art. 87(2).

[220] Ibid, Art. 87(3).

[221] Ibid, Art. 87/4.

[222] Ibid, Art. 87/5.

[223] Ibid, Art. 88/1.

his/her inability to file the notice of appeal within thirty days.[224] The FTAP provides that the FTAC may issue a directive to govern extension of time limit.[225] In this regard, the issued directive states that if there is force majeure or other convincing reason, the time limit can be extended for not more than fifteen days.[226] However, since the directive does not specify what reasons may justify extension of time limit, FTAC judges have discretion to decide.[227] The notice of appeal that is submitted to FTAC shall contain information that are provided under the law including the name and address of the appellant, TIN number, the factual and legal basis of the appeal, documentary evidence and the name and address of witnesses including which fact they ought to prove and other issues that are relevant for FTAC decision making.[228] The notice of appeal shall be accompanied by a separate document that specifies the evidence that the taxpayer submits and it shall contain the list of evidence, the appealable decision or the tax declaration if the case was submitted as per Article 55(7) of FTAP, the copy of the notice of objection submitted to the Review Department and receipt of advance deposit.[229]

One shall note that not all notices of appeal will be accepted. A notice of appeal may be rejected if it does not fulfill the required rules such as if it has no factual or legal basis, if it was submitted after the time limit and it does not qualify for extension of time, if advance deposit has not paid and if the content of the notice of appeal is not in compliance with the law.[230] The registrar of the FTAC is empowered to inspect the notice of appeal and in his/her absence the FTAC judge can decide on the issue.[231] If the appellant is not satisfied with the decision of the registrar or the FTAC judge, he/she can submit a complaint to the FTAC president.[232]

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[224] Ibid, Art. 88/3.

[225] Ibid, Art. 88/4.

[226] Directive No. 1/2011, Issued to Define the Procedures of Extension of Time of Appeal or Appeal out of Time, (2011), Art. 5, Directive No. 1 (Amharic).

[227] Aschalew Ashagre, supra note 203, P. 217, (2020)

[228] Directive Issued to Define the Working Procedures of the Federal Tax Appeal Commission, (2011), Art. 5(1), Directive No. 2 (Amharic).

[229] Ibid, Art. 5(2) and 6(1). If the appeal is submitted by representation, the document that shows qualification and if the appellant is a legal person, the memorandum of association of the organization should be submitted with the other evidence.

[230] Ibid, Art. 7(1).

[231] Ibid, Art. 8(1) and 8(2).

[232] Ibid, Art. 8(4).

After the acceptance of the notice appeal, the FTAC sends the notice of appeal and other related documents to the Ministry of Revenue.[233] The respondent then submits its reply and evidence within fifteen days.[234] The directive ensures the taxpayer's right to submit a counter-reply which shall be afforded at least ten days and he/she cannot raise new issues other than responding to the reply.[235] After the written applications, the case will proceed to oral hearing and both parties will be afforded at least fifteen days.[236]

The cumulative reading of article 10 sub 2 of The Federal Tax Administration Regulation (FTAR) and article 12 sub 1 of the directive gives the commission a discretion to adjourn or dismiss a case if the appellant fail to appear or be represented during the hearing stage[237] The requirement to appear before the FTAC is not confined only to the appellant; the respondent is also duty-bound to appear.[238] If the respondent fails to appear during the hearing, the FTAC may adjourn one time after that the case will proceed ex-parte.[239] Both the regulation and the directive are silent about setting aside the ex-parte proceeding. However, it is argued that since the directive cross-refers to the Civil Procedure Code, the Ministry of Revenue can set aside ex-parte proceedings by showing force majeure or any other sufficient cause.[240]

The directive provides some provisions on hearing process in which it is going to be an open hearing for everyone and the FTAC may order the removal of a person from the proceeding if he/she disturbs the proceeding, interrupts witnesses from freely giving their testimony or if he/she is witness until it is his/her turn to testify.[241]Even though the right to be heard is recognized, the appellant is given limited time because members of FTAC believe they read the document and they only need clarification.[242] Rules of the Civil Procedure Code such as examination of parties, framing of issues, examination-in-chief, cross-examination and

233 Ibid, Art. 9(1).

234 Ibid, Art. 9(2) and 9(3).
235 Ibid, Art. 10.

236 Ibid, Art. 9(6).

237 Federal Tax Administration Regulation, (2017), Art. 10(2), Regulation No. 407, Neg. Gaz. Year 22 No. 79.

238 Supra note 230, Art. 13(1).
239 Ibid, Art. 13(2) and 13(3).

240 Aschalew Ashagre, supra note 203, P. 224.
241 Supra note 230, Art. 11.
242 Gizachew Silesh et al, Appraisal of Ethiopian Tax Dispute Resolution System at the Review Department (at the Ministry of Revenue) and at the Federal Tax Appeal Commission, BDUJOL, Vol. 13, No. 1, P. 116, (2022).

re-examination of witnesses, production of evidence and others can be applicable in FTAC proceedings.[243]

In FTAC proceedings, the burden of proving the incorrectness of the appealable decision lies on the appellant.[244] The directive provides what type of evidence the appellant shall submit to prove his /her case; these are oral and documentary evidence.[245] However, the FTAC is not confined to the evidence produced by the parties; it can order the furnishing of other evidence. This evidence includes decisions and testimonies that are in the hands of legally recognized institutions and expert, technical and scientific evidence that are relevant to the case. [246] The applicant is required to prove his/her claim in balance of probabilities.[247]

The FTAC shall decide the case in one hundred twenty days and the president of FTAC may extend this time limit by not more than sixty days if the complexity of the issues or the interest of justice requires.[248] However, the failure of FTAC to comply with the time limit does not affect the validity of its decision which makes the time limit requirement meaningless.[249]

The FTAC may affirm, reduce, amend or remit to the Ministry of Revenue for reconsideration in case of tax assessment and affirm, vary or set aside in case of other appealable decisions.[250] The decision of the FTAC includes the reasons for the decision, the findings of the material questions of fact and reference to the evidence or other material that it is based upon.[251]

The scope of the FTAC power to review the tax decisions is contentious. The FTAP states that the FTAC can entertain appealable decisions and an appealable decision is defined as objection decision and any other decisions of the Ministry of Revenue.[252] However, the

[243] Ibid, Art. 18.

[244] FTAP, Art. 59.

[245] Supra note 230, Art. 15(1).

[246] Ibid, Art. 16(1)(e) and 16(1)(f).

[247] Supra note 196, P. 137, (2018).

[248] FTAP, Art. 91(2) and 91(3).

[249] Ibid, Art. 91(4).

[250] Ibid, Art. 91(5) and 91(7).

[251] Ibid, Art. 91(9).

