

GAZETTE PUBLISHED BY AUTHORITY

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EXTRAORDINARY

The Government of the Republic of Liberia announces that the Liberia Revenue Authority (LRA), pursuant to its mandate consistent with Part VII of the LRA Act of 2013, Section 38(1) specifically consistent with Section 1239 of the Modernization Customs Code of 2018 has issued its Regulation No. 16.1239/17/LRA/CD/30-03-21 herein under:

REGULATION CONCERNING ADMINISTRATIVE PROTEST

BY ORDER OF THE PRESIDENT

AMB. DEE-MAXWELL SAAH KEMAYAH, SR. MINISTER OF FOREIGN AFFAIRS

MINISTRY OF FOREIGN AFFAIRS MONROVIA, LIBERIA





LIBERIA REVENUE AUTHORITY REVENUE ADMINISTRATIVE REGULATION

REGULATION NO.

16.1239/17/LRA/CD/30-03-21

SUBJECT

ADMINISTRATIVE PROTEST

DATE

MARCH 30, 2021

1.0 PREAMBLE

WHEREAS, Part VII Transitional Provisions of the Liberia Revenue Authority (LRA) Act of 2013, Section 38(1), Repeals and consequential Amendments transferred the administrative and operational powers and duties the code assigns to the Minister or Deputy Minister to the Commissioner General;

WHEREAS, the LRA Act of 2013, Section 21(1) (a) & (b) provides, in relevant parts, that the Commissioner General shall be responsible for the administration and supervision of the code. The Commissioner General shall also:

- (a.) Ensure the effective and fair interpretation, application and implementation of the Code,
- (b.) Ensure the proper and diligent implementation of this Act;

WHEREAS, the general authorization provision of Section 8(1) of the LRA Act of 2013 states that, "the authority is authorized to discharge its functions under this act and has the power to take necessary action to accomplish those functions in the manner and using the methods permitted under the code and other laws":

WHEREAS, a Primary Function of the LRA pursuant to section 7(1) of the LRA Act of 2013 is to transparently, equitably and fairly administer collection of national revenues and to ensure the deposit of all amounts assessed and collected into the Consolidated Fund; and

WHEREAS, Section 1239 of the Modernized Customs Code of 2018 requires that the Commissioner General shall, by Regulation adopt measures as necessary to implement a protest and appeal regime;

NOW THEREFORE, in accordance with law, the LRA herewith sets forth the following administrative rules to adopt measures and procedures for protesting a decision of an LRA officer, unit, section, division, department or the LRA itself as an entity consistent with Section 1239 of the Modernized Customs Code of 2018.



2.0 LEGAL BASIS

This Regulation is pursuant to Section 1239 of the Modernized Customs Code of 2018, which states that:

- (a.) "Decisions subject to protest. This section applies to the following decisions of officers of the Liberia Revenue Authority.
 - (1). the assessment of customs duties, taxes, or fees, including all underlying findings and determinations as to:
 - i. the customs value of the goods
 - ii. the tariff classification of the goods
 - iii. the country of origin of the goods
 - iv. the rate and amount of import or export duties and taxes or fees assessed; or
 - v. the person liable to pay the amount charged or the amount of his liability;
 - (2). the refusal to pay a claim for drawback;
 - (3). the refusal to refund customs duty under Section 1655 or Section 1656 of this Code; and
 - (4). a binding decision issued under Section 1238 of this Code;

(b.) Right of protest. Any-

- (1). person whose liability to pay any customs duties, taxes, or fees is determined by, results from, or is or will be affected by a decision under this section, or
- (2). person in relation to whom, or on whose application, a decision under this section has been made may submit a protest to the Liberia Revenue Authority to require its review of that decision.
- (c.) Time of filling. A protest of a decision shall be filed with the Liberia Revenue Authority no later than 30 days after-
 - (1) the date the assessment notice, or amended assessment notice, under Section 1637 is served on the person with respect to decisions described in paragraph (1) of subsection (a) of this section, or
 - (2). the date the decision as to which protest is made is served on the person, in all other circumstances.
- (d.) Review. On receipt of a protest, the Liberia Revenue Authority shall review the protested decision and may either-
 - (1). confirm the decision; or
 - (2).modify or reverse the decision and take such further steps, if any, in consequence of the modification or reversal as it deems appropriate.

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Review of a protest shall be undertaken by one or more officers or other persons as the Commissioner General shall designate who shall be independent of the officer who made the decision under protest.

