

The following Bills, which will in due course be presented to Parliament for enactment, are published for general information.

# INCOME TAX MANAGEMENT BILL MEMORANDUM

This Bill has its origins in the report of the Fiscal Commission of 1958, and the consequential provisions appearing in section 70 of the Constitution.

2. Its main purpose, in conjunction with the enlargement of Regional tax jurisdiction to include personal taxpayers of all races, is so to regulate the imposition of personal tax throughout Nigeria that internal double taxation of incomes will be avoided. Other provisions are directed to the settlement, through a Joint Tax Board, of technical issues connected with personal income tax in which the interests of the Regional Governments and of the Federal Government might otherwise be in conflict. The Bill does not seek to encroach upon the right of each Government to decide upon the appropriate level of taxation of those persons who, under the Bill, fall within its jurisdiction.

3. A subsidiary Bill will be necessary so as to impose personal income tax in Lagos, and its provisions will be subject to regulation by the Income Tax Management Bill to the same extent as the provisions of any Regional Income Tax Law.

F. S. OKOTIE, EBOH,  
*Minister of Finance,  
Federation of Nigeria*

## INCOME TAX MANAGEMENT ARRANGEMENT OF CLAUSES AND SCHEDULES

### PART I—PRELIMINARY

#### Clause

1. Short title and application.
2. Interpretation.

### PART II—IMPOSITION OF TAX AND INCOME CHARGEABLE

3. (1) Imposition of tax.  
(2) Individuals other than itinerant workers.  
(3) Itinerant workers.  
(4) Community income.  
(5) Family income.  
(6) Certain income of settlements, trusts and estates.
4. Income chargeable.
5. Business or trade only partially carried on or deemed to be carried on in Nigeria.
6. Partnerships.
7. Agricultural, etc. profits.
8. Employments.
9. Nigerian dividends.
10. Foreign income.
11. Interest.
12. Territory in which a dividend or interest paid by a Nigerian company arises.
13. Settlements, trusts and estates.
14. Artificial transactions.
15. Certain appeals.
16. Income exempted.

## Clause

## PART III—ASCERTAINMENT OF INCOME

17. Deductions allowed.
18. Deductions not allowed.
19. Waiver or refund of liability or expense.

## PART IV—ASCERTAINMENT OF ASSESSABLE INCOME

20. (1) Basis for computing assessable income.
  - (3) New trades, etc.
  - (4) Cessation of trades, etc.
  - (5) Employments and pensions.
  - (6) Trusts and estates.
  - (7) Itinerant workers.
  - (8) Continuity of trades, etc.
  - (9) Apportionment of income.
  - (10) Receipts and payments after cessation of trades, etc.

## PART V—ASCERTAINMENT OF TOTAL INCOME

21. (1) Total income from all sources.
  - (2) Loss in trade, business, profession or vocation.

## PART VI—DOUBLE TAXATION RELIEF

22. Interpretation.
23. Relief in respect of Commonwealth income tax.
24. Double taxation arrangements.
25. Method of calculating relief to be allowed for double taxation.
26. Dividends distributed by Nigerian companies.

## PART VII—ADMINISTRATIVE AND TRANSITIONAL PROVISIONS

27. Joint Tax Board.
28. Disclosure and procurement of information.
29. Power to appoint agent.
30. (1) Returns, etc.
  - (2) Place of an offence.
31. Continuing effect of decisions, etc.
32. Restriction on effect of certain Ordinances.

FIRST SCHEDULE—Determination of residence.

SECOND SCHEDULE—Settlements, trusts and estates.

THIRD SCHEDULE—Income exempted.

FOURTH SCHEDULE—Retirement benefits schemes.

FIFTH SCHEDULE—Capital allowances.

SIXTH SCHEDULE—Double taxation arrangements.



# A BILL

FOR

AN ACT TO REGULATE THE TAXATION OF INCOMES OF PERSONS OTHER THAN  
COMPANIES AND FOR PURPOSES CONNECTED THEREWITH.

Title.

[ ]

Commence-  
ment.

## PART I—PRELIMINARY

1. (1) This Act may be cited as the Income Tax Management Act, 1961, and shall apply throughout the Federation save as hereinafter provided.

Short title  
and  
application.

5 (2) The Governor-General with the consent of the Government of a Region may by order defer from year to year the application of this Act in that Region.

10 (3) Any such order may prescribe that the provisions of the Direct Taxation Ordinance (or of a law of that Region replacing the same) and of the Income Tax Ordinance shall continue to apply in that Region with such modifications as will prevent the taxation of any income by more than one tax authority and as may be necessary for the assessment or collection of tax or the continuation of any revenue allocation arrangements previously subsisting in relation to income tax between the Government of the Federation and the Government of that Region,  
15 and with such further modifications as the Government of that Region may request with respect to personal reliefs and rates of tax.

No. 4 of 1940  
Cap. 85.

Interpre-  
tion.

2. In this Act unless the context otherwise requires—

“assessable income” means assessable income determined under the provisions of Part IV;

“Board” or “the Board” means the Joint Tax Board established under this Act;

“company” means any company or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere;

“employment” includes any appointment or office whether public or otherwise for which remuneration is payable, and “employer” and “employee” shall be construed accordingly;

“executor” includes any person administering the estate of a deceased person;

“individual” includes a corporation sole and any body of individuals but does not include a company, partnership, community, family, trustee or executor, or any body of trustees or executors;

“itinerant worker” means an individual who works at any time during a year of assessment (other than as a member of the Royal Nigerian Army or the Royal Nigerian Navy) for a daily wage or customarily earns his livelihood in more than one place in Nigeria and whose total incomes does not exceed £300;

“law of a territory” includes an Act of Parliament with respect to the Federal Territory of Lagos;

“legislature of a territory” includes Parliament with respect to the Federal Territory of Lagos;

“Nigerian company” means any company the control and management of whose business are exercised in Nigeria;

“person” includes an executor, trustee, company, partnership, community, family and any individual;

“relevant tax authority” means in relation to—

(i) an individual for a year of assessment, the tax authority of the territory in which the individual is deemed to be resident for that year;

(ii) an executor, the tax authority of the territory in which the deceased individual was last deemed to be resident or would have been deemed to be resident if the provisions of this Act had been in force prior to the date of his death;

(iii) a trustee of any trust or settlement, the tax authority of the territory in which is situated the seat of administration of the trust or settlement on the 1st day of April, 1961, or if the trust or settlement is created after that date the place from which it is first administered;

(iv) a partnership for a year of assessment, the tax authority of the territory in which the principal office or place of business of the partnership in Nigeria is situated on the first day of that year or is first established during that year;

(v) a village or other indigenous community, the tax authority of the territory in which that community is to be found;

“tax” means any income tax imposed by a law of a territory in conformity with the provisions of this Act;

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"tax authority" means the person or body of persons responsible under a law of a territory imposing tax on the income of individuals for the administration of that law ;

"territory" means a Region or the Federal Territory of Lagos ;

"total income" means in relation to an individual for a year of assessment his aggregate assessable income for that year after the additions and deductions specified in Part V have been made ;

"year of assessment" means the period of twelve months commencing on the first day of April, 1961, and each subsequent period of twelve months.

## PART II—IMPOSITION OF TAX AND INCOME CHARGEABLE

3. (1) Where the legislature of a territory imposes a tax on the income of individuals, communities or families, or arising to any trustee or executor under any settlement, trust or estate, that income shall be determined under, and the tax thereon shall be subject to, all the provisions of this Act.

Imposition  
of tax.

(2) In the case of an individual other than an itinerant worker, tax for any year of assessment may be imposed only by the territory in which the individual is deemed to be resident for that year under the provisions of the First Schedule to this Act.

Individuals  
other than  
itinerant  
workers.  
First  
Schedule.

(3) In the case of an itinerant worker, tax may be imposed for any year by any territory in which the itinerant worker is found during that year :

Itinerant  
workers.

Provided that—

(i) in an assessment for any year upon an itinerant worker credit shall be given against the tax payable, but not exceeding the amount thereof, for any income tax already paid by him to any other tax authority for the same year ; and

(ii) collection of so much of any tax imposed in a territory on an itinerant worker for a year of assessment as remains unpaid upon the itinerant worker leaving that territory during that year shall remain in abeyance during his absence from that territory, and if he returns to that territory having during his absence paid tax in some other territory for that year, credit shall be given against any unpaid tax in the first-mentioned territory, but not exceeding that unpaid amount, for the tax paid in that other territory ;

(4) In the case of a village or other indigenous community, tax may be imposed for any year only by the legislature of the territory in which that community is to be found and such tax may be charged on either—

Community  
income.

(a) the estimated total income of all its members ; or

(b) the estimated total income of those of its members whose income it is impracticable, in the opinion of the relevant tax authority, to assess individually ; or

(c) the amount of any communal income which, in the opinion of the relevant tax authority in relation to such community, it is impracticable to apportion with certainty between its members.

Family  
income.

(5) In the case of income of a family recognised under any law or custom in Nigeria as family income in which the several interests of individual members of the family are indeterminate or uncertain, tax may be imposed only by the territory in which the member of that family who customarily receives that income in the first instance in Nigeria usually resides.

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Certain  
income of  
settlements  
trusts and  
estates.  
Second  
Schedule.

(6) In the case of income arising to a trustee of any settlement or trust, or to an executor of any estate of a deceased person, tax may only be imposed by the territory the tax authority of which is the relevant tax authority in relation to such settlement, trust or estate and to the extent provided in the Second Schedule to this Act.

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Income  
chargeable.

4. (1) The tax shall, subject to the provisions of this Act, be payable for each year of assessment upon income accruing in, derived from, brought into, or received in, Nigeria in respect of—

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised ;

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(b) any salary, wages, fees, allowances or other gains or profits from an employment which are paid or payable in money by the employer to the employee other than—

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(i) so much of any such sums as may be admitted by the relevant tax authority to represent reimbursement to the employee of expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make any profit or gain ;

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(ii) in respect of medical or dental expenses incurred by the employee ;

(iii) in respect of the cost of any passage to or from Nigeria incurred by the employee ;

(iv) in respect of the maintenance or education of a child if the income tax law of the relevant tax authority provides that any such sums received by the employee during a year of assessment shall be deducted from the personal reliefs to be granted to him for the next following year.

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(c) gains or profits including any premiums arising from a right granted to any other person for the use or occupation of any property ;

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(d) dividends, interest or discounts ;

(e) any pension, charge or annuity ;

(f) any profits or gains not falling within the preceding categories.

(2) For the purposes of this section—

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(a) "allowances" include any sum paid or payable in respect of expenses and any sum put by an employer at the disposal of an employee and paid away by the employee ;

(b) "income" includes any amount deemed to be income under this Act ; and

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(c) the gains or profits arising from a right granted to any other person for the use or occupation of property under any lease or assignment thereof, being rent paid or expressed to be paid in advance, shall be deemed to accrue to the recipient from day to day over the period for which such rent has been paid ;

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Provided that where the said period exceeds five years the whole amount of the rent so paid or expressed to be paid in advance shall be treated as accruing evenly from day to day over the five years commencing on the first day of that said period.

5        5. (1) Where an individual, or an executor, or a trustee, outside  
Nigeria carries on a trade or business of which only part of the operations  
are carried out in Nigeria, the gains or profits of the trade or business  
shall be deemed to be derived from Nigeria to the extent to which such  
gains or profits are not attributable to that part of the operations carried  
10 on outside Nigeria.

Business or  
trade only  
partially  
carried on  
or deemed  
to be carried  
on in  
Nigeria.

15        (2) Where an individual, or an executor, or a trustee, outside  
Nigeria carries on business with a person in Nigeria and it appears to  
the relevant tax authority that, owing to any close connection between  
such persons, the course of business between them is so arranged that  
the business done by such person produces to him either no profits or  
less than the ordinary profits which might be expected to arise from such  
business, that individual, or executor, or trustee shall be assessable and  
chargeable to tax in the name of that person.

20        (3) Where it appears to the relevant tax authority that the true  
amount of the gains or profits of any individual, or executor, or trustee,  
outside Nigeria chargeable with tax in the name of a person in Nigeria  
cannot in any case be readily ascertained, the relevant tax authority may,  
if it thinks fit, assess and charge that individual, or executor, or trustee  
on a fair and reasonable percentage of the turnover of the business done  
25 by him through or with that person.

30        (4) Where an individual, or an executor, or a trustee, outside  
Nigeria is chargeable to tax in the name of any person in Nigeria in  
respect of any gains or profits arising from the sale of goods or produce  
manufactured or produced outside Nigeria by that individual, or execu-  
tor, or trustee, that person may apply to the relevant tax authority to  
have the assessment to tax in respect of those gains or profits made or  
amended on the basis of the profits which might reasonably be expected  
to have been earned by a merchant or, where the goods are retailed by or  
on behalf of a manufacturer or producer, by a retailer of the goods sold,  
35 who had bought from the manufacturer or producer direct, and on  
proof to the satisfaction of the relevant tax authority of the amount  
of the profits on the basis aforesaid, the assessment shall be made  
or amended accordingly:

40        Provided that no application by a person under this subsection  
shall be competent in respect of the gains or profits of any period if an  
assessment has been made on the profits of that period which has become  
final and conclusive under the provisions of the income tax law of the  
territory in which such assessment was made.

45        6. (1) The gains or profits from a partnership of a partner therein  
shall be the sum of—

Partnerships.

(i) any remuneration, interest on capital, or the cost of passages to  
or from Nigeria wholly or mainly undertaken for the purposes of leave  
or recreation, which is charged in the partnership accounts in respect  
of that partner, and



(ii) his share in the income of the partnership computed in accordance with the provisions of this Act after the deduction of charges to which the preceding sub-paragraph applies in respect of all the partners but before the deduction of any other expenses of the partnership referable to a partner which would have been private or domestic expenditure within the meaning of paragraph (a) of section 18 if incurred directly by that partner ;

and when the income computed under sub-paragraph (ii) results in a loss, his share therein shall be deducted from his gains or profits ascertained under the provisions of sub-paragraph (i), and he shall be deemed to have incurred a loss in the trade or business of the partnership to the extent, if any, by which the deductible share exceeds those gains or profits.

(2) For the purposes of the preceding subsection, the share of a partner in the computed income of a partnership shall be such proportion of that computed income as would accrue to him under the provisions of the partnership agreement if that computed income were wholly apportionable between the partners within the terms of the agreement, or, where the computed income results in a loss, such proportion of that loss as would be chargeable to him if that loss fell to be allocated between the partners in the terms of the agreement.

(3) The amount of the gains or profits or loss of a partner, ascertained under the foregoing provisions of this section, of any period shall be deemed for all purposes of this Act to be his ascertained income or loss of that period from a trade, business, profession or vocation carried on by him during that period, and the provisions of Part III of this Act, other than of paragraph (g) of section 17, shall not apply to such partner with respect to such income or loss.

(4) The determination of the income or loss from a partnership of a partner therein shall be made by the relevant tax authority in relation to that partnership, and where any partner is taxable for a year of assessment in the territory of some other authority the relevant tax authority shall supply to that other authority particulars of that determination.

(5) An appeal against an assessment by any individual insofar as it relates to any partnership income or loss shall lie only to the appeal tribunal or court specified for income tax purposes in a law of the territory the tax authority of which is the relevant authority in relation to that partnership.

(6) For the purposes of paragraph 6 of the First Schedule the income of a partner from a partnership in Nigeria shall be deemed to be derived from the territory of the relevant tax authority in relation to that partnership.

(7) On demand by the relevant tax authority addressed in writing to the principal office or place of business of a partnership in Nigeria, the partner, employee or agent in charge of that office shall register or cause to be registered with that authority a certified copy of the partnership deed or, where no written deed is in existence, particulars of any written or oral agreement under which the partnership is currently established, and where any such particulars have been so registered notice of any subsequent change therein agreed between the partners shall be similarly registered with that authority within thirty days of such agreement.

- (8) Where the particulars of any partnership have been registered under the provisions of the foregoing subsection the computation under this section of the gains or profits of a partner therein may be made by the relevant tax authority on the basis of those particulars as they apply at any relevant time, and, in the event of failure by a partnership to comply with any demand made under the foregoing subsection, notwithstanding the provisions of subsection (2) of this section, tax may be assessed and charged by the relevant tax authority as though the whole gains or profits of such partnership accrued to any individual partner therein or were divisible between any partners therein as may appear just and reasonable to that authority.

7. The gains or profits of an individual from any land used by him for agricultural purposes or from livestock shall, unless the relevant tax authority is satisfied to the contrary, be deemed to be the gains or profits which would be realised by him if the land were cultivated or used or the livestock were dealt with, as the case may be, in the manner and up to the average standard of cultivation, use or practice relating to the same prevailing in the neighbourhood.

Agricultural,  
etc. profits.

8. (1) The gains or profits from an employment shall be deemed to be derived from Nigeria if—

Employ-  
ments.

(a) the duties of the employment are wholly or partly performed in Nigeria, unless—

(i) the duties are performed on behalf of an employer who is in a country other than Nigeria; and

(ii) the employee is not in Nigeria for 183 days or more in a year of assessment; and

(iii) the remuneration of the employee is liable to tax in that other country;

(b) the employer is in Nigeria, unless the duties of the employment are wholly performed, and the remuneration paid, in a country other than Nigeria save during any temporary visit to or leave in Nigeria.

(2) Notwithstanding the provisions of paragraph (b) of the preceding subsection the gains or profits from an employment by a Government in Nigeria shall be deemed to be derived from Nigeria wherever the remuneration is paid if the employee performs the duties of that employment in a country other than Nigeria which country under an agreement or diplomatic usage exempts the employee from tax on those gains or profits.

(3) The gains or profits from any employment exercised in Nigeria shall be deemed to be derived from Nigeria whether the gains or profits from such employment are received in Nigeria or not.

(4) The gains or profits from any employment the duties of which are wholly or mainly performed in Nigeria shall be deemed to be derived from Nigeria during any period of leave of the employee from the employment, and any period of his temporary absence on duty from Nigeria.

(5) Subject to the foregoing provisions of this section the gains or profits from any employment the duties of which are mainly performed outside Nigeria shall be deemed to be derived from Nigeria to the extent that those duties are performed in Nigeria.



(6) Notwithstanding any provision of this section the gains or profits of an individual from any employment as a seafarer, other than any such employment in the Royal Nigerian Navy or by the Nigerian Ports Authority, shall be deemed to be derived from Nigeria only during any period in which the individual is serving under articles which he has signed in Nigeria or is performing stand-by duty on board a ship preparatory to his signing articles in Nigeria.

Nigerian  
dividends.

9. (1) The income from a dividend distributed by a Nigerian company shall be deemed to be derived from Nigeria and shall be the gross amount of that dividend before deduction of any tax which the company is required or permitted to deduct on payment thereof under the provisions of any law in force in Nigeria at the relevant time imposing taxation on the profits of companies :

Provided that a dividend distributed by a Nigerian company—

(i) out of any fund of capital profits realised by such company ; or

(ii) out of any profits exempted from tax by the provisions of section 17 of the Industrial Development (Income Tax Relief) Ordinance, or by the corresponding provisions of the Pioneer Industries Ordinance, or otherwise exempted by the provisions of any law in force in Nigeria imposing taxation on the profits of companies ; or

(iii) if the company is chargeable to tax under the provisions of the Petroleum Profits Tax Ordinance, 1959, out of any profits to which section 51 of that Ordinance applies ; or

(iv) out of any previously undistributed profits of such company which have been treated as distributed under the provisions of any law in force in Nigeria imposing taxation on the profits of companies ; shall not give rise to income in the hands of any shareholder entitled to such dividend.

(2) Any amount of the undistributed profits of a Nigerian company which, under the powers referred to in *proviso (iv)* to the preceding subsection, is treated as distributed shall, for the purposes of this Act, be deemed to be income from a dividend accruing to any person who is a shareholder in the company in proportion to his share in the ordinary capital thereof at the relevant time, and the amount of that deemed dividend to be taken for assessment in his hands shall be his due proportion thereof increased by such amount as may be specified by that authority in respect of tax deemed to be deducted at source.

(3) The income from a dividend distributed by a Nigerian company shall be deemed to arise on the day on which payment of that dividend becomes due.

10. The income from a dividend paid by a company other than a Nigerian company, or from any other source outside Nigeria, shall be the amount of that income brought into or received in Nigeria :

Provided that—

(i) if the income arose in a country to which section 23 applies, the amount of that income to be taken for assessment shall be the amount thereof so brought into or received in Nigeria increased by the appropriate amount of any foreign tax relative thereto ;

(ii) if the income arose in a country to which section 24 applies, the amount of that income to be taken for assessment shall be the amount computed under subsection (5) of section 25 ; or

Cap. 87.

No. 10 of  
1952.

No. 15 of  
1959.

Foreign  
income.

(iii) if the dividend is paid by a company out of profits to which section 51 of the Petroleum Profits Tax Ordinance applies, such dividend shall not give rise to income in the hands of any shareholder entitled thereto.

No. 15  
of 1959.

5 11. The income from any interest on money lent by an individual, or an executor, or a trustee, outside Nigeria to a person in Nigeria shall be deemed to be derived from Nigeria if—

Interest.

(i) there is a right to payment of the interest in Nigeria ;

10 (ii) the interest is by deed, will or otherwise charged upon or reserved out of real or personal estate situate in Nigeria the property of the person paying the same, or as a personal debt or obligation by virtue of any contract which is entered into in Nigeria ; or

15 (iii) in the case of money lent to a Nigerian company, the loan is evidenced by mortgage, debenture, loan or other stock, whether secured or unsecured, issued by the company in recognition of its debt.

20 12. Where a dividend or interest is distributed or paid by a Nigerian company the dividend or interest as the case may be, whenever necessary for the purpose of the First Schedule, shall be deemed to be derived from the Federal territory of Lagos.

Territory in  
which a  
dividend or  
interest  
paid by a  
Nigerian  
company  
arises.

13. The income of an individual or of a trustee or executor from a settlement, trust, or estate of a deceased person, made, created or administered in Nigeria, shall be ascertained in accordance with the provisions of the Second Schedule.

Settlements,  
Trusts and  
Estates.

Second  
Schedule.

25 14. (1) Where a tax authority is of opinion that any disposition is not in fact given effect to, or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, the authority may disregard such disposition or direct that such adjustments shall be made as respects the income of an individual or an executor, or a trustee, as the authority considers appropriate so as to counteract the reduction of liability to tax effected, or reduction which would otherwise be effected by the transaction.

Artificial  
transactions,  
etc.

35 (2) Where it appears that the interests of more than one tax authority are affected thereby, the exercise of any power conferred on a tax authority by subsection (1) shall be performed by the Joint Tax Board alone and any decision or direction of the Board under this section shall be binding on all tax authorities.

(3) For the purpose of this section—

40 (i) "disposition" includes any trust, grant, covenant, agreement or arrangement ;

45 (ii) transactions between persons one of whom either has control over the other or, in the case of individuals, who are related to each other or between persons both of whom are controlled by some other person, shall be deemed to be artificial or fictitious if in the opinion of the tax authority those transactions have not been made on terms which might fairly have been expected to have been made by independent persons engaged in the same or similar activities dealing with one another at arm's length.

Certain  
Appeals.

15. Any appeal with respect to assessment of income arising from any decision or direction of the Joint Tax Board under subsection (2) of section 14, shall lie only to the Federal Supreme Court at the instance of the person in whose hands that income is assessed to tax, and no shareholder shall have any right of appeal with respect to any amount deemed to be his income under the provisions of subsection (2) of section 9. 5

Income  
exempted—  
Third  
Schedule.

