THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA
(Established by the Act of Parliament No. 15 of 1965)

TAX AIDE MEMOIR

5th Edition

THIS PUBLICATION, AS THE TITLE SAYS, IS TO ASSIST MEMBERS, STUDENTS, CORPORATE AND INDIVIDUAL TAX PAYERS IN MAKING QUICK REFERENCES TO SOME DAY - TO-DAY TAX ISSUES. IT SHOULD NOT BE REGARDED AS A SUBSTITUTE FOR PROFESSIONAL ADVICE ON NIGERIAN TAXATION OR THE LAWS ON TAXATION ITSELF. USERS ARE ADVISED TO MAKE REFERENCE TO THE PROVISIONS OF THE RELEVANT TAX LAWS AS APPROPRIATE FOR COMPREHENSIVE DETAILS AND SEEK PROFESSIONAL ADVICE AT ALL TIMES.

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA TAX AIDE MEMOIR

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FIFTH EDITION

Produced by the
Research and Technical Directorate
August, 2012

PREFACE

As developing nations are working towards strengthening their tax systems to make tax the main stay for sustainable development, Nigeria has commenced a process that is aimed at positioning it to reverse the trend of dependency on one source of revenue, Oil. To this end, the nation embarked on the development of a framework that will make revenue from taxation a major component of the nation's revenue. At the time of compiling the 4^{th} edition of this Tax Aide Memoir, the government had just released the National Tax Policy (NTP)-a document that provides a direction for the Nigeria's tax system and establishes a framework that all stakeholders would subscribe to and to which they would be held accountable.

While the policy was being developed, that edition acknowledged the policy and created an anticipation that when segments of the policy are developed, such would be incorporated, as usual, in summarised form into the succeeding edition of the memoir. In the last couple of years since the last edition, a number of tax reforms have taken place and this 5^{th} edition of ICAN Tax Aide Memoir incorporates some of the latest development in Nigeria's tax system. Particular areas where revisions have been made in this edition include in section three under Companies Income Tax (Amendment) Act, 2007.

This revised edition includes the summaries of important elements of Taxation of Insurance Companies; Donation by Companies; Assessment in the same currency of transactions; and the collaboration in tax rate by the Executive and Legislature. It also brings in the new title of Tertiary Education Trust Fund (Establishement Act, 2011), which replaces the previous title-Education Tax, being the tax imposed on corporate entities. Another major revision is that made to section four on Individual Taxation under Personal Income Tax (Amendment) Act, 2011. This Act brings in a framework that consolidates relief allowance, which replaces the old personal relief.

Although, under Taxes on Transactions, there is not any major amendment but remittance of VAT from Oil and Gas entities as well as summarised issues on goods produced for export have also been included. As we continue to witness the evolving work from the National Tax Policy (NTP) framework, other segments developed from the policy would be incorporated into the memoir as they are formalised.

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ACKNOWLEDGEMENTS

The Technical, Research and Public Policy Committee (TRPPC) continues to initiate the review of this memoir to ensure not only it contains in summarised form, important and relevant amendments made to the Nigeria's tax system but to ensure also that the memoir continues to provide the busy Chartered Accountants, a first reference point for taxation matters. Similar to previous updates, this 5^{th} edition represents the output of the committed work of a two-man Ad-hoc committee that comprised Professor Kabiru I. Dandago FCA, Bayero University, Kano, and Mr. Chukwu Nwaze FCA, both of whom deserve special acknowledgement. As this memoir remains a compendium of contributions from various individuals in the past, the background contributions from the various categories of individuals would continue to be acknowledged.

The TRPPC would like to acknowledge specially Mr. Doyin Owolabi FCA, ICAN President, 2012/2013, who chaired many of the TRPPC's meetings where initial discussions to update this memoir took place. Also the Vice President, 2012/2013, Alhaji Kabiru Mohammed FCA, under whose chairmanship of the TRPPC the review of the memoir was commissioned, you are well acknowledged. In appreciation, the TRPPC welcomes Mr. Chidi Ajaegbu FCA, ICAN 1^{st} Deputy Vice President 2012/2013 under whose TRPPC's chairmanship the updated version of the memoir was completed and published. My early discussions with the Registrar/Chief Executive, Mr. Olutoyin Adepate FCA, who encouraged the update and the contributions of the Deputy Registrar, Technical Services, Mr. Abel Asein ACA, during deliberations on the update at the various TRPPC's meetings are indeed appreciated and acknowledged. Mr. Gbolahan Akinlawon FCA, ICAN Tax Faculty, who volunteered to source out some of the materials is acknowledged.

Finally, on behalf of the TRPPC, I want to appreciate the Research & Technical Department staff, B. U. Iwo, S. A. Akande, G. Omorodion, Daisi Ogunnoiki and Mrs. Modinat Koku all of who did not only demonstrate dedication to ensure all the amendments were identified and updated but equally did so while I was on other official engagements that prevented my attendance at most of the meetings of the Ad-hoc committee. I want to say a special thank you to you all.

Emmanuel Ogbonnaya MSc, FCA,
Secretary, Research, Technical and Public Policy Committee.
Director, Research and Technical Directorate
August, 2012.

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(c) A representative of the Attorney General of the Federation;

(d) The Governor of the Central Bank of Nigeria (CBN) or his representative;

(e) A representative of the Minister of Finance not below the rank of a Director;

(f) The Chairman of the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) or his representative who shall be any of the Commissioners representing the 36 States of the Federation;

(g) The Group Managing Director of the Nigerian National Petroleum Corporation (NNPC) or his representative who shall not be below the rank of a Group Executive Director of the Corporation or its equivalent;

(h) The Comptroller-General of the Nigeria Custom Service (NCS) or his representative not below the rank of a Deputy Comptroller-General;

(i) The Registrar-General of the Corporate Affairs Commission (CAC) or his representative who shall not be below the rank of a Director; and

(j) The Chief Executive Officer of the National Planning Commission (NPC) or his representative who shall not be below the rank of a Director.

1.4 POWERS OF THE BOARD (S.7)

(a). Provide the general policy guidelines relating to the functions of the Service;

(b) Manage and superintend the policies of the service on matters relating to the administration of the revenue assessment, collection and accounting system under this Act or any enactment or law;

(c) Review and approve the strategic plans of the Service;

1. FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT, 2007.

1.1 ESTABLISHMENT OF THE FEDERAL INLAND REVENUE SERVICE (S. 1)

This Act provides for the establishment of the Federal Inland Revenue Service (FIRS) charged with powers of assessment, collection of and accounting for revenue accruable to the Government of the Federation and for all related matters.

There is established a body to be known as the Federal Inland Revenue Service, which shall be a body corporate and may acquire, hold or dispose properties for the purpose of carrying out any of its functions, with perpetual succession and common seal.

1.2 OBJECTS OF THE SERVICE (S.2)

The object of the Service shall be to control and administer the different taxes and laws in the First Schedule and other laws made from time to time and to account for all taxes collected.

1.3 ESTABLISHMENT AND COMPOSITION OF THE MANAGEMENT BOARD (S.3)

There is established for the Service a Board known as the Federal Inland Revenue Board, which has overall supervision of the Service as specified under this Act.

The Board consists of:

(a) The Executive Chairman of the Service who shall be experienced in taxation as Chairman of the Service to be appointed by the President and subject to the confirmation of the Senate;

(b) Six members with relevant qualifications and expertise who shall be appointed by the President to represent each of the six geo-political zones;

1.8 APPOINTMENT AND FUNCTIONS OF THE EXECUTIVE CHAIRMAN OF THE SERVICE (S. 11)

(a) Appointed by the President subject to the confirmation of the Senate;

(b) Be the Chief Executive and Accounting officer of the Service;

(c) Be responsible for the execution of the policy and the day-to-day administration of the affairs of the Service; and

(d) Have relevant experience and skills in Accountancy, Economics, Taxation, Law and related fields.

1.9 APPOINTMENT AND FUNCTIONS OF THE SERCRETARY AND OTHER STAFF OF THE SERVICE (S.12)

There shall be a Secretary for the Board who shall be appointed by the Board from within the Service to undertake the following responsibilities:-.

(a) Issue notice of meeting of the Board;

(b) Keep records of the proceedings of the Board meetings; and

(c) Carry out such duties as the Executive Chairman or the Board may, from time to time, direct.

1.9.1 EMPLOYEES (S. 12.2)

The Board may appoint such other persons to be employees of the Service and on such terms and conditions as may be prescribed by the Board.

1.9.2 CONSULTANTS (S. 12.4)

The Service may appoint and/or employ such consultants, including Tax Consultants or Accountants and Agents to transact any business or to do any act required to be transacted or done in the execution of its functions under this Act,

(d) Employ and determine the terms and conditions of service including disciplinary measures of employees of the Service;

(e) Stipulate remuneration, allowances, benefits and pensions of staff and employees in consultation with the National Salaries, Income and Wages Commission (NSIWC); and

(f) Do such other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Service under this Act.

1.5 FUNCTIONS OF THE SERVICE (S.8)

(a) Assess persons including companies and enterprises chargeable to tax;

(b) Assess, collect, account and enforce payment of taxes as may be due to the Government or any of its Agencies;

(c) Collect, recover and pay to the designated account any tax under any provision of this Act or any other enactment or law;

(d) In collaboration with the relevant Ministries and Agencies, review the tax regimes and promote the application of tax revenues to stimulate economic activities and development;

(e) In collaboration with the relevant law enforcement agencies, carry out the examination and investigation with a view to enforcing compliance with the provisions of this Act;

(f) Make, from time to time, a determination of the extent of financial loss and all other such losses by government arising from tax fraud or evasion and such other losses(or revenue forgone) arising from tax waivers and other related matters;

(g) Adopt measures to identify, trace, freeze, confiscate or seize proceeds derived from tax fraud or evasion;

(h) Adopt measures which include compliance and regulatory actions, introduction and maintenance of investigative and control techniques on the detection and prevention of non-compliance;

(i) Collaborate and facilitate rapid exchange of information with relevant national or international agencies or bodies on tax matters;

(j) Undertake exchange of personnel or other experts with complementary agencies for purposes of comparative experience and capacity building;

(k) Establish and maintain a system for monitoring international dynamics of taxation in order to identify suspicious transactions, the perpetrators and other persons involved;

(l) Provide and maintain access to up-to-date and adequate data and information on all taxable persons, individuals, corporate bodies or all agencies of government involved in the collection of revenue for the purposes of efficient, effective and correct tax administration and to prevent tax evasion or fraud;

(m) Maintain database of statistics, records and reports on persons, organizations, proceeds, properties, documents or other items or assets related to tax administration, including matters relating to waivers, fraud or evasion;

(n) Undertake and support research on similar measures with a view to stimulating economic development and determine the manifestation, extent, magnitude and effects of tax fraud, evasion and other matters that affect effective tax administration and make recommendations to the government on appropriate intervention and preventive measures;

(o) Collate and continually review all policies of the Federal Government relating to taxation and revenue generation and undertake a systematic and progressive implementation of such policies;

(p) Liaise with the office of Attorney-General of the Federation, all government security and law enforcement agencies and such other financial supervisory institutions for the enforcement and eradication of tax related offences;

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(q) Issue taxpayer identification number to every taxable person in Nigeria in collaboration with State Boards of Internal Revenue and Local Government Tax Authorities;

(r) Carry out and sustain rigorous public awareness and enlightenment campaign on the benefits of tax compliance within and outside Nigeria;

(s) Carry out oversight functions over all taxes and levies accruable to the Government of the Federation and as it may be required, query, subpoena, sanction and reward any activities pertaining to the assessment, collection of and accounting for revenues accruable to the Federation; and

(t) Carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions under this Act.