[252] Ibid, Art. 56(1) cumulative with Art. 2/2.

phrase “any other decision” is far from clear and the practice is not helpful in this regard.[253] To make things complicated, the Federal Administrative Procedure Proclamation (FAPP) provides another appeal mechanism for taxpayers to challenge non-tax assessment decisions.[254]

According to the FAPP, if a person is aggrieved by the decision of the administrative body, he/she has a right to submit a complaint to the internal Review Department.[255] If he/she is dissatisfied with that decision, he/she can submit it to the Federal High Court for judicial review.[256] In this regard, two opposing arguments are raised. On one hand, the FTAP provides the list of cases that can be submitted to the FTAC which excludes non-tax assessment cases. However, on the other hand, the FTAP obliges any tax issues to pass through the FTAC which shall be applicable since the FTAP is a special law.[257]

2.2.2.3. Courts of Law

The third tier in the appeal process of tax cases is regular courts. If the party to the proceeding before the FTAC is dissatisfied with the latter’s decision, he/she can submit an appeal to the Federal High Court.[258] The Federal High Court is established in six parts of Ethiopia. These are Addis Ababa, Afar, Benishangul Gumuz, Gambella, Somali, and South Nations, Nationalities and Peoples Regional States.[259] Hence, in any federal government related tax disputes, taxpayers can lodge an appeal to one of these courts complied with local jurisdiction rules. In case of other regional states, the power of the Federal High Court can be delegated to the State Supreme Court as per the rules of the FDRE Constitution.[260] If a party is dissatisfied with the decision of the Federal High Court, he/she can appeal to the Federal Supreme Court.[261]

253 Aschalew Ashagre Byness, P. 211, (2020).

254 Ibid.

255 Another issue that can be raised here is that the scope of power of the review department is limited to tax assessment related cases under the Federal Tax Administration Proclamation. It is not clear whether it is obliged under the Federal Administrative Procedure Proclamation to review non-tax assessment decisions.

256 Federal Administrative Procedure Proclamation, (2020), Art. 49(1), Proclamation No. 1183, Neg. Gaz. Year 26 No. 32.

257 Aschalew Ashagre Byness, P. 212, (2020).

258 FTAP, Art. 57(1).

259 FDRE Constitution, Art. 78(2) and Federal High Court Establishment Proclamation, (2003), Art. 2, Proclamation No. 322, Neg. Gaz. Year 9 No. 42.

260 FDRE Constitution, Art. 80(2).

261 FTAP, Art. 58(1).

A party who is aggrieved by the decision of the FTAC shall submit a notice of appeal to the Federal High Court within thirty days after the service of the notice of the decision.[262] The content of the notice of appeal is not provided under the FTAP. Hence, the rules of the Civil Procedure Code will be applicable.

According to the Civil Procedure Code, the memorandum of appeal shall include the name and place of the court which the appeal is filed, the names and addresses of the appellant and respondent, the name of the court that gave the judgment appealed from, the date of the judgment and the number of the suit, the question of law that causes the appeal and the relief the appellant sought.[263] Once the memorandum of appeal is submitted, the court shall hear from the appellant unilaterally and it may decide to dismiss the case without calling the respondent.[264] However, if the case is not dismissed the memorandum of appeal will be served to the respondent and the respondent will appear during the hearing.[265] The appellant is required to convince the court that the FTAC applied the wrong law or its interpretation is erroneous.

The FTAP provides that only the issues that involve error of law can be submitted for review before the Federal High Court.[266] Before the enactment of proclamation 1234/2021[267] It was unclear as to what constitutes an error of law to that end analysis method and pragmatic method used to determine issues of fact and issues of law.[268] Accordingly, the issue of fact was considered as something that deals with existence or non-existence of certain things, whereas the issue of law deals with the implication of those facts.[269] Currently this problem is solved as Article 2(4) of the Federal Courts Proclamation No. 1234/2021 defines a basic or fundamental error of law as a serious legal mistake in a final judgment, ruling, or order that grossly distorts justice and may be reviewed by the Cassation Division of the Federal Supreme Court under Article 10. Such errors include violations of the Constitution, misinterpretation or misapplication of the law, failure to frame proper legal issues, denial of judgment on a justiciable matter, issuance of unwarranted execution orders, lack of subject matter jurisdiction, administrative acts contrary to law, and decisions that contradict binding

[262] Ibid, Art. 57(1).
[263] CPC, Art. 327(1).
[264] Ibid, Art. 337.
[265] Ibid, Art. 338.
[266] Ibid, Art. 57(4).
[267] Supra note 180.
[268] Aschalew, supra note 161, P. 227, (2014).
[269] Ibid.

precedents of the Cassation Division. These grounds aim to uphold legal accuracy, justice, and consistency in the judicial system.[270]

The decision-making power of the Federal High Court is expanded under the FTAP. Before that, the Income Tax Proclamation obliges the court to return the case back to the FTAC after reaching a decision.[271] However, under FTAP, the court has discretion to affirm the decision of the FTAC, make a decision in substitution to the FTAC decision, remit the case with direction to the FTAC or the Ministry of Revenue for reconsideration, dismiss the appeal or make any other decision that the court thinks appropriate.[272]

After the decision of the Federal High Court, the aggrieved party can file an appeal to the Federal Supreme Court Appellate Division within thirty days.[273] The contents of the memorandum of appeal and the hearing process are the same as those before the Federal High Court. After considering the case, the Federal Supreme Court Appellate Division can confirm, vary, or reverse the decision of the Federal High Court or remand the case back to the Federal High Court.[274]

After that, if the decision has basic error of law, the aggrieved party can file an application at the Federal Supreme Court Cassation Division within ninety days.[275]

2.2.3. Conditions for Tax Appeal under the Tax Administration Proclamation

One of the requirements a taxpayer has to fulfill to lodge an appeal is the time limit.[276] In each stage of appellate process, there are time limits that should be complied with to make the application valid.[277] In the case of the Review Department, the taxpayer shall submit his/her notice of objection in twenty one days.[278] In the case of FTAC, the time limit is thirty days.[279] However, the FTAC can extend the time limit for not more than fifteen days if the

[270] Supra note 180, Art 2(4).

[271] Income Tax Proclamation No. 286/2002, Negarit Gazeta, Year 8 No. 34, Art. 112(2).
[272] FTAP, Art. 57(5).
[273] Ibid, Art 58(1).

[274] CPC, Art. 348(1) cumulative with Art. 341(1).

[275] Supra note 180, Art. 27(3).

[276] FTAP, Art 54(1),88(1), 57(1),58(1)
[277] Ibid

[278] FTAP, Art. 54(1).

[279] Ibid, Art 88 (1)

taxpayer submits a written application and shows good cause.[280] The time limit at the Federal High Court and the Federal Supreme Court Appellate Division is the same thirty days. However, the prescribed time limit for the Federal Supreme Court Cassation Division is ninety days.[281]

The other requirement that should be fulfilled is the issue of standing. The primary responsible person for the tax is the taxpayer. The Working Procedures Directive of the FTAC provides that appeal shall be brought only by the taxpayer or his/her representative.[282] However, in exceptional circumstances, a receiver may be liable for the payment of tax.[283] A receiver is a person other than the actual taxpayer who may be a trustee in bankruptcy case or liquidator in inheritance case that can be liable to pay the tax. In this regard, the trustee or the liquidator has a standing to protect the interests of the actual taxpayer.

