Tax Alert

A second opinion that counts: KRA's IRO changes the customs dispute resolution game

Background

A customs dispute arises when a customs officer makes a decision or takes an action that is contrary to a taxpayer's expectation with regard to tariffs, valuation, origin of goods, bonds and other customs procedures. The dispute could be lead to imposition of duties, fines and penalties or even seizure of goods.

Before formally objecting to the decision, the taxpayer may seek clarification or resolution with the issuing customs officer. Where there is no formal written communication, the taxpayer has the right to request for the decision in writing.

Under the current dispute resolution mechanism provided under the East Africa Community Customs Management Act, 2004, (EACCMA) the affected taxpayer must file a formal request for review under Section 229 of EACCMA if the dispute is unresolved. The request for review must be made within 30 days of receiving the decision, should include the grounds for the objection and can be delivered physically or electronically to the relevant customs office.

The Commissioner is expected to issue a review decision within 30 days to which the taxpayer has a right to appeal to the Tax Appeals Tribunal within 45 days of receiving the review decision.

Introduction of Independent Review of Objections & Technical Review Unit in Customs disputes

In line with the Kenya Gazette Notice No. 1036, dated February 1, 2019, Kenya Revenue Authority issued a public notice on July 3, 2025, introducing a new independent review process designed to make customs dispute resolution fairer and more efficient. As part of this reform, KRA will roll out the Independent Review of Objections (IRO) and Technical Review Unit (TRU) for handling customs-related disputes.

The IRO unit will be composed of independent tax and customs experts who review objections to customs decisions separate from the original assessing officers.

The dispute resolution stages under the new mechanism are listed below:

Description	Timeline
Application for review to IRO/TRU	Within 30 days after receipt of assessment/ demand
IRO/TRU Review Decision	Within 30 days after application for review by the taxpayer
Appeal to Tax Appeals Tribunal	Within 45 days after receipt of IRO/TRU Review Decision
Leave to engage in Alternative Dispute resolution	After filing of the appeal with the TAT
Conclusion of ADR process	Within 120 days of application for ADR
Filing of consent with TAT	Upon signing of ADR agreement

Where the parties have not settled the matter through ADR or did not engage in the ADR process, the TAT will hear and determine the matter. If the taxpayer is aggrieved by the TAT's decision, they can appeal to the High court within 30days of the TAT ruling.

To facilitate the transition, KRA will implement the new dispute resolution procedure in phases as listed below:

Phase	Dispute origin	Effective date
Phase I	Post Clearance Audit	August 2025
Phase II	Tariff, Valuation and Exemption	September 2025
Phase III	Bonds and all other Customs matters	November 2025

Our opinion

This move is aimed at enhancing fairness and transparency in the resolution of disputes between cross-border traders and the KRA. By introducing an independent layer of review, the new mechanism strengthens accountability and promotes confidence in the customs administration process.

It presents several advantages that benefit both taxpayers and the KRA alike. Below is a summary of some of the key benefits:

- The IRO process marks a significant shift toward independent and objective review in the resolution of customs disputes, aiming to eliminate bias and promote impartiality.
- Taxpayers will benefit from a structured, transparent, and time-bound procedure, with clear timelines for objection submission and resolution.
- The model allows for interactive adjudication, including document reviews, meetings, and panel hearings giving taxpayers a meaningful platform to present their case.
- The introduction of the IRO will enhance trust in the dispute resolution process and offers a viable internal avenue for resolution before escalating to the Tax Appeals Tribunal.
- Taxpayers will have an opportunity to save on high legal costs and avoid lengthy litigation procedures associated with appeals to the tribunal or courts.

- The mechanism will contribute to reducing the caseload at the TAT, freeing up judicial resources for more complex or precedent-setting cases.

However, we note that the process demands greater preparedness, proper documentation, and internal compliance tracking to meet statutory deadlines. The following are required of the taxpayers:

- Objections must be in writing, clearly outlining the grounds for dispute. They must be supported by relevant evidence, such as invoices, import declarations, correspondence, valuation rulings, etc.
- Cooperation during the IRO/TRU process will be key for better outcome. Taxpayers should always respond promptly to any requests for additional information or clarification and participation in the meetings.
- Maintenance of accurate and readily available records.
- Monitoring and compliance with the set timelines.
- Ensuring that all representations made to KRA are truthful and complete. This implies that taxpayers should avoid frivolous or dishonest objections which may damage credibility and lead to penalties or escalation.
- Taxpayers should consider engaging customs agents, tax advisers, or legal counsel for complex or high value matters as professional input can improve objection quality and strategic handling.

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