

APPEALING AGAINST YOUR TAX ASSESSMENT

The Revenue Appeals Division

“Maintaining the Integrity of the Tax System”

New procedures for resolving disputes between taxpayers and the revenue departments have been introduced by the Revenue Appeals Division Act 2015, which provides a simplified, time-saving and efficient process of appeal, without the need for expensive legal action.

The Act establishes the Revenue Appeals Division (RAD) as a fully independent body to adjudicate all appeals concerning the following taxes administered by the Tax Administration Jamaica and the Jamaica Customs Agency:-

Assets Tax	Land Valuation
Bauxite Production Levy	PAYE
Contractor's Levy	Special Consumption Tax
Customs Duty	Stamp Duty
Education Tax	Telephone Call Tax
General Consumption Tax	Transfer Tax
Guest Accommodation Room Tax (GART)	Withholding Tax
Income Tax	

How to make an appeal to the RAD?

Step One: If you dispute your tax assessment you should first file a notice of objection with the relevant revenue authority to seek a decision from its Commissioner.

Step Two: If you do not agree with the Revenue Commissioner's decision you may then make an appeal to the Commissioner RAD.

You, or your nominated representative, must submit your appeal, giving reasons, on **Form RA-01** (the prescribed Notice of Appeal), together with supporting evidence. You can obtain a copy of Form RA-01 from any revenue office, or from the office of the Commissioner RAD, or you can download it from the Ministry of Finance and Planning Website. A facsimile of the form is shown at **Annex Two**.

This must be delivered to the office of the Commissioner RAD, by hand, post, e-mail, or fax, either within 90 days of the date of the Revenue Commissioner's decision letter, or 30 days after receipt by the taxpayer of the Revenue Commissioner's decision, whichever is later.

It should be noted that the Act does not restrict you from making a direct appeal to the Revenue Court, instead of appealing to RAD, should you choose to do so.

Step Three: The Commissioner RAD will call for and examine written documents and hold informal meetings or conduct a formal hearing to consider the evidence submitted by both parties in order to facilitate a negotiated agreement between the parties, or to reach a decision.

Step Four: The RAD Commissioner must make a decision in writing, with written reasons and this must be given to the parties in the dispute within 60 days of all relevant information being collected.

In determining the appeal, the Commissioner RAD may decide to:

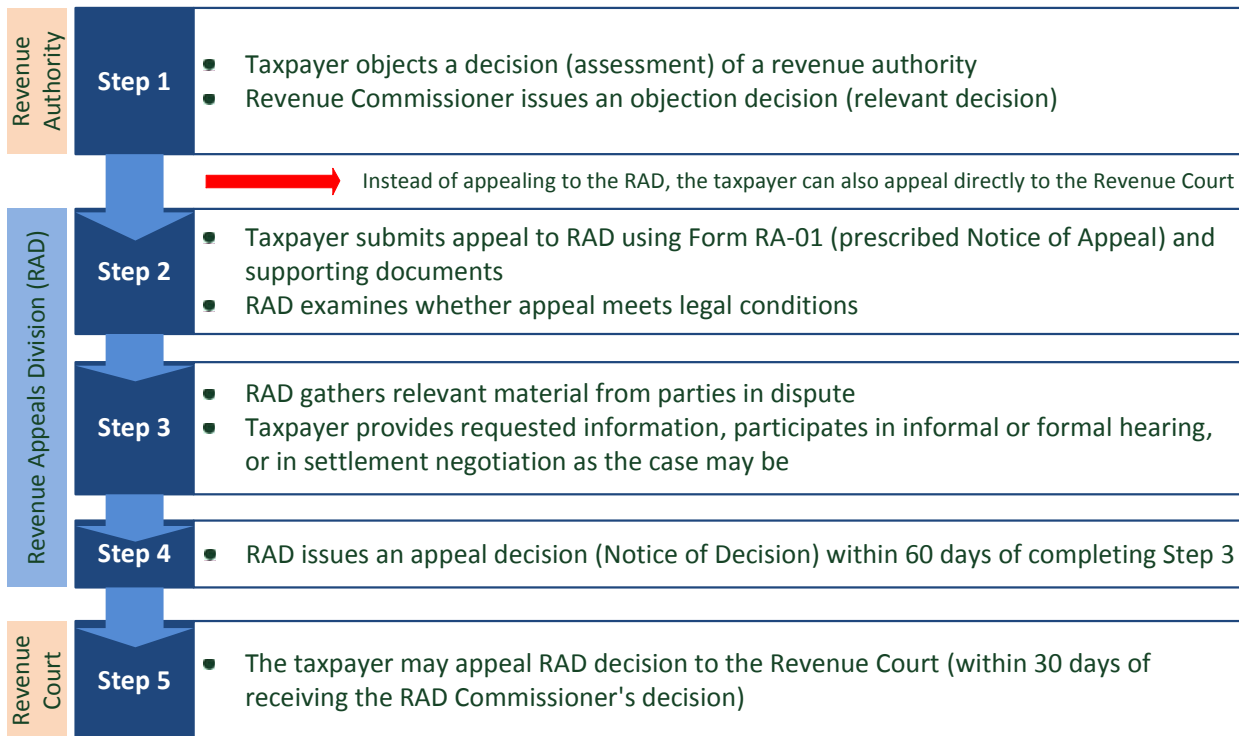
- Dismiss the appeal and thereby confirm the decision of the relevant revenue commissioner.
- Allow the appeal and thereby set aside the decision of the relevant revenue commissioner.
- Reduce the disputed amount.
- Vary the decision, other than in relation to the disputed amount.
- Facilitate an agreed settlement between the parties
- Refer the matter back to the relevant Revenue Commissioner for reconsideration where it is apparent that existing information was not duly considered by the Revenue Commissioner, or in other instances where the Commissioner RAD considers it necessary.