16. (1) There shall be exempt from the tax all that income specified in the Third Schedule.

(2) The Minister of Finance of the Federation may by notice include in the Third Schedule all or any income of any person or class of persons chargeable to tax by virtue of this Act, or by a law of a territory which is referential to this Act, so as to exempt such income from tax in pursuance of— 10

(a) any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organisation of which the Federation is a member ; or 15

(b) any arrangement in that behalf subsisting between the Government of the Federation and the Government of each Region.

(3) Nothing in this section or the Third Schedule shall be construed to exempt in the hands of the recipients any interest, bonuses, salaries or wages paid wholly or in part out of income exempted thereby. 20

### PART III—ASCERTAINMENT OF INCOME

Deductions  
allowed.

17. (1) For the purpose of ascertaining the income or loss of any individual of any period from any source chargeable with tax under this Act there shall be deducted all outgoings and expenses or any part thereof wholly and exclusively incurred during that period and ultimately borne by that individual in the production of the income including— 25

(a) any sum payable by way of interest upon money borrowed and employed as capital in acquiring the income ;

(b) rent for that period, and premiums the liability for which was incurred during that period, payable in respect of land or buildings occupied for the purpose of acquiring the income ; 30

(c) any expense incurred for repair of premises, plant, machinery or fixtures employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed : 35

Provided that if such premises, plant, machinery, fixtures, implement, utensil or article are used in part for domestic or private purposes so much of any such expenses as relates to such use shall not be so deducted ;

(d) bad debts incurred in any trade, business, profession or vocation, proved to have become bad during the period for which the income is being ascertained, and doubtful debts to the extent that they are respectively estimated to have become bad during the said period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period : 40 45

Provided that—

(i) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any previous period been allowed in respect of the same debt, the appropriate reduction shall be made in the deduction to be made in the period in question ; 50

(ii) all sums recovered during the said period on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Act be deemed to be income of the trade, business, profession or vocation of that period ;

(iii) it is proved that the debts in respect of which a deduction is claimed either were included as a receipt of the trade, business profession or vocation in the income of the year within which they were incurred, or were advances not falling within the provisions of paragraph (b) of section 18 made in the course of normal trading, business, professional or vocational operations ;

(e) any contribution or abatement deducted from the salary or pension of a public officer under the Widows' and Orphans' Pensions Ordinance or under any approved scheme within the meaning of that Ordinance, and any contribution, other than a penalty, made under the provisions of any Act establishing a national provident fund or other retirement benefits scheme for employees throughout Nigeria ;

Cap. 220.

(f) any contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Board subject to the provisions of the Fourth Schedule and such conditions as the Board in its absolute discretion may prescribe :

Fourth  
Schedule.

Provided that where the instruments establishing in Nigeria any such fund, society or scheme contain *inter alia* a general power or duty of the trustees or managers thereof to invest the monies of the said fund, society or scheme, and on the first day of any year of assessment commencing after the thirty-first day of March, 1962,—

(i) in the case of a fund, society or scheme deemed to have been approved under the provisions of subsection (5) of section 31 of this Act, less than thirty-three and one third *per centum* of all monies which are so invested is invested in securities issued by or under the authority of any Government in Nigeria ; or

(ii) in the case of a fund, society or scheme approved under the provisions of this section, less than fifty *per centum* of all monies which are so invested is invested in securities issued by or under the authority of any Government in Nigeria ;

the deemed approval or approval of such fund, society or scheme shall have no effect for any purpose of this Act for the said year of assessment ;

(g) such sum as may be provided in the income tax law of any relevant tax authority in relation to an individual in respect of premiums paid for insurance on the life of that individual or of his wife, or for any contract for a deferred annuity on the life of that individual or of his wife, unless such law allows relief for those purposes by way of a deduction from total income in determining the income chargeable to tax ;

(h) in the case of income from a trade, business, profession or vocation, any expense or part thereof incurred for that period (whether the liability was met during that or any previous period) wholly and exclusively for the purposes of such trade, business, profession or vocation unless such expense or the same part thereof is deductible for that or any other period under the foregoing provisions of this section : For the purposes of this paragraph an expense incurred



during a period shall be treated as having been incurred for that period to the extent that it is not specifically referable to the income of any other period.

(2) Where the income is chargeable solely by reason of it being brought into or received in Nigeria, nothing in this section shall confer a right to any deduction from the amount of that income so brought into or received in Nigeria.

Deductions  
not  
allowed.

18. Subject to the express provisions of this Act no deduction shall be allowed for the purpose of ascertaining the income of any individual in respect of—

(a) domestic or private expenses ;

(b) capital withdrawn from a trade, business, profession or vocation and any expenditure of a capital nature ;

(c) any loss or expense recoverable under an insurance or contract of indemnity ;

(d) rent of or cost of repairs to any premises or part of premises not incurred for the purpose of producing the income ;

(e) taxes on income or profits levied in Nigeria or elsewhere except as provided in section 10 ;

(f) any payment to a pension, provident, savings or widows' and orphans' society, fund or scheme save as permitted by paragraphs (e) and (f) of section 17.

(g) the depreciation of any asset ;

(h) any sum reserved out of profits, except as permitted by paragraph (d) of section 17 or as may be estimated by the relevant tax authority, pending determination of the amount, to represent the amount of any expense deductible under the provisions of that section the liability for which was irrevocably incurred during the period for which the income is being ascertained ;

Waiver or  
refund of  
liability or  
expense.

19. Where a deduction has been allowed under the provisions of section 17 in respect of any liability or any expense incurred and such liability is waived or released or such expense is refunded in whole or in part, the amount of that liability or expense which is waived, released or refunded as the case may be shall be deemed to be income on the day on which such waiver, release or refund was made or given.

#### PART IV—ASCERTAINMENT OF ASSESSABLE INCOME

Basis for  
computing  
assessable  
income.

20. (1) Save as provided in this section, the income of any individual for each year of assessment from each source of his income (hereinafter referred to as "assessable income") shall be the amount of the income of the year immediately preceding the year of assessment from each such source, notwithstanding that he may have ceased to possess any such source or that any such source may have ceased to produce income.

(2) Where the relevant tax authority is satisfied that any individual makes, or intends to make up the accounts of a trade, business, profession or vocation carried on by him to some day other than the thirty-first day of March, it shall direct that the assessable income from that source be computed on the amount of the gains or profits of the year ending on that day in the year preceding the year of assessment. Where, however, the assessable income of any individual from a trade, business, profession or vocation has been computed by reference to an account made up to a certain day, and such individual fails to make up an

account to the corresponding day in the year following, the assessable income from that source both for the year of assessment in which such failure occurs and for the two years of assessment next following shall be computed on such basis as the relevant tax authority in its discretion thinks fit :

Provided that any such basis adopted by a relevant tax authority shall be subject to confirmation or amendment by the Board, with or without retrospective effect, if the individual is deemed to be resident in more than one territory for those three years of assessment, and such additional assessments, reductions or repayments shall be made so as to give effect to any determination of the Board under this subsection ;

Provided further, an appeal against a determination of the Board under this subsection shall lie only to the Federal Supreme Court at the instance of the individual.

(3) The assessable income of any individual from any trade, business, profession or vocation carried on by him in Nigeria for the year of assessment in which he commenced to carry on such trade, business, profession or vocation in Nigeria and for the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year", and "the third year") shall be ascertained in accordance with the following provisions :—

New trades,  
etc.

(a) for the first year the assessable income shall be the amount of the income of that year ;

(b) for the second year the assessable income shall, unless such notice as hereinafter mentioned is given, be the amount of the income of one year from the date of the commencement in Nigeria of the trade, business, profession or vocation ;

(c) for the third year the assessable income shall, unless such notice as is hereinafter mentioned be given, be computed in accordance with the provisions of subsection (1) ;

(d) the individual carrying on the trade, business, profession or vocation shall be entitled, on giving notice in writing to each relevant tax authority within two years after the end of the second year, to require that the assessable income both for the second year and the third year (but not for one or other only of those years) shall be the income of the respective years of assessment :

Provided that he may, by notice in writing given to each relevant tax authority within twelve months after the end of the third year, revoke the notice, and in such case the assessable income both for the second year and the third year shall be computed as if the first notice had never been given ;

(e) where such a notice as aforesaid has been given or revoked, such additional assessments, or, on a claim being made for the purpose in writing, such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to paragraph (d) of this subsection.

(4) Where an individual permanently ceases to carry on a trade, business, profession or vocation in Nigeria his assessable income therefrom shall be—

Cessation  
of trades,  
etc.

(a) as regards the year of assessment in which the cessation occurs, the amount of the income of that year ;

(b) as regards the year of assessment preceding that in which the cessation occurs, the amount of the income as computed in accordance with the foregoing subsections, or the amount of the income of such year, whichever is the greater, and he shall not be deemed to derive assessable income from such trade, business, profession or vocation for the year of assessment following that in which the cessation occurs.

Employ-  
ments and  
pensions.

(5) With respect to income from an employment or pension which is derived, or deemed to be derived, from Nigeria the assessable income of an individual shall be the amount of the income of the year of assessment :

For the purpose of this subsection income from an employment shall be deemed to arise from day to day except to the extent that it is derived from any bonus, commission or allowance payable on one occasion only or at intervals exceeding one month, and to that extent it shall be deemed either to be income of the day on which it is paid or, if it is paid after the cessation of the employment, of the last day of the employment including any terminal leave arising therefrom.

Trusts  
and  
estates.

(6) Notwithstanding the foregoing provisions of this section, the assessable income of a trustee, or of an executor of the estate of a deceased individual, or of a beneficiary of a trust or estate for any year of assessment shall be the income of that person as determined under the provisions of the Second Schedule of the year preceding that year.

Itinerant  
workers.

(7) The assessable income for any year of assessment of an itinerant worker shall be determined either under the foregoing provisions of this section or be the income of the year ending on the thirty-first day of December within the year of assessment if the income tax law of the territory which taxes him so prescribes.

Continuity  
of trades,  
etc.

(8) An individual carrying on any trade, business, profession or vocation, shall not be treated as having commenced or ceased so to do solely by reason of a change in the territory in which he is deemed to be resident from one year to another, nor by reason of his becoming or ceasing to be a partner in a partnership if the nature of the trade carried on by that partnership is the same as that carried on by him before or after he became or ceased to be a partner therein as the case may be.

Apportion-  
ment of  
income.

(9) Where in the case of any trade, business, profession or vocation it is necessary in order to arrive at the income of any year of assessment or other period to allocate or apportion to specific periods the income or loss of any period for which accounts have been made up, or to aggregate any such income or loss or any apportioned parts thereof, it shall be lawful to make such allocation, apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods.

Receipts  
and pay-  
ments after  
cessation of a  
trade, etc.

(10) Where after the date on which any individual has ceased to carry on a trade, business, profession or vocation in Nigeria he or, after his death, his personal representative receives or pays any sum which would have been included in or deducted from his gains or profits from that trade, business, profession or vocation if it had been received or paid prior to that date, such sum shall be deemed for all purposes of this Act to have been received or paid by him, as the case may be, on the last day on which he carried on that trade, business, profession or vocation.



## PART V.—ASCERTAINMENT OF TOTAL INCOME

21. (1) The total income of any individual for any year of assessment shall be the amount of his total assessable income from all sources for that year, together with any additions thereto to be made in accordance with the provisions of the Fifth Schedule, less any deductions to be made or allowed in accordance with the provisions of this section and of the said Schedule.

Total income  
from all  
sources.

Fifth  
Schedule.

(2) There shall be deducted—

Loss in  
trade, busi-  
ness, pro-  
fession or  
vocation.

(a) the amount of a loss incurred by him during the year of assessment in any trade, business, profession or vocation :

Provided that no such deduction shall be made unless it is claimed in writing within twelve months after the end of the year of assessment ;

(b) the amount of a loss which the relevant tax authority is satisfied has been incurred by him in any such trade, business, profession or vocation during any year preceding the year of assessment which has not been allowed against his assessable income of a preceding year :

Provided that—

(i) in no circumstances shall the aggregate deduction from assessable income in respect of any such loss exceed the amount of such loss ; and

(ii) a deduction under this paragraph for any year of assessment shall not exceed the amount, if any, of the assessable income, included in the total income for that year of assessment, from the trade, business, profession or vocation in which the loss was incurred and shall be made as far as possible from such amount of such assessable income of the first year of assessment after that in which the loss was incurred, and, so far as it cannot be so made, then from such amount of such assessable income of the next year of assessment, and so on ; and

(iii) when land or buildings are let by an individual for the purposes of producing income and during any year of assessment the expenses deductible under the provisions of section 17 in ascertaining the gains or profits from that income exceed the amount of that income, the excess shall be treated as if it were a loss incurred by the individual in a trade or business carried on by him ; and

(iv) in no case shall a deduction be made in respect of a loss arising from any source incurred by an individual before the first day of the period the income of which is his assessable income from that source for the year of assessment beginning on the first day of April, 1961, unless relief to the individual in respect of that loss was authorised by an income tax enactment in force in Nigeria to which that individual was subject, and unless the amount of the loss has been proved to the satisfaction of the authority responsible for the administration of the relevant enactment or has been established on appeal against a direction of such authority : and for the purposes of subsection (2) of this section any such proved or established loss shall be taken into account only to the extent that no deduction in respect of it has been made under the provisions of any income tax enactment in force before the commencement of this Act.

(3) For the purposes of subsection (2) the loss incurred during any year of assessment shall be computed by reference to the year ending on a day in such year of assessment which would have been adopted under subsection (2) of section 20 for the computation of assessable income of the following year of assessment if a profit had arisen.

(4) Where under the provisions of subsection (9) of section 20 for the purpose of computing the income of a period from a source chargeable with tax under this Act, being a period the income of which is assessable income from that source for any year, it has been necessary to allocate or apportion to specific periods which fall within that whole period both gains or profits and losses then no deduction shall be made under the provisions of subsection (2) of this section in respect of the loss or apportioned part thereof referable to any such specific period except to the extent that such loss or part thereof exceeded the aggregate gains or profits apportioned to the remaining specific period or periods within that whole period.

## PART VI—DOUBLE TAXATION RELIEF

Interpretation.

22. For the purposes of this Part—

“Commonwealth income tax” means any income tax charged under a law in force in any country within the Commonwealth or in the Republic of Ireland which provides for relief in respect of tax charged on income both in that country and Nigeria in a manner corresponding to the relief granted in section 23.

“resident in Nigeria” in respect of an individual who is in receipt of income chargeable to tax both in Nigeria and some other country means an individual who is deemed to be resident in a territory for the relevant year of assessment and who during that year is in Nigeria for a greater number of days than he is in that other country.

Relief in respect of Commonwealth income tax.

23. (1) If any individual resident in Nigeria, who has paid, by deduction or otherwise, or is liable to tax for any year of assessment on any part of his income, proves to the satisfaction of the relevant tax authority that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Nigeria paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

(a) if the Commonwealth rate of tax does not exceed one-half of the Nigerian rate of tax, the rate at which relief is to be given shall be the Commonwealth rate of tax;

(b) in any other case the rate at which relief is to be given shall be half of the rate of Nigerian tax.

(2) If any individual not resident in Nigeria, who has paid, by deduction or otherwise, or is liable to tax for any year of assessment on any part of his income, proves to the satisfaction of the relevant tax authority that he has paid, by deduction or otherwise, or is liable to pay Commonwealth income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him in Nigeria on that part of his income at a rate thereon to be determined as follows:—

(a) if the Commonwealth rate of tax does not exceed the Nigerian rate of tax, the rate at which relief is to be given shall be one-half of the Commonwealth rate of tax;

(b) if the Commonwealth rate of tax exceeds the Nigerian rate of tax, the rate at which relief is to be given shall be equal to the amount by which the Nigerian rate of tax exceeds one-half of the Commonwealth rate of tax.

(3) For the purposes of this section the Nigerian rate of tax of an individual for a year of assessment shall be determined by dividing the amount of the tax imposed on him for that year in Nigeria (before the deduction of any relief granted by this Part) by the amount of his total income for that year, and the Commonwealth rate of tax shall be determined in a similar manner.

(4) Any claim for relief from tax for any year of assessment under this section shall be made not later than six years after the end of that year of assessment, and if the claim is admitted the amount of tax to be relieved shall be repaid out of the tax paid for that year of assessment or set-off against the tax which the claimant is liable to pay for that year of assessment :

Provided that in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

24. (1) If the Minister of Finance of the Federation by order declares that arrangements specified in the order have been made with the Government of any country outside Nigeria with a view to affording relief from double taxation in relation to tax imposed on income charged by this Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect notwithstanding anything in any enactment.

Double  
Taxation  
Arrangements.

(2) On the making of an order under this section with respect to arrangements made with the Government of any Commonwealth country, section 23 of this Act shall cease to have effect as respects that country and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) Where any arrangements have effect by virtue of this section, any obligation as to secrecy in this Act or in any law of a territory subject to or incorporating the provisions of this Act shall not prevent the disclosure to any authorised officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(4) The Minister of Finance of the Federation may make rules for carrying out the provisions of any arrangements having effect under this section.

(5) An order made under the provisions of subsection (1) may include provisions for relief from tax for periods commencing or terminating before the making of the order and provisions as to income which is not itself liable to double taxation.

(6) For the purposes of affording relief in Nigeria from double taxation the arrangements specified in the Sixth Schedule shall be deemed to have been made under the provisions of this section and to apply throughout Nigeria with effect from the year of assessment beginning on the first day of April, 1961.

Sixth  
Schedule.

Method of calculating relief to be allowed for double taxation.

25. (1) The provisions of this section shall have effect where, under arrangements having effect under section 24 of this Act, foreign tax payable in respect of any income in the country with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Nigeria; and in this section the expression "foreign tax" means any tax payable in that country which under the arrangements is to be so allowed.

(2) The amount of the tax chargeable in respect of the income which is liable to both tax and foreign tax shall be reduced by the amount of the credit admissible under the terms of the arrangement:

Provided that credit shall not be allowed against tax for any year of assessment unless the person entitled to the income is resident in Nigeria for that year.

(3) The credit shall not exceed the amount which would be produced by computing, in accordance with the provisions of this Act, the amount of the income which is liable to both tax and foreign tax, and then charging it to tax at a rate ascertained by dividing the tax chargeable (before the deduction of any relief granted by this Part) on the total income of the individual entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of subsection (3), the total credit to be allowed to an individual for any year of assessment for foreign tax under all arrangements having effect under section 24 of this Act shall not exceed the total tax payable by him for that year of assessment.

(5) In computing the amount of the income—

(a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);

(b) where the tax chargeable depends on the amount received in Nigeria the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income; and

(c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit, but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Paragraphs (a) and (b) of subsection (5) (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3), and shall apply thereto in relation to all income in respect of which credit falls to be given for foreign tax under arrangements for the time being in force under section 24 of this Act.

(7) Credit shall not be allowed under the arrangements against tax chargeable in respect of the income of any individual for any year of assessment if he elects that credit shall not be allowed in the case of his income for that year.

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(8) Any claim for an allowance by way of credit shall be made not later than two years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

- 5 (9) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Nigeria or elsewhere, nothing in this Act or in any law of a territory limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to  
10 which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in Nigeria or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

- 15 26. (1) When for any year of assessment a dividend distributed or treated under the provisions of subsection (2) of section 9 as distributed by a Nigerian company falls to be included in the assessable income of an individual, the tax deducted or deemed to have been deducted therefrom (under the provisions in this regard of any Act imposing tax on the  
20 income or profits of companies) shall be set-off for the purposes of collection against any tax payable by that individual for that year after all other reliefs afforded by this Act have been given, and, subject to the provisions of the next following subsection, where the amount so to be set-off exceeds the tax payable that excess shall be refunded to the  
25 individual by the relevant tax authority in relation to that individual for that year: For the purpose of applying the provisions of subsections (2) and (3) of this section, tax set-off shall be taken to mean the amount of the tax so to be set-off but not including any such excess thereof.

Dividends distributed by Nigerian companies.

- 30 (2) Where the net rate of Nigerian tax (as determined by the Federal tax authority under the provisions in this regard of any Act imposing tax on the income or profits of companies) applicable to any profits of a company out of which it has, or is treated as having, distributed any dividend is less than the rate of tax deducted or deemed to have been deducted from that dividend, and any such dividend is  
35 included in the assessable income of an individual for any year, then any refund to be made to that individual under the provisions of the foregoing subsection shall be restricted so that the aggregate of the tax set-off for that year and of the tax refunded does not exceed the aggregate of tax at the net Nigerian rate applicable to each such dividend so  
40 included in the assessable income of the individual for that year.

- (3) Subject to verification by the Federal tax authority of any claim made by any other tax authority in Nigeria with respect to tax set-off or refunded by that other authority under the provisions of the preceding subsections of this section, it shall be lawful for the  
45 Accountant-General of the Federation to reimburse to the Government of that other authority all tax which that other authority has so set-off or refunded, save only where—

- 50 (a) a dividend is distributed or is treated as having been distributed by a Nigerian company out of profits in respect of any part of which double taxation relief has been given against tax otherwise payable by that company in Nigeria; and

(b) no refund is due under the provisions of the foregoing subsections of this section to the individual for the year of assessment in the assessable income for which any such dividend is included ;

in which case the amount to be reimbursed in respect of tax so set-off against the tax payable by such individual for such year shall be reduced on account of the double taxation relief given to the company in such manner as the Minister of Finance of the Federation may by regulations prescribe. 5

(4) An appeal on any issue arising from the determination by the Federal tax authority of the net Nigerian rate of tax applicable to a dividend shall be at the instance of any individual affected thereby to the High Court of Lagos. 10

#### PART VII—ADMINISTRATIVE AND TRANSITIONAL PROVISIONS

27. (1) There is hereby established a Board of which the official name shall be the Joint Tax Board. 15

(2) The Board shall consist of the following members, that is to say, one member for each territory, being a person experienced in income tax matters to be nominated either by name or office from time to time by the Minister charged with responsibility for matters relating to income tax in each such territory, and any such nomination shall be evidenced by notice thereof in writing delivered to the Secretary of the Board. 20

(3) The Federal Public Service Commission shall appoint an officer who is experienced in income tax matters to be Secretary to the Board, and may appoint such other staff as the Board may agree to be necessary from time to time, including on secondment or transfer from any public service in Nigeria. 25

(4) The Secretary shall not be a member of the Board but shall be responsible for maintaining records of the Board's proceedings and, for signifying all decisions of the Board.

(5) The Secretary shall summon a meeting of the Board whenever the business requiring its attention so warrants, or upon any request of a member, and a majority decision on any matter of the members obtained by him in written correspondence shall be treated in all respects as though it were a decision of the Board in actual meeting unless any member has requested the submission of that matter to such meeting. 30 35

(6) At any meeting of the Board a member may be represented by an official duly authorised by the member for such purpose, and any three members or their representatives shall constitute a quorum.

(7) At each meeting of the Board a Chairman for that meeting, who shall have a casting vote, shall be elected by the Board from among the members or their representatives who are present. 40

(8) The Board—

(a) shall exercise the powers or duties conferred upon it by any express provision of this Act, and any other powers and duties arising under this Act which may be agreed by the Government of each territory to be exercised by the Board ; and 45

(b) shall exercise any powers and duties conferred on it by any enactment of the Federal Government imposing tax on the income or profits of companies, or which may be agreed by the Federal Minister of Finance to be exercised by it under such enactment in place of the Federal Board of Inland Revenue ; and 50

(c) shall advise the Government of the Federation, on request, in respect of double taxation arrangements concluded or under consideration with any other country, and in respect of rates of capital allowances and other taxation matters having any effect throughout Nigeria and in respect of any proposed amendment to this Act; and

(d) shall use its best endeavours to promote uniformity both in the application of this Act and in the incidence of tax on individuals throughout Nigeria.