The exhaustion of administrative remedy is another issue that should be considered when a taxpayer appeals to FTAC and court of law. The FTAP requires that the taxpayer shall first challenge the decision of the Ministry of Revenue at the Review Department.[284] The taxpayer may appeal to the FTAC only after the Ministry of Revenue made an objection decision upon the recommendation of the Review Department.[285]

Another issue that should be fulfilled is the form and format of the application. In all stages of the appeal process, the applications shall contain the taxpayer's full name and address, the legal and factual basis of the application, list of witnesses and documentary evidence and other facts and evidence that are relevant to the case.[286] Moreover, the applications in all appeal stages are required to be in written format.[287] In practice the FTAC requires the submission of the application in CD format in addition to the written format. The last condition which a taxpayer needs to fulfill in order to appeal is payment of advance deposit as stated under article 56 and 57 of the FTAP.

[280] Ibid, Art. 88 and supra note 212, Art. 5.

[281] Federal Courts Proclamation, Art. 27(3).

[282] Supra note 230, Art. 4(1).

[283] FTAP, Art. 40.

[284] Ibid, Art. 54(1).

[285] Ibid, Art. 55(4).

[286] Directive Issued to Define the Working Procedures of the Tax Complaints by the Review Department, Art. 15(2); supra note 214, Art. 5(1); CPC, Art. 327(1).

[287] FTAP, Art. 54(1); supra note 214, Art. 5(1); CPC, Art. 327(1).

2.2.4. Historical development of Advance Deposit Requirement

2.2.4.1. Under The Income Tax Proclamation No. 173 of 1961: Introduction of Upfront Payment Requirements

Ethiopia's modern tax system began taking shape during Emperor Haile Selassie's reign.[288] The Income Tax Proclamation of 1944 was a landmark law that introduced formal income taxation[289] which was later repealed by Proclamation No. 107 of 1949, which again was repealed by the Income Tax Decree No. 19 of 1956.[290] Next to that the Income Tax Proclamation No. 173 of 1961 was another landmark law that introduced the requirement of advance deposit to hear taxpayer appeals.[291] Significantly, this 1961 law expressly embodied a "pay now, argue later" rule.[292] A taxpayer who wished to appeal an income tax assessment had to pre-pay a substantial portion of the tax as a condition for the appeal to be admitted. Specifically, for business and professional taxpayers, the law required depositing 75% of the assessed tax or 75% of the last finally assessed tax for the prior year, whichever was less with the tax authority before the appeal could proceed.[293] The law further mandated that the deposit could never be less than the tax on any self-declared income.[294] i.e. at minimum the taxpayer must pay the amount they themselves reported due. If it was the first time a business was assessed with no prior year to reference, the taxpayer had to pay at least the tax on any income they declared, or if they had filed no declaration at all, 50% of the assessed tax.[295] These provisions were introduced to deter frivolous objections and that the state would receive either most or at least a substantial portion of the revenue up front by allowing only serious appeals to be brought.

In addition to the prepayment needed to lodge an appeal, the 1961 law dictated that an appeal did not suspend collection of tax. The decisions of the Tax Appeal Commission were immediately enforceable[296] meaning the tax determined by the Commission had to be paid

[288] Tadesse Lencho, 'Towards Legislative History of Modern Taxes in Ethiopia (1941–2008)' (2012) 25 Journal of Ethiopian Law 104.
[289] Personal and Business Income Tax Proclamation, 1944, Proc. No. 60, Negarit Gazeta, 3rd year, No. 9

[290] Tax Law Teaching Material Prepared by: Yohannes Mesfin & Sisay Bogale, Prepared under the Sponsorship of the Justice and Legal System Research Institute, 2009.
[291] Income Tax Proclamation No. 173 of 1961, Art 54, b.
[292] Ibid
[293] Ibid
[294] Ibid sub c

[295] Ibid sub d

[296] Ibid, Art 57

notwithstanding further appeal. If either the taxpayer or the tax authority appealed the Commission's decision to the High Court which could be done only on a question of law, the taxpayer still had to pay the tax according to the Commission's decision while the judicial appeal was pending.[297] Only after the highest court rendered a final decision would any necessary refund or additional payment be made to settle the difference.[298] In sum, under the Imperial-era system, a taxpayer pays at least 75% of the disputed tax before the administrative appeal, and upon that appeal's resolution, the tax as determined even if still disputed on legal grounds had to be paid while waiting for a court's judgment. This entrenched the "pay now, argue later" principle at both administrative and judicial levels of tax contestation.

These rules applied primarily to income tax, which was the focus of Proclamation 173/1961. Similar approaches were taken for other taxes in the imperial period such as customs duties or sales taxes.[299] For instance, customs authorities generally required duties to be paid to release goods, with any challenge to be pursued after payment. The overarching philosophy of the rule seems that state revenue needs were paramount, and taxpayers could seek remedies post-payment rather than holding up revenues. The inclusion of prominent business people, business people on Tax Appeal Commissions, the 1961 law required at least half the members to be merchants or professionals[300] indicates an attempt to make the system fair and knowledgeable, but the payment prerequisite was non-negotiable.

2.2.4.2. Under Proclamation No. 196/1980

The 1974 revolution brought a socialist military government (the Derg) to power, which radically changed many economic policies. However, in the realm of tax administration, the basic legal framework of the Imperial period largely persisted. The Derg regime did not immediately overhaul the tax appeal structure set by the 1961 law; instead, it amended and utilized it.[301] For example, Proclamation No. 196/1980 modified certain procedures of the Tax Appeal Commissions such as the composition of panels[302] but did not abolish the prepayment requirement. Earlier, in the late 1970s, rural land taxes and agricultural income taxes were addressed in separate proclamations (e.g. Proc. 77/1976), but those largely dealt with

[297] Ibid, Art 61
[298] Ibid
[299] Income Tax Proclamation No. 173 of 1961
[300] Ibid, Art 50
[301] Income tax amendment Proclamation no 196/1980

[302] Ibid, Art 2 sub-1, (a) it changed the number of the panelist to three.

substantive tax changes rather than the appeals process. As such, the fundamental rule that a taxpayer must deposit a large portion of the disputed tax to have an appeal heard remained in force during the Derg years.

Therefore taxpayers who object to assessments faced the same legal barriers, they had to pay 75% (or the relevant percentage) upfront to lodge an appeal to the Tax Appeal Commission, and any appeal beyond that would not stop the tax from being collected.[303]

One notable continuity was that interest and penalties continued to accrue on unpaid taxes, and the tax authority had strong collection powers. For instance, if an assessment became final either because no appeal was lodged or an appeal was rejected and tax unpaid, the authorities could enforce collection through execution proceedings, seizure of assets, etc., as provided in the law.[304] The 1961 law's execution provisions, article 61 and following remained on the books; they effectively empowered tax officials to collect if the taxpayer failed to meet the condition of appeal, payment of the required deposit or failed to pay after an appeal decision.[305] Thus, during 1974–1991, Ethiopia's pay-first argue later rule did not undergo liberalization. Nonetheless, the formal legal structure for tax appeals with the pay now rule survived into the post-1991 period, providing a foundation for later reforms.