1.6 ESTABLISHMENT OF TECHNICAL COMMITTEE OF THE BOARD (S. 9)

There shall be a Technical Committee of the Board comprising:

(a) The Executive Chairman of the Service as Chairman.

(b) All the Directors and heads of departments of the Service.

(c) The Legal Adviser of the Service.

(d) The Secretary to the Board.

1.7 FUNCTIONS OF THE TECHNICAL COMMITTEE (S. 10)

(a) Consider all tax matters that require professional and technical expertise and make recommendations to the Board;

(b) Advise the Board on any aspect of the functions and powers of the Service under this Act; and

(c) Attend to such other matters as may from time to time be referred to it by the Board.

j. Recover tax by a civil action brought by the Service against a taxpayer.

k. Co-opt the assistance and co-operation of any of the law enforcement agencies in the discharge of its duties under this Act.

provided that such consultants shall not carry out duties of assessing and collecting tax or routine responsibilities of tax officials.

1.10. FUNDS OF SERVICE (S.15)

1.10.1 INCOME

The Service shall establish and maintain a fund, which shall consist of and to which shall be credited;

(a) A percentage as determined by the National Assembly of all non-oil and gas revenue collected by the Service which may be appropriated by the National Assembly for the capital and recurrent expenditures of the Service;

(b) All sums of money accruing to the Service by way of grants-in-aid and gifts, testamentary dispositions, endowments and contributions from any source;

(c) Such monies as may from time to time be granted to the Service by the Federal, State and Local Governments or other donor agencies provided such grants are not intended for purposes contrary to the objects and functions of the Service; and

(d) All other monies, which may, from time to time, accrue to the Service for other services including the disposal, lease or hire of, or any other dealing with, any property vested in or acquired by the Service.

1.10.2 EXPENDITURE OF THE SERVICE.

The authorized expenditures, which the Board may defray out of the funds set out in 1.12.1 above, are:

(a) Emolument and allowance payable to the Executive Chairman and other members of the Board.

(b) The Service may expressly authorize reimbursements to members of the Board or any member of committee set up by the Board for such expenses as:-

(i). Remuneration and other cost of employment of staff of the Service;

(ii) Amounts payable as pensions and other retirement benefits under or pursuant to this Act or any other enactment;

(iii) Costs of acquisition and upkeep of premises belonging to the Service and any other capital expenditure of the Service;

(iv) Investments, maintenance of utilities, staff promotion, training, research and similar activities;

(v) Costs necessary for the day-to-day operations of the Service.

(vi) Any other payments for anything incidental to the foregoing provisions or in connection with or incidental to any other function of the Service under or pursuant to this Act.

1.10.3 POWERS OF THE SERVICE (S.25 – 39)

The Service shall have power to:

(a) Administer all the enactments listed in the first schedule to this Act and any other enactments or laws on taxation in respect of which the National Assembly may confer power on the Service.

(b) Call for returns, books, documents and information (oral or in writing) for the purpose of obtaining full information in respects of profits or income of taxable persons.

(c) Call for further returns and payment of tax due in writing.

(d) Demand that every Bank prepare upon demand by the Service, quarterly returns specifying;

(i) In the case of an individual, all transactions including and up to the sum of ₦5,000,000 and above: or.

(ii). In the case of a body corporate, all transactions involving the sum of ₦10,000,000 and above, the names and addresses of all customers of the bank connected with the transactions and deliver the returns to the Service

(iii). The names and addresses of new customers not exceeding 7th day of the succeeding month.

e. At all reasonable times have free access to all lands, buildings, places, building books and document to carry out their lawful functions.

f. Remove books and documents from business premises to enhance their lawful duties.

g. Appoint any person by notice in writing (appoint any person) to be the agent of a taxable person and require him to pay any tax payable by the taxable person from any money, which may be held by the agent of the taxable persons. When the agent defaults, the tax shall be recoverable from him.

h. Impose additions for non-payment of tax within one month Penalty specified in the law is 10% of the Naira remittances and attracts interest at the prevailing Minimum Rediscount Rate (MRR) (now the Monetary Policy Rate - MPR) of the Central Bank of Nigeria (CBN) plus spread to be determined by the Minister from the date the tax becomes payable.

For foreign currency remittance, interest shall be at the prevailing London Inter Bank Offer Rate (LIBOR) or the prevailing Monetary Policy Rate (MPR) of the Central Bank of Nigeria **whichever is higher**.

i. To distrain the taxpayer of his goods or other chattels, bonds, land premises, etc, if tax is not paid within the speculated period after the final demand notice has been issued.

1.12 SCHEDULES TO THIS ACT

1.12.1First Schedule (S.2, 25 & 68):-

The legislations to be administered by the Service are:-

(i). Companies Income Tax (Amendment) Act, 2004
(ii). Petroleum Profits Tax Act, Cap 354 LFN, 1990
(iii). Personal Income Tax (Amendment) Act, 2011
(iv). Capital Gains Tax Act, Cap 42, LFN, 1990
(v). Value Added Tax (Amendment) Act, 2007
(vi). Stamp Duty Act, Cap 411, LFN 1990
(vii). Taxes and Levies (Approved List for Collection) Act, 1998 CAP T.2 LFN 2004.
(viii). Laws relating to the imposition and collection of taxes, fees and levies in respect of Signature Bonuses, Pipeline fees, Penalty for gas flared, depot levies and licenses**,** fees for Oil Exploration License (OEL), Oil Mining License (OML), Oil Producing License (OPL), Royalties, Rents (productive and non-productive), fees for license to operate drilling rigs, fees for oil pipelines License, haulage fees etc

1.12.2 **Second Schedule (S. 3.4):-** This deals with the proceedings of the Board at meetings.

1.12.3 **Third Schedule (S. 29.7a):-** This deals with the form for authorization to access lands, buildings books and documents

1.12.4 **Fourth Schedule:-** This deals with the warrant of Distraint.

1.12.5 **Fifth Schedule:-** This deals with the Establishment, Jurisdiction, Authority and Procedures of the Tax Appeal Tribunal.

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1.11 OFFENCES AND PENALTIES (S. 40 – 49)

Rights and Obligations transferred.

The administration and control of all rights, obligations and liabilities that were under the administration and control of the former Board are hereby transferred to the Service established under this Act.

S/N	OFFENCES	PENALTIES
1.	Failure to deduct or remit tax to the Service within 30 days of deductions.	10% of the tax per annum and interest at the prevailing Central Bank of Nigeria Monetary Policy Rate (MPR) and imprisonment for a period of not more than 3years.
2.	Obstructs, hinders, molest or assaults any person or authorized officer in the performance of any function or exercise of any power under this Act.	Shall be liable to a fine, on conviction, of ₦200, 000.00 or imprisonment for a term not exceeding 3 years or to both fine and imprisonment.
3.	False information by any taxable person.	Shall be liable on conviction to a fine not exceeding ₦200,000.00 in addition to payment of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term not exceeding 3 years or to both fine and imprisonment.
4.	Any person who counterfeits or falsifies any document, which is required by or for the transaction of any business	Shall be liable on conviction to a fine of ₦200,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

	under this Act and knowingly accepts, receives or other mark.	
5.	Any person who is appointed for the due administration of this Act; who demands from any company an amount in excess of the authorized assessment of the tax, or withholds for his own use or otherwise any portion of the amount of tax collected; or renders a false return, whether orally or in writing, of the amount of tax collected or received by him.	Shall be liable to a fine equivalent to 200 per cent of the sum in question or to imprisonment for a term of not exceeding 3 years or both fine and imprisonment.
6(a) 6(b)	Any person who in the commission of an offence under this Act is armed with any offensive weapon. Any person, who while armed with an offensive weapon, causes injury to any officer or authorized officer of the Service in the performance of any function or duty under this Act.	Shall be liable on conviction to imprisonment for a term not exceeding 5 years. Shall be liable on conviction to imprisonment for a term not exceeding 10 years.
7	For the purpose of gaining an entrance into a building, any person not being an authorized officer, assumes the name, designation or impersonates the character	Shall be liable on conviction to a fine not exceeding ₦200,000.00 or to imprisonment for a term not exceeding 3 years.

	of an authorized officer.	
8	Any person who contravenes any provision of this Act for which no specific penalty was provided.	Shall be liable on conviction to a fine not exceeding ₦50,000.00 or to imprisonment for a term of imprisonment not exceeding 6 months or to both fine and imprisonment.
9	Where a body corporate or firm or other association of individuals commits an offence under this Act. (a) every director, manager, secretary or other similar officer of the body corporate; (b) every partner or officer of the firm; (c) every person concerned in the management of the affairs of the association; or (d) every person who was purporting to act in any capacity.	Shall be liable to be procured against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

2 TAXES AND LEVIES (APPROVED LIST FOR COLLECTION) ACT, 1998

2.1 RESPONSIBILITY FOR COLLECTING CERTAIN TAXES AND LEVIES (S.1)

Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria, 1999, as amended, or in any other enactment or law, the Federal Government, State Government and Local Government shall be responsible for collecting the taxes and levies listed in Part 1, Part 11 and Part 111 of the schedule to this Act.

The Minster for Finance may, on the advice of the Joint Tax Board (JTB) and by Order published in the *Gazette*, amend the schedule to this Act.

2.2 ASSESSMENT AND COLLECTION OF TAXES (S.2)

Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria, 1999, as amended, or in any other enactment or law, no person, other than the appropriate Tax Authority shall assess and collect, on behalf of the Government, any tax or levy listed in the schedule to this Act and members of the Nigerian Police Force (NPF) shall only be used in accordance with the provisions of the Tax Laws.

A person, including the Tax Authority, shall not mount a roadblock in any part of the Federation for the purpose of collecting any tax or levy.

2.3 OFFENCES AND PENALTIES

A person who:-

a. collects or levies any tax or levy; or
b. mounts a roadblock or causes a road to be blocked for the purpose of collecting any tax or levy in contravention of S.2 of this Act, is guilty of an offence and liable on conviction to a fine of ₦50,000 or imprisonment for three years or both.