(9) The Government of the Federation shall provide an office for the Board in Lagos of which the recurrent expenses incurred by that Government, including the emoluments of the Secretary and of any other officers or employees of the Board, shall be shared between the Federal and Regional Governments either in proportion to their respective tax revenues or in some other manner as those Governments may agree upon from time to time.

28. (1) Where a tax authority is in possession of any information, document or record relating to any individual which in the interests of the public revenues in Nigeria should be disclosed or transferred to any other tax authority or to the Board, such information, document or record shall be so disclosed or transferred notwithstanding any provisions as to secrecy contained in any income tax law of a territory.

Disclosure  
and  
procure-  
ment of  
informa-  
tion.

(2) A member of the Board, its Secretary, and any person employed in the offices of the Board shall not disclose any information respecting the income, tax or personal circumstances of any person which has come into his possession in the course of his duties except as may be expedient in any legal proceedings arising from this Act, or to any tax authority, or in accordance with any provision of an arrangement with respect to taxes made with any other country, and any such information disclosed to a tax authority shall thereafter be subject to the provisions of the foregoing subsection and to any secrecy provisions of the income tax law administered by that authority.

(3) Subject to the foregoing provisions of this section, for the purpose of obtaining information in respect of the income or personal circumstances of any individual a tax authority may give notice to any person to deliver the information specified therein within the time limited by such notice:

Provided that a person engaged in banking in Nigeria shall not be required to disclose any information concerning the customers of that bank other than in respect of interest paid or credited by the bank to those customers which in the case of any individual exceeds £15 in any period of twelve months.

29. (1) A tax authority may by notice in writing declare any person to be the agent of any other person and the person so declared the agent shall be the agent of such other person for the purposes of this Act, and may be assessed in his own name as agent of that other person or be required to pay any tax which is or will be payable by the other person to that authority from any moneys, including pensions, salary, wages or any other remuneration, which may be held by him for, or due by or to become due by him to, the other person whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him:

Power to  
appoint  
agent.



Provided that every person answerable for the payment of tax on behalf of another person may retain out of any moneys coming into his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance of this section. 5

(2) For the purposes of obtaining information with respect to the income or personal circumstances of any person or of collecting or enforcing payment of any tax due, a tax authority may appoint by notice in writing any other tax authority, with the consent of that other authority, to be its agent and to exercise on its behalf any powers conferred by this Act or its income tax law as may be specified in such notice, and production of such notice in any proceedings shall be sufficient evidence of the due delegation of those powers. 10

Returns,  
etc.

30. (1) Any written return, statement or information affecting the liability to tax of an individual for a year of assessment made or given by any person to a tax authority may be treated as having been given to any other tax authority in the territory of which that individual is deemed to be resident for that year and, if any error or omission in such return, statement or information constitutes an offence under the income tax law of that other authority, proceedings may be taken by that other authority in respect of that offence as though the return, statement or information had been made or given to that other authority in the first instance. 15 20

Place of  
an offence.

(2) Where failure to comply with any requirement lawfully made by a tax authority of a territory under any provision of this Act constitutes an offence by virtue of any provision of an enactment of that territory, then such offence shall be deemed to have been committed at the place from which the notice of that requirement was issued by that authority. 25 30

Continuing  
effect of  
decisions,  
etc.

31. (1) Any matter for a year of assessment which has any continuing effect in determining the assessable income of an individual for any subsequent year and which is :—

(a) agreed between the individual and the relevant tax authority ; or  
(b) determined on objection or appeal ; or 35

(c) otherwise determined by the relevant tax authority under any provision of this Act ; or

(d) arises from any option of the individual of which due notice has been given by him under any provision of this Act ;  
shall be given such effect by the relevant tax authority for each such subsequent year notwithstanding any change in the territory in which the individual is deemed to be resident for any of those subsequent years : 40

Provided that nothing in this section shall prevent any necessary adjustment being made by a relevant tax authority in the event that any such matter is re-opened or redetermined by the tax authority by which it was first agreed or determined. 45

(2) The provisions of subsection (1) of this section shall apply *mutatis mutandis* to any matter having a continuing effect which has been agreed or determined, and to any option exercised by an individual having similar effect, under any provision of a law imposing tax on the income of individuals in Nigeria in force for the year of assessment ending on the thirty-first day of March, 1961. 50

(3) In the event of any dispute between tax authorities in any matter to which subsection (1) of this section refers, not being a matter already determined on appeal, the facts may be reported to the Board whose decision thereon shall be implemented by the tax authority by which the agreement or determination was first made.

(4) For the purpose of ascertaining the income from a dividend distributed or treated as distributed by a Nigerian company during the year ended on the thirty-first day of March, 1961, such dividend shall be deemed to be of such amount as after deduction of tax at the rate of eight shillings in each pound leaves the net amount of the dividend so distributed, notwithstanding any provision of the Income Tax Ordinance which applied at the date of such distribution.

Cap. 85.

(5) Any pension, provident or other society, fund or scheme approved before the first day of April, 1961, under the provisions of paragraph (h) of subsection (1) of section 10 of the Income Tax Ordinance or for the purposes of any like provision contained in any income tax law of a Region in force prior to that date shall be deemed to have been approved by the Joint Tax Board on such conditions as applied to such approval immediately before that day :

Cap. 85.

Provided that—

(i) if conditions have been imposed upon the approval of any fund both for the purposes of the Income Tax Ordinance and any such Regional income tax law, or for the purposes of two or more Regional laws, and those conditions are not substantially of similar effect, the Board shall determine what conditions shall be held to apply for the year of assessment beginning on the first day of April, 1961, and for subsequent years ; and

(ii) nothing in this section shall prevent the Board at any time from withdrawing approval from any such society, fund or scheme or from imposing or modifying any conditions attached thereto.

32. Save as may be provided in any order made under the provisions of section 1 of this Act, the Income Tax Ordinance, the Income Tax Administration Ordinance and the Direct Taxation Ordinance shall cease to apply in Nigeria with respect to tax chargeable on persons other than companies for all years of assessment beginning after the thirty-first day of March, 1961, and all subsidiary legislation, rules, orders or notices made or issued under those Ordinances, except where otherwise expressly provided in this Act, shall cease similarly to apply.

Restriction of effect of certain Ordinances. Cap. 85. No. 39 of 1958. No. 4 of 1940.

## FIRST SCHEDULE

(Subsection 3 (2))

### DETERMINATION OF RESIDENCE

1. In this Schedule except where the context otherwise requires—

Definitions.

“earned income” in relation to an individual means income derived by him from a trade, business, profession, vocation or employment carried on or exercised by him and a pension derived by him in respect of any previous employment ;

“foreign employment” means any employment the duties of which are wholly performed outside Nigeria save during any temporary visit of the employee to Nigeria ;

"Nigerian employment" means any employment, not being a foreign employment, the duties of which are wholly or partly performed in Nigeria ;

"Nigerian pension" means a pension in respect of past service under, and payable by, a Government or Governments in Nigeria ;

"place of residence" in relation to an individual means a place available for his domestic use in Nigeria on a relevant day, and does not include any hotel, rest-house or other place at which he is temporarily lodging unless no more permanent place is available for his use on that day ;

"principal place of residence" in relation to an individual with two or more places of residence on a relevant day, not being both within any one territory, means—

(i) in the case of an individual with no source of earned income, other than a pension, liable to tax in Nigeria, that place of those places in which he usually resides ;

(ii) in the case of an individual who has a source of earned income, other than a pension, liable to tax in Nigeria, that place of those places which on a relevant day is nearest to his usual place of work ;

and the expression "place or principal place of residence" is to be construed as meaning the principal place of residence if the individual has two or more places of residence on a relevant day.

Foreign  
employ-  
ments.

2. An individual who holds a foreign employment on the 1st day of April in a year of assessment, or who first becomes liable to income tax in Nigeria for that year by reason of his entering such employment during that year, shall be deemed to be resident for that year in the territory in which the principal office of his employer is situated on that day or on the day his foreign employment commences as the case may be.

Nigerian  
employ-  
ments.

3. (1) An individual who holds a Nigerian employment on the 1st day of April in a year of assessment, or who first becomes liable to income tax in Nigeria for that year by reason of his entering such employment during that year, shall be deemed to be resident for that year in the territory in which he has a place or principal place of residence on that day or, as the case may be, on the day on which he enters upon the full duties of that employment in Nigeria :

Provided that if the individual is on leave from a Nigerian employment on the 1st day of April in a year of assessment he shall be deemed to be resident for that year by reference to his place or principal place of residence immediately before his leave began.

(2) Notwithstanding the provisions of sub-paragraph (1) an individual who is in whole-time employment in a military, naval or civilian capacity in the Royal Nigerian Army or the Royal Nigerian Navy on the 1st day of April in a year of assessment, or who first becomes liable to income tax in Nigeria for that year by reason of his entering such employment during that year, shall be deemed to be resident for that year in the Federal territory of Lagos :

Provided that the aggregate tax collected from such individuals for each year of assessment shall be apportioned between the territories by reference to the place where each such individual has resided longest

during that year, or by such other means acceptable from time to time to the Government of each territory, and it shall be lawful for the Accountant-General of the Federation to pay to the Government of each Region its duly apportioned share upon a certificate for that purpose given by or on behalf of the officer commanding the said Army or Navy.

Other  
employ-  
ments.

4. An employee whose remuneration is subject to income tax in Nigeria for any year of assessment, but who is not deemed to be resident in a territory for that year under the provisions of paragraph 3, shall be deemed to hold a foreign employment, and if he has no territory of residence for that year under the provisions of paragraph 2 of this Schedule he shall be deemed to be resident in Lagos.

Pensions.

5. (1) An individual whose only source of earned income arising in Nigeria on the 1st day of April in a year of assessment was a pension, and who had a place or principal place of residence on that day shall be deemed to be resident for that year in the territory in which that place or principal place of residence was situated on that day.

(2) An individual whose only source of earned income arising in Nigeria on the 1st day of April in a year of assessment was a pension, and who had no place of residence on that day, shall be deemed to be resident for that year—

(a) if the pension is a Nigerian pension wholly payable by the Government of one territory, in that territory;

(b) if the pension is not a Nigerian pension, in the territory in which the principal office in Nigeria of the pension fund or other person authorising payment of the pension is situated;

(c) if the pension is a Nigerian pension payable by more than one Government or if there are two or more pensions arising in different territories to the individual on that day, in the Federal territory of Lagos.

Other  
earned  
income.

6. An individual (other than a corporation sole or body of individuals) who has a source of earned income in Nigeria for a year of assessment, other than an employment or a pension, shall be deemed to be resident for that year in the territory in which he had a place or principal place of residence on the 1st day of April in that year:

Provided that—

Unearned  
income.

(i) if the source of such income is first acquired by the individual during the year of assessment, and he had no place of residence on the first day of that year, he shall be deemed to be resident for that year in the territory where he first establishes a place of residence during that year; and

(ii) in any other case the individual shall be deemed to be resident for that year in any territory from which the whole of his earned income arising in Nigeria is derived, or in the Federal territory of Lagos if such income is derived from more than one territory.

7. An individual (other than corporation sole or body or individuals) who has no source of earned income in Nigeria for a year of assessment but who has one or more sources of unearned income in Nigeria for that year shall be deemed to be resident for that year in the territory in which he has a place or principal place of residence on the 1st day of April in that year:



Provided that—

(i) if all such unearned income of the individual for that year arises in one territory, and he has no place of residence on that day, he shall be deemed to be resident for that year in that territory;

(ii) if the unearned income of the individual arises for that year in more than one territory, and he has no place of residence on that day, he shall be deemed to be resident for that year in the Federal territory of Lagos.

Applica-  
tion.

8. (1) Where the territory of residence of an individual for a year of assessment may be determined under more than one of the preceding paragraphs of this Schedule it shall be determined by the first-numbered paragraph which is applicable to his circumstances.

(2) If, by reason of sub-paragraph (1) or otherwise, a determination of residence of an individual for a year of assessment falls to be revised a tax authority, other than that of the territory in which the individual is finally determined to be resident for that year, shall discharge any assessment made by it upon the income of the individual for that year.

Corpora-  
tion sole  
or body of  
individuals.

9. A corporation sole or a body of individuals other than a family or community shall be deemed to be resident for a year of assessment in the territory in which its principal office in Nigeria is situated on the 1st day of April in that year or, if it has no office in Nigeria on that day, in any territory in which the whole of its income liable to tax in Nigeria arises for that year or, in any other case, in the Federal territory of Lagos.

Objections,  
Disputes  
and  
Appeals.

10. (1) In an objection to an assessment which is, or includes, an objection to the determination of an individual's territory of residence by any tax authority, the individual shall set out all the grounds upon which he relies to refute that determination, and those grounds together with the observations thereon by that authority shall be referred by it to the Board.

(2) In the event of a dispute as to the territory of residence of an individual for a year of assessment, either between two or more tax authorities or between a tax authority and an individual before he has been assessed to tax by that authority for that year, the facts may be referred to the Board by any tax authority which is a party to the dispute.

(3) Where a dispute arises between two or more tax authorities with respect to the territory of residence of an individual for a year of assessment and that individual has already been assessed to tax in Nigeria for that year, the facts of that dispute may be referred to the Board by any tax authority.

(4) The Secretary of the Board shall give notice of any grounds, observations or facts referred to the Board under the provisions of sub-paragraphs (1), (2) or (3) to those parties including the individual who are affected or likely in his opinion to be affected by a determination of residence by the Board, and shall afford any such party a period being not less than thirty days from the issue of such notice in which to reply thereto.

(5) The Secretary of the Board may call for further information to be given by any party, including the individual, to an objection or dispute within such time as may appear to him to be reasonable, and after the expiry of such period or of the period mentioned in subparagraph (4), whichever is the later, the Board shall proceed to determine the territory of residence of the individual for the relevant year of assessment.

(6) Written notice of any such determination by the Board shall be given by its Secretary to the individual and to each tax authority affected thereby, and any assessment which has been made on that individual otherwise than in accordance with the determination of the Board shall be discharged.

(7) Pending a determination by the Board the tax authority which has referred an objection to the Board under the provisions of this paragraph shall not determine that objection unless that objection, insofar as it concerns the territory of residence of the individual, is previously withdrawn by him in writing.

(8) A determination by the Board under this paragraph shall be binding on all tax authorities and on any appeal tribunal or other body established under a law of a territory for the purposes of income tax within that territory, but may be questioned by the individual in the High Court of the territory the tax authority of which has made the relevant assessment.

(9) It shall not be competent for an appellant in any appeal against an assessment to enter any ground of appeal concerning his territory of residence which he has not disclosed upon a valid objection to the relevant assessment.

(10) An appeal from a decision of a High Court in respect of the territory of residence of an individual shall lie to the Federal Supreme Court.

(11) Where a tax authority discovers that an individual who has been assessed by it to tax for a year of assessment is deemed to be resident for that year in the territory of some other tax authority, the assessment shall be discharged and any tax already paid by the individual in respect of that assessment shall be—

- (a) set-off against tax owing for any other year by that individual to the first-mentioned authority; or
  - (b) paid to the Government of that other authority; or
  - (c) repaid to the individual,
- in such proportions as the first-mentioned authority may decide.

## SECOND SCHEDULE

(Sections 3 (6) and 13)

## SETTLEMENTS, TRUSTS AND ESTATES

1. Notwithstanding any other provisions of this Schedule the income of a settlement or trust shall for all purposes of this Act be deemed to be the income of the settlor or person creating the trust, as the case may be, if— 5

(i) that settlor or person retains or acquires an immediately exercisable general power of appointment over the capital assets of the settlement or trust or over the income derived therefrom ; or

(ii) that settlor or person may make use directly or indirectly, by borrowing or otherwise, of any part of the income arising under the settlement or trust ; or 10

(iii) the settlement or trust is revocable in circumstances whereby that settlor or person, or the spouse thereof, may resume control over any part of the income or assets comprised therein : 15

Provided that a settlement or trust shall not be regarded as revocable solely by reason of the fact that any income or assets comprised therein may revert to that settlor or person, or the spouse thereof, in the event of a beneficiary predeceasing that settlor or person, or of the happening of an uncertain event upon which the settlement or trust is limited. 20

2. (1) For the purposes of this Schedule the income of a settlement or trust, other than a settlement or trust to which the provisions of the preceding paragraph apply, or of the estate of a deceased individual shall be so much of that income as is derived from any source in Nigeria and any such income brought into or received in Nigeria. 25

(2) The amount of the said income of each period of twelve months ending on the thirty-first day of March (hereinafter referred to as the "computed income") shall be ascertained as though the provisions of Parts II and III of this Act applied thereto and— 30

(a) there shall be deducted :

(i) any expenses of the trustee or executor relative to the settlement, trust or estate which are authorised by the terms of the deed of settlement or trust, or of the will, as the case may be ;

(ii) any annuity of fixed annual amount paid out of the income of the settlement, trust or estate in accordance with the provisions of such deed or will ; and 35

(b) if the said income includes any gains or profits from any trade, business, profession or vocation, or any rents or premiums, there shall be added or deducted as the case may require any sums which would have been added or deducted for the next following year of assessment under the provisions of Part V of this Act if the income from those sources had been the assessable income of an individual for that year ascertained under the provisions of subsection (1) of section 20. 40



(3) For all purposes of this Act where any assets of a trade or business form part of the estate of a deceased individual, being assets in respect of which an annual allowance may be claimed in arriving at the total income of that individual for the year of assessment in which he died, the provisions of the Fifth Schedule to this Act shall apply in the following manner—

(a) notwithstanding any provision of the said Schedule, no balancing allowance or charge shall be given or made to that individual in respect of those assets for that year; and

(b) the estate shall be deemed to have incurred qualifying expenditure on the acquisition of each such asset equal in amount to the residue of such expenditure on such asset on the day following the death of the individual; and

(c) in the event of the disposal of any such asset on or after that day, any addition to be made by way of a balancing charge in computing the income of the estate shall be made by reference to the sum of all allowances or deductions made in respect of such asset to the individual and to the estate.

3. The computed income of any year of a settlement trust or estate shall be apportioned for assessment in the following manner—

(a) where the terms of the deed of settlement or trust, or of the will, provide that the whole income of the settlement, trust or estate, after deduction of any authorised expenses or annuities of fixed amount, is to be divided in specific proportions between the beneficiaries entitled thereto from time to time, the income of each such beneficiary of any year from the settlement, trust or estate shall be his similarly apportioned share of such computed income;

(b) where a trustee or executor has discretion to make any payment (other than a payment on account) to a beneficiary out of the income of a settlement, trust or estate in such amount as he sees fit from time to time, then the amount of any such payment to a beneficiary made in the course of any year shall be treated as income of that year which is assessable to tax in the hands of that beneficiary, and out of the remainder of the computed income after deducting the aggregate amount of all such payments during any year there shall be apportioned to each beneficiary who has any specified proportional interest in the income of the settlement, trust or estate so much thereof as is obtained by applying such proportion to that remainder:

Provided that if such aggregate amount exceeds the computed income, the amount of each such payment to be treated as income in the hands of a beneficiary under this sub-paragraph shall be reduced proportionally so that the aggregate of the amounts as so reduced does not exceed the computed income.

(c) any remainder of the computed income of a settlement, trust or estate of any year after deducting all amounts apportioned to beneficiaries, or treated as income in the hands of beneficiaries, under the provisions of sub-paragraph (b) of this paragraph shall be apportioned to the trustee or executor for assessment in his name as trustee of the settlement or trust or as executor of the estate.

4. Any individual in receipt of an annuity of fixed annual amount paid out of the income of any settlement, trust or estate shall be assessable to tax upon the full amount thereof.

5. The income arising from any settlement, trust or estate assessable to tax under any provision of this Schedule in the hands of any trustee, executor, beneficiary or annuitant for any year of assessment shall be the amount of that income ascertained under the foregoing provisions of this Schedule of the year preceding that year.

6. Where the income of a settlement, trust or estate of any year includes any income which has borne tax in Nigeria or elsewhere, whether by deduction or otherwise, the provisions of Part VI of this Act with respect to any relief to be given or repayment to be made shall apply as though the whole of such taxed income were receivable by the persons to whom the computed income of that year is apportioned under the provisions of paragraph 3 of this Schedule either—

(a) in due proportion to their respective shares therein ; or

(b) where sub-paragraph (b) of paragraph 3 applies in proportion to their shares in the remainder of the computed income as therein specified ;

and where there is no computed income, the relief or repayment shall be given or made to the trustee or executor for the account of the settlement, trust or estate : For the purposes of this paragraph references to an individual in Part VI of this Act shall be deemed to include references to a trustee or executor.

7. Subject to the foregoing provisions of this Schedule, every trustee, of a settlement or trust, and every executor, shall be answerable for all things to be done in connection with the tax to, and any income apportioned to a trustee or executor shall be assessable by, the relevant tax authority in relation to that settlement, trust or estate.

8. A trustee of a settlement or trust in Nigeria, and the executor of an estate in Nigeria shall prepare accounts of the income from all sources of the settlement, trust or estate for successive periods to the thirty-first day of March in each year, and to the date on which the assets of the settlement, trust or estate are finally distributed.

9. An appeal against the inclusion of any income of a settlement, trust or estate in any assessment to tax, by whatever tax authority it may have been made, shall lie only in accordance with the appeal provisions of the income tax law of the territory to the tax authority of which the trustee or executor is answerable for the relevant year of assessment under the provisions of paragraphs 7.

## THIRD SCHEDULE

(Section 16)

## INCOME EXEMPTED

5 (a) The official emoluments of the Governor-General and Commander-in-Chief of the Federation, and of the Governor of any Region, and of any person performing the functions of the said Governor-General and Commander-in-Chief or Governor received by such person in his capacity as such.

10 (b) All consular fees received on behalf of a foreign state, or by a consular officer or employee of such a state for his own account, and all income of such an officer or employee other than income in respect of any trade, business, profession or vocation carried on by such an officer or employee or in respect of any other employment exercised by him, within Nigeria :

15 Provided that this exemption shall not apply where such an employee is engaged on domestic duties or where such an officer or employee ordinarily resides in Nigeria and is not also a national of such foreign state.

20 (c) The emoluments payable from United Kingdom Funds to members of Her Majesty's Forces and to persons in the permanent service of the United Kingdom Government in Nigeria in respect of their offices under the United Kingdom Government and the emoluments payable to members of the armed forces of any power or body allied to, or associated with, the Federation, including the emoluments payable to members of any civilian component, and the income of any authorised service organisation, accompanying any such visiting force :

25 Provided that this exemption shall not apply to any individual who is a citizen of Nigeria or who ordinarily resides in Nigeria.

30 (d) Gains or profits from the business of operating ships or aircraft carried on by an individual not resident in Nigeria in so far as in the case of ships the business is not carried on in inland waters only and by means of ships to which the provisions of Part IV of the Shipping and Navigation Ordinance apply :

Cap. 190.

Provided that—

35 (i) the relevant tax authority is satisfied that an equivalent exemption from tax is granted by the country in which such individual is resident to persons resident in Nigeria ;

(ii) a person shall be deemed to be resident in that country only in which the central management and control of his business are exercised.

