

12 January 2018

Mr. Nayak Ramdahin
Commissioner of Inland Revenue
TRINIDAD HOUSE,
ST. VINCENT STREET,
PORT OF SPAIN

Dear Sir,

Mr. Kerwyn Garcia and the undersigned are led by Mr. Alvin Fitzpatrick SC. We represent the Law Association of Trinidad and Tobago (hereinafter called “the LATT”) a statutory corporation incorporated pursuant to section 3 of the Legal Profession Act Chap 90:03 of the Laws of Trinidad and Tobago.

The LATT’s purposes as set out in s. 5 of the Act are as follows:

- a. to maintain and improve the standards of conduct and proficiency of the legal profession in Trinidad and Tobago;
- b. to represent and protect the interests of the legal profession in Trinidad and Tobago;
- c. to protect and assist the public in Trinidad and Tobago in all matters relating to the law;
- d. to promote good relations within the profession, between the profession and persons concerned in the administration of justice in Trinidad and Tobago and between the profession and the public generally;

- e. to promote good relations between the profession and professional bodies of the legal profession in other countries and to participate in the activities of any international association of lawyers and to become a member thereof;
- f. to promote, maintain and support the administration of justice and the rule of law;
- g. to do such other things as are incidental or conducive to the achievement of the purposes set out at (a) to (f).

We are instructed as follows:

1. On the 15 October 1998 the LATT applied for VAT registration.
2. On 29 April 1999 the LATT was registered for VAT.
3. The Certificate was returned to the Board of Inland Revenue (hereinafter called “the BIR”) for correction in June 1999 as the BIR had wrongly inserted “Trading as Law Association of T&T Ltd” on the Certificate.
4. At its meeting held on 2 July 1999 the Council of the LATT decided to apply to cancel the registration on the advice of Senior Counsel.
5. By letter dated 10 August 1999 the LATT wrote to the BIR seeking cancellation of its VAT Registration.
6. This letter was acknowledged by the BIR by way of letter dated 30 August 1999 and on 14 September 1999 the LATT submitted a VAT 14 form applying for cancellation of VAT registration on the following ground set out at item 2 of the form:

“Application for registration was made in error. Under the provisions of the Legal Profession Act 1986 our activities are not taxable.”

A copy of this notice is attached hereto for your ease of reference and marked “1”.

7. The BIR cancelled the LATT’s registration certificate No. 117104 by notice filed on 28 November 2002, a copy of which is attached hereto and marked “2”.

8. In its notice of cancellation, the BIR had requested that the LATT file VAT returns up to 2002. In a letter in response dated 06 January 2003 the LATT wrote to the BIR seeking an exemption from that request. A copy of the said letter is attached hereto for your ease of reference and marked “3”.
9. After its VAT registration was cancelled and until 2015, when it re-registered, the LATT was a non-registered entity.
10. In 2014, the LATT, having purchased its own building on Frederick Street, offered a portion of same for rental and considered that the proposed rental income would exceed the VAT threshold and as such there would be a need to apply for VAT registration in respect of this income.
11. By letter dated 15 January 2015 the LATT wrote to the BIR applying for re-registration “in respect of rental income only”. A copy of the said letter and application form for re-registration are attached hereto for your ease of reference and marked “4”. It is noteworthy that this letter accompanying the VAT registration form sets out the history of the LATT’s previous application and explicitly says “The application for de-registration was accepted which confirms the acceptance of the Inland Revenue Division of the position that membership fees are not a commercial supply and therefore non-vatable.”
12. LATT was re-registered for VAT on 10 March 2015 as No. 327105.
13. Following re-registration, VAT was paid on the rental income. The LATT continued to treat membership subscriptions as being exempt from VAT.
14. In order to take advantage of a tax amnesty which was due to expire on 16 September 2016 the then Council of the LATT sought advice as to whether the LATT would be liable to pay VAT on membership subscriptions.
15. There being no clear answer to this issue and out of an abundance of caution, the President, Treasurer and Mr Wade George met with Mr Ramdahin to discuss the LATT’s tax position on 15 September 2016.
16. Mr Ramdahin confirmed that he had discussed the matter with the Chairman of the BIR, Mrs. Allison Raphael and that they were of the view that LATT’s annual members’ subscriptions were liable to VAT.

