

OPEN ACCESS	Global Journal of Arts Humanity and Social Sciences			Global Journal of Arts Humanity and Social Sciences G J A S S www.gsapublishers.com
	ISSN: 2583-2034 Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci Frequency: Monthly Published By GSAR Publishers Journal Homepage Link: https://gsarpublishers.com/journal-gjahss-home/			
Volume - 4	Issue - 12	Dec 2024	Total pages 1335-1340	

THE ANALYSIS OF THE LEGAL CHALLENGES EMERGED FROM THE POWERS OF COMMISSIONER GENERAL IN RELATION TO EFFECTIVE COLLECTION OF REVENUE IN TANZANIA

By

Diana Daniel Rwhihula

LLM St. Augustine University of Tanzania (SAUT), Mwanza, Tanzania



Abstract

This article analyses the legal challenges emerged from the powers of Commissioner General in relation to effective collection of revenue in Tanzania. It works on the premise that proper tax administration enforces tax compliance by taxpayers, with tax administrators better placed to understand principles, laws and procedures of taxation than taxpayers. Yet, tax administrators are not always impartial in collecting revenue from taxpayers. Therefore, this article is on the view that tax administrators in Tanzania must acquaint themselves with laws governing tax and adhere to their core values to enhance effective collection of revenue for the country's development. Moreover, the article calls for the amendment of the tax laws on the powers of the Commissioner General on tax decision making, to facilitate compliance and further boost government coffers.

Keywords: Tax Laws, Powers of the Commissioner General, Effective Collection of Revenue in Tanzania.

Article History

Received: 11- 12- 2024
Accepted: 24- 12- 2024
Published: 26- 12- 2024

Corresponding author
Diana Daniel Rwhihula

1. Introduction

Tanzania's revenue collection system plays a critical role in financing public services and supporting the country's economic growth. However, the legal framework governing taxation and the powers granted to the Commissioner General of the Tanzania Revenue Authority (TRA) pose several challenges in achieving effective revenue collection.¹ This article explores the legal challenges embedded in Tanzania's tax laws and examines the scope of the Commissioner General's powers highlighting the areas that impact the efficiency of revenue collection. As I delve into the tax laws in Tanzania, it's clear that these laws have a long and complex history. The framework of taxation dates back to the colonial era, and has undergone significant changes since Tanzania's independence. The evolution of tax legislation reflects the country's economic and political priorities, responding to the need for revenue generation while promoting social equity.²

The key legislative frameworks governing taxation include the Tax Administration Act, the Income Tax Act, the Value Added Tax Act, the Tax Revenue Appeals Act the Tanzania Revenue Authority Act and the Stamp Duty Act. These laws set the groundwork for tax collection, outlining the obligations of taxpayers and the rights of the government. Recently, Tanzania has made amendments and reforms aimed at enhancing efficiency and compliance. Such reforms are crucial for aligning the tax system with global standards while also encouraging local investment.³

One of the pivotal shifts in recent years has been the introduction of electronic tax systems, which aim to streamline processes and reduce the burden on taxpayers. Though these modernizations are

Accountants and Auditors Tanzania-Dar es Salaam.

³ RYOPA, Mzalendo (et al.), (2020), *Tax administration, Taxpayer's Reciprocity and Compliance in Tanzania: Empirical Evidence from a Survey: African Journal of Economic Review*, Vol. 2.

¹ <https://www.EOCD-library.org>

² MANENO, Pius (2019), *Public Finance and Taxation, National Board of*



promising, they also come with challenges that need clear resolution strategies.⁴

2. Role and Powers of the TRA Commissioner General

The Commissioner General plays a vital role in Tanzania's tax administration. This designation comes with significant authority to enforce tax laws and ensure compliance. The appointment and responsibilities of the Commissioner General are dictated by the government, with expectations to lead the Tanzania Revenue Authority (TRA) effectively.⁵ In my observations, the supervision of revenue collection agencies is a critical aspect of this role. The Commissioner General oversees multiple tax departments, ensuring that they adhere to the established legal frameworks while also responding to taxpayer concerns and inquiries. This oversight is essential, particularly as I have witnessed first-hand how discrepancies or lapses can result in lost revenue and diminished public trust.