40 (e) Interest accruing to any person who is not resident in Nigeria as specified in the following sub-paragraphs : For the purpose of this exemption a person shall only be deemed to be resident in Nigeria for a year of assessment if he is in Nigeria for a period or periods amounting to 183 days or more in that year :

45 (i) the interest on any loan charged on the public revenue of the Federation and raised in the United Kingdom ;

(ii) the interest on any bond issued by the Government of the Federation to secure repayment of the loan raised from the International Bank for Reconstruction and Development under the authority of the Railway Loan (International Bank) Ordinance, 1958 ;

50 (iii) the interest on any moneys borrowed by the Government of the Federation or of a Region upon terms which include the exemption of such interest from tax in the hands of any non-resident person ;

Cap. 174.

(iv) where the Minister of Finance of the Federation so consents, the interest on any moneys borrowed outside Nigeria by a corporation established by a law in Nigeria upon terms which include the exemption of such interest from tax in the hands of any non-resident person.

(f) The income of any national of the United States of America from employment by the International Co-operation Administration, being an Administration or Agency formed and directed by the Government of that country. 5

(g) The income of any national of the United States of America from employment by the International Development Services as agents for the International Co-operation Administration. 10

(h) The income of any individual from employment by the Ohio University of Athens, Ohio, as agent for the International Co-operation Administration, in connection with any scheme for the training of teachers in Nigeria. 15

(i) Any income in respect of which tax is remitted under subsection (1) of section 6 of the Consular Conventions Ordinance, or by virtue of section 3 of the Diplomatic Immunities and Privileges (Commonwealth Countries and Republic of Ireland) Ordinance, or which is exempted by section 3 of the Diplomatic Privileges Extension Ordinance. 20

(j) The income of any local authority, native authority or Government institution.

(k) The income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution. 25

(l) Wound and disability pensions granted to members of Her Majesty's Forces or of any recognised national defence organisation or to persons injured as a result of action by the Queen's enemies.

(m) Pensions granted to any person under the provisions of the Widows' and Orphans' Pension Ordinance. 30

(n) The income of any trade union registered under the Trade Unions Ordinance, in so far as such income is not derived from a trade or business carried on by such trade union.

(o) Interest paid or credited to any person by the Nigerian Post Office Savings Bank or in respect of any Nigerian Savings Certificates. 35

(p) Gratuities payable to a public officer by the Government of the Federation or of a Region in respect of services rendered by him under a contract of service with such Government and described as gratuities either in such contract or some other document issued by or on behalf of such Government in connection with such contract: Provided that where the period of service (or where service is not continuous the aggregate period of service in any sixty-three consecutive months) does not amount to five years, then if the total gratuities exceed a sum calculated at the rate of one hundred and fifty pounds per annum for such period or aggregate period the amount of any such excess shall not be so exempt but shall be deemed to be income of the last day of the employment including any terminal leave arising therefrom. 40 45

(q) Gratuities payable to a member or former member of the staff of the Nigerian College of Arts, Science and Technology by the College in respect of services rendered by him under a contract of service with the College and described as gratuities either in such contract or in some other document issued by or on behalf of the College in connection with 50

Cap. 38.

Cap. 52.

Cap. 53.

Cap. 220.

Cap. 200



such contract, subject to the like provisions as those contained in the proviso to paragraph (p): For the purposes of this exemption "member of the staff" means an individual appointed to an office specified in the Second Schedule to the Nigerian College of Arts, Science and Technology Ordinance.

Cap. 135.

(r) Gratuities payable to an employee or former employee under a contract of service with a body established by any of the following Ordinances, that is to say—

West African Institute for Trypanosomiasis Research Ordinance. Cap. 219.

West African Institute for Oil Palm Research Ordinance. Cap. 218.

West African Council for Medical Research Ordinance. Cap. 215.

being a gratuity so described either in his contract of service with such body or in some other document issued by or on behalf of such body in connection with that contract; subject to the following conditions:

(i) where the service of an employee with any such body terminates then if the gratuity or aggregate gratuities paid or payable in respect of that service exceed one-quarter of the whole income arising to him from that employment including such gratuity or aggregate gratuities, that excess shall not be exempt but shall be deemed to be income of the employee of the last day of his employment including any terminal leave arising therefrom;

(ii) where the service of an employee with any such body (or the aggregate service under two or more contracts within any period of sixty-three months) does not amount to five years, then, upon the employee permanently ceasing such service with the body, if the gratuity or aggregate of the gratuities paid or payable in respect of that service exceeds a sum calculated at one hundred and fifty pounds per annum for the period or aggregate period of that service, the amount of the excess shall not be exempt but shall be deemed to be income of the employee of the last day of such service in Nigeria or, if he is entitled to terminal leave following such service in Nigeria, of the last day of such leave.

(iii) if any part of a gratuity paid or payable to an employee falls to be deemed to be his income both under conditions (i) and (ii) of this paragraph then such part shall be deducted in ascertaining the excess under condition (ii).

(s) The income of any statutory or registered friendly society in so far as such income is not derived from a trade or business carried on by such society.

(t) The income and profits of any co-operative society registered under the Co-operative Societies Ordinance.

Cap. 39.

(u) Any sums received by way of death gratuities or as consolidated compensation for death or injuries.

(v) Any sum withdrawn or received by an employee from a pension, provident or other retirement benefits fund, society or scheme approved by the Board under the provisions of paragraph (f) of section 17 of this Act other than any sum which is deemed to be income of the employee under any express provision of this Act, and any sum withdrawn or received by an employee from a national provident fund or other retirement benefits scheme established under the provisions of any Act for employees throughout Nigeria.



(w) Any investment income of a pension, provident or other retirement benefits fund, society or scheme approved by the Board under the provisions of paragraph (f) of section 17 of this Act, and the investment income of any national provident fund or other retirement benefits scheme established under the provisions of any Act for employees throughout Nigeria.

(x) Any income of an individual chargeable to tax solely by reason of it being brought into or received in Nigeria during any year preceding a year of assessment if the individual is not in Nigeria at any time during that year of assessment, or is not in Nigeria for a period or periods amounting to one hundred and eighty-three days or more during that year of assessment.

#### FOURTH SCHEDULE RETIREMENT BENEFITS SCHEMES

(Section 17 (f))

1. For the purpose of ascertaining the income of any individual the amount to be deducted in respect of any contribution made by him to a pension, provident or other retirement benefits fund, society or scheme approved by the Board under the provisions of paragraph (f) of section 17 shall, subject to any conditions which the Board may prescribe, be computed in accordance with the provisions of this Schedule.

2. In this Schedule—

“pension fund” means any society, fund, contract or scheme the assets of which are held under irrevocable trusts and any scheme established by a law in Nigeria or elsewhere, the main objects of which are, in the opinion of the Board, the provision of non-assignable and non-commutable retirement pensions or annuities for an individual or his dependents after his death, or for any group or class of such individuals and their dependents ;

“provident fund” means any society, fund or scheme, not being a pension fund, established under irrevocable trusts or a law in Nigeria or elsewhere, the objects of which are the provision of retirement benefits for an individual or benefits for his dependents, after his death, or for any group or class of individuals and their dependents.

3. Subject to any conditions prescribed by the Board, the amount to be deducted for the purpose of ascertaining the income of any period of an employer or employee in respect of any contributions paid to a pension fund shall be the amount of the contributions paid by the employer or employee respectively during that period.

4. Subject to any conditions prescribed by the Board, the amount to be deducted for the purpose of ascertaining the income of any period of an employer or employee in respect of any contributions paid to a provident fund shall be the amount of the contributions paid by the employer or employee respectively during that period :

Provided that where the aggregate of the contributions made for any period by an employer and employee to a provident fund (other than any contribution made with the approval of the Board in respect of the past service of the employee with that employer) exceeds twenty-five *per centum* of the remuneration paid by that employer to that employee.

for that period, the excess shall be excluded from the amount to be deducted in ascertaining the income of either the employer or employee by reference to the relevant accounting period of the employer or to the period for which the employee's income is to be ascertained, as the Board may decide.

5. In the case of an employee no deduction shall be allowed under this Schedule in respect of any excess over £1,000 for a year of assessment of the aggregate of the following amounts—

(a) deductions allowed under paragraph (e) of section 17;

(b) any relief given to him by the income tax law of the territory in which he is deemed to be resident for that year in respect of policies of insurance or contracts for deferred annuities on his life or the life of his wife;

(c) any deduction which would be otherwise allowed under this Schedule.

6. In the case of an employee whose employment ceases before he has completed five years employment with an employer, if the total value of any benefits (other than sums paid by way of a pension or annuity) received by the employee from any pension or provident fund exceeds a sum calculated at the rate of one hundred and fifty pounds *per annum* for the period of such employment, the amount of any such excess shall be deemed to be income derived by him from his employment on the last day thereof: For the purposes of this paragraph, where any person has had employment or successive employments with any one or more Governments established in Nigeria (including in such expression the former Government of Nigeria) and his next employment is with any body directly incorporated by, or any unincorporate body established by, and Ordinance or Law of any Legislature in Nigeria, then his employment or successive employments with any such Government or Governments and his next employment with any such body shall be treated as one continuing employment.

7. Where in respect of any pension or provident fund an employer becomes entitled to any benefit whatsoever, the value of that benefit shall for the purposes of this Act be deemed to be income of the trade, business, profession or vocation in connection with which such fund was approved at the date when the right to such benefit first arose.

## FIFTH SCHEDULE

(Section 21)

### ARRANGEMENT OF PARAGRAPHS

#### Paragraph

1. Years of assessment affected.
2. Interpretation.
3. Provisions relating to mining expenditure.
4. Owner and meaning of relevant interest.
5. Sale of buildings.
6. Qualifying industrial building expenditure.

7. Initial allowances.
8. Annual allowances.
9. Asset to be in use at end of basis period.
10. Balancing allowances.
11. Balancing charges. 5
12. Residue.
13. Meaning of "disposed of".
14. Value of an asset.
15. Apportionment.
16. Part of an asset. 10
17. Extension of meaning of "in use."
18. Exclusion of certain expenditure.
19. Transitional provisions.
20. Expenditure incurred prior to the basis period for 1961-62.
21. Application to lessors. 15
22. Asset used or expenditure incurred partly for the purposes of a trade or business.
23. Disposal without change of ownership.
24. Application to professions and vocations.
25. Partnerships. 20
26. Meaning of allowances made.
27. Claims for allowances.
28. Election in double taxation cases.
29. Manner of making allowances and charges. 25

Years of  
assessment  
affected.

1. The provisions of this Schedule with respect to the making of allowances and charges shall have effect for the year of assessment commencing on the 1st April, 1961, and for each succeeding year of assessment and any references in this Schedule to a year of assessment do not include any year commencing prior to the 1st April, 1961, except where specific reference is made in paragraph 19 to a year of assessment commencing on the 1st April, 1960. 30

Interpreta-  
tion.

2. For the purposes of this Schedule—

"basis period" has the meaning assigned to it by the following provisions of this definition— 35

(a) in the case of an individual to or on whom any allowance or charge falls to be made in accordance with the provisions of this Schedule, his basis period for any year of assessment is the period by reference to the profits of which any assessable income for that year falls to be computed, under the provisions of section 20; 40

(b) such income means income in respect of the trade or business in which there was used an asset in connection with which such allowance or charge falls to be made:

Provided that, in the case of any such trade or business—

(i) where two basis periods overlap, the period common to both shall be deemed, except for the purpose of making an annual allowance, to fall in the basis period ending at the earlier date and in no other basis period; 45

(ii) where two basis periods coincide, they shall be treated as overlapping, and the basis period for the earlier year of assessment shall be treated as ending before the end of the basis period for the later year of assessment; 50

(iii) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then unless the second-mentioned year of assessment is the year in which such individual permanently ceases to carry on the trade or business, the interval shall be deemed to be part of the second basis period ; and

(iv) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade or business permanently ceases to be carried on by such individual and the basis period for the year in which it so ceases, the interval shall be deemed to form part of the first basis period ;

"concession" includes a mining right and a mining lease ;

"lease" includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage, and the expression "leasehold interest" shall be construed accordingly and—

(a) where, with the consent of the lessor, a lessee of any asset remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Schedule to continue so long as he remains in possession as aforesaid ; and

(b) where, on the termination of a lease of any asset, a new lease of that asset is granted to the lessee, the provisions of this Schedule shall have the effect as if the second lease were a continuation of the first lease ;

"qualifying expenditure" means, subject to the express provisions of this Schedule, expenditure incurred in a basis period which is—

(a) capital expenditure (hereinafter called "qualifying plant expenditure") incurred on plant, machinery or fixtures ;

(b) capital expenditure (hereinafter called "qualifying building expenditure") incurred on the construction of buildings structures or works of a permanent nature, other than expenditure which is included in sub-paragraphs (a) or (c) of this definition ;

(c) capital expenditure (hereinafter called "qualifying mining expenditure") incurred in connection with, or in preparation for, the working of a mine, oil well or other source of mineral deposits of a wasting nature (other than expenditure which is included in sub-paragraph (a) of this definition)—

(i) on the acquisition of, or of rights in or over, the deposits or on the purchase of information relating to the existence and extent of the deposits ;

(ii) on searching for or on discovering and testing deposits, or winning access thereto ; or

(iii) on the construction of any works or buildings which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a concession, which are likely to become valueless when the concession comes to an end to the individual working the source immediately before the concession comes to an end ; or

(d) capital expenditure (hereinafter called "qualifying plantation expenditure") incurred in connection with a plantation—



(i) on the clearing of land for planting ; and

(ii) on planting (other than replanting).

For the purposes of this definition where—

(i) expenditure is incurred for the purposes of a trade or business by an individual about to carry on such trade or business, and

(ii) that expenditure is incurred in respect of an asset owned by that individual,

if that expenditure would have fallen to be treated as qualifying expenditure if it had been incurred by that individual on the first day on which he carries on that trade or business, that expenditure shall be deemed to be qualifying expenditure incurred by him on that day ;

“trade or business” means a trade or business or that part of a trade or business the profits of which are assessable under this Act.

3. (1) For the purposes of this Schedule, where—

(a) qualifying mining expenditure has been incurred on the purchase of information relating to the existence and extent of the deposits or on searching for or on discovering and testing deposits or winning access thereto and such expenditure has been incurred for the purposes of a trade or business carried on by the individual incurring the expenditure, or expenditure has been incurred for the purposes of a trade or business about to be carried on by the individual incurring the expenditure and such expenditure would have fallen to be treated as such qualifying mining expenditure if it had been incurred in a basis period ; and

(b) such expenditure has not brought into existence an asset ; and

(c) such trade or business consists of the working of a mine, oil well or other source of mineral deposits of a wasting nature,

then such expenditure shall be deemed to have brought into existence an asset owned by the individual incurring the expenditure and in use for the purposes of such trade or business.

(2) For the purposes of this Schedule, an asset in respect of which qualifying mining expenditure has been incurred by any individual for the purposes of a trade or business carried on by him and which has not been disposed of shall be deemed not to cease to be used for the purposes of that trade or business so long as such individual continues to carry on that trade or business.

(3) So much of any qualifying mining expenditure incurred on the acquisition of rights in or over mineral deposits and on the purchase of information relating to the existence and extent of the deposits as exceeds the total of the original cost of acquisition of such rights and of the cost of searching for, discovering and testing such deposits prior to the purchase of such information shall be left out of account for the purposes of this Schedule.

Provided that where such costs were originally incurred by a company which carried on a trade or business consisting, as to the whole or part thereof, in the acquisition of such rights or information with a view to the assignment or sale thereof, the price paid on such assignment or sale shall be substituted for the aforementioned costs.

4. (1) For the purposes of this Schedule, where an asset consists of a building, structure or works the owner thereof shall be taken to be the owner of the relevant interest in such building, structure or works.

Provisions  
relating to  
mining  
expenditure.

Owner and  
meaning of  
relevant  
interest.

(2) Subject to the provisions of this paragraph, in this Schedule, the expression "the relevant interest" means, in relation to any expenditure incurred on the construction of a building, structure or works, the interest in such building, structure or works to which the person who incurred such expenditure was entitled when he incurred it.

(3) Where, when he incurs qualifying building expenditure or qualifying mining expenditure on the construction of a building, structure or works, an individual is entitled to two or more interests therein, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Schedule.

5. Where capital expenditure has been incurred on the construction of a building, structure or works and thereafter the relevant interest therein is sold, the individual who buys that interest shall be deemed, for all the purposes of this Schedule except the granting of initial allowances, to have incurred, on the date when the purchase price became payable, capital expenditure on the construction thereof equal to the price paid by him for such interest or to the original cost of construction whichever is the less :

Sale of  
buildings.

Provided that where such relevant interest is sold before the building, structure or works has been used, the foregoing provisions of this paragraph shall have effect with respect to such sale with the omission of the words "except the granting of initial allowances" and the original cost of construction shall be taken to be the amount of the purchase price on such sale :

Provided also that where any such relevant interest is sold more than once before the building, structure or works is used, the provisions of the foregoing proviso shall have effect only in relation to the last of those sales.

6. For the purposes of this Schedule—

Qualifying  
industrial  
building  
expenditure.

(a) Where but for this paragraph an individual is entitled to an annual allowance in respect of qualifying building expenditure in respect of an asset in use, for the purposes of a trade or business carried on by him, at the end of his basis period for any year of assessment commencing on or after the 1st April, 1961, if that asset is an industrial building or structure in use as such at the end of his basis period for any such year then, in lieu of such allowance and qualifying building expenditure, the qualifying expenditure in respect of that asset shall be taken to mean "qualifying industrial building expenditure" for any allowances to be made to such individual, in respect of that qualifying expenditure, for that year ; and

(b) "industrial building or structure" means any building or structure in regular use—

(i) as a mill, factory, mechanical workshop, or other similar building, or as a structure used in connection with any such buildings ;

(ii) as a dock, port, wharf, pier, jetty or other similar building or structure ;

(iii) as an hotel having a minimum of twenty bedrooms for guests ;

(iv) as a store house or for any plant and in either case used wholly and exclusively for or in connection with either any building or structure mentioned in provisions (i), (ii) or (iii) of this definition or any office or dwelling mentioned in provision (vii) of this definition ;

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(v) for the operation of a railway for public use or of a water or electricity undertaking for the supply of water or electricity for public consumption ;

(vi) for the running of a plantation or for the working of a mine or other source of mineral deposits of a wasting nature ;

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(vii) as an office or dwelling wholly, exclusively and regularly in use by employees of the owner of such office or dwelling whose duties are solely concerned either with the trade or business operations carried on in or directly connected with the regular use of any building or structure falling within provisions (i), (ii), (iii) or (iv) of this definition or with the operation, running or working of any such railway, undertaking, plantation or mine ;

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(viii) as a warehouse, whether refrigerated or not, wholly, exclusively and regularly in use for the hire of storage space to the public, and any office or dwelling wholly, exclusively and regularly in use by employees of the owner of such office or dwelling whose duties are solely concerned with the running of any such warehouse ;

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(ix) for the purpose of carrying on at such building the business of banking.

Initial  
allowances.

7. (1) Subject to the provisions of this Schedule, where in his basis period for a year of assessment the owner of any asset has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by him, there shall be made to that individual for the year of assessment in his basis period for which that asset was first used for the purposes of that trade or business an allowance (in this Schedule called "an initial allowance") at the appropriate rate *per centum*, set forth in the First Table to this Schedule, of such expenditure.

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(2) Where capital expenditure is incurred on the purchase of an asset and either the purchaser is a person over whom the seller has control, or the seller is a person over whom the purchaser has control, or some other person has control over both the purchaser and the seller, then, the amount of any initial allowance to be made in respect of such expenditure shall be such an amount as the relevant tax authority may determine to be just and reasonable having regard to all the circumstances relating to such asset and control :

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Provided that any such amount shall not exceed the amount of the initial allowance which would have been allowable apart from the provisions of this sub-paragraph.

Annual  
allowances.

8. (1) Subject to the provisions of this Schedule, where in his basis period for a year of assessment the owner of any asset has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by him, whether or not an initial allowance may be made to him in respect of that qualifying expenditure, there shall be made to that individual for each year of assessment, in his basis period for which that asset was used for the

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purposes of that trade or business, an allowance (hereinafter called "an annual allowance") at the appropriate rate *per centum*, hereinafter mentioned, of the residue of such expenditure at the end of the basis period for that year of assessment :

- 5 Provided that where the basis period for any year of assessment is a period of less than one year any such allowance for that year of assessment shall be proportionately reduced.

(2) The said rate shall, in the case of—

- 10 (i) qualifying building expenditure, or qualifying industrial building, expenditure be at the rate specified in respect thereof in the Second Table to this Schedule ;

- 15 (ii) qualifying mining expenditure, be such a rate *per centum*, not being less than fifteen *per centum*, as shall be determined by the relevant tax authority to be just and reasonable having regard to the rate of exhaustion of the mineral deposits in connection with which such expenditure has been incurred ;

- 20 (iii) qualifying plant expenditure, be such a rate *per centum*, as shall be determined by the relevant tax authority to be just and reasonable having regard to the working life of the asset and to the estimated value thereof at the end of such working life ; and

- (iv) qualifying plantation expenditure be such rate *per centum* as shall be determined by the relevant tax authority to be just and reasonable having regard to the productive life of the plantings :

Provided that—

- 25 (a) in determining the said rate in the case of qualifying mining expenditure, the relevant tax authority may have regard to the rate of exhaustion of all deposits of the same or associated minerals in Nigeria, being deposits from which the individual incurring the expenditure has the right to extract the deposits or in respect of which such individual has any title to acquire such a right ;

- 30 (b) in determining the said rate in the case of qualifying mining expenditure, or qualifying plant expenditure, or qualifying plantation expenditure, the relevant tax authority shall disregard any initial allowance which falls to be made in respect of such expenditure.

- 35 9. An initial or an annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be made to an individual for a year of assessment if at the end of his basis period for that year he was the owner of that asset and it was in use for the purposes of a trade or business carried on by him.

Asset to be in use at end of basis period.

- 40 10. Subject to the provisions of this Schedule, where in his basis period for a year of assessment the owner of an asset, who has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by him, disposes of that asset an allowance (hereinafter called "a balancing allowance") shall be made to that individual for that year of the excess of the residue of that expenditure, at the date such asset is disposed of, over the value of that asset at that date :

Balancing allowances.

- 45 50 Provided that a balancing allowance shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred.



Balancing  
charges.

11. Subject to the provisions of this Schedule, where in his basis period for a year of assessment the owner of an asset, who has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by him, disposes of that asset, a charge (hereinafter called "a balancing charge") shall be made on that individual for that year of the excess of the value of that asset, at the date of its disposal, over the residue of that expenditure at that date :

Provided that a balancing charge shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred and shall not exceed the total of any allowances made under the provisions of this Schedule in respect of such asset and, in cases falling under paragraph 19, of any allowances or deductions made under any income tax law in Nigeria in respect of the capital cost of such asset.

Residue.

12. (1) The residue of qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner thereof at that date, in respect of that asset, less the total of any initial or annual allowances made to such owner, in respect of that asset, before that date.

(2) For the purposes of this paragraph, an initial allowance or annual allowance shall be deemed to be made at the end of the basis period for the year of assessment for which any such allowance is made.

Meaning of  
"disposed  
of".