2.4 SCHEDULES TO THE ACT (S.1)

2.4.1 PART 1: - Taxes to be Collected by the Federal Government of Nigeria are:

1. Companies Income Tax
2. Withholding Tax on Companies, Residents of the Federal Capital Territory (FCT), Abuja and non-resident individuals
3. Petroleum Profits Tax
4. Value Added Tax
5. Education Tax
6. Capital Gains Tax on residents of the Federal Capital Territory (FCT) Abuja, Bodies Corporate and non-resident individuals.
7. Stamp Duties on bodies corporate and residents of the FCT
8. Personal Income Tax in respect of :-
    (a) Member of the Armed Forces of the Federation
    (b) Member of the Nigerian Police Force (NPF)
    (c) Resident of the Federal Capital Territory, Abuja
    (d) Staff of the Ministry of Foreign Affairs and
    (e) Non-resident individuals

2.4.2 PART 11: - Taxes and levies to be Collected by the State Governments:

1. Personal Income Tax in respect of:-
    (a) Pay-As-You-Earn (PAYE); and
    (b) Direct taxation (Self Assessment)
2. Withholding Tax (individuals only)
3. Capital Gains Tax (individuals only)
4. Stamp Duties on instruments executed by individuals
5. Pools betting and Lotteries, Gaming and Casino Taxes
6. Road Taxes
7. Development Levy (individuals only) and not more than ₦100 per annum on all taxable individuals
8. Naming of Street Registration fees in the State Capital
9. Right of Occupancy fees on lands owned by the State Government in urban areas of the state
10. Market taxes and levies where state finance is involved

11. Business Premises Registration (BPR) fees in respect of:-
    a. Urban Areas as defined by each State maximum of
        (i) ₦10,000 for registration, and
        (ii) ₦5,000 per annum for renewal of registration; and
    b. Rural Areas:-
        (i) ₦2,000 for registration, and
        (ii) ₦1,000 per annum for renewal of registration.

2.4.3 PART 111: -Levies and Charges to be Collected by the Local Governments of Nigeria are:

1. Shops and Kiosks rates
2. Tenement rates
3. On and off liquor license fees
4. Slaughter slab fees
5. Marriage, Birth and Death registration fees
6. Naming of street registration fees, excluding any street in the state capital
7. Right of Occupancy fees on lands in rural areas, excluding those collectible by the Federal and State Governments
8. Market taxes and levies excluding any market where state finance is involved
9. Motor park levies
10. Domestic annual license fees
11. Bicycle, truck, canoe, wheelbarrow and other cart fees, other than a mechanically propelled truck
12. Cattle tax payable by cattle farmers only
13. Merriment and road closure levy
14. Radio and television license fees (other than radio and television transmitter)
15. Vehicles radio license fees (to be imposed by the Local Government of the State in which the car is registered)
16. Public convenience, sewage and refuse disposal fees
17. Wrong parking charges
18. Customary burial ground permit fees
19. Religious places establishment permit fees; and
20. Signboard and advertisement permit fees

years, assessments are based on accounts of the immediately preceding year.

The word actual refers to the actual number of months in the government financial year, i.e. January to December, irrespective of the financial year end of the organization (tax payer).

There are 2 ways of assessment in the commencement period and the taxpayer has the right within the stipulated period of two years after the second year of assessment to choose which he prefers.

3.2.2

Year of Assessment	**First Choice**	**Second Choice**
1st Year	Actual Income of the fiscal year	Actual income of the fiscal year
2nd Year	Income of the first 12 months	Actual Income of the fiscal year
3rd Year	Preceding year Income	Actual Income of the fiscal year
4th Year	Preceding year Income	Preceding Year Income

EXAMPLE:

As an example, take a company which commenced business on April 1, 20 x 4 adopting November 1 to 31st October as its financial year. The basis periods for the first four years of assessment are as stated hereunder

	First	**Second**
1st year (20x4)	1/04/x 4 to 31/12/x 4	1/04/ 4 to 31/12/ 4
2nd year (20x5)	1/04/x 4 to 31/03/x 5 (1/04/x 4 to 31/10/x 4) (1/11/x 4 to 31/03/x5)	1/01/ x 5 to 31/12 x 5
3rd year (20x6)	1/11/x 4 to 31/10/x 5	1/01/ x 6 to 31/12/ x6
4th year (20x7)	1/11/x 5 to 31/10/x6	1/11/ 5 to 31/10/ x6

3. COMPANIES INCOME TAX (AMENDMENT) ACT, 2007

3.1 RETURNS, ASSESSMENT & PAYMENT

3.1.1 Every company is expected to submit information in accordance with the Federal Inland Revenue Service's standard questionnaire (see appendix A/1) to the tax office with the following documents:

(i) Photocopy of Certificate of Incorporation with the original compulsorily sighted.

(ii) Signed copy of the Memorandum and Articles of Association.

(iii) Letter of Authority appointing a firm (if any) as Tax Consultants, to deal with the FIRS on its behalf.

3.1.2 FILING OF ACCOUNTS AT THE TAX OFFICE

(i) Every company must file its annual tax returns with the tax office within 6 months after the end of its financial year in accordance with the provisions of the existing Act.

(ii) After this date the accounts filed shall be deemed late and will attract a penalty. The penalty for late submission of audited accounts is currently ₦25,000 in the month of default and ₦5,000 for every subsequent month in which the failure continues.

(iii) Newly incorporated companies should file tax returns within eighteen months from the date of incorporation or not later than 6 months after the end of its first accounting period, whichever is earlier.

(iv) Extension of time can be granted upon application subject to being made before the expiration of the initial period and showing good cause for inability to meet the initial stipulated period.

3.1.3 ASSESSMENT OF INCOME TAX

(a) **Currency of Assessment**

Assessment shall be made in the currency in which the transaction giving rise to the assessment was effected. This is inclusive of any penalty or interest chargeable.

(b) **Objection to Assessment**

Objection to an assessment should contain the following, to make such objection valid;

- Amount of Assessable and Total Profit
- The amount of tax payable
- Year of assessment

Objection must be made not later than 30 days from the date of service of the disputed assessment.

(c) **General**

All assessments are payable within 2 months from the date of service of the assessment notice after which they become late and attract penalties and interest. (See Self Assessment)

(i) If an assessment is disputed it must be objected to within 30 days from the date of service of the assessment notice. An objection is valid, when amongst others, it complies with (b) above.

(ii) All tax assessments relating to each tax return must be paid within two months from the date of the assessment notice or before December 14, of every year, whichever comes earlier.

(iii) Penalty for late payment is 10% flat of tax due plus interest at bank lending rate, until it is paid.

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3.1.4 COLLECTION OF TAXES

The Federal Inland Revenue Service now collects all forms of taxes due to it via selected banks. Payment should be done at the relevant bank branch zoned to the tax office where the tax matters of the company are being dealt with.

To make payment for taxes, the following documents should be made available;

(i) Any of the following:
- Self assessment form.
- Assessment notice (as issued by tax office)
- Withholding tax schedule
- Demand for provisional tax, or
- Demand note for Penalty and Interest.

(ii) A cheque, draft, cash or any other acceptable payment instrument for the tax payable.

(iii) A duly completed pay-in-slip (teller) which is to be collected from the cashier of the designated branch of the selected bank and clearly stating the Tax Identification Number (TIN) of the Taxpayer.

An official receipt for the payment will be issued to the taxpayer by the relevant tax office when the designated bank has confirmed that the money has been duly received. Receipt for money paid by cheque or draft will be issued after 5 working days of making payment while cash payment receipt shall be available after 3 days.

Please, ask the relevant tax office for the appropriate designated bank so as to avoid unnecessary delay.

3.2 BASIS PERIOD OF ASSESSMENT

3.2.1 METHOD

Except for the year of commencement and year of cessation when assessments are based on actual year basis, for all other (individuals and corporate bodies) on that source of income.

3.6 TAX INCENTIVES

3.6.1 GENERAL

Small manufacturing companies are those with less than ₦1million turnover.

(1) They are to pay income tax at 20% for the first 5 years of commencing business.
(2) Dividends from small manufacturing companies are exempted from tax for the first 5 years of business operations.
(3) No tax is payable on interest charged by banks for manufacturers of export goods.
(4) Dividend derived from manufacturing companies in the petrochemical and liquefied natural gas sub-sectors are tax exempt.
(5) There are no restrictions on capital allowances claimable by manufacturing companies.

3.6.2 COMPANIES ENGAGED IN EXPORT TRADE

With effect from 1st January 1995:

(i) The profits of any Nigerian Company in respect of goods exported from Nigeria of which the proceeds from such exports are repatriated to Nigeria and/or used exclusively for the purchase of raw materials, plant and equipment and spare parts, are exempted from tax.

(ii) The profit of companies whose products are used exclusively as inputs for the manufacturing of products for exports is tax exempt.
For this purpose, the exporter must give a certificate of purchase of the input of exportable goods to the seller before the profit can be eligible for tax exemption

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3.2.3 Interpretation of the Basis Period for the 3rd Year of Assessment

Where the preceding year basis period rolls into the third year and it is for a period of less than 12 months, a problem of determining amount taxable arises.

Calculations to show the effect of this problem are shown as appendices C/1 and C/2

3.3 SELF-ASSESSMENT AND ITS INCENTIVES

Self-assessment is the most convenient means of payment of tax. Immediately the audited accounts with the relevant tax computations are filed, tax due as computed can be paid through the designated bank/branch relevant to the tax office.

Self-Assessment Incentives

(i) Non-payment of provisional tax
(ii) Instalment payments of tax due in not more than four instalments are allowed, if an application made to FIRS for such is granted.
(iii) Returns (Accounts and Computations) can be filed within 8 months of the company's year end.

Conditions

(i) With effect from 1st January 1996, all companies with a turnover of One Million Naira and above are required to file self-assessment returns.
(ii) Companies having less than One Million Naira turnover shall compulsorily file self assessment returns as from 1998 year of assessment.

3.4 PROVISIONAL TAX

3.4.1 DEFINITION AND PAYMENT

Provisional Tax is an advance payment of income tax to the relevant tax year. It is not an assessment and should not be treated as a substitute for an assessment.

When it is due and paid, it is to be utilized as a set-off against the assessment for the year.

If provisional tax remains unpaid up to 31st March of each tax year, it will attract penalty and interest.

3.4.2 WHEN APPLICABLE

All companies not filling self-assessment are to pay provisional tax, which is the equivalent of the tax paid in the immediately preceding year. It is also payable where the collection of tax is in abeyance following an objection or an appeal and such that the provisional tax is higher than the tax not in dispute.

The tax is due for payment not later than 31st March of the financial year-end.

3.4.3 INSTALMENTAL PAYMENT

In order to enjoy the facility of paying the tax due instalmentally, written permission must be obtained from the FIRS. Payment of provisional tax may not extend beyond 30th April, of the year to which the payment relates unless with the expressed approval of the FIRS.

3.5 WITHHOLDING TAX

3.5.1 RATES

	From 1996 - 2009
Dividends, Interest, Rents and Directors' Fees	10%
Royalties (before 1/01/2000 - 15%)	10%
Commissions, Professional Services, Consultancy Services, Management and Technical Services (Corporate Bodies 10%).	5%
Building and Construction Jobs	5%
Contracts for supplies, etc	5%

3.5.2 FAILURE / PENALTY

Failure to deduct or, having deducted, but fails to remit withholding tax within 21 days is liable to a penalty of 10% per annum.

3.5.3 REMITTANCE

Withholding Tax from payments made to individuals is payable to the government of the recipient's state of residence. That of Abuja resident is to the Federal Inland Revenue Service.

Withholding Tax from payments made to limited liability companies should be paid to Federal Inland Revenue Service (FIRS).

3.5.4 UTILISATION

Withholding Tax is an advance payment of the tax due from the recipient's income and should be netted off against the income tax payable by the individual or corporate body from whom deduction is made.