One of the more powerful aspects of the Commissioner General's role is the capability to interpret tax laws and regulations. This interpretation plays a crucial part on how tax laws are enforced and can significantly influence the overall efficiency of revenue collection in Tanzania. The Commissioner General of the TRA is bestowed with significant authority to manage tax collection and ensure compliance. These powers include; Assessment of tax liabilities: The Commissioner General has the authority to assess and determine tax liabilities based on the income, profit and transactions of the taxpayers. Enforcement powers: These including freezing bank accounts, garnishing wages, and freezing asserts in case of tax evasion or fraud. Auditing and investigations: The TRA have the power to audit businesses and individuals, investigate discrepancies in tax filings and impose penalties for non-compliance. Discretionary powers: The Commissioner General has the discretion to waive penalties or adjust tax assessments under a certain circumstance provided by the tax laws.

While these powers are essential for effective tax collection, their exercise is often subject to legal challenges particularly concerning the issue of fairness, transparency and abuse of discretion.

3. Legal Challenges Encountered in Tax Laws and Powers of Commissioner General.

Several legal challenges arise in relation to the Commissioner Generals power and the overall legal framework surrounding tax collection in Tanzania. Unfortunately, the landscape of taxation is fraught with legal challenges. One of the most pressing issues with enforcement of tax laws is the disparity between written law and real-world application. Inconsistent enforcement can lead to confusion and frustration among taxpayers. I've seen firsthand how

taxpayers might not fully understand their obligations due to a failure in communication or the complexities of the legislation.⁶

The disputes arising from tax assessments, pose significant problems. When assessments are perceived as unjust, taxpayers may resort to legal action, which can further clog the judicial system and delay revenue collection. I have observed this cycle disrupt not just the lives of individual taxpayers but also broader economic growth as uncertainty breeds stagnation.⁷

Complexity and Ambiguity of tax laws: the Tanzania tax code is often seen as complex, with frequent amendments, which complicates compliance for business and individual's ambiguities in the law can lead to varying interpretations resulting in disputes between the TRA and taxpayers. This complexity often leads to delays in tax assessments and appeals, undermining effective revenue collection.

Discretionary powers and abuse of authority: the discretionary powers granted to the Commissioner General can lead to concerns of abuse, particularly when it comes to assessing taxes and enforcing penalties. In some instance's business have raised concerns over arbitrary application of tax laws, leading perceptions of unfair treatment and fueling resistance to compliance.⁸

Inefficiency in dispute resolution mechanism: while the Commissioner General has powers to handle tax disputes, the process is also often lengthy and bureaucratic. Taxpayers may face delays in resolving disputes, leading to financial uncertainty and discouraging investment. Furthermore, the perceived lack of independence in the dispute resolution process- since the Commissioner General both assess and review disputes of which undermines confidence in the system.⁹

Taxpayer Rights and Fairness: the rights of taxpayers in Tanzania, thought recognized are often not adequately safeguarded within the legal framework. Taxpayers frequently express concerns about their ability to contest unfair tax assessments or appeal excessive penalties. This situation is exacerbated by the TRA's lack of transparency in certain cases and the limited availability of legal recourse for taxpayers outside of TRA- controlled mechanism.

Corruption and administrative inefficiency: corruption within a revenue collection process remains a challenge, with reports of some TRA officials engaging in corruption. These issues undermine the integrity of the tax system, erode public trust and result in substantial revenue losses, which in return limit the government's ability to finance essential public services such us health-care, education, and infrastructure development. Where in some cases tax officials may embezzle collected tax revenues or

⁶ Article 2 of the United Nations Model Double Taxation Convention between Developed and Developing Countries, 2017.

⁷ LINDSAY, Ira K, (2019), *Benefits Theories of Tax Fairness, Studies in Tax Law History, Vol.9.*

⁸ LUOGA, Makinyika (2000), *A Source Book of Income Tax Law in Tanzania, Dar es salaam University Press Tanzania.*

⁹ GORDON, Roger (et al.), (2005), *Tax Structure in Developing Countries: Many Puzzles and a Possible Explanation, NBER Working Paper*

⁴ <https://audittaxinternational.co.tz/tanzania-tax-system>

⁵ Cap 438 [R.E 2019].



misappropriate funds intended for the treasury, these practices directly siphon funds from the government's coffers, reducing the revenue available for public spending and damaging the credibility of the TRA.¹⁰

Tax evasion and avoidance: these remains a significant legal challenge for effective revenue collection in Tanzania, many businesses and individuals use loopholes in the tax laws, offshore accounts, or under-report their income to evade taxes. While the TRA has improved its audit and investigative capacities, enforcement remains challenging due to the sophistication of tax evasion schemes and the lack of adequate resources to tackle them.¹¹

Dispute resolution mechanism: tax disputes between taxpayers and the TRA often arise under the over tax assessments, penalties, and enforcement actions done by the Commissioner General. The legal framework provides for disputes resolution mechanism through the Tax Revenue Appeals Tribunal, Tax Revenue Appeals Board and the Court of Appeal. However, these processes can be lengthy, costly and burdensome for both parties. Delayed resolutions can negatively impact revenue collection as substantial sums may remain tied up in litigation for extended periods.¹²