13. Subject to any express provision to the contrary, for the purposes of this Schedule—

(a) a building, structure or works of a permanent nature is disposed of if any of the following events occur—

(i) the relevant interest therein is sold ; or

(ii) that interest, being an interest depending on the duration of a concession comes to an end on the coming to an end of that concession ; or

(iii) that interest, being a leasehold interest, comes to an end otherwise than on the individual entitled thereto acquiring the interest which is reversionary thereon ; or

(iv) the building, structure or works of a permanent nature are demolished or destroyed or, without being demolished or destroyed, cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(b) plant, machinery or fixtures are disposed of if they are sold, discarded or cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(c) assets in respect of which qualifying mining expenditure is incurred are disposed of if they are sold or if they cease to be used for the purposes of the trade or business of the individual incurring the expenditure either on such individual ceasing to carry on such trade or business or on such individual receiving insurance or compensation monies therefor.

Value of  
an asset.

14. (1) The value of an asset at the date of its disposal shall be their net proceeds of the sale thereof or of the relevant interest therein, or, if it was disposed of without being sold, the amount which, in the opinion of the relevant tax authority, such asset or the relevant interest therein, as the case may be, would have fetched if sold in the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold.

(2) For the purpose of this paragraph, if an asset is disposed of in such circumstances that insurance or compensation monies are received by the owner thereof, the asset or the relevant interest therein, as the case may be, shall be treated as having been sold and as though the net proceeds of the insurance or compensation monies were the net proceeds of the sale thereof.

15. (1) Any reference in this Schedule to the disposal, sale or purchase of any asset includes a reference to the disposal, sale or purchase of that asset, as the case may be, together with any other asset, whether or not qualifying expenditure has been incurred on such last-mentioned asset, and, where an asset is disposed of, sold, or purchased together with another asset, so much of the value of the assets as, on a just apportionment, is properly attributable to the first-mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of or the price paid for that asset, as the case may be.

Apportionment.

For the purposes of this sub-paragraph, all the assets which are purchased or disposed of in pursuance of one bargain shall be deemed to be purchased or disposed of together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.

(2) The provisions of sub-paragraph (1) of this paragraph shall apply, with any necessary modifications, to the sale or purchase of the relevant interest in any asset together with any other asset or relevant interest in any other asset.

16. Any reference in this Schedule to any asset shall be construed whenever necessary as including a reference to a part of any asset (including an undivided part of that asset in the case of joint interests therein) and when so construed any necessary apportionment shall be made as may, in the opinion of the relevant tax authority, be just and reasonable.

Part of an asset.

17. (1) For the purposes of this Schedule, an asset shall be deemed to be in use during a period of temporary disuse.

Extension of meaning of "in use".

(2) For the purposes of paragraphs 7, 8 and 9—

(a) an asset in respect of which qualifying expenditure has been incurred by the owner thereof for the purposes of a trade or business carried on by him shall be deemed to be in use, for the purposes of that trade or business, between the dates hereinafter mentioned, where the relevant tax authority is of the opinion that the first use to which the asset will be put by the individual incurring such expenditure will be for the purposes of that trade or business;

(b) the said dates shall be taken to be the date on which such expenditure was incurred and the date on which the asset is in fact first put to use:

Provided that where any allowances have been given in consequence of this sub-paragraph and the first use to which such asset is put is not for the purposes of such trade or business, all such additional assessments shall be made as may be necessary to counteract the benefit obtained from the giving of any such allowances.

18. Where any individual has incurred expenditure which is allowed to be deducted, in computing the gains or profits of his trade or business under section 17, such expenditure shall not be treated as qualifying expenditure.

Exclusion of certain expenditure.

Transitional provisions.

19. (1) The following provisions of this paragraph shall apply in the case of an asset in respect of the capital cost of which any allowance or deduction has been or may be made for the purpose of determining the income of the owner thereof which is assessable to tax for the year of assessment beginning on the 1st April, 1960, under the provisions of any law in force in Nigeria imposing tax for that year upon his income. 5

(2) Subject to the provisions of this paragraph, expenditure actually incurred in respect of that asset shall be left out of account for the purposes of this Schedule.

(3) The amount of the written down value of such asset or of the unredeemed capital expenditure upon such asset, as the case may be, at the end of the relevant period for computing income for the year of assessment commencing on the 1st April, 1960, ascertained under the relevant provisions which were in force for that year, shall be deemed to be qualifying expenditure incurred (for the purposes for which the expenditure was in fact incurred) in the basis period for the year of assessment commencing on the 1st April, 1961, for the purposes of the provisions of this Schedule relating to the making of annual and balancing allowances and balancing charges. 10 15

Expenditure incurred prior to the basis period for 1961-2.

20. (1) Where— 20

(a) any individual carrying on a trade or business has incurred capital expenditure prior to the beginning of his basis period for the year of assessment commencing on the 1st April, 1961; and

(b) such expenditure is not qualifying expenditure and is not deemed to be qualifying expenditure under any other provisions of this Schedule, but would have been qualifying expenditure if it had been incurred in such basis period; and 25

(c) such expenditure was not incurred in respect of an asset to which the provisions of paragraph 19 apply,

then, for all the purposes of this Schedule, except for the purpose of making initial allowances, the written down amount of such expenditure shall be deemed to have been incurred by such individual in such basis period and for the purposes for which the expenditure was in fact incurred. 30

(2) For the purposes of sub-paragraph (1) of this paragraph, the written down amount of any capital expenditure shall be determined by ascertaining what would have been the amount of the residue of that expenditure at the beginning of such basis period if the provisions of this Schedule (other than as regards initial allowances) and of this Act had at all times had the effect which they have for the year of assessment commencing on the 1st April, 1961. 35 40

(3) Where, in any case, the relevant tax authority is satisfied that all the information required for the ascertainment of such written down amount is not available, the relevant tax authority may—

(a) make any such assumptions and estimates, due regard being had to such information as is available, as may be reasonable and necessary for the purpose of ascertaining such written down amount, and 45

(b) determine such written down amount in such an amount as may seem fit by reference to such information as is available, to any such assumptions and estimates as may have been made, and to the provisions of this paragraph. 50

21. (1) Where the owner of an asset other than a building—

Application  
to lessors.

(a) has incurred capital expenditure in respect thereof for the purposes of leasing that asset for use wholly and exclusively for the purposes of a trade or business carried on or about to be carried on by a person, and

(b) leases the asset to such person, and

(c) during the whole or part of the term of the lease, the asset is used wholly and exclusively by such person in such trade or business. the provisions of this Schedule shall apply, with such necessary modifications as the Board may direct, as though such expenditure were incurred wholly and exclusively for the purposes of a trade or business carried on by the owner from the date when such expenditure was incurred and as though the owner were using the asset for the purposes of such last-mentioned trade or business in the way in which and for the period or periods during which the asset is in fact used in the first-mentioned trade or business.

(2) The provisions of sub-paragraph (1) of this paragraph shall apply in the case of a building leased by the owner thereof to any other person as though such leasing were a trade or business carried on by the owner and, if he incurred the capital expenditure in respect of that building after the 31st day of March, 1955; irrespective of the use thereof intended by the owner at the time he incurred such expenditure.

(3) For the purposes of this paragraph in relation to the trade or business which an owner is to be treated as carrying on his basis period for any year of assessment shall be taken to be the year immediately preceding that year of assessment.

22. (1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset—

Asset used  
or expenditure  
incurred  
partly for  
the purposes  
of a  
trade or  
business.

(a) the owner of the asset has incurred in respect thereof qualifying expenditure partly for the purpose of a trade or business carried on by him and partly for other purposes;

(b) the asset in respect of which qualifying expenditure has been incurred by the owner thereof is used partly for the purposes of a trade or business carried on by such owner and partly for other purposes.

(2) Any allowances and any charges which would be made if both such expenditure were incurred wholly and exclusively for the purposes of such trade or business and such asset were used wholly and exclusively for the purposes of such trade or business shall be computed in accordance with the provisions of this Schedule.

(3) So much of the allowances and charges computed in accordance with the provisions of sub-paragraph (2) of this paragraph shall be made as in the opinion of the relevant tax authority is just and reasonable having regard to all the circumstances and to the provisions of this Schedule.

23. Where an asset in respect of which qualifying expenditure has been incurred by the owner thereof has been disposed of in such circumstances that such owner remains the owner thereof, then, for the purposes of determining whether and, if so, in what amount, any annual or balancing allowance or balancing charge shall be made to or on such owner in respect of his use of that asset after the date of such disposal,

Disposal  
without  
change of  
ownership.



(a) qualifying expenditure incurred by such owner in respect of such asset prior to the date of such disposal shall be left out of account ; but

(b) such owner shall be deemed to have bought such asset immediately after such disposal for a price equal to the residue of such qualifying expenditure at the date of such disposal, increased by the amount of any balancing charge or decreased by the amount of any balancing allowance made as a result of such disposal.

Application  
to profession  
and  
vocations.

24. In relation to qualifying plant expenditure, the provisions of this Schedule shall apply as if references to a trade or business included references to a profession or vocation the profits of which are assessable under this Act and in relation to qualifying building expenditure, those provisions shall apply as if references to a trade or business included references to a profession the profits of which are assessable under this Act.

Partnerships.

25. (1) The provisions of this paragraph shall have effect for the purposes of this Schedule, in relation to a trade or business and the person or persons hereinafter mentioned carrying on such trade or business, throughout the period (hereinafter called "the relevant period") being—

(a) any period during which the trade or business is carried on by persons in partnership and at least one of such persons, engaged in carrying on the trade or business as a partner in a partnership at any time, is so engaged immediately after that time, whether as a partner in the same partnership or as a partner in a different partnership carrying on the trade or business ; or

(b) the aggregate of any of the following periods which are successive—

(i) any period, ending immediately prior to a person becoming a partner in a partnership carrying on the trade or business, during which such person was carrying on the trade or business on his own account ;

(ii) any period ascertained under provision (a) of this subparagraph ;

(iii) any period during which a person is carrying on the trade or business on his own account, where such person was a partner in a partnership carrying on the trade or business immediately before such period.

(2) Such trade or business shall throughout the relevant period be deemed to be carried on by one and the same person (hereinafter called "the deemed person") and any allowance or charge which would then fall to be made to or on the deemed person, under the provisions of this Schedule if the deemed person were an individual, shall be computed as though the deemed person had done all things which were done for the purposes of such trade or business by the person or persons actually carrying on such trade or business during the relevant period.

(3) For the purposes of this paragraph, a basis period for any year of assessment shall be such period as the relevant tax authority shall determine by reference to the provisions of the definition of "basis period" in paragraph 2 and to the provisions of the preceding subparagraph :

Provided that, where at any time during the relevant period any person ceases to be engaged in carrying on the trade or business as a partner in a partnership or commences to be so engaged, the deemed

person shall, for the purposes of determining basis periods under the provisions of this sub-paragraph and for that purpose only, be treated as having ceased to carry on the trade or business at that time and as having recommenced to carry on that trade or business immediately thereafter.

(4) The amount of any such computed allowance or charge in respect of any asset shall be allocated to the person, or apportioned amongst the persons, actually carrying on the trade or business, in the same manner as any capital loss, in the case of an allowance, or any capital gain, in the case of a charge, in respect of such asset would fall on or accrue to such person or persons, if such loss or gain arose in the course of carrying on the trade or business and as a result of an event occurring—

(a) in the case of an initial or annual allowance, at the end of the basis period by reference to which such allowance has been computed ; and

(b) in the case of a balancing allowance or charge, at the date of the disposal of the asset.

(5) Any amount so allocated to or apportioned to any individual in respect of any such computed allowance or charge shall be treated as an allowance or charge for the purposes of the provisions of this Schedule relating to deductions from and additions to the remainder of assessable income and shall be made to or on him for the year of assessment for which the amount of such allowance or charge has been so computed :

Provided that, where any allowance or charge falls to be recomputed, as a result of the application of the proviso to sub-paragraph (3) of this paragraph, all such additional assessments or repayments of tax shall be made as may be necessary to give effect to the provisions of this paragraph.

(6) For the purposes of the provisions of this paragraph, an asset is not disposed of within the meaning of paragraph 13 so long as the asset is used for the purposes of the trade or business during the relevant period and at least one of the persons actually engaged in carrying on the trade or business has an interest in the asset, or in the relevant interest therein, during the relevant period.

(7) In the application of this paragraph with any of the provisions of the other paragraphs of this Schedule those provisions shall be applied with any modifications which the Board may consider necessary in order to give effect to the principles and provisions of this paragraph, and the Board may from time to time prescribe rules embodying any such modifications.

26. Any reference in this Schedule to an allowance made includes a reference to an allowance which would be made but for an insufficiency of assessable income against which to make it.

Meaning  
of allowances  
made.

27. No allowance shall be made to any individual for any year of assessment under the provisions of this Schedule unless claimed by him for that year or where the relevant tax authority is of the opinion that it would be reasonable and just so to do.

Claims for  
allowances.

28. (1) Where an individual makes a claim to an initial or annual allowance under this Schedule in connection with any trade or business, if the taxes in respect of the profits of the trade or business are the subject of an arrangement, having effect by virtue of section 24, between Nigeria and any other territory, for relief from double taxation,

Election  
in double  
taxation  
cases.

he may elect, at the time of making such claim or within such reasonable time thereafter as the relevant tax authority may allow, that that allowance shall be calculated at a lesser rate than that provided for in paragraph 7 or 8 and in making such election he shall specify the amount of such lesser rate.

(2) Where an election has been made under this paragraph, the amount of such lesser rate shall be taken to be the appropriate rate in relation to that allowance for all the purposes of this Schedule.

Manner of  
making  
allowances  
and  
charges.

29. (1) The amount of any charge to be made on an individual under the provisions of this Schedule shall be made on him by making an addition to his assessable income for the year of assessment for which such charge falls to be made under the provisions of this Schedule :

Provided that where any such charge falls to be made on any individual for any year of assessment, whenever necessary by reason of the assessment on that individual having become final and conclusive for that year or for other sufficient reason, the relevant tax authority may make an additional assessment upon such individual in respect of the amount of such charge.

(2) Subject to the provisions of this paragraph, the amount of any allowance to be made to an individual under the provisions of this Schedule shall be made to him by making a deduction from the remainder of his assessable income for the year of assessment for which such allowance falls to be made under the provisions of this Schedule.

(3) For the purposes of this paragraph any such remainder for a year of assessment shall be ascertained by first giving full effect to the provisions of sub-paragraph (1) of this paragraph and to the provisions of section 21 relating to the deduction of the amount of any loss.

(4) Where full effect cannot be given to any deduction to be made under sub-paragraph (2) of this paragraph for any year of assessment owing to there being no such remainder for that year, or owing to the remainder for that year being less than such deduction, the deduction or part of the deduction to which effect has not been given, as the case may be, shall, for the purpose of ascertaining total income (of the individual entitled to such deduction) under section 21 for the following year, be deemed to be a deduction for that year, in accordance with the provisions of sub-paragraph (2) of this paragraph, and so on for succeeding years.

(5) Where an individual is entitled to a deduction under the preceding sub-paragraph, or to a deduction in respect of a balancing allowance, in respect of an asset used in a trade or business carried on by him, for a year of assessment in which that trade or business permanently ceases to be carried on by him and full effect cannot be given to any such deduction for that year owing to there being no such remainder of assessable income for that year, or owing to the remainder of his assessable income for that year being less than such deduction, that deduction or the part to which effect has not been given, as the case may be, may, on a claim being made by such individual, be given by way of a deduction from any remainder of his assessable income for the preceding year of assessment, and so on for other preceding years, so, however, that no such deduction shall be given by virtue of this sub-paragraph for any year earlier than the fifth year before the first-mentioned year of assessment :

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Provided that where any relief is given under this sub-paragraph in respect of any such deduction the provisions of the preceding sub-paragraph shall cease to have effect in respect of that deduction for any year of assessment subsequent to the year of assessment in which such trade or business ceases.

(6) Where any deduction falls to be given under the provisions of the preceding sub-paragraph for any preceding years of assessment, whenever necessary, by reason of any assessments for those years having become final and conclusive, or for other sufficient reason, the relevant tax authority with respect to each such year may make such repayment or set-off of the tax, or of any part of such tax, paid or charged for any such year, as may be appropriate, in lieu of making any such deduction.

## FIRST TABLE (Paragraph 7)

| Qualifying Expenditure in respect of :— |  |    |    | Rate per centum |
|---|--|----|----|-----------------|
|   | Qualifying Building Expenditure            | .. | .. | Nil             |
|   | Qualifying Industrial Building Expenditure | .. | .. | 20              |
|   | Qualifying Mining Expenditure              | .. | .. | 25              |
| 20                                      | Qualifying Plant Expenditure               | .. | .. | 40              |
|   | Qualifying Plantation Expenditure          | .. | .. | 25              |

## SECOND TABLE (Paragraph 8)

| Residue of Qualifying Expenditure in respect of :— |  |    |    | Rate per centum |
|--|--|----|----|-----------------|
| 25   | Qualifying Building Expenditure            | .. | .. | 10              |
|  | Qualifying Industrial Building Expenditure | .. | .. | 10              |

## SIXTH SCHEDULE

(Section 24)

## DOUBLE TAXATION ARRANGEMENTS

1. The arrangements to which subsection (6) of section 24 of the Act refers are those set out in the Schedules to the following Orders in Council—

|    |                |    |    |  |
|----|----------------|----|----|--|
| 30 | No. 5 of 1948  | .. | .. | The Double Taxation Relief (Taxes on Income) (United Kingdom) Order in Council, 1948 |
| 35 | No. 16 of 1950 | .. | .. | The Double Taxation Relief (Gold Coast) Order in Council, 1950                       |
|    | No. 17 of 1950 | .. | .. | The Double Taxation Relief (Sierra Leone) Order in Council, 1950                     |
| 40 | No. 18 of 1950 | .. | .. | The Double Taxation Relief (Gambia) Order in Council, 1950                           |



SIXTH SCHEDULE—*continued*

|                  |    |   |    |
|------------------|----|---|----|
| No. 43 of 1951   | .. | The Double Taxation Relief (Taxes on Income) (New Zealand) Order in Council, 1951 |    |
| No. 11 of 1952   | .. | The Double Taxation Relief (Taxes on Income) (Canada) Order in Council, 1952      | 5  |
| L.N. 176 of 1954 | .. | The Income Tax (Double Taxation Relief) (Sweden) Order, 1954                      |    |
| L.N. 110 of 1955 | .. | The Income Tax (Double Taxation Relief) (Denmark) Order, 1955                     | 10 |
| L.N. 64 of 1956  | .. | The Income Tax (Double Taxation Relief) (Norway) Order, 1956                      |    |
| L.N. 207 of 1958 | .. | The Income Tax (Double Taxation Relief) (U.S.A.) Order, 1958                      | 15 |

# PERSONAL INCOME TAX (LAGOS) BILL

## MEMORANDUM

This Bill, to be read as one with the Income Tax Management Bill, provides for the imposition of tax on the income of persons other than companies who are resident or deemed to be resident in Lagos.

2. The tax imposed by Part III is made up of a simplified income rate, rising to an annual amount of £3 to be paid by all individuals in receipt of income, and a more complex graduated income tax to be paid, in the main, by individuals whose incomes exceed the personal and other reliefs granted in Part IV. In no case will an individual whose income is £300 per annum or below be liable to the income tax, and this figure becomes progressively higher for residents with family and certain other commitments. In particular, it is proposed that the basic relief for a child should be increased from £40 to £60 and that where school fees are incurred in excess of £60 per annum for a child, relief will in future be given for the amount of such excess up to a maximum of £190, whether the child is being educated in Nigeria or overseas.

3. An important change from existing practice is that if a husband and wife both have income in their own right, each will be assessed as a separate individual. Part VIII includes provisions for the introduction of a "Pay-as-you-earn" scheme for all employees.

4. The remaining provisions of the Bill are mainly of an administrative nature.

F. S. OKOTIE-BOH,  
*Minister of Finance,  
Federation of Nigeria*

# PERSONAL INCOME TAX (LAGOS)

## ARRANGEMENT OF CLAUSES AND SCHEDULES

### PART I—PRELIMINARY

#### Clause

1. Short title and application.
2. Interpretation.

### PART II—ADMINISTRATION AND SCRUTINY OF ASSESSMENTS

3. Powers and duties of the Board.
4. Signification of powers and duties, etc.
5. Transitional provisions.
6. Certain double taxation arrangements.
7. Power to amend First Schedule.
8. Scrutiny of assessments.
9. Official secrecy.
10. Forms.
11. Service and signature of notices.

**PART III—IMPOSITION OF TAX, INCOME EXEMPTED AND RELIEF FROM TAX PAYABLE**

12. Charge of income rate.
13. Charge of income tax.
14. Power to alter rate of tax, etc.
15. Exemption from tax.
16. Relief from tax payable.

**PART IV—CHARGEABLE INCOME**

17. Ascertainment of chargeable income.
18. Personal relief.
19. Relief for spouse, children, dependent relatives and life insurance.
20. Claims.
21. Proof of claims.
22. Husband and wife.

**PART V—PERSONS CHARGEABLE AND RETURNS**

23. Persons chargeable.
24. Returns.
25. Board may call for further returns.
26. Power to call for returns, books, documents and information.
27. Returns to be deemed to be furnished with due authority.
28. Books of account.

**PART VI—ASSESSMENTS**

29. Assessment of income rate.
30. Assessment of income tax.
31. Additional assessments.
32. Lists of persons assessed, etc.
33. Service of notice of assessment.
34. Revision in case of objection.
35. Errors and defects in assessment and notice.

**PART VII—APPEALS**

36. Time limit for appeal.
37. Notice to be given to Board.
38. Appeal Commissioners.
39. Board to deliver copy of notice to appropriate court, etc.
40. Appeal provisions of Companies Income Tax Act to apply with certain exceptions.
41. Assessments to be final and conclusive.
42. Objection in case of income rate.

**PART VIII—COLLECTION, RECOVERY AND REPAYMENT OF TAX**

43. Payment of income rate.
44. Payment of income tax.
45. Penalty for non-payment of income tax.
46. Action for income tax by Board.
47. Recovery of income rate and penalty for non-payment.
48. Remission of penalty.
49. Remission of tax.
50. P.A.Y.E.
51. Employer to be answerable for tax deducted.
52. Relief in respect of error or mistake.
53. Repayment of tax.

**PART IX—OFFENCES AND PENALTIES**

- 54. Penalty for offences.
- 55. Penalty for making incorrect return.
- 56. False statements and returns.
- 57. Penalties for offences by authorised and unauthorised persons.
- 58. Lagos Town Council and offences in relation to income rate.
- 59. Tax to be payable notwithstanding proceedings.
- 60. Prosecution to be with sanction of Board or Lagos Town Council.
- 61. Saving for criminal proceedings.
- 62. Place of an offence.

**PART X—POWERS OF TAX COLLECTORS**

- 63. Definition of Tax Collector.
- 64. Power of Tax Collector to enter and require information.
- 65. Obstruction to be an offence.
- 66. Immunity from action, etc.

**FIRST SCHEDULE—Powers or duties to be performed or exercised only by the Board.**

**SECOND SCHEDULE—Table 1—Amounts of Income Rate.**

**Table 2—Rates of Income Tax.**



# A BILL FOR

AN ACT TO IMPOSE TAX IN LAGOS ON THE INCOME OF PERSONS OTHER THAN COMPANIES.

Title.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows—

Enactment.

## PART I—PRELIMINARY

5 1. (1) This Act may be cited as the Personal Income Tax (Lagos) Act, 1961, and shall be read as one with the Income Tax Management Act, 1961, (hereinafter referred to as the principal Act) with respect to tax for the year of assessment beginning on the first day of April, 1961, and for subsequent years.

Short title and application. No. of 1961.

10 (2) This Act shall be of application in the Federal Territory of Lagos.

2. (1) In this Act unless the context otherwise requires—

Interpretation.