Withholding tax for which credit has not been given can be carried forward and applied in settling tax due for future years.

3.5.5 WITHHOLDING TAX ON INVESTMENT INCOME

(1) Non-Residents

Withholding tax on dividends, interest, rents and royalties payable to non-residents remains the final tax.

(2) Residents

Between January 1992 and 31st December, 1995 the withholding tax suffered by residents was regarded as payment on account of their ultimate tax liability for any given tax year.

With effect from 1st January 1996, withholding tax on dividends became the final tax due from the shareholder

Small companies are those with a turnover of not more than ₦2million per annum and net assets value is not more than ₦1million

The National Assembly may, on the proposal by the President, by a resolution of each of the two Houses of the National Assembly impose, change, withdraw or cancel any rate of tax, duty or chargeable fee.

3.7.2 UNIT TRUSTS

With effect from 1st January 1996 the dividends from Unit Trusts will be tax exempt and no further tax is chargeable on such dividend.

3.7.3 RENT CHARGES ON RESIDENTIAL ACCOMMODATION

With effect from 1st January 1996 the lower of actual rent paid and 100% of the basic salary of the employee, will be tax allowance. It is assumed that this restriction is applicable in determining the allowable deductions for expenses incurred by companies in respect of residential accommodation for their employees as opposed to cash allowances paid to employees as housing allowance.

3.8 MINIMUM TAX

3.8.1 CHARGE

Where in any year of assessment, the ascertainment of total assessable profits from all sources of a company results in a loss or where a company's ascertained total profits results in no tax payable or tax payable which is less than the minimum tax, there shall be levied and paid by the company, the minimum tax as prescribed in paragraph 3.8.2 below.

Minimum tax charge is applicable to companies that have been in business for at least 4 calendar years.

3.6.3 TAXATION OF EXPORT FREE ZONE ENTERPRISES

All new industrial undertakings, including foreign companies and individuals, operating in any Export Processing Zone or free trade zone in Nigeria shall be exempted from tax on their profit, provided that 100% production of such company is for export otherwise tax shall accrue proportionately on the profit of the company.

3.6.4 TAX RELIEF TO EXPORT -ORIENTED ENTERPRISES

The profit or gains of export-oriented undertakings established outside an export free zone shall be fully exempted from companies income tax for three consecutive assessment years, provided that:

(i) The undertaking is 100% export oriented.

(ii) The undertaking is not formed by splitting up or the reconstruction of a business already in existence.

(iii) It manufactures or produces and exports during the relevant year, and the proceeds of goods exported during the year is not less than 75% of its turnover for the year

(iv) The undertaking is not formed by transfer of machinery or plant previously used for any purpose to the new undertaking or where it does, the written down value does not exceed 25% or the total value of the plant and machinery.

(v) That the undertaking repatriates at least 75% of the export earnings to Nigeria and places this in the domiciliary account with a bank in Nigeria.

3.6.5 SOLID MINERALS

Companies engaged in the mining of solid minerals are entitled to claim Initial and Annual Allowances as below:

Initial Allowance	95%
Annual Allowance	Nil

In addition, they are to enjoy tax-free holiday for the first 3 years of operation.

3.6.6 REPLACEMENT OF INDUSTRIAL PLANTS AND MACHINERIES

Plant and machinery purchased to replace old ones are to enjoy a once and for all 95% capital allowances in the first year and the remaining 5% is to be retained as the book value until the final disposal of the asset.

3.6.7 TAX INCENTIVES FOR HOTELIERS AND TOURISM SERVICES

25% of income derived from tourism by hotels in convertible currencies will be exempted from tax with effect from 1996, provided such incomes are set aside and put in a reserve fund to be utilized within 5 years in expansion of the construction of new hotels, conference centres and new facilities useful for tourism development. The amount to be allowed as deductible shall not exceed 15% of total profit or 25% of taxable profit, whichever is higher.

3.6.8 TAX INCENTIVES FOR RESEARCH AND DEVELOPMENT

(i). With effect from 1st January 1996, companies and other organizations that engage in Research and Development activities for commercialization are to enjoy 20% Investment Tax Credit (ITC) on their qualifying capital expenditure.

(ii). Donations to universities and Research Institutions are tax deductible.

3.6.9 TAX FREE INTERESTS EARNED FROM LOANS TO EXPORT – ORIENTED COMPANIES

The existing law provides for a certification by the Nigerian Export Promotion Council (NEPC) before a company can be

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classified as manufacturing for export. The classification qualifies the interest on the loan granted by a bank to such a company to be exempted from income tax. The amendment seeks to substitute the requirements of the classification with the following conditions:

(a) That at least 50% of the manufactured goods must be exported, and
(b) That not less than 75% of the export proceeds are repatriated to Nigeria through Government approved channels.

3.6.10 TAX FREE INTEREST EARNED FROM LOANS TO AGRICULTURAL BUSINESS

(1) Interest payable on foreign loan granted on or after 1st April, 1978 shall be exempted from tax as prescribed in the Third Schedule to this Act.
(2) Interest on any loan granted by a bank on or after 1st January, 1997 to a company engaged in:
    (a) Agricultural trade or business, or
    (b) The fabrication of any local plant and machinery; or
    (c) Providing working capital for any cottage industry established by the company shall be exempted from tax, provided the moratorium is not less than eighteen months and the rate of interest on the loan is more than the base lending rate at the time the loan was granted.

3.7 TAX RATES & OTHERS

3.7.1 RATE OF TAXES

Year of Assessment	1996 to Date	1995	1994
The rates of income tax payable:			
- For a small manufacturing company	20%	20%	35%
- For an agricultural trade or business	20%	20%	35%
- For all other companies	30%	35%	35%

application should be supported with a pre-operational levy of ₦20,000. Each subsequent year of non-commencement of business will attract a pre-operational levy of ₦25,000.

(ii) Payment is now expected to be made at the designated banks whether in cash, cheque or draft in favour of: Federal Government of Nigeria–FIRS – Pre-operational Levy Account.

(iii) If the company has commenced business, accounts should be submitted within 18 months of the date of incorporation and every 12 months thereafter.

If a company has not commenced business after 18 months of the date of incorporation, it has to submit a Statement of Affairs when it is applying for tax clearance certificate.

Refusal
Reasons for refusal to issue TCC must be given in writing within one or two weeks of submission to the relevant tax office.

Period of Coverage
This certificate is for a period of 1 year, January to December of the year it is given.

LOSS RELIEF (S. 27.a.iii)
Carrying forward of losses which was limited to 4 years have now been deleted; such that losses can now be carried forward indefinitely.

3.15 TAXATION OF INSURANCE COMPANIES

3.15.1 ACTUARIAL REVALUATION
Not more than 3 months after an actuarial revaluation of the unexpired risks or any other revaluation has taken place,

3.8.2 CALCULATION

For the purpose of subsection 3.8.1 above, minimum tax is to be levied as follows:

(a) If the turnover of the company is ₦500,000 or below:

(i) 0.5 per cent of gross profits; or
(ii) 0.5 per cent of net assets; or
(iii) 0.25 per cent of paid-up capital; or
(iv) 0.25 per cent of turnover,

Whichever is the highest

(b) Where the turnover is above ₦500,000, the tax payable is the highest from (a) above plus 0.125% of the excess of turnover over ₦500,000.

3.8.3 EXCEPTIONS
(a) A company with at least 25 per cent imported equity capital; and
(b) A company in its first four calendar years of the commencement of business
(c). A company engaged in agricultural business

3.9 CAPITAL ALLOWANCES AND ACCEPTANCE CERTIFICATE

3.9.1 CAPITAL ALLOWANCES (FROM 1996 to Date)

With effect from 1st January 1996 capital allowances for both personal and companies income taxes are as follows:

	INITIAL	ANNUAL
Building (Industrial & Non-Industrial)	15%	10%
Mining	95%	Nil
Plant for:-		
- Agricultural Production	95%	Nil
- Other uses	50%	25%
Furniture and Fittings	25%	20%
Motor Vehicles:-		
- Public Transportation	95%	Nil
- Others	50%	25%
Plantation Equipment	95%	Nil
Housing Estate	50%	25%
Ranching & Plantation	30%	50%
Research & Development	95%	Nil

3.9.2 ACCEPTANCE CERTIFICATE

With effect from 1st January 1995 the value of an asset for which certificate of acceptance is required has been increased from ₦20,000 to ₦500,000.

3.10 DIRECTORS' FEES IN PROPERTY COMPANIES

Directors' remuneration shall not exceed ₦10,000 per annum for each Director. The number of directors so remunerated shall in no case exceed three.

3.11 RENT ALLOWABLE FOR EMPLOYEE'S ACCOMMODATION

Up to 31st December 1995

	Building	Flat
	₦	₦
Lagos and Abuja (FCT)	56,000	28,000
Other parts of Nigeria	40,000	10,000

From 1st January 1996 to Date

Amount allowable shall be 100% of the basic salary of the employee

Note: This is only applicable in companies' income tax computation.

3.12 PENALTY FOR FAILURE TO PROVIDE TAX INFORMATION

Any company which fails to comply with the provision of subsection (2) shall be liable to pay as penalty for late filing:

(a) ₦25,000 in the first month in which the failure occurs; and
(b) ₦5,000 for each subsequent month in which the failure continues.

3.13 LIMIT OF CAPITAL CONTRIBUTION OF FOREIGN LOAN FOR TAX FREE INTEREST

In view of the depreciation of the Naira over time, the 2001 budget seeks to amend the law to raise the ceiling of ₦150,000 for capital portion of foreign loans that would qualify for tax relief to ₦5,000,000 (Five Million Naira).

3.14 TAX CLEARANCE CERTIFICATE

In all cases, a formal application for Tax Clearance Certificate, in the prescribed format, has to be made to the relevant tax office of the Federal Inland Revenue Service (FIRS). The relevant tax office is usually the FIRS office where the registered office of the company is located.
Three copies of the application form must be submitted. The specimen application form is attached as Appendix A/2.

These are some of the conditions to be met, to qualify for the issuance of tax clearance certificate:

(i) If the company fails to commence business within 6 months after registration, the

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the company shall provide the Board with full particulars of the revaluation carried out, including a copy of the actuary's revaluation certificate.

3.15.2 CLASSES OF INSURANCE ASSESSMENT

The assessment of insurance companies shall proceeds along the following lines:

(i) Where an insurance company carries on a life class and a general class insurance business, the funds and books of accounts of one class shall be kept separate from the other as though one class does not relate to the other class, and the annual tax returns of the two classes of insurance businesses shall be made separately.

(ii) Each class of insurance shall be assessed separately as "life insurance assessment "and" non-life (other) insurance assessment" and in respect of each class of insurance business where there are more than one type of insurance in the same class, they form one type of business and shall not be allowed against the income from another type of insurance business but the loss shall be available to be carried forward against profits from the same class of insurance business and, in all cases, the period of carrying forward of loss shall be limited to four years of assessment.