Moreover, the impact of non-compliance on revenue is profound. Non-compliance can be seen as both a symptom and a cause of the challenges within the tax system. When trust erodes, more individuals and businesses may choose to evade tax obligations, leading to a vicious cycle of non-compliance and lost revenue.¹³

4. Strategies for Effective Revenue Collection in Tanzania.

In addressing these challenges, I believe that a multi-access approach is needed for the effective collection of revenue in Tanzania. One key strategy is strengthening tax compliance mechanisms. This may involve revising existing laws to make them more understandable and approachable, thereby increasing voluntary compliance where efforts should be made to simplify tax laws and regulations by making them more accessible and understandable to the average taxpayers, simplified procedures can enhance compliance and reduce the likelihood of disputes. The powers of the Commissioner General can be leveraged to implement strategies that effectively increase compliance rates.

Moreover, enhancing taxpayer education and outreach initiatives is critical. Many taxpayers are simply unaware of their obligations or how to fulfill them efficiently. By providing clear, accessible

¹⁰ BRAUTIGAM, Deborah (2004), *The People's Budget Politics, Participation and Pro-Poor Policy: Development Policy Review*.

¹¹ JONES, Sally (2001), *Principles of Taxation for Business and Investment Planning*, McGraw-Hill/Irwin New York.

¹² Internal Revenue Service (1996), "Federal tax compliance research: individual income tax gap estimates for 1985, 1988, and 1992, Internal Revenue Service, Washington, D.C.

¹³ MPONULLANA, Richard (2000), *The Theory and Practice of Taxation in Tanzania*, Dar es salaam Tanzania printing service Ltd

information, the TRA can build trust and facilitate easier compliance.¹⁴

Technological advancements cannot be ignored. I have observed that leveraging technology in tax enforcement such as through electronic filing systems and tax dashboards can greatly increase transparency and efficiency. The Commissioner General's role can be pivotal here, as overseeing the integration of these technologies will be crucial to modernizing tax administration.¹⁵

4.1. Balancing Taxation and Economic Growth

The complexity of taxation in Tanzania also brings to light the need to find a balance between taxation and economic growth. The impact of tax policies on small businesses must be carefully managed. I have often felt that overly burdensome tax requirements can stifle entrepreneurship and innovation.

Furthermore, tax policies should consider the considerations for foreign investment. As a developing nation, Tanzania needs to attract foreign capital, which often hinges on favorable tax conditions. Striking this balance is essential for long-term economic sustainability and fairness.¹⁶ One of my key concerns is ensuring that tax systems do not disproportionately burden those who are most vulnerable. A tax system that is seen as fair and equitable can promote public support, which is instrumental in enhancing compliance.

4.2. How do the powers of the Commissioner General impact revenue collection efforts?

The powers of the Commissioner General significantly influence how tax laws are interpreted and enforced, which directly affects the efficiency of revenue collection operations within the country and in other hand the powers of Commissioner General help to have the effective collection of revenue where those powers are exercised in a good faith and trust in the following manners;

1. **Enforcement Authority:** The Commissioner General has the authority to enforce tax laws, conduct audits, and impose penalties for non-compliance. Strong enforcement capabilities help deter tax evasion and ensure that taxpayers meet their obligations.
2. **Policy Implementation:** As the head of the tax authority, the Commissioner General is responsible for implementing tax policies and strategies. Their ability to effectively translate policy into action can enhance collection efficiency.
3. **Discretionary Powers:** The Commissioner General often has discretion in areas such as granting tax exemptions or negotiating settlements. Effective use of this discretion can foster compliance and encourage voluntary tax payments.

¹⁴ ONGWAMUHANA, Kibuta (2011), *Tax Compliance in Tanzania*, [Mkuki na Nyota Publishers](#).

¹⁵ SIMONETTI, Marc (et al.), (2011) *Auditors Must Not Use Jeopardy Assessments to Coerce Taxpayers, A Pinch of SALT*.

¹⁶ HEATHER, Smith (et al.) (1996), *Justice and Power*, *European Journal of Social Psychology*, Vol. 26.