“the Board” means the Federal Board of Inland Revenue established under the Companies Income Tax Act, 1961 ;

15 “the Joint Tax Board” means the Joint Tax Board established under the principal Act ;

No. of 1961.

“Minister” means the Federal Minister charged with responsibility for matters relating to the taxation of income or profits ;

“tax” or “the tax” means tax imposed on income under this Act.

20 “taxable person” means any individual or body of individuals (including a family) and any corporation sole, trustee or executor, having any income which is chargeable with tax under the provisions of this Act.

25 (2) Save as provided in the preceding subsection words define in section 2 of the principal Act shall, unless the context otherwise requires, have the meaning therein assigned to them.

## PART II—ADMINISTRATION AND SCRUTINY ASSESSMENTS

Powers and  
duties of  
the Board.

3. (1) Save with respect to any duties which fall to be exercised by the Joint Tax Board under any express provision of the principal Act, the due administration of this Act and the tax shall be under the care and management of the Board which may do all such things as may be deemed necessary and expedient for the assessment and collection of the tax, and shall account for all amounts so collected in a manner to be prescribed by the Minister. 5

(2) Whenever the Board shall consider it necessary with respect to any tax due, the Board may acquire, hold and dispose of any property taken as security for or in satisfaction of any tax or of any judgment debt due in respect of any tax and shall account for any property and the proceeds of sale thereof in a manner to be prescribed by the Minister. 10

(3) The Board may sue and be sued in its official name.

(4) The Board may by notice in the Gazette or in writing authorise any person within or without Nigeria to perform or exercise, on behalf of the Board, any power or duty conferred on the Board by this Act or the principal Act other than the powers or duties specified in the First Schedule, or to receive any notice or other document to be given or delivered to, or served upon, the Board under or in consequence of this Act or the principal Act or any subsidiary legislation made thereunder. 15 20

First  
Schedule.

(5) In the exercise of the powers and duties conferred upon it the Board shall be subject to the authority, direction and control of the Minister and any direction, order or instruction given by him after consultation with the Chairman of the Board shall be carried out by the Board: Provided that the Minister shall not give any direction, order or instruction in respect of any particular taxable person which would have the effect of requiring the Board to raise an additional assessment upon such person or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to defer the collection of any tax, penalty or judgment debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or to any offence relating to tax. 25 30 35

(6) Every claim, objection, appeal, representation or the like made by any person under any provision of this Act or of any subsidiary legislation made thereunder shall be made in accordance with such Act and legislation. 40

(7) In any claim or matter or upon any objection or appeal under this Act or under any subsidiary legislation made thereunder, any act, matter or thing done by or with the authority of the Board, in pursuance of any provisions of this Act or subsidiary legislation made thereunder, shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any direction, order or instruction given by the Minister. 45

Cap. 85.

(8) For the due administration of the Income Tax Ordinance with respect to any matter affecting tax on persons other than companies for any year of assessment ending before the first day of April, 1961, the Board shall stand in place of the Board established by section 3 50

of the Income Tax Administration Ordinance, 1958, and shall perform or exercise all powers or duties conferred by those Ordinances on the Board established thereunder.

No. 39 of 1958.

5 4. (1) Anything required to be done by the Board, in relation to the powers and duties specified in the First Schedule to this Act may be signified under the hand of the Chairman or of the Secretary of the Board.

Signification of powers and duties, etc.

10 (2) Any authorisation given by the Board under or by virtue of this Act shall be signified under the hand of the Chairman of the Board unless such authority is notified in the Gazette.

(3) Subject to subsection (1) of this section, any notice or other document to be given under this Act or under any subsidiary legislation made thereunder, shall be valid if—

15 (a) it is signed by the Chairman of the Board or any person authorised by him; or

(b) such notice or document is printed and the official name of the Board is printed or stamped thereon.

20 (4) Every notice, authorisation or other document purporting to be a notice, authorisation or other document duly given and signified, notified or bearing the official name of the Board, in accordance with the provisions of this section shall be deemed to be so given and signified, notified or otherwise without further proof, until the contrary is shown.

25 5. Anything made or done or having effect as if made or done before the date of commencement of this Act under or for the purposes of the Income Tax Administration Ordinance, 1958, or the Income Tax Ordinance, or the Industrial Development (Income Tax Relief) Ordinance, by the Board established under that first-mentioned Ordinance, and having any continuing or resulting effect with respect to tax on the income of persons other than companies shall be treated from that date  
30 as if it were made or done by the Board.

Transitional provisions. No. 39 of 1958. Cap. 85. Cap. 87.

35 6. For the purpose of any order made under section 35 of the Income Tax Ordinance which contains a provision as part of the arrangements specified in such order for the exchange of information with either the Commissioner of Income Tax or the Commissioner as defined in section 2 of that Ordinance, then the Chairman of the Board shall be taken to be the Commissioner of Income Tax or the Commissioner as so defined for so long as such order remains in force.

Certain double taxation arrangements. Cap. 85.

40 7. The Minister may at any time by Order delete any of the powers or duties specified in the First Schedule or include therein additional powers or duties or amend such Schedule or substitute a new Schedule therefor.

Power to amend First Schedule.

45 8. For any period during which any Scrutineer Committee for Lagos has been established under the provisions of section 9 of the Companies Income Tax Act, 1961, the Minister may direct that, before making any assessment under section 30 of this Act on a taxable person in respect of his income from, or any determination of a loss incurred

Scrutiny of assessments. No. of 1961.

by such person in, a trade, business, profession or vocation carried on or exercised by such person, the Board shall cause the name of such person and the proposed amount of such income or loss to be included in a List for consideration by any such Committee, and the provisions of sections 11, 12 and 13 of the Companies Income Tax Act shall apply with any necessary modifications as though such List were a List prepared for the purposes of subsection (1) of section 10 thereof : 5

Provided that, where a taxable person derives income or incurs a loss in a partnership and the amount thereof falls, under the provisions of subsection (4) of section 6 of the principal Act, to be determined by a tax authority other than the Board, that amount shall be omitted from any List prepared for the purposes of this section. 10

9. (1) Subject to the provisions of section 28 of the principal Act, every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or personal circumstances of any taxable person as secret and confidential. 15

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or personal circumstances of any taxable person and who at any time communicates or attempts to communicate such information or anything therein contained to any person— 20

(a) other than a person to whom he is authorised by the Minister to communicate it ; or 25

(b) otherwise than for the purposes of this Act, or the principal Act or any enactment in Nigeria imposing tax on income or profits ; shall be guilty of an offence against this Act.

(3) Any proceedings for an offence against this section may be taken by or in the name of the Board but not by any other person except with the consent of the Director of Public Prosecutions of the Federation. 30

(4) No person appointed or employed in carrying out the provisions of this Act shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary for the purposes of carrying into effect the provisions of this Act and the principal Act, or in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to any tax on income or profits in Nigeria. 35

(5) When under any law in force in a Commonwealth country provision is made for the allowance of relief from income tax in respect of tax imposed under this Act, the obligation as to secrecy imposed by this section shall not prevent the disclosure to authorised officers of the Government in that country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from the tax or from income tax in that country. 45

(6) For the purposes of this section each member of a Scrutineer Committee or of a body of Appeal Commissioners, established under the provisions of the Companies Income Tax Act, shall, with respect to any matter arising under this Act and coming to his notice in the course 50

Official  
secrecy.



of his duties as such member, be deemed to be employed in the administration of this Act and to have possession of any return, statement, account or other document so coming to his notice.

5 (7) Notwithstanding anything contained in this section the Board may permit the Director of Federal Audit or any officer duly authorised in that behalf by him to have such access to any records or documents as may be necessary for the performance of his official duties, and for the purposes of this section he shall be deemed to be a person employed in carrying out the provisions of this Act.

10 10. The Board may from time to time specify the form of returns, claims, statements and notices under this Act.

Forms.

11. (1) Except where it is provided by this Act that service shall be effected either personally or by registered post the provisions of section 55 of the Interpretation Ordinance shall apply to the service of a notice, if such notice is addressed in accordance with the provisions of subsection (3) of this section.

Service and signature of notices. Cap. 89.

20 (2) Where a notice has been sent by registered post it shall be deemed to have been served on the day succeeding the day on which the addressee of the registered letter containing the notice would have been informed in the ordinary course of events that such registered letter is awaiting him at a post office, if such letter and notice are addressed in accordance with the provisions of subsection (3) of this section : Provided that a notice shall not be deemed to have been served under this subsection if the addressee proves that no notification, informing him of the fact that a registered letter was awaiting him at a post office, was left at the address given in such registered letter.

25 (3) A notice to be served in accordance with subsection (1) or (2) shall be addressed—

30 (a) in the case of a company or corporation sole, incorporated in Nigeria, to the registered office of the company or corporation ;

(b) in the case of a company or corporation sole, incorporated outside Nigeria, either to the person authorised to accept service of process under the Companies Ordinance, or to the registered office of the company or corporation wherever it may be situated ; and

Cap. 37.

35 (c) in the case of any other person to the last known business or private address of such person.

40 (4) Any notice to be given, sent or posted under this Act or the principal Act may be served by being left at the appropriate office or address determined under subsection (3) unless such address is a registered post office box number.

### PART III—IMPOSITION OF TAX

12. (1) Tax of an amount to be determined from Table 1 of the Second Schedule (hereinafter referred to as the "income rate") shall be payable for each year of assessment on the total income of—

Charge of income rate.

45 (a) every individual (other than corporation sole or body of individuals) deemed to be resident for that year in Lagos under the provisions of the principal Act, and in Lagos at any time during that year ; and

50 (b) every itinerant worker found to be in Lagos at any time during that year.

(2) In the case of an itinerant worker who has paid any tax upon his income for a year of assessment to any tax authority other than the Board, and upon production by him of an official receipt evidencing each such payment, the amount of the income rate payable for that year shall be the excess, if any, of the amount determined from Table 1 of the Second Schedule over the aggregate of all amounts so paid to such other tax authorities.

(3) Subject to the provisions of the preceding subsection, the income rate payable by an individual for a year of assessment shall be payable in full on the due date and—

(a) where on that date the basis period by reference to which his assessable income from any source is to be ascertained has not expired, his assessable income from that source shall be taken to be the income of that basis period up to the said date increased in due proportion by an amount on account of the remainder of that basis period; and

(b) nothing in the preceding paragraph shall prevent the Board from collecting the income rate or any balance thereof properly due from an individual, or that individual from claiming a repayment of the income rate in whole or in part, where, after the expiration of the year of assessment, it can be shown that the assessable income of the individual from any source varies from the amount taken as his assessable income from that source under the provisions of the said paragraph; and

(c) no relief from tax or set-off of tax due to an individual for any year of assessment under any provision of this Act or the principal Act shall be allowed against any income rate, payable by him, but if such relief and set-off cannot be wholly allowed against any income tax payable by or chargeable upon him under the provisions of section 13 of this Act then the Board shall give effect to such relief or set-off, or any remainder thereof, by way of repayment out of the income rate paid by the individual for the same year.

(4) Without prejudice to the generality of subsection (4) of section 3 of this Act, upon a direction in that regard given by the Minister with the approval of the Council of Ministers, the Board shall authorise the Lagos Town Council to do all things necessary for the collection of the income rate and to account therefor in such manner as may be prescribed by the Minister, and while such authorisation remains in force all responsibility of the Board under this Act for the collection of and accounting for the income rate shall cease.

(5) The Minister, with the approval of the Council of Ministers, may make regulations governing the collection of the income rate, and such regulations may, among other matters—

(a) require the deduction of the income rate by all or any employers from wages, salaries or other emoluments payable to their employees and prescribe the manner in which employers shall account for all such deductions including, if the regulations so provide, the purchase of official receipts by such employers in anticipation of their recovering the cost thereof by such deductions, and the issue of those receipts to their employees;

(b) require the production of a receipt evidencing payment of the income rate for any year, or a certificate of exemption therefrom issued under the provisions of subsection (1) of section 42 of this Act, as a condition of the issue to any applicant of any licence for which he may apply to any licensing authority in Lagos ; and

(c) prescribe penalties and means of their recovery in the case of failure by any person to comply therewith.

13. In addition to any tax payable under the provisions of section 12, tax (hereinafter referred to as "income tax") shall, subject to the provisions of this Act, be payable for each year of assessment at the rate or rates specified in Table 2 of the Second Schedule upon—

Charge of income tax.

(a) the assessable income ascertained under the provisions of the principal Act of any trustee or executor in relation to whom the Board is the relevant tax authority for the purposes of that Act ;

(b) the total income ascertained under the provisions of the principal Act of—

(i) any corporation sole or body of individuals which is deemed under that Act to be resident in Lagos for that year, and

(ii) any family of which the member who customarily receives the income in the first place in Nigeria usually resides in Lagos ; and

(c) the chargeable income ascertained in accordance with Part IV of this Act of any other individual who is deemed to be resident in Lagos under the provisions of the principal Act.

14. Parliament may by resolution revoke or vary for any year of assessment any amount of the income rate specified in Table 1, and any rate or rates of income tax or amount of income chargeable at any rate specified in Table 2, of the Second Schedule.

Power to alter rate of tax, etc.

15. There shall be exempt from the tax—

Exemption from tax.

(a) all income exempted under any provision of the principal Act ;

(b) the income of any body of individuals formed for the purpose of promoting sporting or social amenities not involving the acquisition of gain, or the possibility of future gain, by its individual members, subject to such conditions as the Board may prescribe either generally or in any particular case ;

(c) allowances paid to any member of the Council of Ministers or of Parliament for attendance at meetings of either such body, or of any committee thereof ;

(d) any otherwise taxable person, or class of taxable persons, and all or any income of such person or class of persons as the Minister by Order may prescribe.

16. (1) Where under the provisions of Part VI of the principal Act relief is to be given to a taxable person in respect of Commonwealth income tax, or credit is to be allowed for any foreign tax, for any year of assessment, such relief or credit shall be given or allowed by deduction from the income tax payable by him for that year, and any references in this Act to income tax charged or chargeable upon a taxable person for any year shall be taken as referring to the remainder of the income tax payable by him for that year after all such relief or credit has been given or allowed.

Relief from tax payable.

(2) Where, under the provisions of section 26 of the principal Act, tax deducted or deemed to have been deducted from a Nigerian dividend falls to be set-off for the purposes of collection against any tax payable by a taxable person for any year, the amount of the income tax charged or chargeable upon such person for that year, or the amount so to be set-off for that year, whichever is the less, shall be treated in all respects as having been paid by that person.

#### PART IV—CHARGEABLE INCOME

17. Where under the provisions of section 13 income tax is payable for any year of assessment upon the chargeable income of an individual, other than a corporation sole or body of individuals, the amount of that chargeable income for that year shall be the amount of the total income of that individual for that year, ascertained under the provisions of the principal Act, after any income exempted under the provisions of section 15 of this Act has been excluded therefrom and the deductions allowed by this Part have been made.

18. In the case of every such individual there shall be allowed a deduction of three hundred pounds.

19. In the case of an individual who ordinarily resides in Nigeria, or who any time during the year of assessment—

(i) becomes ordinarily resident in Nigeria in connection with any trade, business, profession or vocation carried on by him ; or

(ii) exercise any employment the whole gains or profits of which are deemed under the provisions of section 8 of the principal Act to be derived from Nigeria ; or

(iii) is in receipt of any pension derived from Nigeria ;  
there shall be allowed—

(a) a deduction of one hundred pounds in the case of a married man who at any time during the year preceding the year of assessment had a wife living with or maintained by him, or a deduction of the amount of any alimony not exceeding one hundred pounds paid to a former spouse under an order of a court of competent jurisdiction in the case of an individual whose marriage has been dissolved ;

(b) a deduction of sixty pounds in respect of each unmarried child who was maintained by the individual during the year preceding the year of assessment and who, on the first day of that preceding year, had either not attained sixteen years of age, or was receiving full time instruction in a recognised educational establishment, or was under articles or indentures in a trade or profession :

Provided that—

(i) no deduction under this paragraph shall be allowed to any individual in respect of more than four children, and, for the purposes of applying this restriction, a husband and his wife or wives not separated from him by deed or an order of any court shall be treated as one and the same individual ;

(ii) where the cost of maintaining any child is shared between two or more persons, the Board may apportion the sum of sixty pounds as may seem to it to be equitable between such persons, and the deduction to be allowed under this paragraph to any individual in respect of such child shall be his apportioned share of such sum ;

Ascertain-  
ment of  
chargeable  
income.

Personal  
relief.

Relief for  
spouse,  
children,  
dependent  
relatives  
and life  
assurance.

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(c) a deduction of the costs incurred by the individual during the year preceding the year of assessment in connection with the education of any child in respect of whom he is entitled to a deduction under the provisions of paragraph (b) for the same year of assessment :

Provided that—

(i) a deduction in respect of any child under this paragraph shall be the amount of the said costs payable directly to any recognised educational establishment less the sum of sixty pounds, or the amount of one hundred and ninety pounds, whichever is the less ;

(ii) any deduction to be allowed under the foregoing provisions of this paragraph shall be reduced by the amount of any income of the child of the year preceding the year of assessment, not being income to which the child is entitled as a holder of any scholarship, bursary or other similar educational endowment ;

(iii) where costs in connection with the education of any child are incurred by two or more persons, including any individual entitled to a deduction under the provisions of paragraph (b) in respect of that child, the Board shall determine the amount of the deduction which would have been given under this paragraph if such costs had been wholly incurred by such individual and apportion that amount among those persons, and the deduction to be allowed to that individual shall be his apportioned share of that amount ;

(d) a deduction of the costs incurred by the individual during the year preceding the year of assessment in maintaining or assisting to maintain a close relative of the individual or of the individual's spouse who was either incapacitated by old age or infirmity from maintaining himself or is the widowed mother (whether so incapacitated or not) of the individual or of the individual's spouse :

Provided that—

(i) no deduction shall be allowed in respect of any relative whose income, wherever arising, of the year preceding the year of assessment exceeded three hundred pounds ;

(ii) the aggregate of all deductions to be allowed to two or more individuals for any year in respect of any one relative shall not exceed one hundred pounds and, if the total of the costs incurred by them in respect of the same relative exceed that sum, then the amount of the deduction to be allowed to any such individual shall be the same proportion of that sum as the costs so incurred by him bear to the total of the costs so incurred ;

(iii) the aggregate of all deductions to be made under this paragraph in ascertaining the chargeable income of any one individual for any year shall not exceed one hundred pounds ;

(e) a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to any insurance company in respect of insurance on his life or the life of his spouse, or of any contract for a deferred annuity on his own life or the life of his spouse :

Provided that—

(i) no such deduction shall be allowed for such insurance except in respect of premiums payable on policies securing a capital sum on death, whether in conjunction with any other benefit or not, and the amount of the deduction allowed shall not exceed ten *per centum* of that capital sum, exclusive of any additional benefit by way of bonus, profit or otherwise ;

(ii) the aggregate amount of the deductions allowed under the provisions of—

(a) this paragraph ;

(b) paragraph (e) of subsection (1) of section 17 of the principal Act ; and

(c) in the case of an employee, paragraph (f) of subsection (1) of section 17 of the principal Act,

shall not exceed one thousand pounds in the case of any individual for any year of assessment ;

(iii) the aggregate amount of the deductions allowed to an individual for a year of assessment under the provisions of this paragraph shall not exceed an amount equal to one-fifth part of the total income of that individual for that year ; and

(iv) the restrictions specified in sub-paragraphs (ii) and (iii) of this proviso shall apply in the case of a husband and his wife or wives not separated from him by deed or an order of any court as though all such individuals were one and the same individual whose total income for any year of assessment was equal to the aggregate total income for that year of such husband and his wife or wives.

Deductions  
to be  
claimed.

Proof of  
claims.

20. Unless the Board otherwise directs, no deduction under section 19 shall be allowed to any individual for a year of assessment unless claimed by him in writing in such form as the Board may prescribe.

21. (1) The Board may require any claimant to a deduction under section 19 to produce such documentary evidence as may be available in support of any claim and in the absence of any such evidence, or if such evidence is, in the opinion of the Board, inadequate the Board may refuse to allow such deduction or allow such part only of the amount claimed as the Board may decide.

(2) Notwithstanding any provision of this Act—

(a) where an individual has failed to produce documentary evidence in support of any claim to a deduction under section 19, no objection to an assessment or, if the individual is an employee, to any rate at which tax is required to be deducted from his remuneration under the provisions of section 50 shall be valid on the grounds that such deduction, or the full amount thereof, has not been allowed or taken into account by the Board ; and

(b) where an individual claims any deduction under section 19 for a year of assessment, or produces evidence in support of any such claim previously made and not admitted or not admitted in full by the Board, within two years after the end of such year, such repayment or set-off of tax, or reduction in any assessment shall be made so as to give effect to any amount or additional amount of such deduction which the Board is satisfied should properly be allowed.

Husband  
and wife.

22. (1) Any deduction to be allowed to an individual for a year of assessment under the provisions of section 19, other than paragraph (a) thereof, may be claimed by and allowed to that individual or any spouse of that individual not separated from him by deed or an order of any court on the first day of such year, or may be partly claimed by and allowed to each such spouse, but in no case shall the aggregate of such deductions allowed to any husband and his wife or wives exceed the amount which would be allowed if such individuals were treated as one and the same individual.

(2) Where a deduction is claimed in respect of any one child under paragraph (b) or (c) of section 19, or any one dependant under paragraph (d), or any one annual premium under paragraph (e), for the same year of assessment, by both a husband and wife and the aggregate amount of the deductions so claimed exceeds the amount to be allowed, then the Board shall apportion the amount to be allowed as it sees fit for deduction in ascertaining the separate chargeable income of each such husband or wife.

(3) Where pursuant to any direction of the Board a deduction is allowed under section 19 to any husband or wife and such deduction has not been claimed, it shall be allowed to either such husband or wife, or be apportioned between them, as the Board in its absolute discretion may decide.

#### PART V—PERSONS CHARGEABLE AND RETURNS

Persons  
chargeable.

23. (1) A taxable person shall be chargeable to the tax—

(a) in his own name, or

(b) in the name of any receiver, trustee, guardian, curator or committee having the direction, control or management of any property or concern on his behalf, or in the name of any person treated as his agent under the provisions of section 5 of the principal Act or declared to be his agent under the provisions of subsection (1) of section 29 of that Act, in like manner and to like amount as such taxable person would be chargeable.

(2) Any person in whose name a taxable person is chargeable to tax shall be answerable for all matters within his competence which are required to be done by virtue of this Act for the assessment of the income of such taxable person and payment of any tax charged thereon.

(3) Where two or more persons act in the capacity of trustees they may be charged jointly or severally with the tax with which they are chargeable in that capacity and shall be jointly and severally liable for payment of the same.

Returns.

24. (1) For each year of assessment every taxable person, when required to do so by any notice in writing given by the Board in pursuance of this Act, shall, within the period limited by such notice, and in the form of return containing such notice, prepare and deliver to the Board a true and correct statement in writing, containing—

(a) the amount of his income from each and every source, of such period or periods as are indicated in such form, computed in accordance with the provisions of this Act and the principal Act and any rules or regulations made thereunder; and

(b) such particulars as by such form of return may be required for the purposes of this Act and the principal Act or any rules or regulations made thereunder with respect to any such income, allowances, reliefs, deductions or otherwise as may be material for those purposes.

(2) Such form of return shall contain a declaration, which shall be signed by or on behalf of any taxable person to whom a notice has been given under subsection (1) of this section, that the return contains a true and correct statement of his income computed in accordance with the provisions of this Act and the principal Act, and any rules or regulations made thereunder, or that any particulars given in the return, in accordance with all other requirements of such notice, are true and complete.