- (e.) Deemed Confirmation. Where the Liberia Revenue Authority does not notify the protestant of their determination on the review within a period of 60 days from the date the protest was submitted, the Liberia Revenue Authority shall be assumed for the purposes of this section to have confirmed the decision that is being protested.
- (f.) Rights of Further Appeal. The protestant may appeal a decision of the Liberia Revenue Authority under subsection (d), or a deemed confirmation under subsection (e), by notifying an appeal within 30 days of the date of such decision or deemed decision to either-
 - (1) the Board of Tax Appeals pursuant to Section 61 of this Act, and for such purposes the decision or deemed decision of the Liberia Revenue Authority shall be considered a determination of the Commissioner General, or
 - (2).a court of competent jurisdiction
- (g.) Obligation to pay. The obligation to pay any Customs duty, tax or fee under this Code shall not be suspended by a protest made under this Section.
- (h.)Refund and Credit. If this protested decision is modified or reversed, the Liberia Revenue Authority shall-
 - if so requested in writing by the protesting taxpayer, credit the amount of any Customs duty, taxes or fees found to have been collected in excess against the liability of the protesting taxpayer for future payment of such amounts, or
 - recommend to the Minister that he remit or refund immediately any such amounts found to have been collected in excess, or pay any drawback or refund found due.
- (i.) Finality of Decision. Decisions under subsection (a) shall be final and conclusive upon all persons (including the government and any officer thereof) unless a protest is filed in accordance with this section, or unless an appeal against the Liberia Revenue Authority's confirmation (or deemed confirmation) of the decision is taken pursuant to subsection (f) within the time prescribed by that subsection. When the decision on further appeal under subsection (f) becomes final, a copy of that decision shall be transmitted to the Liberia Revenue Authority which shall take action accordingly.
- (j.) Regulations. The Commissioner General shall by regulation adopt measures as necessary to implement this subchapter, including:
 - (1). the required form and content of a protest;



- (2). the place or persons to whom a protest shall be addressed; and
- (3). the conditions under which a protest may be amended."

3.0 PURPOSE

The purpose of this Administrative Regulation is to adopt measures and procedures of protesting a decision of an LRA officer, unit, section, division, department or the LRA itself as an entity, and conditions under which a protest may be amended.

4.0 PROCEDURE

- a.) Departments shall serve as the first line of structure for remedy for administrative protest/appeal of decisions emanating from those departments;
- **b.)** The protest of first instance shall be addressed and filed to the office of the head of the department (Commissioner) whose decision is being protested in writing;
- c.) The office of the head of the department shall receive, register and file all complaints/protests/appeals that derive from their departments' decisions;
- d.) The heads of that department shall forward complaints from taxpayers/importers to relevant units in the department for administrative review depending on the nature of complaint;
- e.) The department shall conclude a decision for a protest for a period not more than 15 working days;
- f.) Notification: The protestant shall be notified of the department's decision immediately upon the conclusion of such decision, through a written communication.
- g.) Deemed Confirmation. Where the department does not notify the protestant of their determination on the review within a period of 15 days from the date the protest was submitted, it shall be assumed for the purposes of this regulation to have been a confirmed decision.
- h.) Rights of Further Appeal. The protestant may appeal a decision of the department under paragraph f) or a deemed confirmation under paragraph g), by notifying an appeal within 15 days of the date of such decision or deemed decision to either-
 - 1) The Commissioner General if the decision is from a department;
 - 2) the Board of Tax Appeals pursuant to sub-section 1239(f) of the Modernized Customs Code of 2018, and for such purposes the decision or deemed decision of the Liberia



Revenue Authority if the decision is from the Commissioner General which shall be considered a determination of the Liberia Revenue Authority, or

- 3) a court of competent jurisdiction.
- 4) Obligation to Pay. The obligation to pay any customs duty, tax, fee or fine shall not be suspended by a protest made.
- i.) If this protested decision is modified or reversed, the Liberia Revenue Authority shall-
 - if so requested in writing by the protesting taxpayer, credit the amount of any Customs duty, taxes or fees found to have been collected in excess against the liability of the protesting taxpayer for future payment of such amounts, or
 - recommend to the Minister that he remits or refunds immediately any such amounts found to have been collected in excess, or pay any drawback or refund found due.
- j.) Conditions Under Which a Protest May be Amended:
 - a protest may be amended by the protestant not later than 5 working days after a protest is submitted and received;
 - a decision may be amended if it is established that the decision was made due to false or misleading information;
 - 3) a decision may be amended if it is established that the decision was made in error.

5.0 PUBLIC NOTICE

The Government of Liberia, through the Liberia Revenue Authority, hereby announces the measures and procedures of protesting a decision of an officer, unit, section, division, department of the LRA, or the LRA itself as an entity, upon the entering into force of this Regulation.

6.0 EFFECTIVE DATE

This Administrative Regulation shall take effect as of 3D APR, 2021.

Signed:

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Commissioner-General/CEO