2.2.4.3. Under The Federal Tax Appeal Tribunal Establishment proclamation

A major change came with Proclamation No. 233/2001, which repealed the 1961 Income Tax law's provisions on dispute resolution[306] and created a new Federal Tax Appeal Tribunal.[307] This Tribunal was an autonomous public body of the Federal Government having its own legal personality with the power to hear appeals against tax assessments made by the tax authority.[308] The idea was to professionalize and streamline tax appeals, replacing the tax appeal commission of the past. Under Proclamation 233/2001 and related regulations, a taxpayer dissatisfied with the tax assessment made by the authority could appeal to the Tax

303 Ibid

304 Income Tax Proclamation No. 173 of 1961, Art 61ff

305 Ibid, Art 63

306 Federal Tax Appeal Tribunal Establishment Proclamation No. 233/2001, Art 21

307 Ibid

308 Ibid, Art 3 sub-1

Appeal Tribunal.[309] Notably, the pay-first rule was retained.[310] In other words, for a taxpayer to lodge an appeal against the tax assessment by the authority the appellant must pay the lesser of 75% of the disputed assessment or 75% of the tax assessed for the last preceding year for which assessment is final.[311] However, the deposit may never fall below the tax due on the income the taxpayer has self-declared.[312] However, if the taxpayer is being assessed for the first time, the deposit must be at least the tax due on the income declared and if no declaration was made, the taxpayer must deposit 50% of the assessed amount.[313] In addition, where the dispute concerns liabilities under the Sales and Excise Tax Proclamation No. 68/1993 (as amended), an appeal is conditioned on depositing 50% of the tax assessed. This 75% mirror reflected continuity from the older 75% deposit rule. Proclamation 233/2001 also provided that a party (taxpayer or tax authority) could appeal the Tribunal's decision to the Federal High Court on a question of law only[314]

2.2.4.4. Under The Income Tax Proclamation No. 286/2002, Value Added Tax Proclamation No. 285/2002, Excise Tax Proclamation No. 307/2002.

Following the 2002 tax reform, Ethiopia introduced new tax laws for specific tax types that incorporated these dispute mechanisms. Throughout these reforms, the pay now, argue later concept remained, but its specific application evolved including adjustments to the required percentage of prepayment, the scope of taxes covered, and the introduction of new institutional safeguards.

The Income Tax Proclamation No. 286/2002 and the Value Added Tax Proclamation No. 285/2002 both included sections on objections and appeals, aligning with the new Tribunal system.[315] They also introduced an internal Review Committee within the tax authority as a first step, a notable change from the old system where a taxpayer went straight to the

[309] Ibid, Art 5.
[310] Ibid, Art 15 sub-2.

[311] Ibid.

[312] Ibid
[313] Ibid

[314] Ibid, Art 16.

[315] Income Tax Proclamation NO.286/2002, Art 107, Value Added Tax Proclamation No.285/2002, Art 43.

Commission.[316] The Review Committee, within the then the Federal Inland Revenue, would consider the taxpayer's objection and make a recommendation or decision on the assessment.[317] Only after this internal review could the case go to the Tax Appeal Commission. This two-tier approach i.e. internal review then appeal was influenced by global practices to resolve disputes at the lowest possible level. Crucially, under these laws, the taxpayer was generally required to pay any undisputed portion of the tax before lodging an objection[318], but the disputed portion could await the outcome of the objection unless the taxpayer chose to pay it under protest.[319]

Under the income tax proclamation, proclamation number 286/2002 taxpayers were granted the right to appeal income tax assessments to the Tax Appeal Commission after depositing 50% of the disputed amount with the Tax Authority and within 30 days of receiving the Assessment Notice or the Review Committee's decision.[320]

Similarly, article 43 of the Value Added Tax proclamation, proclamation number 285/2002 states that a taxpayer dissatisfied with an additional tax assessment made by the tax authority has the right to lodge an appeal to the Tax Appeal Commission after depositing 50% of the disputed amount with the Tax Authority and within 30 days of receiving an additional Assessment Notice.[321]

Similar to the above article 18 of the Excise tax proclamation, proclamation number 307/2002 states that a taxpayer who object to an additional assessment made by the Authority has the right to appeal, within 30 days from the receipt of that assessment notification, or from the date of decision of the Review Committee to the Tax Appeal Commission by depositing in cash with the Authority an amount equal to 50% of the additional tax assessed.[322]

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[316] Ibid, Art 105 of the income tax proclamation & Art 40 of the VAT proclamation.

[317] Ibid.

[318] FTAP, Art 54 sub 2 b.
[319] FTAP, Art 38.
[320] Ibid, Art 107 of Proclamation No. 286/2002
[321] Article 43 of Proclamation No. 285/2002
[322] Article 18 of Proclamation No. 207/2002.

2.2.4.5. Under The Federal Tax Administration Proclamation of 2016

Ethiopia undertook a comprehensive reform of tax administration procedures in 2016, recognizing ongoing challenges in tax compliance and dispute resolution. The result was the Federal Tax Administration Proclamation No. 983/2016 often referred to as the Tax Administration Proclamation, TAP. This law consolidated administrative provisions for all major federal taxes income tax, VAT, excise tax, etc. into one framework, and overhauled the appeals process.[323] Under the 2016 reforms, the Tax Appeal Tribunal was reconstituted as the Tax Appeal Commission (TAC), made more independent and now accountable to the Prime Minister rather than the Ministry of Revenue and given its own budget.[324] The internal review stage was formalized as the Review Department in the Ministry of Revenue replacing the earlier committee with a department-level office. Procedural improvements such as time limits for filing objections and issuing decisions were introduced to speed up dispute resolution.

Importantly, the 2016 law to some extent revisited the advance payment (prepayment) requirements for appeals, a response to concerns that the prior rules were too onerous and potentially a barrier to justice.[325] According to the new proclamation to appeal an assessment to the Tax Appeal Commission, a taxpayer must pay 50% of the disputed tax upfront, excluding any penalties or interest on that amount.[326] This replaced the earlier practice where taxpayers used to pay 50% of the assessed tax plus penalty and interest. Now, the law explicitly set 50% of the tax in dispute as the threshold, making it relatively easier for taxpayers to access the Commission compared to the previous laws. For example, if a business disputed an assessed tax of 1,000,000 Birr, it would need to pay 500,000 Birr to lodge the appeal penalties and late payment interest on that assessment could be set aside until the appeal is resolved. This change was a significant easing of the rule, though still a substantial ask for many taxpayers.