4. **Resource Allocation:** The Commissioner General plays a role in determining how resources are allocated within the tax administration. Strategic allocation of resources to high-risk areas can lead to improved revenue collection.
 5. **Stakeholder Engagement:** The Commissioner General can engage with taxpayers, businesses, and other stakeholders to build trust and improve compliance. Strong communication can lead to increased voluntary compliance and reduced disputes.
 6. **Capacity Building:** By prioritizing training and development for staff, the Commissioner General can enhance the agency's capabilities, leading to more effective audits and enforcement actions.
 7. **Data Utilization:** The Commissioner General can leverage data analytic and technology to identify trends, assess compliance risks, and streamline collection processes, improving overall revenue performance.
 8. **Public Awareness Campaigns:** They can initiate campaigns to educate taxpayers about their obligations and the importance of compliance, which can positively influence revenue collection.
3. **Mediation and Alternative Dispute Resolution (ADR):** Some tax authorities offer mediation or other forms of ADR to help taxpayers and the government reach an agreement without going to court. This can be a quicker and less costly option.
 4. **Legal Representation:** Taxpayers have the right to be represented by legal counsel or tax professionals during disputes. This ensures that they have access to expertise in navigating the complexities of tax law.
 5. **Taxpayer Advocate Services:** Many tax administrations have an ombudsman or advocate office that assists taxpayers in resolving disputes and navigating the tax system. These services can provide support and guidance throughout the process.
 6. **Public Rulings and Guidance:** Tax authorities often publish rulings, guidelines, and interpretations of tax law that can help clarify issues and provide taxpayers with a basis for understanding their rights and obligations.
 7. **Negotiation and Settlement:** In some cases, tax authorities may be willing to negotiate settlements with taxpayers to resolve disputes, especially if both parties can find common ground on the interpretation of the law.
 8. **Statutory Timeframes:** There are usually established timeframes within which disputes must be resolved or appealed, ensuring that taxpayers can seek timely resolutions.

Overall, the powers and leadership of the Commissioner General are critical in shaping the effectiveness and efficiency of revenue collection efforts, ultimately impacting the financial health of the government

4.3. What mechanisms to be placed to address disputes arising from tax law enforcement?

Tax disputes are a common occurrence in any tax system as often arising from disagreement between taxpayers and the tax authority regarding tax assessments, enforcement measures or in the interpretation of tax laws. In Tanzania several mechanisms have been established to address and resolve disputes arising from tax law enforcement, these mechanisms aim to ensure that disputes are handled fairly, transparently, and efficiently, while also safeguard the rights of taxpayers and maintaining the integrity of the Tanzania Revenue Authority (TRA).¹⁷ Afterwards there is a need to transform tax disputes resolution in order to safeguard the rights of the tax payers and ensure effective collection of revenues by establishing independent bodies to handle tax disputes such as;

1. **Administrative Appeals:** Taxpayers often have the right to appeal decisions made by tax authorities. This usually involves submitting a formal request for review, where an independent review body or designated officer re-evaluates the case.
2. **Tax Court:** If administrative appeals do not resolve the dispute, taxpayers can often take their case to a specialized tax court. These courts are designed to handle tax-related issues and provide a formal legal avenue for resolution.

¹⁷ OSORO, Ndonyo (1992), *Revenue Productivity of the Tax System in Tanzania*, *Journal of African Economies*, volume 2.

These mechanisms aim to ensure fairness, transparency, and efficiency in the resolution of tax disputes, allowing taxpayers to contest decisions while maintaining the integrity of the tax system.¹⁸

4.4. How does the role of the Commissioner General evolve in response to changing tax regulations?

The Commissioner General's role adapts to changing tax regulations by embracing new technologies, strengthening compliance efforts, and focusing on taxpayer education, which collectively enhance revenue rectitude and the efficiency of tax collection in the following manners;

1. **Adaptation to New Regulations:** The Commissioner General must stay abreast of new tax laws and regulations, ensuring that the agency's policies and procedures are updated accordingly. This includes interpreting complex legislation and translating it into operational practices.
2. **Strategic Leadership:** With changing regulations, the Commissioner General often needs to adopt a more strategic leadership role, guiding the agency in aligning its objectives with new compliance requirements while maintaining efficiency.
3. **Stakeholder Engagement:** As tax laws change, the Commissioner General plays a crucial role in

¹⁸ SHEMDOE, Evans (2015), *Factors affecting revenue collection at Tanzania: official seed certification institute*, *African Journal of Business Management* Vol. 16(3).

communicating with stakeholders, including the public, businesses, and government officials. This includes explaining the implications of new regulations and fostering trust in the tax system.