(iii) An insurance company, other than a life insurance company, shall be allowed as deductions from its premium the following reserves for tax purposes:

(a) For unexpired risks, 45 percent of the total premium in case of general insurance business other than marine insurance business and 25 percent of the total premium in the case of marine cargo insurance;

(b) For other reserves, claims and outgoings of the company, an amount equal to 25 percent of the total premium, so that, after allowance under the Second

Schedule to this Act as may be restricted, has been allowed for in any year of assessment, not less than an amount equal to 15 percent of the total profit of the company for tax purposes.

(iv) An insurance company, in respect of its life insurance business shall be allowed the following deductions from its investment incomes and other incomes:

(a) An amount which makes a general reserve and fund equal to the net liabilities on policies in force at the time of an actuarial valuation;

(b) An amount which is equal to 1 percent of gross premium or 10 percent of profits (whichever is greater) to a special reserve fund and accommodation until it becomes the amount of the statutory minimum paid – up capital;

(c) All normal allowable business outgoing, except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than all amount equal to 20 percent of the gross incomes shall be available as 'total profit' of the company for tax purposes.

3.16 DONATION BY COMPANIES

(i) Notwithstanding the provisions of section 20 of this Act, for the purpose of ascertaining the profit or loss of any company for the period from any source chargeable with tax under this Act, there shall be deducted the amount of donation to a university and other tertiary or research institutions for research or any developmental purpose or as an endowment out of the profits of the period by the company;

(ii) Without prejudice to section 21(2) and (3) of this Act, any donation made by a company pursuant to subsection 1 of

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this section shall be allowed as deductible by the company out of the profits of that period notwithstanding that the donation is of a revenue or capital nature;

(iii) Except as Minister with the approval of the Federal Executive Council may, by order in the Federal Gazette otherwise direct, any deduction to be allowed to any company under subsection (1) of this section shall not exceed an amount which is equal to 15 percent of the total profits or 25 percent of tax payable in the year of the donation whichever is higher".

3.17 ASSESSMENT IN THE SAME CURRENCY OF TRANSACTION

Notwithstanding anything to the contrary in any law, an income tax assessment shall be made in the currency in which the transaction was made.

3.18 EXECUTIVE AND LEGISLATURE TO COLLABORATE ON TAX RATE

The National Assembly may on the proposal by the President by a resolution of each of the House of the National Assembly impose, increase, reduce, withdraw or cancel any rate of tax, duty or fee chargeable specified in section 29 and Second Schedule to the Act in Accordance with section 59 (2) of the Constitution of the Federal Republic of Nigeria, 1999".

4.2 FRINGE BENEFITS AND ALLOWANCES

The allowances, which an employer is permitted to pay to an employee without deduction of tax, are:

Allowances	Upper Limit of Tax Exemption	
	1999	2000/2009
	₦	₦
Rent Subsidy/allowance	100,000 p.a	150,000 p.a
Transport Allowance	15,000 p.a	20,000 p.a
Meal Subsidy/Allowance	5,000 p.a	5,000 p.a
Utility Allowance	10,000 p.a	10,000 p.a
Entertainment Allowance	6,000 p.a	6,000 p.a
Leave Grant	10% of basic salary	10% of basic salary

Any excess over and above these amounts are taxable

4.3 RENT ALLOWANCE

(a) Where employers build houses for their employees' use, capital allowances are claimable by the employers on such housing estates. The employees are not to be taxed on such benefits in both the private and public sectors.

(b) Where employers pay rent allowances directly to employees or where benefit in kind are monetized and paid to employees, such allowances are to be taxed in the hand of the employees after approved deductible rent allowances as stated in 4.2 above.

4.4 PENSIONS

(a) Contribution to Pension Scheme

Where contributions are made by employees and employers to a Pension, Provident, Annuity or other Retirement Benefit Fund, Society or Scheme, approved by the National Pension Commission, for eventual retirement from gainful employment, the premium shall

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4. PERSONAL INCOME TAX (AMENDMENT) ACT 2011

4.1 PERSONAL ALLOWANCE

From 14th June 2011 to Date

The allowance is to be taken as consolidated reliefs allowance of ₦200,000 (subject to a minimum of 1% gross income, whichever is higher), plus 20% of the gross income.

From 1st January 1999 to 13th June 2011

Personal Income Tax under unified tax administration has the following reliefs:

Earned Income Allowance – (EIA) or Personal Allowance Granted on earned income (employment or business profit) to single or married person. This is claimable by all individual taxpayers with earned income.	₦5,000 + 20% of earned income (no limit to the amount of earned income).
Children Allowance – (CA) For children who are under 16 years and if over, he/she must be in an educational institution or under articles for a profession or trade. The children who must be maintained or in the custody of taxpayer, and in practice must not earn up to N1,000 in the particular tax year, such income is exclusive of sponsorship.	₦2,500 per child up to a maximum of four children only. Allowance could be shared between two or more individuals.
Dependent Relative Allowance (DRA) For old age parents of the taxpayer whose income is less than	Maximum of ₦2,000 in any tax year on the amount spent if less than the

₦600 per annum in the particular tax payer.	maximum of two persons.
Life Assurance Relief – (LAR) Granted on life assurance policies securing capital sum on death of the taxpayer or that of the spouse.	From 1st January 1996 to 2009: Limitation or restriction has been removed. Relief is on actual amount of premium paid.
	Up to 31st December 1995, the Relief was the lower of, actual premium paid or 10% of capital sum assured. The relief aggregated with other contribution to pension or provident fund shall not exceed ₦5,000 or 1/5(20%) of total Earned Income, whichever is lower.
Disabled Person Allowance Granted to disabled persons who use special equipment or the services of an attendant in the course of paid employment	₦3,000 or 20% of earned Income whichever is higher. This is in addition to earned income allowance.
Interest on Owner Occupied Residential House	All amount of interest on loan of ₦100,000 only.

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From 1st January 1996 to 31st December 1998

		1996	**1997**	**1998**
(a)	Earned Income of up to (per annum) is subject to minimum tax of	₦7.500 0.5%	₦10,000 1%	₦30,000 0.5%
(b)	Personal Relief of earned income plus	15% ₦3,000	15% ₦3,000	20% ₦3,000
(c)	Dependent Relative Relief for maximum of 2 persons	₦1,000	₦1,000	₦2,000
(d)	Children Allowance per child (maximum of 4 children, under 16 years or still in school).	₦1,500	₦1,500	₦2,500
(e)	Pension & Life Assurance premium allowance	Actual Premium	Actual Premium	Actual Premium
(f)	Disabled Person allowance Allowance (from 1.01.90 in addition to the above)	₦2,000 or 10% of earned income, whichever is lower	₦2,000 or 10% of earned income, whichever is lower	₦3,000 or 10% of earned income, whichever is lower

(b) RETIREMENT GRATUITIES

All retirement gratuities payable to employees both in the public and private sectors are tax-exempt from 1st January 1996.

(c) COMPENSATION FOR LOSS OF EMPLOYMENT

With effect from 1st January 1996 payment for compensation for loss of office or employment is tax exempt.

4.10 OTHER TAX MATTERS

(a) Removal of Tax Immunity: With effect from 14th June 2011, holders of the offices of President, Vice President, State Governors and their Deputies will now be subjected to Personal Income Tax on their official emolument.

(b) Incomes Exempted from Tax

With effect from 14th June 2011, the interest earned on the following instruments is tax exempt:

i. Bond issued by the Federal, State or Local Government and their agencies;
ii. Bond issued by corporate and supra-nationals;
iii. Interest earned by holders of bonds and short term securities listed in (i) and (ii) above.
iv. Dividends, after deduction of withholding tax (Franked Investment Income)
v. Interest due on any foreign loan granted on or after 1st April 1978
vi. Interest on any foreign currency domiciliary accounts
vii. Interest earned on a deposit in Nigeria by a non-resident company where the deposit account was

be allowable for tax purposes. The Pension Reform Act, 2004 is now in effect.

(b) Public Service
Sections 173(4) & 201(4) of the 1999 Constitution exempts pension payable to civil servants from tax.

4.5 PERSONAL INCOME TAX RATES

(a) From 14th June 2011 to date, the applicable tax rates to the TAXABLE INCOME are:-

	Earnings	Rate	Rate	Tax Due	Cumulative Earning	Cumulative Tax due
	₦	%	₦	₦	₦	₦
First	300,000	7	7k	21,000	300,000	21,000
Next	300,000	11	11k	33,000	600,000	54,000
Next	500,000	15	15k	75,000	1,100,000	129,500
Next	500,000	19	19k	95,000	1,600,000	224,000
Next	1,600,000	21	21k	336,000	3,200,000	560,000
Above	3,200,000	24	24k			

(b) From 1st January 2001 to 13th June 2011, the applicable tax rates to the TAXABLE INCOME are:

	Earnings	Rate %	Tax Due Rate Per ₦	Cumulative Earning ₦	Cumulative Tax Due ₦
1st	30,000	5	1,500	30,000	1,500
Next	30,000	10	3,000	60,000	4,500
Next	50,000	15	7,500	110,000	12,000
Next	50,000	20	10,000	160,000	22,000
Above	160,000	25			

(c) From 1st January 1998 to 31st December 2000, the applicable tax rate are:

	Earnings	Rate	Rate	Tax Due	Cumulative Earning	Cumulative Tax due
	₦	%	₦	₦	₦	₦
First	20,000	5	5k	1,000	20,000	1,000
Next	20,000	10	10k	2,000	40,000	3,000
‘’	40,000	15	15k	6,000	80,000	9,000
‘’	40,000	20	20k	8,000	120,000	17,000
Above	120,000	25	25k			

4.6 WITHHOLDING TAX

Rates of Tax on:

Management Services	5%
Technical Services	5%
Royalties	5%
Consultancy & Professional Services Supplies and Contracts	5% 5%
Rent (Rent includes amount payable for hire of equipment)	10%
Directors’ Fees	10%
Interest and Commission	10%
Dividend	10%

4.7 MINIMUM TAX

When the total income of a taxpayer, for any particular year is less than the total or aggregate of all reliefs and allowances to which he is entitled, he will not be assessable to tax as per the graduated scale, since there is no income to charge. He will however be assessable to tax under the following minimum tax guidelines:

DATE	TAX PAYABLE
14th June 2011 to date	1% of gross emolument
1st January 1995 to 13th June 2011	0.5% of gross emolument.
1st January 1977 to 31st December 1994	1% of chargeable income

4.8 PARTNERSHIP

Partnership is a separate legal entity/person different from its partners. But for tax purposes, a partnership is not a unit of income, but a source of income. It generates income for individual partners and staff. Partnerships are not charged to tax as entities, it is the income of individual partners and staff that are to be assessed for tax in their hands.

The share of profit to each partner, partner’s salary and interest on capital are all assessable for tax in the hands of each recipient partner, just as the salaries and allowances of staff of the partnership are assessable for tax purposes.

In arriving at profit or loss, salaries and interest on capital paid to any of the partners along with other disallowable expenses are added back in arriving at the amount to be shared.

4.9 TAX INCENTIVES

(a) TAX INCENTIVE ON REPATRIATION OF FOREIGN EARNINGS

Proceeds of foreign earnings repatriated into Nigeria in convertible currencies are tax-exempt. Such earnings include:

(i) Remuneration of foreign salary earners
(ii) Dividends on foreign shares
(iii) Royalties from foreign enterprises
(iv) Earnings on contracts, by sportsmen/women, musicians, artists, books sales and authors etc.