The Customs Proclamation is another law that prescribes a rule regarding the advance deposit. According to the proclamation, if a taxpayer is aggrieved by the decision of the Customs Commission, he/she can submit to the Complaint Review Sections in branch offices

[323] FTAP, preamble paragraph one, Art 2 sub-36
[324] FTAP, Art 86, 93
[325] Aschalew Ashagre Byness (2020), 'Tax Appeal Proceedings before the Federal Tax Appeal Commission in Ethiopia: Critical Reflections', 14 Mizan Law Review 2: 201-238
[326] FTAP, Art 56 sub 2 and 3.

and appeal to Complaint Review Section located at that head office.[327] After that, the taxpayer can submit an appeal to the FTAC for external review.[328] However, in case of dispute regarding taxes and duties, the taxpayer is required to pay the entire disputed amount to lodge an appeal.[329] This rule is more burdensome to the taxpayers as it requires the full payment instead of half of the disputed amount which is required under the FTAP.

2.2.5. Advance Deposit and Access to Justice

Article 56 of the Federal Tax Administration Proclamation (FTAP) provides that a taxpayer dissatisfied with the decision of the Review Department may file an appeal to the Federal Tax Appeal Commission (FTAC). However, for such a notice of appeal to be considered valid, the taxpayer must pay 50% of the assessed tax in advance. Similarly, under Article 155(2) of the Customs Proclamation No. 859/2006, a taxpayer who wishes to appeal a decision by the Customs Directorate to the FTAC must deposit 100% of the contested tax amount. Accordingly, a taxpayer seeking to lodge a valid appeal must pay either 50% or 100% of the disputed tax, depending on the nature of the case.

Among the many human rights recognized under both domestic and international law, the right of access to justice holds a central place. It is protected under the Constitution of the Federal Democratic Republic of Ethiopia (FDRE), as well as under international human rights instruments to which Ethiopia is a party, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 37 of the FDRE Constitution clearly affirms that “everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.”

The primary rationale behind the requirement of an advance deposit typically 50% is to protect government revenue. It serves as a financial guarantee, intended to prevent taxpayers from concealing or disposing of their assets during litigation, which could compromise the government’s ability to collect tax, its principal source of revenue. Additionally, given that tax appeals often take significant time to resolve, requiring partial prepayment helps ensure timely revenue collection and mitigate the loss in the time value of money.

[327] Customs proclamation 859 (2014), Art 153
[328] Ibid, Art 155(1).
[329] Ibid, sub (2).

However, despite the policy objectives underpinning the advance deposit requirement, it poses significant challenges to taxpayers' constitutionally and internationally protected rights. Access to justice is guaranteed under Article 8 of the UDHR and Article 14 of the ICCPR. Furthermore, Ethiopia has ratified the African Charter on Human and Peoples' Rights (ACHPR), which mandates the protection and promotion of human rights and freedoms on the continent. In particular, Article 1 of the ACHPR obligates State Parties, including Ethiopia, to adopt legislative and other measures to give effect to the Charter's provisions. Article 7 guarantees every individual's right to be heard, the right to appeal to a competent authority when their fundamental rights have been violated, and the presumption of innocence until proven guilty.

These procedural rights are foundational because they enable individuals to seek remedies when other rights are violated. Thus, the protection of access to justice is indispensable to the protection of all other human rights.

Access to justice encompasses both procedural and substantive dimensions. Procedural access to justice concerns the fairness, transparency, and accessibility of the legal process from the initiation of a claim through to its adjudication. This includes the right to appeal, the right to be heard, and the right to a fair hearing. It ensures that all individuals, regardless of their financial or social status, have an equal and non-discriminatory opportunity to seek redress. Foundational legal principles such as the presumption of innocence, the right to an impartial tribunal, and the right to effective remedies are integral components of procedural justice.

The requirement under Article 56(2) of the FTAP and 155(2) of the customs proclamation which mandates that taxpayers must first pay 50% and 100% of the assessed tax before their appeal is accepted, effectively limits access to justice. If a taxpayer is unable to afford this payment whether due to financial hardship or temporary liquidity constraints they are barred from pursuing their legal challenge. This constitutes a denial of access to justice and a violation of constitutionally and internationally recognized rights.

Similarly, economic rights are explicitly recognized under both the FDRE Constitution and key international human rights instruments. Laws including tax laws must be designed to protect and promote these rights. Article 41 of the FDRE Constitution guarantees every citizen the right to engage in economic activity and secure an adequate standard of living. The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which

Ethiopia is a party, enshrines economic rights under Articles 6 to 11, including the rights to work, an adequate standard of living, and social protection.

Tax laws are central to the realization of these economic rights. As tools for state revenue generation, they must be crafted in a manner that does not hinder but facilitates the enjoyment of fundamental economic entitlements. According to Alston and Reisch:

> *"Tax laws, when designed in unjust or excessively burdensome ways, can undermine individuals' right to a livelihood and violate economic rights. Laws that require substantial advance payments as a condition for appeal, without considering a taxpayer's ability to pay or offering alternatives, unjustly interfere with their economic well-being."*[330]

Therefore, tax legislation must strike a balance between protecting state revenue and safeguarding taxpayers' rights. The imposition of rigid preconditions for appeal especially when not paired with alternative guarantees or hardship provisions risks violating both access to justice and economic rights. Such provisions should be re-evaluated to ensure that tax laws are equitable, proportionate, and responsive to the financial realities of all taxpayers, particularly those in vulnerable positions.

[330] Philip Alston and Nikki Reisch, Tax, Inequality and Human Rights (Center for Human Rights and Global Justice, NYU School of Law 2017) https://chrgj.org/wp-content/uploads/2017/10/Tax-Inequality-and-Human-Rights.pdf accessed 26 June 2025.]

3. Chapter three: Empirical Findings and Analysis

3.1. Introduction

This chapter presents the qualitative empirical findings of the study conducted to evaluate the influence of the advance deposit requirement on taxpayers in Addis Ababa. The primary objective of the fieldwork was to investigate how the precondition of advance deposits, as mandated by the Ethiopian tax administration proclamation, influences taxpayer behavior and access to justice.

The data were gathered using a qualitative approach involving semi-structured interviews and open ended questionnaires with a purposively selected group of respondents, including tax officials, and legal practitioners and randomly selected tax payers. The findings are contextualized within the theoretical and legal frameworks discussed in Chapter Two, drawing connections between empirical observations and existing literature.

Data collection was conducted over a period of one month, and a total of 60 tax payers participated in the study. The qualitative data were transcribed, categorized thematically, and analyzed to identify key patterns and relationships relevant to the central research questions.

3.2. Profile of Respondents

The respondents in this study were categorized into three main groups: taxpayers, tax officials from the Ethiopian ministry of Revenues and ministry of finance, federal tax appeal commission judges and legal practitioners specializing in tax matters.

Taxpayers: 60 participants were business taxpayers based in Addis Ababa. They included small and medium and large taxpayers, from various sectors such as construction, retail, hospitality, service providers, coffee exporters, financial institutions, insurance companies and manufacturers. Among them, 49 were small taxpayers, 5 were medium taxpayers and 6 were large taxpayers.

Tax Officials:

- Two officials from the ministry of finance were interviewed one from tax policy and another from the legal department,
- One official from ministry of revenue were interviewed
- Two judges from the Federal tax appeal commission were interviewed.
- The head of registrar from the Federal tax appeal commission was interviewed.