(3) Every taxable person who has been required to prepare and deliver a statement under the foregoing provisions of this section for any year shall do so whether or not any tax is chargeable upon him for that year.

(4) For every year of assessment, every trustee, executor, body of individuals and corporation sole, and every other taxable person whose total income for such year exceeds three hundred pounds, unless required to make any return for such year under the provisions of subsection (1) of this section, shall give notice in writing to the Board within one month after the end of such year of each source of his income liable to tax under this Act.

Board may  
call for  
further  
returns.

25. The Board may give notice in writing to any person when and as often as it thinks necessary requiring him to deliver within a reasonable time limited by such notice fuller or further returns respecting any matter as to which a return is required or prescribed by this Act.

Power to  
call for  
returns,  
books,  
documents  
and inform-  
ation.

26. (1) For the purpose of obtaining full information in respect of the income of any taxable person or of any reliefs, allowances or deductions to which such person may be entitled the Board may, subject to the provisions of subsection (3) of section 28 of the principal Act, give notice to any person requiring him within the time limited by such notice, to—

(a) complete and deliver to the Board any return specified in such notice ;

(b) attend personally before an officer of the Federal Inland Revenue Department for examination with respect to any such matter ;

(c) produce or cause to be produced for examination at the place and time stated in such notice, which time may be from day to day for such period as the Board may consider necessary, for the purpose of such examination any books, documents, accounts and returns which the Board may deem necessary ; or

(d) give orally or in writing any other information specified in such notice.

(2) For the purposes of paragraph (a), (b) or (d) of the preceding subsection the time limited by such notice shall not be less than twenty-one days from the date of service of such notice, and for the purposes of paragraph (c) the time stated in such notice shall commence from a date not less than seven days from the date of such service.



Returns to be deemed to be furnished with due authority.

Books of account.

Assessment of income rate.

Assessment of income tax.

27. A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognisant of all matters therein.

28. (1) If a taxable person fails or refuses to keep books or accounts which, in the opinion of the Board, are adequate for the purposes of the tax, the Board may by notice in writing require such person to keep such records, books and accounts as the Board considers to be adequate in such form and in such language as may be specified in the said notice and, subject to the provisions of the next succeeding subsection, such person shall keep records, books and accounts as so directed.

(2) Any direction of the Board made under this section shall be subject to objection and appeal in like manner as an assessment save that any decision of the Appeal Commissioners thereon shall be final.

(3) On hearing such appeal the Appeal Commissioners may confirm or modify such direction.

#### PART VI—ASSESSMENTS

29. Subject to the provisions of any regulations made under subsection (5) of section 12 of this Act, every individual liable to pay the income rate for any year of assessment shall be deemed to have been charged and assessed to such rate for such year upon notice of the amount to be paid and the time and place of payment being published in the Gazette at any time during such year.

30. (1) The Board shall proceed to assess every taxable person chargeable with income tax as soon as may be after the expiration of the time allowed to such person for the delivery of the return provided for in section 24.

(2) Where a taxable person has delivered a return the Board may—

(a) accept the return and make an assessment accordingly; or

(b) refuse to accept the return and, to the best of its judgment, determine the amount of the assessable, total or chargeable income of such person and make an assessment accordingly.

(3) Where a taxable person has not delivered a return within the time allowed and the Board is of opinion that tax is chargeable upon such person, the Board may, according to the best of its judgment, determine the amount of the assessable, total or chargeable income and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

(4) Nothing in this section shall prevent the Board from making an assessment upon a taxable person before the expiration of the time within which such person is required to deliver a return or give notice of his income under the provisions of section 24 of this Act, if any officer of the Federal Inland Revenue Department considers such assessment to be necessary for any reason of urgency.

(5) Notwithstanding the foregoing provisions of this section, no assessment to income tax for a year of assessment shall be made by the Board upon an employee with respect to his emoluments or other



income if that tax is recoverable by deduction under the provisions of section 50 of this Act unless, within six years after the end of such year, he applies to the Board so to be assessed whether in connection with any claim to repayment of tax or otherwise, or the Board considers such assessment to be necessary or expedient so as to arrive at the correct amount of the income tax to be charged upon or to be payable by such employee for that year. 5

Additional  
assessments.

31. (1) If the Board discovers or is of opinion at any time that any taxable person liable to income tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Board may, within the year of assessment or within six years after the expiration thereof and as often as may be necessary assess such taxable person at such amount or additional amount as ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder. 10 15

(2) For the purpose of computing under subsection (1) of this section the amount or the additional amount which ought to have been charged, all relevant facts consistent with proviso (b) to subsection (2) of section 41 of this Act shall be taken into account even though not known when any previous assessment or additional assessment on the same taxable person for the same year was being made or could have been made. 20

Lists of  
persons  
assessed,  
etc.

32. (1) The Board shall as soon as possible prepare lists of taxable persons assessed to income tax. 25

(2) Such lists, herein called the assessment lists, shall contain the names and addresses of the taxable persons assessed to income tax, the name and address of any person in whose name any such taxable person is chargeable, the amount of the assessable, total or chargeable income on which, as the case may be, the tax is computed, the amount of the income tax charged, and such other particulars as may be prescribed by the Board. 30

(3) Where complete copies of all notices of assessment and of all notices amending assessments are filed in the offices of the Board they shall constitute the assessment lists for the purposes of this Act. 35

(4) In the case of any employee from whom tax is recoverable by deduction from his emoluments under the provisions of section 50 of this Act, the Board may prescribe from time to time—

(a) the form in which a record of his assessable and chargeable income, and of the tax so recovered from him, shall be maintained in the offices of the Board; 40

(b) the form in which his employer shall maintain a like record; and

(c) the form in which his employer shall account to the Board for the tax so deducted;

and the employer shall produce any such record maintained by him for examination by the Board within twenty-one days of notice being given to that end by the Board, and allow any duly authorised officer of the Board access to such records and to any accounts or vouchers relating thereto in the premises of the employer at all reasonable times: 45

For the purposes of this subsection, a notice may be addressed in writing to the employer and served upon him, or be given in respect of any employer or class of employers by publication in the Gazette. 50

33. The Board shall cause to be served on or sent by registered post to each taxable person, or person in whose name a taxable person is chargeable, whose name appears in the assessment lists a notice stating the amount of any assessable, total or chargeable income, the tax charged, the place at which payment should be made, and setting out the rights of that person under the next following section.

Service of  
notice of  
assessment.

34. (1) If any person disputes an assessment he may apply to the Board, by notice of objection in writing, to review and to revise the assessment, and such application shall state precisely the grounds of objection to the assessment and shall be made within forty-two days from the date of service of the notice of the assessment :

Revision in  
case of  
objection.

Provided that the Board, upon being satisfied that owing to some reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(2) On receipt of a notice of objection, the Board may require the person giving that notice to furnish such particulars and to produce such books or other documents as the Board may deem necessary, and may summon any person who may be able to give information which is material to the determination of the objection to attend for examination by an officer of the Federal Inland Revenue Department on oath or otherwise.

(3) In the event of any person who has objected to an assessment agreeing with the Board as to the correct amount of the tax chargeable, the assessment shall be amended accordingly and notice of the tax chargeable shall be served upon such person :

Provided that, if an applicant for revision under the provisions of this section fails to agree with the Board the amount of the tax chargeable, the Board shall give notice of refusal to amend the assessment as desired by such person and may revise the assessment to such amount as the Board may, according to the best of its judgment, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Act to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this proviso.

(4) If any employee from whom tax is recoverable by deduction from his emoluments under the provisions of section 50 of this Act claims that inadequate relief under Part IV of this Act has been taken into account in determining the rate or rates at which such deductions have been or are to be made—

(a) any determination of the Board on such claim shall be conclusive with respect to such rate or rates for the year of assessment concerned ; and

(b) if the employee is aggrieved by that determination he may apply to the Board to be assessed to income tax as soon as may be after his assessable income for that year can be finally ascertained, and any such assessment shall be subject to the provisions of this Act with respect to objections and appeals.

Errors and defects in assessment and notice.

35. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act or the principal Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or the principal Act or any Act amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

(i) the name of a taxable person or of a person in whose name a taxable person is chargeable; or

(ii) the description of any income; or

(iii) the amount of any income tax charged or shown to be payable;

(b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment the notice thereof shall be duly served upon the taxable person intended to be charged or the person in whose name such taxable person is chargeable and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

#### PART VII—APPEALS

Time limit for appeal.

36. Any taxable person being aggrieved by an assessment to income tax made upon him, and having failed to agree with the Board in the manner provided in subsection (3) of section 34 of this Act, may appeal against the assessment upon giving notice as hereinafter provided within thirty days after the date of service of notice of the refusal of the Board to amend the assessment as desired:

Provided that, notwithstanding the expiration of such period of thirty days, within a further period of sixty days a taxable person may apply for an extension of time within which to give notice of appeal against an assessment upon delivering to the Secretary to the Appeal Commissioners—

(i) the particulars of such assessment; and

(ii) the reasons why notice of appeal against that assessment was not given within the proper time,

and the Secretary shall put such application before the next meeting of the Appeal Commissioners who may grant or reject the application as to them seems reasonable and their decision shall be communicated in writing to the applicant and to the Board by the Secretary, whereupon, if the application has been granted, the applicant shall have twenty-one days after the receipt of such communication within which to give notice of appeal as hereinafter provided.

Notice to be given to Board.

37. A notice of appeal to be given under the provisions of the preceding section shall be given in writing to the Board and shall set out—

(a) the name and address of the appellant;

(b) any official number and the date of the relevant notice of assessment;

(c) the amount of the assessable, total or chargeable income and of the tax charged as shown by that notice and the year of assessment concerned ;

(d) the precise grounds of appeal against the assessment ;

(e) an address for service of any notices of other documents to be given to the appellant.

38. Except with respect to any ground of appeal which is reserved by any express provision of the principal Act for decision by a court or the Joint Tax Board, or any appeal depending wholly upon such grounds, all appeals under this Act shall be heard in the first instance by the Appeal Commissioners established under the provisions of section 55 of the Companies Income Tax Act, 1961, and all references in this Act to Appeal Commissioners and to their Secretary shall be construed as references to the Appeal Commissioners and to their Secretary as so established or designated :

Appeal  
Commis-  
sioners.

No. of  
1961.

Provided that during any time when—

(a) no body of Appeal Commissioners is so established, or

(b) the Minister by notice in the Gazette so directs,

appeals and applications otherwise to be heard in the first instance by appeal Commissioners shall be heard in the High Court of Lagos.

39. As soon as may be after receipt of a notice of appeal the Board, having regard to the grounds of appeal therein disclosed and to any relevant provision of the principal Act, shall deliver a copy thereof to the Secretary to the Appeal Commissioners or to the Registrar of the appropriate court or to the Secretary to the Joint Tax Board as, in the opinion of the Board, the circumstances require, and the appeal shall thereupon be listed by such Secretary or Registrar for hearing accordingly.

Board to  
deliver  
copy of  
notice to  
appropriate  
court, etc.

40. Subject to the foregoing provisions of this Part, the provisions of sections 56, 57, 58 and 59 of the Companies Income Tax Act, 1961, and of any rules made or deemed to have been made thereunder shall, with any necessary modifications, apply to any appeal under this Act save that—

Appeal  
provisions of  
Companies  
Income Tax  
Act to apply  
with certain  
exception.  
No. of  
1961.

(a) there shall be substituted for the words "two hundred pounds" appearing in subsection (2) of the said section 58, the words "one hundred pounds" ;

(b) there shall be substituted for the words "five hundred pounds" appearing in subsection (11) of the said section 59, the words "two hundred pounds" ; and

(c) upon proof to the satisfaction of the Appeal Commissioners or court hearing an appeal in the first instance that the appellant has, for the year of assessment concerned, failed to comply with any notice lawfully given to him under this Act, the said Commissioners or court may adjourn the hearing of the appeal to any subsequent day and order the appellant before the adjourned hearing to deposit with the Board an amount on account of the tax equal to the tax charged upon such appellant for the preceeding year, or one half of the tax charged by the assessment under appeal, whichever is the greater, and if the appellant fails to comply with such order, the assessment against which he has appealed shall be confirmed and he shall have no further right of appeal whatsoever with respect to that assessment.



Assessments  
to be final  
and  
conclusive.

41. (1) Where no valid objection or appeal has been lodged within the time limited by section 34 or 36 of this Act, or where due notice has not been given of any further appeal against a decision of the Appeal Commissioners or a judge, as the case may be, an assessment as made, or agreed to under the provisions of subsection (3) of section 34, or determined under the proviso to that subsection or on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amounts of the assessable, total or chargeable income and the tax charged thereby.

(2) If the full amount of the tax charged by any such final and conclusive assessment is not paid within the appropriate period or periods prescribed by this Act, the provisions thereof relating to the recovery of tax, and to any penalty under section 45, shall apply to the collection and recovery of such tax or penalty subject only to the set-off of the amount of any tax repayable under any claim, made under a provision of this Act or of the principal Act, which has been agreed to by the Board or determined on any appeal against a refusal to admit such claim :

Provided that—

(a) where an assessment has become final and conclusive any tax overpaid including any amount deposited with the Board on account of the tax charged by such assessment, shall be repaid ;

(b) nothing in section 34 or in this Part of this Act shall prevent the Board from making any assessment or additional assessment for any year which does not involve reopening any issue, on the same facts, which has been determined for that year of assessment under subsection (3) of section 34 or otherwise or on appeal.

Objection  
in case of  
income rate.

42. (1) Any individual from whom the income rate is collected, or sought to be collected, whether by deduction from his wages, salary or otherwise, or who is required to produce a receipt evidencing payment of such rate for any purpose whatsoever, and who claims either to be exempt from payment of such rate for any year, or to have paid more than the proper amount of such rate due from him for any year, may apply in writing to the Board at any time, or orally to an officer of the Federal Inland Revenue Department, designated by the Board for these purposes, at such time and place as may be publicly notified, for the issue to him of a certificate confirming that he is so exempt for that year, or stating the correct amount of the rate which he should have paid.

(2) An applicant under the provisions of subsection (1) shall give in writing or orally, as the case may be, all such information as may be required of him by any such designated officer for the purpose of determining whether he is liable to payment of the income rate for the year of assessment, or the amount thereof which he is liable to pay, and

(a) if such officer is satisfied that the applicant is not so liable, he shall issue a certificate to the applicant to that effect in such form as the Board may prescribe ; or

(b) if such officer is satisfied that the applicant is liable to payment of the income rate, he shall determine the amount thereof to be paid and issue a notice thereof to the applicant in such form as the Board may prescribe, and any such determination shall be final and conclusive for all purposes of this Act ; or



(c) if it appears to such officer that the applicant has paid income rate in excess of the amount properly payable, he shall cause the amount of such excess to be refunded to the applicant.

- 5 (3) If, under the provisions of subsection (4) of section 12 of this Act, the Board authorises the Lagos Town Council to do all things necessary for the collection of the income rate, such authorisation shall be deemed to include the delegation to the Council, and to any duly authorised officer, thereof of all the powers and duties of the Board, and of any officer of the Federal Inland Revenue Department, under this  
10 section.

#### PART VIII—COLLECTION, RECOVERY AND PREPAYMENT OF TAX.

43. The income rate shall be payable at such time or times as may be specified in any regulations made under subsection (5) of section 12 of this Act.

Payment  
of income  
rate.

- 15 44. (1) Income tax charged by any assessment which is not or has not been the subject of an objection or appeal shall be payable, after the deduction of any amount to be set-off for the purposes of collection, or any amount deposited against such tax, at the place stated in the notice of assessment within two months after service of such notice :

Payment of  
income tax.

- 20 Provided that—

- (a) if such period of two months expires before the twenty-first day of March within the year of assessment for which the income tax has been charged, and the aggregate of the tax to be deducted as aforesaid and of any income tax paid for that year within such period amounts  
25 to not less than one-half of the tax so charged, then payment of any balance of such tax may be made not later than that day ;

(b) the Board in its discretion may extend the time within which payment is to be made.

- 30 (2) Collection of income tax in any case where notice of an objection or an appeal has been given by or on behalf of the taxable person shall remain in abeyance until such objection or appeal is determined, save that the Board may enforce payment of that portion, if any, of the tax which is not in dispute.

- 35 (3) Upon the determination of an objection or appeal the Board shall serve notice upon the taxable person of the ~~tax~~ chargeable as so determined and that tax shall be payable within one month of the date of service of such notice :

- 40 Provided that, if such period ends before the twenty-first day of March within the year of assessment and the conditions specified in proviso (a) to subsection (1) of this section are otherwise satisfied with respect to the amount of the tax chargeable as so determined, then any balance of that tax to be paid may be paid not later than that day.

- 45 (4) Notwithstanding any of the foregoing provisions of this section, if in any particular case the Board has reason to believe that any income tax charged by an assessment may not be recovered, by reason of the person charged leaving Nigeria or otherwise, the Board may give notice to that person requiring him, within the time limited by such notice, to pay the amount of such tax, or to give security to the satisfaction of  
50 the Board for payment thereof, and if such payment is not made, or

security so given, within that time, the full amount of such tax shall be recoverable forthwith; and for these purposes the Board may, if necessary, assess any taxable person for any year of assessment at any time during the preceding year of assessment.

Penalty for non-payment of income tax.

45. (1) If any income tax charged by any assessment is not paid within the periods prescribed in section 44 of this Act, a sum equal to ten *per centum* of such tax shall be added thereto, and the provisions of this Act relating to the recovery and collection of tax shall apply to the recovery and collection of such sum.

(2) The Board shall serve a demand note upon the taxable person or the person in whose name such taxable person is chargeable and, if payment is not made within one month from the date of the service of such demand note, the Board may proceed to enforce payment as hereinafter provided.

(3) A penalty imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any provision of this Act.

(4) Any person who without lawful justification or excuse, the proof whereof shall lie on such person, fails to pay the income tax within the period of one month prescribed in subsection (2), shall be guilty of an offence against this Act.

Action for income tax by Board.

46. (1) Income tax may be sued for and recovered in a court of competent jurisdiction in Lagos by the Board in its official name with full costs of action from the person charged therewith as a debt due to the Government of the Federation.

(2) For the purposes of this section a court of competent jurisdiction shall include a magistrate's court, which court is hereby invested with the necessary jurisdiction, provided that the amount claimed in any action does not exceed the amount of the jurisdiction of the magistrate concerned with respect to actions for debt.

(3) In any action brought under subsection (1) of this section the production of a certificate signed by any person duly authorised by the Chairman of the Board giving the name and address of the defendant and the amount of the income tax due shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for the said amount.

Recovery of income rate and penalty for non-payment.

47. (1) Every individual liable to payment of the income rate for any year shall, at any time after payment of such rate for that year is due, produce on demand by any person duly authorised in that regard by the Board or, if responsibility for collection of the income rate has been delegated to the Lagos Town Council, by such Council an official receipt or receipts evidencing such payment.

(2) Every individual liable to payment of the income rate for any year who is unable so to produce evidence of such payment shall be instructed orally or in writing by the person making the demand to produce an official receipt or receipts evidencing such payment at such office of the Board or of the Lagos Town Council, and within such time not being less than fourteen days, as that person may decide.

(3) If any individual fails to comply with an instruction under subsection (2) the full amount of the income rate due from him together with a penalty of one pound may be sued for and recovered, with full costs of action, in any magistrate's court in Lagos, and in any such

5 action a certificate signed by any officer duly authorised in that regard by the Board or the Lagos Town Council, as the case may be, giving the name and address of the defendant, the amount of the income rate and penalty due, and stating that the defendant has failed to comply with an instruction given to him under subsection (2) shall be sufficient authority for the court to give judgment for the said amount.

10 48. The Board may, for any good cause shown, remit either before or after judgment the whole of any part of the penalty due under subsection (1) of section 45, and the Board or the Lagos Town Council, as the case may be, may similarly remit the whole or any part of any penalty due under subsection (3) of section 47.

Remission  
of penalty.

15 49. The Governor-General in Council may remit, wholly or in part, any tax payable under this Act if he is satisfied that it is just and equitable so to do.

Remission  
of tax.

20 50. (1) Income tax chargeable upon any employee by any assessment, whether or not such assessment has been made, shall, if the Board so directs, be recoverable from any emoluments paid, or any payments made on account of such emoluments, by the employer to such employee.

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25 (2) Any such direction may apply to all employers in Nigeria, or to any employer or class of employers specified in such direction, either with respect to all their employees, or any employee or class of employees, liable to payment of the income tax; and for the purposes of this section any reference to an employer shall be taken whenever necessary as including a reference to the principal agent, manager or other representative in Nigeria of any employer who is outside Nigeria and any such representative in Lagos of an employer in any Region.

30 (3) Any direction under subsection (1) shall be in writing addressed to an employer or be published in the Gazette, and shall specify the emoluments of any employee or class of employees to which it refers and the amount or amounts of income tax to be deducted whether by reference to tax tables issued by the Board or otherwise.

35 (4) In arriving at the amount of income tax to be deducted from any payment of or on account of emoluments to an employee the Board shall secure so far as is possible that the aggregate amount of all such deductions made during any year of assessment shall equal the income tax chargeable upon him in respect of those emoluments for that year.

40 (5) Notwithstanding the provisions of subsection (4), in determining the amount of any deduction or deductions to be made in the case of any particular employee the Board may take into account—

45 (a) any assessable income of that employee for the same year arising from any other source chargeable with income tax under this of Act; and

(b) any income tax, or arrears of tax under the Income Tax Ordinance, payable by that employee for any of the six preceding years of assessment.

Cap. 85.

50 (6) Income tax recovered under the provisions of this section by deduction from the emoluments of an employee shall be set-off for the purposes of collection against tax charged upon him by any assessment, but only to the extent that such deductions have been made on account of or by reference to any income charged by such assessment.

(7) The Minister may make regulations generally for the carrying out of the provisions of this section.

Employer  
to be  
answerable  
for tax  
deducted.

51. Every employer required under any provision of this Act or the principal Act to make any deduction from emoluments or amounts on account of emoluments paid by him to any employee shall account to the Board in such manner as the Board may prescribe for the deductions so made, and in the event of failure by such employer to make any such deduction, or properly to account therefor, the amount thereof together with a penalty of ten *per centum* of such amount shall be recoverable as a debt due by such employer either to the Government of the Federation or, in the case of any income rate collectible by the Lagos Town Council, to that Council. 5 10

52. (1) If any taxable person who has paid income tax for any year of assessment alleges that any assessment made upon him for that year was excessive by reason of some error or mistake in any return, statement or account made by him or on his behalf for the purposes of such assessment, he may, at any time not later than six years after the end of the year of assessment within which the assessment was made, make an application in writing to the Board for relief. 15

(2) On receiving any such application the Board shall enquire into the matter and shall, subject to the provisions of this section, give by way of repayment of tax such relief in respect of the error or mistake as appears to be reasonable and just: 20

Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the Board generally prevailing at the time when the return, statement or account was made. 25

(3) In determining any application under this section the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the income of the applicant, and for this purpose the Board may take into consideration the liability to tax of the applicant and any assessments made upon him for other years. 30 35

(4) A determination of the Board under this section shall be final and conclusive.

Repayment  
of tax.