17. Mr. Ramdahin was made aware of the previous registration and deregistration and that the LATT had been unable to locate the requisite documentation at the material time. Mr. Ramdahin reported having checked the VAT records and having found no record of the de-registration. He further opined that he could see no legal basis for de-registration. He agreed to accept the LATT's cheque in proposed settlement of outstanding VAT and tax liability offering a "high level of confidence" that the settlement would be accepted by the Chairman of the BIR. He signed the cover letter to signify the receipt of the cheque within the Amnesty period.
18. The letter reserved the LATT's position on its liability to VAT based on the information which had been received from former members of Council that the LATT had been allowed to deregister in the past on the basis that membership subscriptions were not subject to VAT. A copy of the said letter is attached hereto for your ease of reference and marked "5".
19. By letter dated 15 March 2017 the BIR confirmed its opinion that the activities of the LATT are regarded as a business and that subscription fees are subject to VAT. A copy of the said letter is attached hereto for your ease of reference and marked "6".

It is our considered opinion that respectfully the BIR is incorrect in its opinion that the activities of the LATT are to be regarded as a business within the meaning of the Value Added Tax Act. We state as follows:

1. Sections 12 and 27 of the Legal Profession Act Chap.90:03 (the "LPA") provide that members, other than honorary members and law officers, are required to pay an annual subscription. The method of payment laid down by section 12 is that members who are required to pay, make the subscription payments to LATT through the Registrar of the Supreme Court. The LPA does not contemplate the issue of invoices either by the Registrar or LATT.
2. Considering the provisions of section 5 of the LPA, the LATT's statutory function could only be described as a public one that is, directed at the maintenance and support of the

administration of justice and the rule of law (sub-clause (f)) by the maintenance and improvement of standards (sub-clause (a)), the representation and protection of the interests of the legal profession at large (subclause (b)), the protection and assistance of the public in all matters relating to law (subclause (c)) and the promotion of good relations between the legal profession and the public (sub-clause (d)) and other bodies (sub-clauses (d) and (e)).

3. If an Attorney at Law fails to pay the annual subscription then that person is not issued a valid practising certificate and by virtue of section 22 (2) of the LPA is not entitled to practise law. Furthermore, by section 9(2) of the LPA (as interpreted by the Court of Appeal in *Nabie v LATT* CA 72 of 2012 with respect to Law Officers), only members who pay the annual subscription are eligible to attend and vote at a general meeting or at an election meeting of members of the Council or to be elected to the Council.
4. It is our position that the LATT charges annual subscription fees and carries out its general activities, not in return for consideration from the members, but because it is obliged to do so by section 5 of the LPA.
5. Further, the LATT carries out a regulatory function that is for the protection of the public and is not done for the economic benefit of the LATT or its members.
6. Having regard to what we have outlined above and the documentation enclosed herein we propose that the Board of Inland Revenue reconsider its position on whether VAT should be charged on members' subscriptions. We particularly direct your attention to the history of registration, de-registration and re-registration for a specified purpose and that fact that all of these steps were fully known and approved by the BIR. We further propose on behalf of the LATT that all VAT paid on members' subscriptions to date be refunded to the LATT.

7. In the event that the BIR is unwilling to adopt the course of action contemplated in paragraph 6 above we hereby advise that the LATT intends to approach the High Court on an interpretation summons to deal with the following questions:
- a. Whether the Value Added Tax Act makes chargeable to VAT subscriptions paid by members to the LATT?
 - b. Whether the said subscriptions are a commercial supply and thus chargeable to Value Added Tax?
 - c. Whether the said subscription fees are paid by members for the supply of services in the course of, or furtherance of, a business within the meaning of the Value Added Tax Act?
8. Further to paragraph 7 above, please indicate whether the BIR will join us in this interpretation summons so that this matter may be settled completely by the High Court.