Step Five: If you disagree with RAD Commissioner's decision, you can make an appeal to the Revenue Court. This must be done within 30 days of receiving the RAD Commissioner's decision.

The grounds of appeal will be limited to those which were presented during the RAD appeal, unless otherwise allowed by the Revenue Court.

It should be noted that, on receipt of an appeal to the Revenue Court, the Revenue Commissioner may apply to the Court to make an order that the amount of tax assessed, or a portion thereof, be paid, pending the Court's decision.

The RAD Appeal process: How do I appeal?



The appeals process is shown in diagrammatic form at **Annex One** of this leaflet.

What are the benefits of the RAD Appeals Process?

Under the new procedures it is no longer mandatory for a formal hearing to be conducted in every case, although this may be requested by one of the parties in the dispute, or where the Commissioner RAD decides it is necessary.

Cases may be decided on the basis of information received, or settlement between the parties facilitated by the Commissioner RAD. This will involve consideration of written evidence and informal meetings with the parties, either individually, or jointly. The Commissioner RAD also has the authority to direct a Revenue Commissioner to reconsider the assessment.

Important new powers are vested in the Commissioner RAD, who may now delegate, to any officer within the RAD, the authority to hear and conclude appeals, thereby increasing the number of cases that may be considered at any one time. Decisions made by these officers will have the full authority of the Commissioner RAD.

As a result of the reduction in the time taken to conclude appeals, the more informal nature of the process, increased resources to deal with the caseload and the potential for reduced legal and accountancy fees, the RAD appeals process will result in major benefits for both parties in a dispute.

Things to remember

1. The Commissioner of RAD may determine a case forthwith where a person (whether or not a party to the dispute):

- Wilfully delays or obstructs an authorised officer.
- Refuses or neglects to answer any question, or to furnish any required book, record, or other document.
- Fails to keep any required book, record or other document.

2. It is an offence, punishable by fine or imprisonment, where a responsible officer fails or neglects to carry out his or her duties under the Act, or where any person:

- Obstructs, molests or hinders an authorised officer in the execution of his or her duties.
- Refuses or neglects to furnish or fails to keep information or records required under the RAD Act 2015.
- Makes a false declaration or statement, or
- Refuses or neglects to attend or give evidence in response to a summons.

3. Any notice or documents to be served to or by the Commissioner may be delivered in person, in paper form, electronic means, or other physical medium.

4. All records pertaining to the appeal must be maintained by the parties for the duration of the appeal process.

5. Failure to meet the legal requirements, failure to provide the Commissioner of RAD with requested information, or failure to attend meetings and/or hearings without reasonable excuse, will prejudice either party's case.

6. A negotiated and agreed settlement between the parties cannot be further appealed.

The RAD's Promise to you

We will determine appeals made by taxpayers through excellence in service standards while maintaining equity, transparency and integrity, in conformance with the applicable laws and standards.

We will be fair and judicious when considering matters of revenue appeal. We will conduct appeals without fear or favour and without prejudice.

We will provide easy and readily-available access to tax appeals and dispute resolution for all, through the use of appropriate systems and applied technology.

We will work to inspire and sustain public confidence and respect through demonstrated integrity in our everyday activities.

We will respond promptly to all demands for service or information and ensure that the communication is relevant, accurate, timely, and complete.

We will act with courtesy in a culture of active listening, open communication, and respect for the views of all parties.

Further information

The RAD has a dedicated Customer Service Officer, who will provide detailed advice and guidance on how to use the services of the RAD. This officer is located at the RAD's Headquarters at The Office Centre Building, First Floor, 12 Ocean Boulevard, Kingston (Tel: (876) 932-4993/4). Information is available also on the RAD's web page on the Ministry of Finance and Planning website (<http://www.mof.gov.jm/revenue-appeals-division.html>) where you can find an information leaflet providing answers to frequently asked questions concerning RAD appeals.

ANNEX ONE

THE RAD APPEAL PROCESS FLOW CHART