The income must be received in convertible currency and paid into a foreign currency domiciliary account in an approved bank in Nigeria.

5.6 PRACTICE NOTE

The Federal Inland Revenue Service accepts payment made through companies income tax self assessment form, where forms for TERTIARY EDUCATION TAX self assessment payment are not available.

Please, remember to delete, on the top of the form **"Income Tax"** and replace with **"Tertiary Education Tax"**. This omission means receipt will be issued for companies income tax. The Revenue, does not, cancel receipt, especially when the error is from the payee.

5.7 OFFENCES

a) A person who contravenes or fails to comply with provisions of this Act is guilty of an offence under this Act.

b) Subject to the provisions of subsection (3) of this section-

   i. If a tax due under section 2 of this Act is not paid within the time specified in that section, the Service shall serve on the company, a demand note for the unpaid tax plus a sum which is equal to 5 percent of the tax; and

   ii. If a sum demanded under paragraph (i) of this subsection is not paid within 2 months of the demand, the company is guilty of an offence under this Act.

c) Notwithstanding any other provision in this Act, it shall be the duty and responsibility of every company liable to pay tax to ensure that its annual returns are filed with the Service for the purpose of assessment of tertiary education tax

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opened wholly with foreign currencies transferred to Nigeria with effect from 1st January, 1990.

viii. Interest earned by banks on loans granted for agricultural trade or business, local fabrication of plant and machinery and as working capital for any cottage industry established by a company provided:
   (a) Moratorium period is not less than 18 months
   (b) Rate of interest is not higher than the "base lending rate" of the bank granting the loan at the time the loan was granted. Base lending rate is defined as the weighted average (of the) cost of funds to (any) bank granting the loan.

ix Interest earned by a bank on loans granted for the purpose of manufacturing goods for export on the presentation of a certificate issued by the Nigerian Export Promotion Council stating that not less than 50% of the manufactured goods disposed of in the year by the company granted the loan was sold outside Nigeria and was not re-imported to Nigeria.

(c) Filing of Annual Returns: With effect from 14th June 2011, the deadline for **filing of annual return has been shifted backward to 31st January of the following year against 31st March. The penalty for non-compliance by an individual is ₦50, 000.00.**

(d) Fines and Penalties: With effect from 14th June 2011, a taxable person, other than those in salary employment who fails or refuses to keep books of accounts which in the opinion of the relevant tax authority, are adequate for the purpose of tax is now liable on conviction to a penalty of ₦50, 000.00.

(e) Requirement for Tax Clearance Certificate : With effect from 14th June 2011. Under subsection 4, section 85 of the Act, the following has been added to the list of transactions for which Tax Clearance Certificate would be required:

(i) Change of ownership of vehicle by the vendor;
(ii) Application for a plot of land;
(iii) Any other transactions as may be determined from time to time by the Tax Authority.

(f) Temporary Workers: With effect from 14th June 2011. Subsection 1(b) Section 3, of the Principal Act was amended to include temporary and casual workers amongst those whom employers should compute and remit PAYE. This is against the former practice whereby they were treated as contract staff and WHT of 5% was deducted from their wages.

(g) Service of Notice of Assessment: With effect from 14th June 2011. The use of courier service and electronic media (e-mail) has been added to the mode of service of notice of assessment. The date of service in the case of delivery by courier would be evidenced by the proof of delivery while that of email would be the date it is sent.

(h) Deduction at Source: with effect from 14th June 2011, the office of the Accountant General of the Federation has been empowered to deduct at source any unremitted state taxes by Ministries, Departments and Agencies (MDAs) from their budgetary allocation and remit same to the respective states tax authorities.

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5. TERTIARY EDUCATION TRUST FUND (ESTABLISHMENT, ETC) ACT, 2011: TAX IMPLICATION S

5.1 EXPLANATORY MEMORANDUM

This Act repeals the Education Tax Act Cap. E4, Laws of the Federal Republic of Nigeria, 2004 and Education Tax Fund Act No. 17, 2003 and establishes the Tertiary Education Trust Fund charged with the responsibility for imposing managing and disbursing the tax to public tertiary institutions in Nigeria.

5.2 WHO SHOULD PAY TERTIARY EDUCATION TAX ?

This tax is due from all companies to which provisions of the Companies Income Tax and/or Petroleum Profits Tax apply.

5.3 RATE

Tax rate is 2% of Assessable Profit.

5.4 ASSESSMENT AND COLLECTION OF TAX

The Federal Board of Inland Revenue is the sole authority for assessment and collection of the tax.

The FIRS shall when assessing a company for Companies Income Tax or Petroleum Profits Tax, also assess the company for the Tertiary Education tax. This tax is due and payable within 60 days after the service of notice of assessment.

5.5 TREATMENT IN ACCOUNT

Petroleum Exploration Companies:
For those that the Petroleum Profits Tax Act applies, from 1 st January 1996, Tertiary Education tax is a charge against profit. It is calculated thus:

- 2/102 of Assessable Profit.

Other Companies:
In the case of other companies, the tax should be treated as an appropriation of profits like income tax and dividend.

Branches
Each branch or location should register on its own. Group or Head office location administration is not acceptable.

Penalty for Failure to Register
₦10,000 for the first month in which the failure occurs, and ₦5,000 for each subsequent month, in which the failure continues.

Payment of Tax by Taxable Person
A taxable person shall pay to the supplier of goods and services the tax on the taxable goods and services purchased and such tax paid shall be regarded as "Input tax"

Every Ministry, Statutory body or other Agency of Government shall, at the time of making payment to a contractor, remit the tax charged on the contractor to the nearest VAT office.

6.4 TAX INVOICE
A Taxable person who makes a taxable supply shall in respect of that supply, furnish the purchaser with a tax invoice containing the following:
(a) Taxpayer Identification Number (TIN)
(b) Name and Address
(c) VAT Registration Number (VRN)
(d) Date of the supply
(e) Name of the Purchaser or client
(f) Gross amount of the transaction; and
(g) Tax charged and rate applied

Imported Goods
The Nigerian Customs Service shall demand for a VAT compliance certificate from the Board before releasing taxable goods.

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d) The Board of Trustees shall remit in whole or in part, a sum added to the unpaid tax under subsection (2)(i) of this section.

e) Where an offence under this Act is committed by a body corporate or firm or other association of individuals-
   i. Every director, manager, secretary or other similar officer of the body corporate;
   ii. Every partner or officer of the firm;
   iii. Every person concerned in the management of the affairs of the association.

Every person who was purporting to act in that capacity is severally guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

5.8 PENALTIES
a) Except as otherwise provided in this Act, a person guilty of an offence under this act shall, on conviction, be liable:-
   i. for a first offence, to imprisonment for a term of 6 months or to a fine of up to ₦1,000,000.00 or both; and
   ii for a second and subsequent offence, to imprisonment for a term of 12 months or to a fine of up to ₦2,000,000.00 or both.

b) The institution of proceedings or imposition of a penalty under this Act shall not relieve a company from liability to pay to the Service a tax which is or may become due under this Act.

c) Notwithstanding subsection 5.8.1 (i) and (ii) of this section, where any company or corporate body liable to file a tertiary education tax return under this, Act fails in any year to file such return, the Service, if it is of the opinion that such a company or corporate body is liable to pay tertiary education tax may, according to the best of its judgment, determine the amount of assessable profit of such company and make an assessment of tertiary education tax in accordance with the provisions of this Act.

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6 VALUE ADDED TAX (AMENDMENT) ACT, 2007

6.1 AUTHORITY, RATE & TAXABLE PERSONS

The authority to administer and collect is the Federal Inland Revenue Service. The Tax Rate is 5% on the value of all VAT able goods and services.

“Taxable person” includes an individual or body of individuals, family, corporations sole, trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income there from by way of trade or business or a person or agency of government acting in that capacity.

6.2 VALUE OF TAXABLE GOODS AND SERVICES

The value of VAT able goods and services shall be determined as follows:

(a). if the supply is for a money consideration, its value shall be deemed to be an amount which with the addition of the tax chargeable is equal to the consideration;

(b). if the supply is for a non-money consideration, the value of the supply shall be its market value.

6.3 REGISTRATION PERIOD

All VAT able persons shall register with the FIRS within six months of either the commencement of the Act or of business whichever is earlier. Branches of VAT able persons are to register separately. Every Government Ministry, Statutory body and Agencies shall register as Agents of the Board for the purpose of collection of VAT revenue under the Act.

Non-Resident

A non-resident company shall register using the address of the person with whom it has a subsisting contract in Nigeria.

b) SERVICES EXEMPTED FROM VAT

(i) Medical Services
(ii) Services rendered by Community Banks, People's Banks and Mortgage Institutions
(iii) Plays and performances conducted by educational institutions as part of learning
(iv) All exported services

6.11 DISTRIBUTION OF PROCEEDS OF VAT

Notwithstanding any formula that may be prescribed by any other law, the revenue accruing from the total VAT collected shall be distributed as follows, among the three tiers of Government:

(a) 15% to the Federal Government;
(b) 50% to the State Governments and the Federal Capital territory Abuja; and
(c) 35% to the Local Governments,

provided that the principle of derivation of not less than 20% shall be reflected in the distribution of the allocation amongst States and the Local Governments.

6.12 REMITTANCE OF VAT FROM OIL AND GAS

The Federal Inland Revenue Service may, by notice, determine and direct the companies operating in the oil and gas sector to deduct VAT at source and remit same to the Service.

6.13 GOODS PRODUCED FOR EXPORT

Plant, machinery and goods imported for use in the export processing zone or free trade zone, provided that 100 percent production of such company is for export otherwise tax shall accrue proportionately on the profits of the company" and inserting a new "Part III" as follows:

"Part III – zero rate goods and services

(i) Non-oil export
(ii) Goods and services purchased by diplomats
(iii) Goods purchased for use in humanitarian donor funded projects".'Humanitarian donor funded project'

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6.5 CALCULATION AND REMITTANCE

(i) Calculations: ₦

VAT on Goods/Services Rendered
(Output Tax)
Less:
VAT on Purchases and Other Imports
(Input Tax)

Amount of Tax Due/ Refund. ₦

(ii). Date for Payment

Remittances shall be made within 21 days of the month in which the tax is collected

Currency of remittance to Local VAT office is as in 6.6 below.

6.6 CURRENCY AND REMITTANCE

Resident:

Nigerian companies or taxable persons shall pay in the local currency.

Non-resident:

Non-resident companies shall include the details of the tax in its invoice and the person to whom the goods or services are supplied in Nigeria and shall remit the tax in the currency of the transaction.

Government Ministries & Statutory bodies

Every Ministry, Statutory body or other agencies of Government shall at the time of making payment to a contractor, remit the tax charged on the contract to the nearest local Value Added Tax office.

The remission shall be accompanied by a schedule showing:

- the name and address of the contractor,
- invoice number and gross amount of invoice,

- amount of tax and month of return.

Receipt for the payment shall be sent to the contractor/supplier/ consultant involved.

The Service may, by notice determine and direct the company operating in the oil and gas sector which shall deduct VAT at source and remit same to the Service.