These individuals held senior-level positions, including senior legal expert, head of tax policy, president of FTAC, Legal Service Directorate and Coordinator for the Monitoring of Civil Cases, head of FTAC registrar and senior judge

Legal Practitioners: The remaining 10 respondents were lawyers and auditors actively involved in representing taxpayers in tax disputes. All had at least 6 years of experience in tax litigation and had handled multiple tax appeal cases.

3.3. Key Findings

Analysis of the interview data revealed several recurring themes:

- The advance deposit requirement was widely perceived as a financial and legal barrier to accessing appeal mechanisms.
- Tax officials defended the requirement as a necessary measure to ensure revenue protection and deter frivolous appeals but still acknowledged the need for alternatives.
- Legal practitioners criticized the rigidity of the requirement and recommended alternative forms of security.
- Taxpayers who failed to appeal expressed frustration and described negative consequences, including business disruptions and financial hardship.

These findings are elaborated in the subsections that follow.

3.3.1. Impact of Advance Deposits on Taxpayers' Right to Appeal

Access to justice is a fundamental right embedded in numerous national and international legal instruments. Article 37 of the FDRE Constitution guarantees the right of individuals to bring justiciable matters before competent judicial bodies. The advance deposit requirement, which compels appellants to deposit 50% of the contested tax before their appeal is heard, constitutes a barrier with substantial implications on this constitutional guarantee.

According to the data set, 80 %[331] of the total 60 respondents did not file an appeal because they could not afford the required deposit. This suggests that the rule is functioning as a de facto denial of the right to be heard. Taxpayers, reflecting on their experience, stated:

> *"I didn't have the money at the time. I even requested an extension of time but the time was only 15 days. Therefore, I couldn't pull such amount of money in that short period of time so I was unable to appeal"*[332]

> *"Only due to lack of capacity to pay the advance deposit, I chose to pay the amount assessed against me in six-month installment rather than pursuing the appeal."*[333]

This reflects how inability to fulfill the precondition prevented the taxpayer from accessing a fair hearing.

From a legal theory perspective, this raises concerns of procedural inequality where rules intended to filter meritless cases instead operate to exclude meritorious ones based solely on financial inability. The right to appeal should be universally accessible, not contingent on wealth.

Moreover, this system disproportionately affects small taxpayers, who often lack the cash reserves or access to liquidity that larger firms possess. This introduces a discriminatory effect, albeit indirectly, by tying procedural rights to financial status.

Other taxpayers noted:

> *"It felt that it's not going anywhere from the beginning,[334]"*

> *"It was a lot of money to deposit to appeal and if I lose, I am forced to pay the full amount therefore I decided to take the way everybody takes. Because there is no hope.[335]"* Suggesting a broader erosion of trust in the appeal mechanism, partly exacerbated by the deposit rule.

[331] The use of percentage in this thesis is descriptive and does not alter the qualitative nature of the research; it simply summarizes patterns that emerged from empirical data.
[332] Respondent No 1
[333] Respondent No 29
[334] Respondent No 34
[335] Respondent No 42

The deposit requirement undermines the accessibility of the tax adjudication system. If more than half of the taxpayers eligible to appeal refrain from doing so due to financial barriers, the appeal system risks becoming an illusory remedy existing in law but inaccessible in practice.

This is particularly problematic when viewed through the lens of international best practices. For instance, in Canada, advance payments are not required to access tax courts; instead, interest accrues on unpaid amounts. Similarly, South Africa's Tax Administration Act provides taxpayers with the right to request suspension of payment during appeal.

3.3.2. Economic Burdens of the Advance deposit requirement

Among the 60 respondents, 12 (20%), who managed to appeal, stated that paying the 50% advance deposit was financially difficult. This indicates a widespread liquidity challenge and suggests that the requirement is not aligned with the economic realities faced by taxpayers, especially in the small business sector.

Qualitative responses describe serious operational disruptions. For example:

> *"It hindered my business working capital and cash flow severely."*[336]
>
> *"Forced to borrow money; reduced stock and couldn't meet customer demand.[337]"*

Another noted:

> *"Delayed operational expenses—rent, salaries, input supplies—were affected.[338]"*

These responses are consistent with findings in tax justice literature, which argue that front-loaded tax compliance costs, such as deposits, exacerbate business fragility in developing economies. The obligation to freeze half of a disputed amount removes vital working capital, making it harder for businesses to sustain operations, pay employees, or expand.

[336] Respondent No. 5
[337] Respondent No. 60
[338] Respondent No. 13

3.3.3. Taxpayer Suggestions and Reform Recommendations

Taxpayers consistently proposed reforms to mitigate these challenges:

1) Bank guarantee and property pledge and mortgage should be accepted as an alternative.

2) Reduce the percentage of the advance deposit—50% is too much.

3) Expedite the dispute resolution system to reduce the time capital is frozen.

These suggestions mirror international practices. For example:

In Germany, taxpayers can offer alternative forms of security, such as a bank guarantee, rather than depositing cash. In India, courts have repeatedly held that procedural requirements must not override substantive rights, particularly when they impede access to justice.

This empirical evidence clearly shows that the 50% advance deposit rule in Ethiopia imposes a significant barrier to accessing the tax appeal system, violating both the constitutional rights recognized under the FDRE constitution and international instruments such as UDHR. It also puts a serious economic burden, especially for small taxpayers, who make up the majority in number of taxpayers. The testimonies of affected taxpayers confirm financial strain caused by this rule. As such, reforms are necessary to:

- Introduce alternative guarantees (e.g., bank guarantee, surety bonds)
- Reduce or waive deposits- after analyzing it case by case
- Ensure speedy adjudication to minimize capital lock-in

3.4. Perspectives of Tax Officials and Legal Practitioners

A. Legal and Policy Rationale: Between Revenue Protection and Rule of Law

At the core of the advance deposit requirement lays a fundamental policy tension between revenue protection and constitutional rights. Officials from the Ministry of Finance frame the requirement as a fiscal policy tool, essential for maintaining state liquidity and deterring abuse of the tax appeal system. Ato Mulay Woldu, head of tax policy, explained that without the 50% deposit, taxpayers would defer honest self-declaration, opting instead to under-report income and contest any subsequent assessment with minimal risk. The deposit thus serves as both a compliance incentive and a filtering mechanism against frivolous claims.

Legal experts within the Ministry add another layer to this rationale by invoking a quasi-presumptive standard of correctness: when two internal departments (auditor and review department) have upheld a tax decision, it is considered to be at least “50% valid,” thus justifying the requirement for taxpayers to match that validity with a corresponding payment. This logic, however, reflects a procedural shortcut, potentially undermining the balance expected in dispute resolution.

In contrast, legal practitioners and judges argue that such a presumption reverses the burden of proof and contravenes the presumption of innocence in administrative justice. Mr. Mulugeta, President of the FTAC, denounced this approach as constitutionally flawed, highlighting a tension between Article 37 of the FDRE Constitution (access to justice) and the procedural constraints imposed by subordinate tax laws. The analysis thus reveals a conceptual collision: whereas the executive prioritizes fiscal certainty, the judiciary emphasizes due process and fundamental rights.