Yours faithfully,

Mr. Anil V Maraj
Attorney at law
Enclosures (6)

Our Ref: 2018-01-12.c.NayakRamdahin
Writer's extension: 2
Writer's Assistant: Amara St. Hillaire
CC:

“1”



VALUE ADDED TAX

REGISTRATION SECTION
VAT ADMINISTRATION
CENTRE
P.O. Box 820
20, St. Vincent Street
Port-of-Spain
Tel. No. 623-4735/38

APPLICATION FOR CANCELLATION OF VAT REGISTRATION
QUESTIONNAIRE

(Please Answer All Questions And Supply All Details Requested)

YOU MUST ALSO SIGN THIS FORM

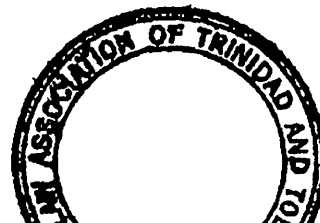
1. Name: LAW ASSOCIATION OF TRINIDAD & TOBAGO
Address: Suite 4 Chancery Courtyard, 13-15 St. Vincent Street P.O.S
Vat Reg. No: Statutory Certificate of Registration No:117104 was issued with error and returned to you.
Tel. No: 625-9350
Application for registration was made in error. Under the Provisions of the Legal Profession Act 1986 our activities are not taxable.
2. Have you ceased to carry out all taxable activities? made in error. Under the Provisions of the Legal Profession Act 1986 our activities are not taxable.
3. If you have ceased trading, please state the last day on which you traded N/A
4. If you have not ceased trading, will your total commercial supplies during the next twelve (12) months exceed one hundred and twenty thousand dollars (\$120,000)? N/A
5. Have you disposed of your Assets, including Stock in Trade? N/A
6. How were they disposed of N/A
7. What was the value of the Assets, including Stock in Trade? N/A
8. Do you intend to recommence your taxable activity or to engage in any other activity within the next twelve (12) months? N/A
9. Have you submitted your VAT Return for the period N/A to
If you have not, please complete and return it to the VAT Administration Centre.

Statutory Certificate of Registration was issued with error and returned.

Signature: J. A. Powell

Title: Executive Administrator/ General Manager

Date: 14th September, 1999



"2"



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

BOARD OF INLAND REVENUE

VALUE ADDED TAX

VAT Administration Centre
20, St. Vincent Street
P.O. Box 820
Port-of-Spain
Tel. No.: 623-4735/38

LAW ASSOCIATION OF TRINIDAD AND TOBAGO
P O BOX 534,
PORT OF SPAIN.

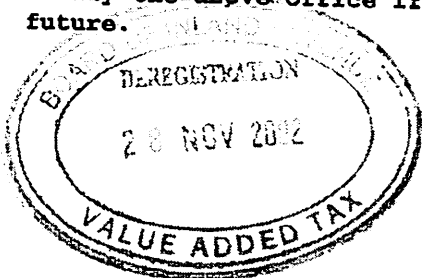
Vat Reg. No: 117104
Date : 26-NOV-2002

Dear Sir/Madam,

You are advised that your VAT Registration (No. quoted above) is cancelled with effect from 01.12.02.

You are therefore required to:

- (i) Return to the VAT Administration centre on or beforethe VAT Registration Certificate(s) issued to you. Failure to comply with this requirement is an offence and you will be liable on summary conviction to a fine of \$15,000 and imprisonment for one(1)year. [Section 29(6) of VAT Act 1989]
- (ii) Cease charging VAT or issuing Tax Invoices on any supplies you make after 30.11.02.
- (iii) Complete and submit your VAT Return on or before 31.12.02 for the period 200209 to 2002 and account for any VAT payable.
- (iv) Submit all/any outstanding Vat 101 Returns.
- (v) Retain all your business records for a period of at least six (6) years from 30.11.02.
- (vi) Notify the above office if you become liable to be registered at any time in the future.