Practice Note
To stop the delays in remittance of VAT by Government Ministries, parastatals and agencies, the 2001 budget seeks an amendment to the Act, to authorize the Accountant General of the Federation (AGF) to deduct un-remitted VAT collected from allocation due to such a body.

6.7 ASSESSMENT DISPUTES

Disputes on assessments and other areas of Value Added Tax law shall be dealt with by the Value Added Tax Appeal Tribunal. Its judgement shall be enforced as if it were a judgment of the Federal High Court.

When there is dispute on assessment, the following steps are to be followed:-

i The aggrieved taxable person will raise an objection, in writing, to the Federal Inland Revenue Service (FIRS).
ii. The FIRS considers the appeal and makes its decisions known within 30 days.
iii. Appeal from the decisions of the FIRS shall be made to the Tax Appeal Tribunal
iv. An appeal from the Tax Appeal Tribunal shall be made to the Federal High Court.

6.8 DIPLOMATIC ITEMS

All diplomatic items are exempted from VAT under mutual reciprocal international agreements.

6.9 AIRLINES ON INTERNATIONAL TRAVEL

VAT is on the consumption of local goods and services. Therefore, external consumption is excluded. To this effect,

only tickets for domestic travel within Nigeria are to carry 5% VAT charge.

6.10 EXEMPTED GOODS AND SERVICES

All goods and services are VAT able except those specifically exempted in the schedule to the Act. These are:

a) GOODS EXEMPTED FROM VAT

(i) All Medical and Pharmaceutical products
(ii) Basic food items (such as Beans, Yam tubers, Cassava, Maize, Millet, rice, Milk, Fish and Infant food)
(iii) Books and educational materials (This is said to include exercise books, laboratory equipment, school fees, PTA levy etc)
(iv) Newspapers and magazines (removed from 1st January 1999)
(v) Baby products like feeding bottles, carriages, clothes, napkins, baby creams and powder, soap, toys and baby dresses
(vi) Commercial vehicles and commercial vehicles spare parts (as described in customs tariff i.e. passenger carrying vehicles) removed from 1st January 1999
(vii) Fertilizer, Agriculture and Veterinary medicine, farming machinery and farming transportation equipment.
(viii) All exports
(ix) Plant and Machinery imported for use in the Export Processing Zone (EPZ) or free trade zone
(x) Plant, Machinery and Equipment purchased for gas utilization in the downstream sector of petroleum operations
(xi) Tractors, ploughs, agricultural equipment and implements purchased for agricultural projects
(xii) Fertilizer (locally produced)
(xiii) Agricultural Chemicals
(xiv) Water treatment chemicals (removed from 1st January 1999)

The following categories are allowable:
- Exploration and drilling costs
- Repairs & Renewal of related assets to operation
- Interest
- Rent
- Royalties or Productive Rents
- Pension Provident Fund and other Society Fund
- Duty and other Charges
- Bad and Doubtful Debts
- Scholarships
- Difference in Exchange
- Education Tax
- Costs of first two appraisal wells in a field

7.4 DISALLOWABLE EXPENSES (S.11)

Any disbursement or expenses or liability not being wholly, exclusively and necessarily laid out or expended or incurred for the purposes of petroleum operation along with the under listed are disallowed for the purposes of arriving at the adjusted profit, some of them are allowable in arriving at chargeable tax. (S.11 PPTA).

- Transportation and refining expenses
- Capital withdrawn or any sum employed or intended to be employed as capital
- Capital employed in improvements as distinct from repairs
- Sum recoverable under an insurance or contract or indemnity.
- Rent of or cost repairs to any premises or part of premises not used for the purposes of petroleum operations.
- Income tax, profit tax or other similar tax whether charged within Nigeria or elsewhere.
- Depreciation of any asset.
- Contributions to provident, Savings, Window's and Orphan's or other society, scheme or fund except to such scheme approved by the tax Board. Any royalty

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includes projects undertaken by Non-Governmental Organisations and Religious and Social Clubs or Societies recognized by law whose activity is not for profit and in the public interest".

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7. PETROLEUM PROFITS TAX ACT, (P13 LFN 2004)

7.1 THOSE CHARGEABLE

(i) Nigerian Company
A company duly incorporated in Nigeria, which has obtained the appropriate license and engaged in petroleum operations.

(ii) Joint Operation
Joint operation could be a joint venture or partnership with or without a Nigerian company. PPT shall be borne by all concerned in the manner so agreed by them.

(iii) Non-Resident Company
PPT is charged on its operations in Nigeria in the name of the company, its manager in Nigeria, any person resident in Nigeria and/or employed in the management of the company.

(iv) Company in Liquidation
Tax due is collectible from the Liquidator, Receiver or any other agent in Nigeria. The payment of petroleum profits tax comes before any distribution to debenture holders or shareholders.

7.2 IDENTIFICATION OF REPRESENTATIVE

Any person answerable for the payment of petroleum tax on behalf of a company will be indemnified against any person or company where such money has been used on the settlement or petroleum tax due from the company (S. 27 PPTA)

7.3 ALLOWABLE EXPENSES

The principle that expenses must be WHOLLY, EXCLUSIVELY, NECESSARILY and REASONABLY incurred, whether within or outside Nigeria for the purposes of operation is absolutely essential.

contract between the company and a customer of the company. MMSCF means million standard cubit feet.

7.9 ASCERTAINMENT OF PROFIT

Adjusted Profit (S.9 PPTA)

This is the income of the accounting period less allowable expenses.

Profit Margin

In determining whether the profit as shown in an account is a fair return, the Act, has stipulated allowable margins, which as from 1st April 1997 are for:

Higher grade oil	80 cents/bbl
Medium grade oil	77 cents/bbl

The Inland Revenue uses the higher of the profit calculated from the rates stated above and the actual profit made by the company

Assessable Profit

This is adjusted profit less any allowable loss whether that of the immediate preceding year or that deferred in an earlier period, which is now being utilized.

Chargeable Profit (S. 18, PPTA)

This is assessable profit

Less

Capital allowances calculated in the normal practice (this is exclusive of investment tax credit)

No tax offset

7.10 TRANSFER OF ASSETS WITHOUT PAYMENT OF TAX

Where a company transfers a substantial part of its assets to any person/company without having paid any tax assessed or chargeable upon the company, for any accounting period prior to such transfer and in the opinion of the tax authority one reason for transfer was to avoid payment of tax, then such tax shall be collected from the transferee. (S. 26 PPTA).

or other sums deductible in ascertaining chargeable tax.

- Any expenditure for the purchase of information relating to the existence and extent of petroleum deposits. This is so, because such information is readily made available by government
- Interest payable on money borrowed from connected or related companies are connected or related if,
  - (a) either company has an interest in the other company
  - (b) both have interests in another company either directly or through other companies
  - (c) both are subsidiaries of another company
- Gifts and Donations

7.5 ACCOUNTS AND COMPUTATIONS

Every company involved in petroleum operations shall for each accounting period deliver, to the Federal Inland Revenue Department accounts of its profits or losses arising from these operations. The accounts shall be signed by its elected auditors. (S.28 PPTA)

The following shall accompany the signed accounts

(a) Computation of estimated adjusted profit/loss and estimated assessable profits of that period;

(b) Capital allowances computations, showing for that period:

  (i) Residue of qualifying expenditure from the beginning of that period less allowances due (W.D.V. brought forward allowances for the chargeable period)

  (ii) All qualifying petroleum expenditure incurred (additions)

  (iii) The value of any assets (estimated by reference to the provisions of capital allowances schedule) disposed of

(c) Computation of estimated chargeable profits;

(d) Statement of other sums distributable before arriving at the chargeable tax;
(e) Statement of all amounts repaid, refunded, waived or released to the company; and
(f) Computation of estimated tax.

7.6 PROFITS

The profits of a petroleum exploration company shall be taken to be the aggregate of profit from:

(a) proceeds of sale of all chargeable oil sold by the company
(b) value of chargeable oil disposed of by the company
(c) all income of the company incident to and arising from any one or more of its petroleum operations (S.9 (1)

7.7 CHARGEABLE OIL

Definitions (S.2 PPTA)
Chargeable oil, means casing head petroleum spirit and crude oil won or obtained by the company from such operation.

"***Casing head petroleum spirit***" means any liquid hydrocarbons obtained in Nigeria from natural gas by separation or by any chemical or physical process but before the same has been refined or otherwise treated.

"***Crude Oil***" is any oil (other than oil extracted by destructive distillation from coal bitumen shales, or other stratified deposits) won in Nigeria either in its natural state or after the extraction of water, sand or other foreign matter or substance there from.

Valuation
Value of chargeable oil shall be the aggregate of :

- the value of oil determined for the purpose of royalty in accordance with the provisions of any enactment applicable thereof and any financial agreement or any other agreement between the Federal Government of

Nigeria and include natural gas taken by or on behalf of the company,
Less

- any cost of extraction of that oil, any cost incurred by the company in transportation and storage of oil between the field of production and the place of its disposal (excluding the cost of transportation to the buyer)

7.8 CHARGEABLE NATURAL GAS

Definition (S.2 PPTA)
"***Chargeable Natural Gas***" means natural gas actually delivered by a petroleum operation company to the Nigeria National Petroleum Corporation under a Gas Sales but does not include natural gas taken by or on behalf of the Government of the Federation.

"***Liquefied Natural Gas***" means natural gas in its liquid state at approximately atmospheric pressure and shall be included in determining total amount of chargeable natural gas.

Valuation
The value of chargeable natural gas shall be the sum of gross proceeds under individual gas sales contract less the G-factor allowance as applicable to any such individual gas sales contracts at the appropriate rate per cent of such proceeds, as specified below:

Load factor	**G-factor**
50	16.9%
60	15.5%
70	14.3%
80	13.6%

"***G-Factor***" means production cost adjustment factor. The allowance is subject to review by the Federal Government only. However, "G-factor" between any of the load factors above shall be calculated on pro-rata basis. "Contract Capacity" means the maximum quantity of natural gas expressed in MMSCF to which a customer of a company is entitled in the accounting period under an individual gas sales

Transfer, Assignment, Compulsory acquisition or any other disposition.

Where a capital sum is received or derived from the actions listed below such events are taken as "disposal"

(a) settlement of a policy of insurance and the risk of any kind or damage or injury to or the loss or depreciation of assets
(b) forfeiture or surrender of rights, or for refraining from exercising rights
(c) consideration for use and/or exploitation of any assets
(d) amount received in connection with or arising by virtue of any trade business profession or vocation as opposed to loss of office or employment as in (a) above
(e) part disposal of an asset, interest or rights thereon.

8.4 EXCLUSION OF LOSSES

In the computation of chargeable gains under the Act, the amount of any loss which accrues to a person on the disposal of any asset shall not be deductable from gains accruing to any person on a disposal of such asset (S.5 CGTA)

8.5 CHANGE OF OWNERSHIP

The production of evidence of capital gains tax payment shall be a condition for effecting change of ownership of property (S.44A CGTA, S.49 F MTP 93).