B. Access to Justice: A Barrier to Fair Hearing

Judges and practitioners unanimously portray the advance deposit as a barrier to access to justice, especially for small and medium-sized taxpayers. Judge Firehiwot Worku emphasized that the short 30-day window for appeal, coupled with the deposit requirement, creates a practical impossibility for many businesses to challenge inflated or erroneous assessments. She likened the requirement to a constitutional paradox, whereby the state grants the right to appeal but then simultaneously disables its exercise through financial preconditions.

Legal practitioners, including Bamlak Tigistu, Birhanu Abate, Mikremaryam Geza Tibebe Zewdu and Natae, linked the denial of access to justice not only to liquidity constraints but also to the unpredictable nature of tax audits. Audits, they argue, are not conducted based on consistent rules or evidence, but rather on speculative presumptions tied to revenue targets. Taxpayers who have already fulfilled their obligations through self-assessment are later surprised by arbitrary reassessments, effectively transforming the audit system into a revenue-generating rather than compliance-enhancing mechanism. This unpredictability strips taxpayers of the ability to provisionally plan for legal defenses or anticipated liabilities, compounding the injustice of being denied a fair hearing for lack of funds.

Importantly, stakeholders highlighted that large taxpayers are not exempted from this burden. While they may have greater liquidity, the magnitude of assessments they face also scales proportionately, rendering the 50% deposit equally paralyzing. Thus, contrary to the policy's intended targeting of non-compliant or malicious taxpayers, in practice it creates blanket exclusion with a disproportionate effect on those least equipped to comply.

C. Administrative Efficiency vs. Human Rights

Ministry officials justify the advance deposit in part as a tool to ensure administrative efficiency, a way to reduce the caseload at the courts and prevent abuse of the appeal system. However, this argument presupposes that volume reduction equates to improved quality, a notion challenged by judges and practitioners. As Judge Firehiwot and Mr. Mulugeta stressed, efficiency without justice risks institutional legitimacy. By discouraging meritorious claims, the system fosters informal settlements, corruption, and unaccountable behavior by tax auditors who know their assessments are unlikely to be contested.

The trade-off between efficiency and justice is further undermined by the capacity constraints at FTAC. With only one federal tax appellate body for the entire country and chronic under staffing, delays are inevitable. But rather than expanding judicial capacity or improving case management, the state has opted for procedural exclusion. Moreover, when FTAC does issue favorable judgments, enforcement is weak, decisions in favor of taxpayers may take years to be executed, rendering legal victory hollow. This systemic dysfunction deepens the perception of futility and coercion among taxpayers.

D. Judicial Rigidity and Resistance to Reform

A recurring theme among judges and lawyers is the lack of judicial discretion. The proclamation’s rigid insistence on cash-only deposits resulted in prohibition of bank guarantees which judges could have used to give practically looking at case by case. While Ministry officials invoke this prohibition to justify their position, judges and practitioners question the normative value of inflexible jurisprudence in a system that must respond to social and economic realities.

There is consensus across all non-Ministry respondents that the system should allow alternative forms of security, such as bank guarantees, property mortgages, or pledge. Yet, officials resist these reforms on the grounds of administrative incapacity arguing that the existing tax administration lacks the infrastructure and human resources to manage non-cash securities. Capacity constraints are used to justify restrictive rules that, in turn, prevent systemic reform.

Importantly, the refusal to adopt alternatives is not grounded in a legal impossibility but rather in policy inertia and risk aversion. Officials admit that with better tax administration and technological integration, these alternatives could be viable. This acknowledgment, however, does not translate into a reform agenda indicating a governance model that is reactive, rather than adaptive or forward-looking.

E. Comparative Experience and Normative Deviations

Practitioners frequently referenced comparative legal practices to highlight Ethiopia's deviation from international norms. Natae Ebba noted that Kenya imposes an advance deposit requirement only when a case proceeds to court not for an appeal before administrative tribunals and even then, the required amount is capped at 20%, not 50%. Developed jurisdictions rarely impose such financial barriers, and where they do, they are offset by robust procedural safeguards, such as independent review mechanisms and judicial discretion.

The Ethiopian system, by contrast, imposes the substantive burden of appeal before granting procedural access, effectively turning a remedial mechanism into a preconditioned privilege. This is in tension with international human rights instruments, such as the Universal Declaration of Rights (UDHR), which Ethiopia has ratified, and which mandates that everyone shall have the right to a fair and public hearing without discrimination.

F. Policy Recommendations Emerging from the Field

The interviewees advanced several thoughtful reforms rooted in both practical experience and normative reasoning:

- Alternative Securities: Most strongly support the introduction of bank guarantees and property pledge and mortgages, arguing these satisfy revenue protection goals while upholding access to justice.
- Lowering the Deposit Threshold: Several suggest reducing the 50% threshold to 20–30%, especially for small and medium tax payers. This would align with comparative standards and ease the compliance burden.
- Provisional Appeal Admission: Judges advocate for granting FTAC discretionary powers to conditionally admit appeals while taxpayers secure the required deposit.
- Audit Quality Reform: Practitioners argue that the audit process must be overhauled, introducing independent oversight and auditor accountability mechanisms to reduce arbitrary assessments.
- Reintroduction of Pre-Appeal Mediation: Reviving a technical review committee to resolve clear errors prior to FTAC filing could reduce caseload and improve confidence in the process.

3.5. Data Interpretation in Light of Legal Frameworks

The findings from the fieldwork substantiate the theoretical claims outlined in Chapter Two. The advance deposit requirement, although designed to safeguard revenue and promote procedural discipline, can function as a discriminatory barrier against economically disadvantaged taxpayers.

In addition, the lack of alternative mechanisms to appeal such as bank guarantees, or judicial waivers places it at odds with evolving international norms on access to administrative justice in taxation.

3.6. Limitations of the Empirical Study

While the findings offer important insights, the study is subject to several limitations:

- Due to logistical constraints, the study focused solely on taxpayers in Addis Ababa, limiting the geographic scope.
- Some participants were reluctant to speak freely.
- Even though the questioners were anonymous tax payers are generally afraid to speak and fill the questionnaire freely
- Despite these limitations, the study provides an exploratory foundation for further research and policy reform in the area of tax appeal procedures in Ethiopia.

4. Chapter four

4.1. Conclusion

This research tried to examine the advance deposit requirement stipulated under the Federal Tax Administration Proclamation (FTAP) of Ethiopia and its impact on taxpayers' access to the tax appeals system. The empirical findings, supported by doctrinal legal analysis, confirm that the advance deposit requirement, 50% at the Federal Tax Appeal Commission (FTAC) level and 75% at the Federal High Court level, constitutes a barrier for taxpayers, particularly small and medium tax payers.

The study revealed that 80% of the surveyed taxpayers refrained from appealing tax assessments due to their inability to meet the deposit requirement. This situation has effectively transformed the right to appeal into a privilege contingent on financial capacity. The evidence further shows that this precondition undermines taxpayers' constitutional right of access to justice Article 37 FDRE Constitution and economic rights guaranteed under international human rights instruments such as the UDHR.