Yours faithfully,

[Signature]
Commissioner, Board of Inland Revenue

RECEIVED SECRETARIAT

DATE: 17/12/2002

“3”

6 January 2003

The Commissioner, Board of Inland Revenue
Value Added Tax
VAT Administration Centre
20, St. Vincent Street
Port of Spain

Dear Sir/Madam:

I have been directed by the Council of the Law Association ("the Association") to acknowledge receipt of the Notice sent to the Association dated 26 November 2002, which advised *inter alia* that VAT Registration number #117104 was cancelled with effect from December 1, 2002. Your letter directs the Association "to file returns from 200209 (sic) to 2002".

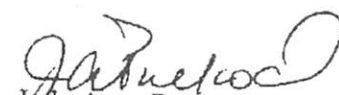
Having regard to previous correspondence which dates back to 1999, the Association is seeking your consideration to effect withdrawal/cancellation of its Registration Application from April 29, 1999 which is the date when the Certificate was first issued. Our position is that the original certificate was issued in the wrong name and in any event, the application for same by us was made erroneously. It would be a costly and time-consuming task for us to file returns in these circumstances and your kind assistance would be appreciated.

In support of our request we forward copies of the following correspondence:

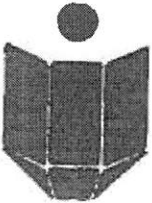
1. Copy of Deregistration Notice dated November 26, 2002.
2. Copy of completed Application for Cancellation of VAT Registration - Questionnaire dated September 14, 1999.
3. Copy of acknowledgement of application for cancellation of registration dated August 30, 1999.
4. Copy of the Law Association's letter of August 10, 1999 applying to cancel registration.
5. Copy of the Law Association's letter dated June 10, 1999 returning the original Certificate of Registration.
6. Copy of Value Added Tax Advice of Registration- issued on May 11, 1999.
7. Copy of Value Added Tax Certificate of Registration - VAT Reg. No. 117104 dated April 29, 1999.

We anxiously await a favourable response from you hoping that it will bring closure to this matter.

Respectfully,


Judy Anne Prescod
Executive Administrator

Law Association
of Trinidad and Tobago
established by the
Legal Profession Act 1986



Suite 4, Chancery Courtyard
13-15 St. Vincent Street
P.O. Box 534, Port-Of-Spain
Trinidad, West Indies.

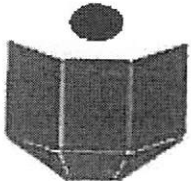
Tel/Fax: (868) 625 9350
e-mail: lawassoc@tstt.net.tt

Executive Administrator
Judy Anne Prescod

President - Karl Hudson-Phillips Q.C. • Vice President - Russell Martineau S.C.
Treasurer - James C. Aboud • Honorary Secretary - Hendrickson Seunath S.C.

“4”

**Law Association
of Trinidad and Tobago**
established by the
Legal Profession Act 1986



2nd Floor
95-97 Frederick Street
Port-of-Spain
Trinidad, W.I.

Tel: 1-868-625-9350
Tel: 1-868-225-8715
Tel: 1-868-225-8716
Tel: 1-868-225-8717

E-mail:
admin@lawassociationtt.com
ttlawassociation@gmail.com

Website:
www.lawassociationtt.com

15th January, 2015

Inland Revenue Division
Registration Unit
1st Floor, Victoria Court
Queen Street
Port of Spain

Dear Sir/Madam,

RE: VAT Registration for Law Association of Trinidad and Tobago

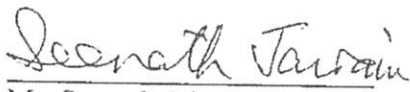
The Law Association of Trinidad and Tobago (LATT) was registered for VAT and subsequently de-registered. LATT's application for de-registration was on the basis that its membership fees, which was the only source of income at the time, did not constitute a commercial supply.

The application for de-registration was accepted which confirms the acceptance of the Inland Revenue Division of the position that membership fees are not a commercial supply and therefore non-vatable.