7.11 TAX RATE

Rate of Tax	
On exports	85%
On domestic sales of oil and gas	65.75%
Rate of Royalty	
Onshore production	20%
Offshore production in areas up to	
- 100 Metres water depth - Beyond 100 metres water depth	18.50% 16.6%
On deep offshore Production Sharing Contract (PSC):	
- up to 1000 metres depth between	12% and 4%
- in excess of 1000 metres depth	0%
Capital Allowance	
Year 1 to Year 4	20% per annum
Year 5	19%
Investment Tax Credit	
For PSCs executed in 1993 and after 1st July, 1998	50%
Petroleum Investment Allowance	
Onshore operations	
Offshore operations in arrears:	5%
- up to 100 metres water depth	10%
- between 100 x 200 metres water depth	15%
- Beyond 200 metres water depth	20%

7.12 TERTIARY EDUCATION TAX

With effect from 1st January 1996 education tax will be a charge against profit and an allowable expense

7.13 INTEREST ON INTER-COMPANY LOANS

Amendment proposed in the 2001 budget is to remove the contradiction in the provisions of sections 10 and 11 as they relate to the subject matter.

This is to provide for the allowance of interests on inter-company loans within the oil industry as deductible expenses.

7.14 LIMITATION OF INCENTIVES

In view of the changing business environment, there is a need to review some of the tax incentives earlier granted to the oil producing companies to align them with the realities of the present day circumstances. Accordingly, section 20 of the Act is amended to tie the calculation of Investment Tax Credit to the qualifying capital expenditure (rather than the chargeable profits) and to limit the grant of some allowances to companies that signed the Production-Sharing Contract (PSC) before 1993.

7.15 FURTHER INCENTIVES TO THE GAS INDUSTRY

(i) All capital investment relating to the Gas-to-Liquids facilities will be treated as chargeable capital allowance under the PPT and Recovered against oil income

(ii) The existing petroleum investment allowance on all capital investment for NGL extraction plant and Gas-to-Liquid facilities had been increased from 15% to 30% with effect from 1999.

(iii) Gas transferred from the NGL facility to the Gas-to-Liquid facilities are to be at 0% PPT and 0% royalty as earlier stated in the 1998 budget.

(iv) All incentives granted to an associated gas investment are to be applicable to non-associated gas investment.

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8 CAPITAL GAINS TAX ACT, (CAP CI LFN 2004)

8.1 RATE AND ADMINISTRATION

The tax rate has been reduced from 20% to 10% with effect from 1st January 1996. The State Internal Revenue administers the tax in the case of individuals. The Federal Inland Revenue administers the tax for companies and residents of Abuja and non-residents persons.

8.2 CHARGEABLE ASSETS

Capital gains tax shall be chargeable on disposal of all forms of properties (assets) whether situated in or outside Nigeria. (S.3 CGTA) Chargeable assets include:

(a) options, debts and incorporated property generally
(b) any currency other than Nigerian currency
© any form of property created by the person disposing of it or otherwise coming to be owned without being acquired
(d) stocks and shares of every description (excluded from chargeable assets with effect from 1st January 1998).

Capital gains tax shall be chargeable on assets on which capital allowances are claimable, as stipulated in Personal Income Tax Act and Companies Income Tax Act.

8.3 CHARGEABLE EVENTS

The major action that gives rise to paying capital gains tax is the disposal of a chargeable asset for a valuable consideration.

Notwithstanding that no asset is acquired by a person paying a capital sum, disposal is deemed to have taken place where a capital sum is derived from: Sale, Lease,

Appendix C/1

INTERPRETATION OF THE BASIS PERIOD 1ST – 3RD YEAR OF ASSESSMENT

Section 25(1) Companies Income Tax Act (CITA) 2007 as amended, states that assessable profits for any year of assessment shall be the profits of the year immediately preceding the year of assessment. This refers to the profile of the accounting year of the company (see section 25(2).

Section 25(3)(c) that deals with the 3rd year of assessment should be treated in like manner with section 25(1). It is the accounting year of the company that is used as basis period – not the assessment year, under the normal rule basis.

In respect of new business where the first two accounts are each for 12 months, there is no problem as to the interpretation of 3(c).

The issue of accounting period of "less than 12 months" is treated presently as follows:

(a) If there are accounts of 12 months ending in the preceding year they will be used as the relevant accounts

(b) If there are no accounts of 12 months ending in the preceding year, then the first 12 months (that is the 2nd year of assessment) will be used. Hence company will be presumed to have prepared accounts for one year.

- This present treatment does not have the backing of law.

Illustrations: **Example 1**

Dauda started to trade on 1st April 1994

Adjusted profits were:-

6 months to 30th September 1994	₦ 600
12 months to 30th September 1995	₦1,800
12 months to 30th September 1996	₦ 960

Appendix A

Federal Inland Revenue Service

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Dear Sir,

<u>QUESTIONNAIRE FOR NEW CORPORATE TAXPAYER COMPANIES INCOME TAX ACT, 1979</u>

The above named Company has been incorporated/registered in Nigeria.

For the purpose of the Provisions of the Companies Income Tax Act 1979, will you please let us have the original copy of the Memorandum and Articles of Association (duly signed) as well as a copy of the Certificate of Incorporation and your reply to the following:

(a) The registered address of the Company

(b) Business address of the Company if different from the registered address

(c) The date on which the company commenced or will commence business

(d) The date on which the company commenced or will commence business

(e) The date in each year to which accounts will be made up

(f) Names and addresses of all the banks of the Company

(g) Has the company commenced a new business or formed to carry out an existing trade? If the latter is true, please give details of predecessors

(h) Particulars of the shareholding stating names, addresses and amount of share holding

(i) The names and addresses of the Principal officers (i.e. the Directors) of the Company

(j) All other Directorship held by each Director, stating the registered address of each company disclosed

(k) The names and addresses of:

- (i) The Auditors;
- (ii) The tax representative as required under Section 10(6) of the Act, and
- (iii) Formal letter of notification addressed to this office and duly signed by a bank. Details of the Principal Officers of the Company must be enclosed.

(l) If there is any subsequent change in the information supplied in respect of (a) to (k) above, you are to inform this office immediately.

The above basic information must be supplied by a named Principal Officer on the Company's letter headed paper. The information can also be supplied by the appointed representative or agent of the Company if a formal letter of notification on the Company's letter headed paper has been filed to this effect.

Yours faithfully,

Appendix B

FORM NO. FBIR/161/AP/G IN DUPLICATE

FEDERAL BOARD OF INLAND REVENUE AREA OFFICE
APPLICATION FOR TAX CLEARANCE CERTIFICATE

PART A (To be completed by Applicant)

1. Particulars of Applicant
   (a) Name of Company ………
   (b) Registered Address (not P.O. Box) ………………………..
   (c) Incorporation reference No. ………..…… Date ……………
   (d) Tax File Reference …………………..…………………….
2. Nature of Trade/Business ………………………………………..
3. Turnover of the Company in the last tax return filed with the Revenue ₦………………………………………………………….
4. Particulars of previous Tax Certificate (if any) …………………
5. Has the company paid all assessments raised up to the immediate previous year of assessment? Yes/No …………………….………
6. If NO, state the amount outstanding and the year(s) affected … ……..…………………………………………….……………………
7. Any special arrangement made with the Revenue to liquidate the amount outstanding? Yes/No ………………………………….
   If Yes, state the type of arrangement and support with copy of approval letter ………..…………………………….………………..
8. Any other relevant information? ………………………………. ………………………………… …………………………………….
9. CERTIFICATE
   I certify that the information given above is correct in all respect and confirm that, to the best of my knowledge and belief, there are no other facts the omission of which would be misleading… (of the Principal Officer of the Company)

………………………..
Official Stamp of The Company

Full Name ………………………….
Designation ……………………..…

The issue of accounting for a period of "less than 12 months" has not been taken care of in the Act. It will therefore be wrong to assume or interpret the law to mean any of the following:

(i) The profits assessable in the second year unless that happens to be the basis for the third year.

(ii) The profits grossed up to make twelve profits. There is nothing in the Act to support such application.

(iii) The profits of the assessment year before the year of assessment. This is not mentioned in the act.

- Note: It is the accounting year that is used as basis–not the assessment year under the normal rule basis.

Normal Assessment:

Year 1 1994 Actual ₦600 + ¼ of 1,800	=	₦1,050
Year 2 1995 first 12 months ₦600 + ½ of 1,800	=	₦1,500
Year 3 1996 Preceding Year	=	₦1,800

There is account of 12 months ended in the preceding year (1995), therefore it will be the basis for 1996 assessment year.

Example 2

Emmanuel started to trade on 1st April, 1994

Adjusted profit were:

10 months to 31st January 1995	₦1,200
12 months to 31st January 1996	₦2,400
12 months to 31st January 1997	₦3,600

Normal Assessment:

Year 1 1994 Actual 9/10 of N1,200	=	₦1,080
Year 2 1995 First 12 months N1,200 + 2/12 0f N2,400	=	₦1,600
Year 3 1996 Preceding Year	=	₦1,600

- As in year 2, since there is no account of 12 months ended in the preceding year (1995), year 3 will be a period of 12 months as year 2.

Appendix C/2

Example 1

Dauda started to trade on 1st of April 1994

Adjusted profits were:

6 months to 30th September	1994	₦ 600
12 months to 30th September	1995	₦1,800
12 months to 30th September	1996	₦1,800

First Option

	Year of Assessment (Fiscal Year)	Basis of period for profit	Assessable Profit	Accounting Dates
1	Year 1 1994	Actual (Jan. – Dec. 1994)	₦600+1/4 of 1,800 = ₦1,050	(1/4/94 – 30/9/94) + (1/10/94 – 31/12/94)
2	Year 2 1995	First 12 months	₦600 + ½ of 1,800 = ₦1,500	(1/4/94 – 31/3/95)
3	Year 3 1996	Preceding Year	₦1,800	(Accounts for the Year ended 30th September 1995)

Example 2

Emmanuel started to trade on 1st April 1994, Adjusted profit were:

10 months to 31st January 1995	₦1,200
12 months to 31st January 1996	₦2,400
12 months to 31st January 1997	₦3,600

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF NIGERIA TAX AIDE MEMOIR

Second Option

	Year of Assessment (Fiscal Year)	Basis of period for profit	Assessable Profit	Accounting Dates
1	Year 1 – 1994	(Actual) 1st April 1994 – 31st December 1994	9/10 x ₦1,200 = ₦1,080	(1/4/94 - 31/12/94)
2	Year 2, 1995	(First 12 months) 1st April 1994 31st March 1995	10 months = ₦1,200 2 months (2/12 x ₦2,400 = ₦400	(1/4/94 – 31/03/95)
3	Year 3 – 1996	Preceding Year basis accounting year ending 31st January 1995	• Only 10 months profit available	(Account for the year ended 31st January 1995)

COMMENT

Interpretation of the Basis Period for 3rd Year of Assessment

- The third year has only 10 months. Technically, 10 months should be used and not to repeat the basis for year 2.

Sections 25 (1) Company Income Tax Act (CITA) 1979 as amended state that assessable profits for any year of assessment shall be the profits of the year immediately preceding the year of assessment.

This refers to the profits of the accounting year of the company (see S.25 (2). Section 25(3)c that deals with the 3rd year of assessment should be treated in like manner with section 25(1).