Additionally, the absence of alternative securities e.g., bank guarantees, property pledges or mortgage or hardship waivers makes the Ethiopian model more rigid compared to international standards. Jurisdictions such as Germany, South Africa, Canada, and India have adopted flexible approaches, allowing partial payments, judicial waivers, or alternative securities to strike a balance between safeguarding revenue and ensuring taxpayer rights.

4.2. Recommendations

Drawing from the findings, comparative analysis, and respondents' suggestions, the following policy and legal recommendations are proposed:

1. Introduce Alternative Securities: - Amend the FTAP to allow taxpayers to provide bank guarantees, property pledges or mortgage, or other forms of collateral instead of only cash deposits. These alternatives will preserve taxpayer liquidity while protecting government revenue.
2. Reduce the Deposit Threshold: -Lower the 50% requirement at FTAC to 20–30%, and the 75% requirement at the Federal High Court to a proportionate figure, especially for small and medium tax payers. This aligns with thresholds used in comparable jurisdictions.
3. Reintroducing the flexible advance deposit mechanism from Proclamation No. 173/1961, which required taxpayers to deposit 75% of the assessed tax or 75% of the previous year's tax, whichever was less, with a minimum equal to their self-declared income. For first-time assessments, the deposit was either the declared tax or 50% of the assessed amount. This approach would ease the financial burden on taxpayers, ensure fair access to appeals, and still protect government revenue.
4. Judicial Waivers and Discretionary Powers: - Grant FTAC and appellate courts discretionary power to waive or reduce the deposit requirement based on the taxpayer's financial condition, the merits of the appeal, or broader public interest considerations.
5. Expedite Dispute Resolution: - Expedite the adjudication of tax disputes at both the FTAC and the regular courts by strengthening institutional capacity, increasing qualified personnel, and enhancing case-management systems, thereby reducing delays and minimizing the period during which taxpayers' capital remains frozen.
6. Ensure Timely Refunds and Strengthen Refund Enforcement Mechanisms:- Establish a clear, enforceable, and time-bound refund mechanism for taxpayers who succeed in their appeals, ensuring that advance deposits or wrongly assessed taxes are returned without undue delay. This should include statutory deadlines for issuing refunds, strengthened accountability within the tax authority, and safeguards against the practice of withholding funds on the basis of "future tax liabilities." Implementing such measures would promote fairness, protect taxpayers' cash flow, and enhance confidence in the tax dispute resolution system.

7. Audit Process Reform: - Establish independent oversight mechanisms for tax audits to address arbitrary assessments and improve taxpayer confidence in the system. This includes strengthening auditor accountability

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Appendix A: Profile of Questionnaire Respondents (Anonymised)

(Names withheld to preserve confidentiality)

Each respondent is identified only by code (Respondent 1–60) and classified by taxpayer size and type of business activity.

1. Respondent 1 – Large Taxpayer, Commercial Bank
2. Respondent 2 – Large Taxpayer, Foam & Plastic Manufacturing Factory
3. Respondent 3 – Large Taxpayer, Commercial Bank
4. Respondent 4 – Large Taxpayer, Soap & Detergent Manufacturing
5. Respondent 5 – Large Taxpayer, Insurance Company
6. Respondent 6 – Medium Taxpayer, Hotel Business
7. Respondent 7 – Medium Taxpayer, General Business Company
8. Respondent 8 – Medium Taxpayer, Agro-Processing Industry
9. Respondent 9 – Medium Taxpayer, Import & Distribution Business
10. Respondent 10 – Medium Taxpayer, Leadership & Management Consultancy
11. Respondent 11 – Medium Taxpayer, International Trading Company
12. Respondent 12 – Small Taxpayer, General Trading
13. Respondent 13 – Small Taxpayer, Technology Company
14. Respondent 14 – Small Taxpayer, Medical Equipment Trading
15. Respondent 15 – Small Taxpayer, General Trading / Social Impact Business
16. Respondent 16 – Small Taxpayer, Construction Company
17. Respondent 17 – Small Taxpayer, Manufacturing
18. Respondent 18 – Small Taxpayer, Engineering Services
19. Respondent 19 – Small Taxpayer, Technology Services
20. Respondent 20 – Small Taxpayer, Trading Business
21. Respondent 21 – Small Taxpayer, Insurance Brokerage
22. Respondent 22 – Small Taxpayer, Sportswear Trading
23. Respondent 23 – Small Taxpayer, Jewelry & Stone Craft Business
24. Respondent 24 – Small Taxpayer, Trading Business
25. Respondent 25 – Small Taxpayer, Trading Business
26. Respondent 26 – Small Taxpayer, Construction & Manufacturing
27. Respondent 27 – Small Taxpayer, Project/Construction Services
28. Respondent 28 – Small Taxpayer, Training & Consultancy Services

29. Respondent 29 – Small Taxpayer, Creative Studio
30. Respondent 30 – Small Taxpayer, Agro-Food Production
31. Respondent 31 – Small Taxpayer, Plastic Products Manufacturing
32. Respondent 32 – Small Taxpayer, Trading Business
33. Respondent 33 – Small Taxpayer, Aluminum Trading
34. Respondent 34 – Small Taxpayer, Manufacturing
35. Respondent 35 – Small Taxpayer, Trading Business
36. Respondent 36 – Small Taxpayer, Value-Added Services Company
37. Respondent 37 – Small Taxpayer, Trading Business
38. Respondent 38 – Small Taxpayer, Auto Parts Trading
39. Respondent 39 – Small Taxpayer, Oil Trading
40. Respondent 40 – Small Taxpayer, Business Services
41. Respondent 41 – Small Taxpayer, Sportswear Trading
42. Respondent 42 – Small Taxpayer, Bakery & Café
43. Respondent 43 – Small Taxpayer, Energy Services
44. Respondent 44 – Small Taxpayer, General Trading
45. Respondent 45 – Small Taxpayer, Trading & Manufacturing
46. Respondent 46 – Small Taxpayer, Printing & Advertising Services
47. Respondent 47 – Small Taxpayer, Trading Business
48. Respondent 48 – Small Taxpayer, Construction Company
49. Respondent 49 – Small Taxpayer, Home & Office Goods Trading
50. Respondent 50 – Small Taxpayer, Business Services
51. Respondent 51 – Small Taxpayer, General Services
52. Respondent 52 – Small Taxpayer, Construction Company
53. Respondent 53 – Small Taxpayer, Coffee Trading
54. Respondent 54 – Small Taxpayer, Trading Company
55. Respondent 55 – Small Taxpayer, Trading Business
56. Respondent 56 – Small Taxpayer, Security & Cleaning Services
57. Respondent 57 – Small Taxpayer, Trading Business
58. Respondent 58 – Small Taxpayer, Home & Office Supplies Trading
59. Respondent 59 – Small Taxpayer, Café & Restaurant
60. Respondent 60 – Small Taxpayer, Trading Company