LATT will be renting certain space at its newly acquired building at 95-97 Frederick Street, Port of Spain which rental income exceeds \$360,000 annually. We therefore apply for VAT registration in respect of the rental income only.

We trust that the interim clearly sets out the basis of our VAT application and remain available to assist in any way required.

Sincerely,

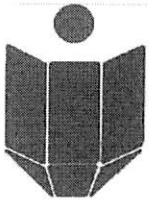


Mr. Seenath Jairam, SC
President

President – Seenath Jairam SC • Vice President – Gerry Brooks
Treasurer – Lydia Mendonça • Honorary Secretary – Joan Byrne

“5”

**Law Association
of Trinidad and Tobago**
established by the
Legal Profession Act 1986



2nd Floor
95-97 Frederick Street
Port-of-Spain
Trinidad, W.I.

Tel: 1-868-625-9350
Tel: 1-868-225-8715
Tel: 1-868-225-8716
Tel: 1-868-225-8717

E-mail:
admin@lawassociationtt.com
ttl@lawassociation@gmail.com

Website:
www.lawassociationtt.com

Centre for Arbitration and
Dispute Resolution – CADR

Tel: 1-868-221-4944

Email:
arbitration.facility.latt@gmail.com

15 September 2016

Mr. Nayak Ramdahin
Commissioner, Petroleum & Large Taxpayers Business Unit
The Board of Inland Revenue
2nd Floor, Eric Williams Finance Building
Independence Square
Port of Spain

Dear Mr. Ramdahin

**RE: Law Association of Trinidad and Tobago
BIR #000117945-1; VAT REGISTRATION #327105**

We refer to your recent discussions with Mr. Wade George of Ernst & Young on the settlement of all outstanding tax liabilities of the Law Association of Trinidad and Tobago (LATT) during the current tax amnesty period granted under the Finance (No.2) Act, 2016 (the Tax Amnesty) and as such, we hereby set out hereunder the position as agreed to between yourself and Mr. George.

Settlement of Tax Liabilities

In full and final settlement of all outstanding tax liabilities to date, LATT will make the following payments during the Tax Amnesty period:

1. All outstanding Value Added Tax (VAT), Corporation Tax and Green Fund Levy liabilities in respect of the period from the date LATT was registered for tax purposes (i.e. February 2015) to the present.
2. All outstanding liabilities in respect of Corporation Tax and Green Fund Levy for income years 2011 to 2015, inclusive.
3. A payment in the amount of \$200,000 in full and final settlement of any potential pre-registration VAT liabilities of LATT.

In respect of the VAT payment, we have located material which suggests that in 1999 the LATT had registered for VAT. However based on advice received by the then Council of the Association, a position was adopted by the Council that membership subscriptions did not attract VAT because:

- 1) They were held on trust by the Law Association for its members;
- 2) The Law Association had public interest objectives; and
- 3) Subscriptions were not received in exchange for goods or services.

President – Reginald T.A. Armour SC • **Vice President** – Gerry Brooks
Treasurer – Dennis Gurley SC • **Honorary Secretary** – Elena Araujo

On the basis of this advice, our then President Mr Hudson-Phillips QC made successful representations to the Board of Inland Revenue following on which the Association was permitted to be de-registered from the payment of VAT. Having been de-registered, the VAT issue was not revisited until February 2015.

Having regard to the foregoing, and out of an abundance of caution, we reserve all of our rights in this matter.

We have enclosed for your attention the following:

- A cheque # 0000014 drawn on RBC Royal Bank (Trinidad and Tobago) Limited in the sum of TT\$1,132,430.00 (Appendix I) which we duly request to be applied against the liabilities detailed on Appendix II and III;
- A cheque # 0000015 drawn on RBC Royal Bank (Trinidad and Tobago) Limited in the sum of TT\$110,009.00 (Appendix I) which we duly request to be applied against the liabilities detailed on Appendix II and III; and
- The Corporation Tax Returns for the years of income 2011-2015 will be submitted on or before September 16, 2016

We trust that the above is to your satisfaction and thank you for your assistance in resolving these matters.