4. **Technology Integration:** The rise of digital tax administration and e-filing requires the Commissioner General to champion technology initiatives that improve compliance and streamline processes in light of new regulations.
5. **Focus on Compliance and Enforcement:** Evolving tax laws may necessitate a stronger emphasis on compliance and enforcement. The Commissioner General must develop strategies to identify and address non-compliance effectively.
6. **Training and Development:** To handle new regulations, there is a need for ongoing training and professional development for staff. The Commissioner General often prioritizes these initiatives to ensure that the workforce is equipped to manage changes.
7. **Policy Advocacy:** The Commissioner General may also engage in advocacy for regulatory reforms that enhance the effectiveness of the tax system, based on insights gained from practical administration challenges.
8. **Risk Management:** With changes in regulations, there may be new areas of risk for tax administration. The Commissioner General must implement risk management strategies to mitigate potential issues arising from compliance challenges.

Overall, the role becomes more dynamic and requires a blend of legal knowledge, strategic foresight, and effective communication to navigate the complexities of tax regulation changes.¹⁹

5. Conclusion

the intersection of legal challenges, the authoritative capacity of the Commissioner General, and revenue collection strategies represents a critical component of Tanzania's economic framework. As I continue to explore these complexities, I remain optimistic that with collaborative efforts and thoughtful reforms and further legal and administrative improvements are necessary to enhance compliance, promote fairness, and ensure that tax laws system functions efficiently. By simplifying tax laws, strengthening enforcement and improving dispute resolution, where Tanzania can bolster its revenue collection efforts and support its economic growth agenda. The recent improvement in the enforcement of tax laws by the Commissioner General has brought a dilemma in the administration of tax in Tanzania. Even though enforcement of the law represents an important step towards effectiveness collection of revenue, it also calls into question the balance among accountability, professionalism, and integrity. Generally, the Commissioner General, as a tax administrator, has done commendable work in revenue collection from time to time as its primary responsibility. However, the empirical legal challenge adduced shows that some of the TRA officers were not fully

committed to its core values in enforcing tax laws, hence leading to the malpractices by some of its staff which affecting the effective collection of revenue. Nonetheless, in some areas, there is a clear hostile relationship between the taxpayers and the TRA as the authority responsible for tax administration.

BIBLIOGRAPHY

Books

1. MANENO, Pius (2019), *Public Finance and Taxation*, National Board of Accountants and Auditors Tanzania-Dar es Salaam.
2. RYOBA, Mzalendo (et al.), (2020), *Tax administration, Taxpayer's Reciprocity and Compliance in Tanzania: Empirical Evidence from a Survey*: African Journal of Economic Review, Vol. 2.Cap 438 [R.E 2019].
3. LUOGA, Makinyika (2000), *A Source Book of Income Tax Law in Tanzania*, Dar es salaam University Press Tanzania
4. GORDON, Roger (et al.), (2005), *Tax Structure in Developing Countries: Many Puzzles and a Possible Explanation*, NBER Working Paper
5. BRAUTIGAM, Deborah (2004), *The People's Budget Politics, Participation and Pro-Poor Policy*: Development Policy Review.
6. JONES, Sally (2001), *Principles of Taxation for Business and Investment Planning*, McGraw-Hill/Irwin New York
7. MPONULIANA, Richard (2000), *The Theory and Practice of Taxation in Tanzania*, Dar es salaam Tanzania printing service Ltd
8. ONGWAMUHANA, Kibuta (2011), *Tax Compliance in Tanzania*, Mkuki na Nyota Publishers.
9. SIMONETTI, Marc (et al.), (2011) *Auditors Must Not Use Jeopardy Assessments to Coerce Taxpayers*, A Pinch of SALT

Journal

1. LINDSAY, Ira K, (2019), *Benefits Theories of Tax Fairness*, Studies in Tax Law History, Vol.9.
2. Internal Revenue Service (1996), *"Federal tax compliance research: individual income tax gap estimates for 1985, 1988, and 1992*, Internal Revenue Service, Washington, D.C.
3. HEATHER, Smith (et al.) (1996), *Justice and Power*, European Journal of Social Psychology, Vol. 26.
4. OSORO, Ndonyo (1992), *Revenue Productivity of the Tax System in Tanzania*, Journal of African Economics, volume 2
5. SHEMDOE, Evans (2015), *Factors affecting revenue collection at Tanzania: official seed certification institute*, African Journal of Business Management Vol. 16(3).

Statutes

1. Tax Administration Act [Cap. 438 R.E.2019]
2. The Income Tax Act Cap
3. The Tanzania Revenue Authority Act [Cap R..E .2019]

¹⁹ <https://audittaxinternational.co.tz/tanzania-tax-system>.



Websites

1. <https://audittaxinternational.co.tz/tanzania-tax-system>.
2. <https://www.EOCD-library.org>.
3. <https://audittaxinternational.co.tz/tanzania-tax-system>