Sincerely,

DG

.....
Dennis Gurley
Treasurer

Received *Issues discussed.*
Randall
15/9/16

Cheques received

**The Law Association of Trinidad & Tobago Limited
Summary Sheet
Allocation of Settlement Payment**

Appendix I

Amnesty Payments

VAT	Amount Paid
Pre-Registration	200,000.00
2015 VAT	555,411.00
2011-2015 CTR/GFL	<u>377,019.00</u>
	1,132,430.00

Payments Not Covered by Amnesty

2016 CTR Liability (QTR)	20,480.00
2016 GFL Liability (QTR)	3,440.00
2016 VAT	<u>86,089.00</u>
	<u>110,009.00</u>
	<u>1,242,439.00</u>

The Law Association of Trinidad & Tobago Limited
 VAT Registration Number: 327105
 Allocation of Settlement Payment

Appendix II

VAT Filing Period	VAT Paid as VAT Return Filed	Receipt Number	Revised VAT Liability	Settlement Payment
Pre-Registration VAT	0.00		200,000.00	200,000.00
201502	(575.00)	Refund no: 572248064	(575.00)	0.00
201504	8,363.00	599983369-0102	65,513.00	57,150.00
201506	42,071.00	R712114176-01	90,991.00	48,920.00
201508	22,588.00	R120864768-01	40,807.00	18,219.00
201510	23,545.00	R1907212288-01	325,612.00	302,067.00
201512	23,298.00	R387145728-01	152,353.00	129,055.00
2015 VAT Settlement				555,411.00
Total Settlement 2015 and Pre-Registration				
201601	7,457.00	R1998020608-01	28,079.00	20,622.00
201602	6,092.00	R2087456768-01	32,406.00	26,314.00
201604	11,495.00	R1006866432-01	30,199.00	18,704.00
201606	10,099.00	R2126983168-01	30,548.00	20,449.00
				86,089.00

The Law Association of Trinidad & Tobago Limited
 Board of Inland Revenue File Number
 Allocation of Settlement Payment

Appendix III

Year of Income	Corporation Tax Payable	Green Fund Levy Payable	Total Settlement
2011	79,520.00	3,445.00	
2012	79,185.00	3,571.00	
2013	88,338.00	3,816.00	
2014	71,058.00	3,693.00	
2015	40,960.00	3,433.00	
	<u>359,061.00</u>	<u>17,958.00</u>	<u>377,019.00</u>

“6”



MINISTRY OF FINANCE
INLAND REVENUE DIVISION
TRINIDAD HOUSE, ST. VINCENT STREET, PORT OF SPAIN TRINIDAD AND TOBAGO
Web site: <http://www.ird.gov.tt>
Telephone No. 868-623-1211 Fax 868-627-7967

15 March 2017

Mr. Reginald Armour S.C.
President, Law Association of Trinidad and Tobago
2nd Floor, 95-97 Frederick Street
Port of Spain

Dear Mr. Armour

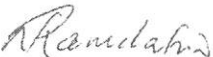
Subject: Value Added Tax on Subscription Fees

Further to my meeting with yourself, Mr. Dennis Gurley and Mr. Wade George on 15 September 2016, when representations were made on behalf of your Association regarding the issue of Value Added Tax on subscription fees, I wish to confirm the following:

- (a) In accordance with the provision of the Value Added Tax Act 1989, in particular Section 4 of the said Act, the activities of the Law Association of Trinidad and Tobago are regarded as a business and as such subscription fees paid by members is subject to Value Added Tax.
- (b) As stated previously, we have not been able to find any legal notice, correspondence or other documents to support the claim that any advice or dispensation has been granted for the treatment of subscription fees paid by members of the Law Association of Trinidad and Tobago to be not subjected to Value Added Tax.

Please be guided accordingly.

Yours respectfully


Nayak Ramdahin
Commissioner of Inland Revenue