53. (1) Save as is otherwise in this Act and the principal Act expressly provided, no claim for repayment of tax shall be allowed unless it is made in writing within six years after the end of the year of assessment to which it relates. 40

(2) The Board shall give a certificate of the amount of any tax to be repaid under any of the provisions of this Act or the principal Act, or under any order of a court of competent jurisdiction, and upon the receipt of the certificate the Accountant-General of the Federation shall cause repayment to be made in conformity therewith. 45



## PART IX—OFFENCES AND PENALTIES

Penalty  
for  
offences.

54. (1) Any person guilty of an offence against this Act or any person who contravenes or fails to comply with any of the provisions of this Act or of any rule or regulation made thereunder for which no other penalty is specifically provided shall be liable on conviction to a fine of one hundred pounds and where such offence is the failure to furnish a return, statement or information or to keep records required, a further sum of twenty pounds for each and every day during which such failure continues, and in default of payment to imprisonment for six months, the liability to such further sum to commence from the day following the conviction, or from such day thereafter as the Court may order.

(2) Any person who—

(a) fails to comply with the requirements of a notice served on him under this Act ; or

(b) without sufficient cause fails to attend in answer to a notice or summons served on him under this Act or having attended fails to answer any question lawfully put to him,

shall be guilty of an offence against this Act.

(3) Notwithstanding any of the provisions of the Criminal Procedure Ordinance a magistrate may dispense with the personal attendance of the defendant if he pleads guilty in writing or so pleads by a legal practitioner.

(4) In the case of failure by any person to comply with the requirements of any notice given by the Board under the provisions of section 24 or 25 of this Act for the purpose of the income tax for any year of assessment to be charged upon such person, with respect to income from any source other than from an employment, the Board may, in lieu of the institution of proceedings against such person under the provisions of subsection (2) of this section, impose a penalty upon him of an amount equal to the income tax chargeable upon him for the preceding year of assessment :

Provided that—

(a) written notice of the penalty shall be served upon such person ; and

(b) any amount of such penalty remaining unpaid thirty days after service of such notice may be sued for and recovered in a court of competent jurisdiction by the Board in its official name with full costs of action from the person liable thereto as a debt due to the Government of the Federation ; and

(c) a certificate signed by an officer of the Federal Inland Revenue Department duly authorised by the Board setting out the name and address of such person, the date of service of the said notice, and the amount of the penalty remaining unpaid, shall be sufficient authority for the court to give judgment for that amount ; and

(d) the Board may remit the whole or any part of such penalty, whether before or after judgment, for any reason which appears to it to be adequate.

55. (1) Every person who, without reasonable excuse—

(a) makes an incorrect return by omitting or understating any income liable to tax under this Act ; or

Penalty for  
making in-  
correct  
return.



(b) gives any incorrect information in relation to any matter or thing affecting the liability to tax of any taxable person, shall be guilty of an offence and shall be liable on conviction to a fine of one hundred pounds and double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct. 5

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within six years after the expiration thereof. 10

(3) The Board may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

False  
statements  
and returns.

56. (1) Any person who—

(a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax for himself or any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representation; or 15

(b) aids, abets, assists, counsels, incites or induces any other person—

(i) to make or deliver any false return or statement under this Act; 20

(ii) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred pounds or to imprisonment for five years, or to both such fine and imprisonment: 25

Provided that where an offence under this section is committed by a person in relation to tax payable by, or repayable to, him for any year of assessment, for the amount of the fine as aforesaid there shall be substituted the amount of five hundred pounds or treble the tax chargeable upon such person for that year, whichever is the greater. 30

(2) The Board may compound any offence under this section and with the leave of the court may before judgment stay or compound any proceedings thereunder. 35

Penalties  
for  
offences by  
authorised  
and un-  
authorised  
persons.

57. Any person who—

(a) being a person appointed for the due administration of this Act or employed in connection with the assessment or collection of the tax who—

(i) demands from any person an amount in excess of the authorised assessment of the tax; or 40

(ii) withholds for his own use or otherwise any portion of the amount of tax collected; or

(iii) renders a false return, whether orally or in writing, of the amounts of tax collected or received by him; or 45

(iv) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongly with the Board; or

(b) not being authorised under this Act to do so, shall collect or attempt to collect the tax under this Act; or

(c) being an employer required by any provision of this Act or of any regulations made thereunder to deduct tax from any emoluments payable to his employees, or being an agent of any taxable person empowered under section 29 of the principal Act to retain out of moneys coming into his hands on behalf of such taxable person any amount for the purpose of paying tax due by such taxable person, and who—

(i) fraudulently converts to his own use any such tax deducted or amount retained ; or

(ii) knowingly makes any incorrect return, account or statement with respect to such tax deducted or amount retained,

shall be guilty of an offence and be liable on conviction to a fine of three hundred pounds or to imprisonment for three years or both.

58. At any time during which collection of the income rate has been delegated to the Lagos Town Council, the officer for the time being holding, or acting in, the office of Municipal Treasurer thereof shall be deemed to have been appointed for the due administration of this Act with respect to such income rate, and his assistants to be employed in connection with its collection, and the provisions of this Part shall apply accordingly as though, wherever necessary with respect to any offence committed in relation to the income rate, any reference therein to the Board were a reference to that Council or to any committee or sub-committee thereof duly authorised in this regard by that Council.

Lagos Town Council and offences in relation to income rate.

59. The institution of proceedings for, or the imposition of, a penalty, fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any tax for which he is or may become liable.

Tax to be payable notwithstanding proceedings.

60. No prosecution in respect of an offence under this Part may be commenced except at the instance of the Board or, if such offence is alleged to have been committed in relation to the income rate at any time during which the collection thereof is delegated to the Lagos Town Council, of such Council.

Prosecution to be with sanction of Board or Lagos Town Council.

61. The provisions of this Act shall not affect any criminal proceedings under any other enactment.

Saving for criminal proceedings. Place of an offence.

62. Any offence under this Act shall be deemed to occur in Lagos.

#### PART X—POWERS OF TAX COLLECTORS

63. (1) For the purposes of this Part a Tax Collector means a duly authorised official of the Federal Inland Revenue Department or, at any time during which the collection of the income rate is delegated to the Lagos Town Council, a duly authorised official of such Council, and in either case wearing an official uniform or badge by which he may be identified as such.

Definition of Tax Collector.

(2) The production by any Tax Collector of a certificate or warrant—

(a) issued by, and having printed thereon the official name of the said Board or Council ;

(b) setting out his full name or names ; and

(c) stating that he is, or is authorised to exercise the functions of, a Tax Collector,  
shall be sufficient evidence that such Tax Collector is duly authorised for the purposes of this Act.

Power of  
Tax  
Collector  
to enter  
and require  
information.

64. Whenever necessary for the purposes of obtaining information in relation to any person who is or may be liable to the tax imposed by this Act, or the income, occupation or domestic circumstances of such person, or for the purpose of collecting any such tax, a Tax Collector may, during daylight hours, enter into and upon any house or premises, providing he may do so without damage to such house or premises, and require any person found therein to give all such information orally to him.

Obstruction  
to be an  
offence.

65. Any person, who—

(a) having been required to give information under the provisions of the preceding section wilfully obstructs a Tax Collector in the performance of his duties by neglecting or refusing to give such information, or

(b) otherwise obstructs or wilfully misleads or attempts to mislead a Tax Collector in the performance of his duties under this Part,  
shall be guilty of an offence under this Act.

Immunity  
from  
action, etc.

66. A Tax Collector shall not be liable in any action or proceeding, whether civil or criminal, for anything done or said by him in the lawful exercise of the powers conferred upon him by section 64.

## FIRST SCHEDULE (Sections 3 (4), (7))

### POWERS OR DUTIES TO BE PERFORMED OR EXERCISED ONLY BY THE BOARD

1. In this Schedule any reference to powers and duties shall not include any part of any power or duty of the Board either to make enquiries or to carry out or give effect to any decision of the Board.

2. Subject to the provisions of paragraph 3 of this Schedule, no power or duty of the Board specified or imported in the following provisions, namely—

(a) sections 10, 20, 52, 54 (4), 55 (3), 56 (2) and 60 of this Act ;

(b) the power of the Board to consider anything necessary under subsection (2) of section 3 of this Act ;

(c) the powers of the Board to authorise under subsection (4) of section 3, subsection (4) of section 12, subsections (1) and (3) of section 47 of this Act ;

(d) any power or duty of the Board under a provision of the Companies Income Tax Act, 1961, which applies with or without modification under any express provision of this Act, to like extent that the exercise or performance of such power or duty is reserved to the Board under that first mentioned Act ;

No. of  
1961.

(e) the powers of the Board to prescribe under subsection (4) of section 32, subsection (2) of section 42 and section 51 of this Act ;

(f) the powers of the Board imported into section 40 of this Act to decide upon any further appeal ;

5 (g) the power of the Board to appoint under subsection (1) of section 42 of this Act ;

(h) the powers and duties conferred on the Board, as the tax authority for Lagos, under subsection (1) of section 14 of the principal Act, and proviso (i) to paragraph (d) of the Third Schedule to that Act,

10 shall be delegated to any other person.

3. During any time when the Lagos Town Council is authorised to do all things necessary for the collection of the income rate, all powers and duties of the Board reserved by this Schedule, to the extent that they are relevant to such collection shall be deemed to be transferred to that Council, and may be exercised by that Council or delegated by it to any committee, sub-committee or official of that Council as it sees fit.

## SECOND SCHEDULE

(Sections 12 and 13)

TABLE 1 INCOME RATE

(Section 12)

| <i>On total income</i>                |    |    |    | <i>Amount of income rate</i>                              |    |   |
|---------------------------------------|----|----|----|---|----|---|
|                                       |    |    |    | £   | s  | d |
| Not exceeding £100                    | .. | .. | .. | ..  | 10 | 0 |
| Exceeding £100 but not exceeding £200 | .. | .. | .. | 1   | 0  | 0 |
| Exceeding £200 but not exceeding £203 | .. | .. | .. | 1   | 0  | 0 |
|                                       |    |    |    | and one-half of the excess of the total income over £200. |    |   |
| Exceeding £203                        | .. | .. | .. | 3   | 0  | 0 |

TABLE 2 INCOME TAX

(Section 13)

| <i>Income to be taxed</i>          |    |    |    | <i>Rate of tax</i> |   |
|------------------------------------|----|----|----|--------------------|---|
|                                    |    |    |    | s                  | d |
| For every pound of the first £400  | .. | .. | .. | 1                  | 0 |
| For every pound of the next £200   | .. | .. | .. | 2                  | 0 |
| For every pound of the next £200   | .. | .. | .. | 2                  | 6 |
| For every pound of the next £200   | .. | .. | .. | 3                  | 6 |
| For every pound of the next £800   | .. | .. | .. | 4                  | 6 |
| For every pound of the next £1,000 | .. | .. | .. | 6                  | 0 |
| For every pound of the next £1,000 | .. | .. | .. | 7                  | 6 |
| For every pound of the next £1,000 | .. | .. | .. | 9                  | 3 |
| For every pound of the next £5,200 | .. | .. | .. | 11                 | 6 |
| For every pound exceeding £10,000  | .. | .. | .. | 15                 | 0 |

## COMPANIES INCOME TAX BILL

## MEMORANDUM

This Bill seeks to bring together the existing provisions of the Income Tax and Income Tax Administration Ordinances, insofar as they relate to the taxation of company profits throughout Nigeria, and to effect a number of improvements shown by recent experience to be desirable.

2. The more important of these changes occur in—

*Clause 30 (9)* : where a company's trade in Nigeria is to be hived off to a separate Nigerian company, the tax consequences are largely unpredictable. Provision is now made so that company reconstruction for these purposes may be encouraged, with appropriate additional safeguards for the Revenue.

*Clause 33* : unintended tax relief for small companies can at present be obtained by manipulation of directors' emoluments. This defect is now rectified, and provision is made for withdrawing relief given to a small company on profits which it does not retain for expansion of the company's trade.

*Clauses 34 and 35* : the present provisions with respect to the deduction of tax from dividends are mutually contradictory, and expose the Revenue to undue risk of loss when they give rise to tax repayment claims by shareholders. An entirely new approach has, therefore, been made to this problem, both in this Bill and in the consequential provisions of the Income Tax Management Bill.

3. Other changes sought to be made by the Bill should contribute to the easier administration of its provisions, in most cases by the removal of uncertainty which has arisen on the interpretation of the existing Ordinances.

F. S. OKOTIE-BOH,  
Minister of Finance,  
Federation of Nigeria

## COMPANIES INCOME TAX

## ARRANGEMENT OF CLAUSES

## PART I.—PRELIMINARY

## Clause

1. Short title, application and commencement.
2. Interpretation.

## PART II.—ADMINISTRATION

3. Establishment and constitution of Board.
4. Powers and duties of the Board.
5. Signification and execution of powers and duties, etc.
6. Transitional provisions.
7. Certain double taxation arrangements.
8. Power to amend First Schedule.
9. Establishment and constitution of Scrutineer Committees.
10. Lists of companies and profits.
11. Meetings and duties of Scrutineer Committees, etc.
12. Assessment in cases of urgency.
13. Losses for Scrutineer Committee Lists.
14. Official secrecy.
15. Forms.
16. Service and signature of notices.



## PART III.—IMPOSITION OF TAX AND PROFITS CHARGEABLE

17. Charge of tax.
18. (1) Nigerian companies.  
(2) Other companies.
19. Companies engaged in shipping or air transport.
20. Cable undertakings.
21. (1) (a) Certain insurance companies other than life insurance companies.  
(1) (b) Certain life insurance companies.  
(1) (c) Nigerian insurance companies.
22. Profits of a company from certain dividends.
23. Nigerian dividends received by companies other than Nigerian companies.
24. Certain undistributed profits may be treated as distributed.
25. Artificial transactions, etc.
26. (1) Profits exempted.  
(2) Power of Minister to exempt.

## PART IV.—ASCERTAINMENT OF PROFITS

27. Deductions allowed.
28. Deductions not allowed.
29. Waiver or refund of liability or expense.

## PART V.—ASCERTAINMENT OF ASSESSABLE PROFITS

30. Basis for computing assessable profits.
  - (3) New trades or businesses.
  - (4) Cessation of trades or businesses.
  - (6) Apportionment of profits.
  - (7) Receipts and payments after cessation of a trade or business.
  - (8) Certain partnerships.
  - (9) Trades or businesses sold or transferred.

## PART VI.—ASCERTAINMENT OF TOTAL PROFITS

31. Total profits from all sources.

PART VII.—RATE OF TAX, DEDUCTION OF TAX FROM DIVIDENDS  
AND RELIEF FOR DOUBLE TAXATION

32. Rate of tax.
33. Relief for small companies.
34. Dividends paid by Nigerian companies.
35. Set-off and repayment of tax deducted from dividends.
36. Relief in respect of Commonwealth income tax.
37. Double taxation arrangements.
38. Method of calculating relief to be allowed for double taxation.

## PART VIII.—PERSONS CHARGEABLE, AGENTS, LIQUIDATORS, ETC.

39. Chargeability to tax.
40. Manager, etc., to be answerable.
41. Power to appoint agent.
42. Indemnification of manager, etc., or agent.
43. Company wound up.

## PART IX.—RETURNS

- 44. Notice of chargeability and returns.
- 45. Board may call for further returns.
- 46. Power to call for returns, books, documents and information.
- 47. Returns to be deemed to be furnished by due authority.
- 48. Books of account.

## PART X.—ASSESSMENTS

- 49. Board to make assessments.
- 50. Additional assessments.
- 51. Lists of companies assessed.
- 52. Service of notice of assessment.
- 53. Revision of assessment in case of objection.
- 54. Errors and defects in assessment and notice.

## PART XI.—APPEALS

- 55. Establishment and constitution of body of Appeal Commissioners.
- 56. Appeals to Appeal Commissioners.
- 57. Procedure before Appeal Commissioners, etc.
- 58. Procedure following decision of Appeal Commissioners.
- 59. Appeals to Court.
- 60. Assessments to be final and conclusive.

## PART XII.—COLLECTION, RECOVERY AND REPAYMENT OF TAX

- 61. Time within which payment is to be made.
- 62. Penalty for non-payment of tax and enforcement of payment.
- 63. (1) Action for tax by Board.
- (4) Refusal of clearance when tax is in arrear.
- 64. Remission of tax.
- 65. Relief in respect of error or mistake.
- 66. Repayment of tax.

## PART XIII.—OFFENCES AND PENALTIES

- 67. Penalty for offences.
- 68. Penalty for making incorrect return.
- 69. False statements and returns.
- 70. Penalties for offences by authorised and unauthorised persons.
- 71. Tax to be payable notwithstanding proceedings for penalties.
- 72. Prosecution to be with sanction of the Board.
- 73. Saving for criminal proceedings.
- 74. Place of an offence.

## PART XIV.—MISCELLANEOUS

- 75. Power to alter rate of tax, etc., by resolution.
- 76. Conduct of proceedings in Magistrates Courts.
- 77. Effect of existing Ordinances.
- 78. Saving for Pioneer Relief legislation.

FIRST SCHEDULE—Powers or duties which the Board may not delegate except to the Joint Tax Board with the consent of the Minister.

SECOND SCHEDULE—Form of declaration of secrecy.

THIRD SCHEDULE—Capital allowances.

FOURTH SCHEDULE—Double Taxation Arrangements.

FIFTH SCHEDULE—Pioneer Relief.

# A BILL

FOR

AN ACT TO IMPOSE TAX ON THE PROFITS OF COMPANIES.

I

I

Commencement.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows—

Enactment.

## PART I.—PRELIMINARY

5

1. This Act may be cited as the Companies Income Tax Act, 1961, and shall apply throughout Nigeria to tax charged for the year of assessment commencing on the first day of April, 1961, and each succeeding year of assessment.

Short title,  
application

2. In this Act, unless the context otherwise requires—

Interpreta-  
tion.

“Board” means the Federal Board of Inland Revenue established under section 3 ;

“company” means any company or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere ;

10

"Joint Tax Board" means the Joint Tax Board established under the provisions of any Act regulating the taxation of incomes of persons other than companies in Nigeria ;

"Minister" means the Federal Minister charged with responsibility for matters relating to the taxation of income or profits ;

"Nigerian company" means any company the control and management of whose activities are exercised in Nigeria ;

"person" includes a company or body of persons ;

"tax" means the tax imposed by this Act ;

"year of assessment" means a period of twelve months commencing on the first day of April.

## PART II.—ADMINISTRATION

3. (1) There is hereby established a Board of which the official name shall be the Federal Board of Inland Revenue.

(2) The members of the Board shall be—

(a) a Chairman and a Deputy Chairman, being those officers in the public service of the Federal Government appointed as or to act as such by the Public Service Commission of the Federation ;

(b) The officer from time to time holding or acting in the office of Senior Assistant Secretary with responsibility for revenue matters in the Federal Ministry of Finance ;

(c) the senior of those officers holding or acting in the posts of Legal Adviser and Assistant Legal Adviser in the Federal Inland Revenue Department who is available from time to time on duty in Lagos ; and

(d) up to two further members, being Chief Inspectors of Taxes or officers of equivalent rank or acting rank in the Federal Inland Revenue Department nominated from time to time by the Chairman for this purpose.

(3) Any three members of the Board, of whom one shall be the Chairman or Deputy Chairman, shall constitute a quorum.

(4) Whenever necessary the Board shall nominate an officer of the Federal Inland Revenue Department to be the Secretary to the Board.

4. (1) The due administration of this Act and the tax shall be under the care and management of the Board who may do all such things as may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the Minister.

(2) Whenever the Board shall consider it necessary with respect to any tax or penalty due, the Board may acquire, hold and dispose of any property taken as security for or in satisfaction of any such tax or penalty or of any judgment debt due in respect of any such tax or penalty and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the Minister.

(3) The Board may sue and be sued in its official name and, subject to any express provision under any subsidiary legislation or otherwise, the Board may authorise any person to accept service of any document to be sent, served upon or delivered to the Board,

Establishment and constitution of Board.

Powers and duties of the Board.



(4) The Board may by notice in the Gazette or in writing—

(a) authorise any person within or without Nigeria to perform or exercise, on behalf of the Board, any power or duty conferred on the Board other than the powers or duties specified in the First Schedule, or to receive any notice or other document to be given or delivered to, or served upon, the Board under or in consequence of this Act and any subsidiary legislation made thereunder; and

First  
Schedule.

(b) with the consent of the Minister, authorise the Joint Tax Board to perform or exercise, on behalf of the Board, any power or duty conferred on the Board including the powers or duties specified in the First Schedule.

(5) In the exercise of the powers and duties conferred upon it the Board shall be subject to the authority, direction and control of the Minister and any written direction, order or instruction given by him after consultation with the Chairman shall be carried out by the Board: Provided that the Minister shall not give any direction, order or instruction in respect of any particular person which would have the effect of requiring the Board to raise an additional assessment upon such person or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to defer the collection of any tax, penalty or judgment debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or to any offence relating to tax.

(6) Every claim, objection, appeal, representation or the like made by any person under any provision of this Act or of any subsidiary legislation made thereunder shall be made in accordance with such Act and legislation.

(7) In any claim or matter or upon any objection or appeal under this Act or under any subsidiary legislation made thereunder, any act, matter or thing done by or with the authority of the Board, in pursuance of any provisions of this Act or subsidiary legislation made thereunder, shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any direction, order or instruction given by the Minister.

(8) For the due administration of the Income Tax Ordinance with respect to any matter affecting any year of assessment ending before the first day of April, 1961, the Board shall stand in place of the Board established by section 3 of the Income Tax Administration Ordinance, 1958, and shall perform or exercise all powers and duties conferred by those Ordinances on the Board established thereunder.

Cap. 85.

No. 39 of  
1958.

5. (1) Anything required to be done by the Board, in relation to the powers or duties specified in the First Schedule to this Act, may be signified under the hand of the Chairman or of the Secretary.

Significa-  
tion and  
execution of  
powers, etc.  
First  
Schedule.

(2) Any authorisation given by the Board under or by virtue of this Act shall be signified under the hand of the Chairman unless such authority is notified in the Gazette.

(3) Subject to subsection (1) of this section, any notice or other document to be given under this Act, or under any subsidiary legislation made thereunder, shall be valid if—

(a) it is signed by the Chairman or by any person authorised by him; or

(b) such notice or document is printed and the official name of the Board is duly printed or stamped thereon.

(4) Every notice, authorisation or other document purporting to be a notice, authorisation or other document duly given and signified, notified or bearing the official name of the Board, in accordance with the provisions of this section, shall be deemed to be so given and signified, notified or otherwise without further proof, until the contrary is shown. 5

Transitional provisions.  
Cap. 85.  
No. 39 of 1958.  
Cap 87.

6. Anything made or done or having effect as if made or done before the date of commencement of this Act, under or for the purpose of the Income Tax Ordinance, or the Income Tax Administration Ordinance, 1958, or the Industrial Development (Income Tax Relief) Ordinance, by the Board established thereunder and having any continuing or resulting effect with respect to the taxation of the profits of a company shall be treated from that date as if it were made or done by the Board. 10 15

Certain double taxation arrangements, Cap. 85.

7. For the purpose of any order made under section 35 of the Income Tax Ordinance which contains a provision as part of the arrangements specified in any such order for the exchange of information with either the Commissioner of Income Tax or the Commissioner as defined in section 2 of that Ordinance, then the Chairman shall be taken to be the Commissioner of Income Tax or the Commissioner as so defined for so long as such order remains in force. 20

Power to amend the First Schedule.

8. The Minister may at any time by Order delete any of the powers or duties specified in the First Schedule or include therein additional powers or duties or amend such Schedule or substitute a new Schedule therefor. 25

Establishment and constitution of Scrutineer Committees.

9. (1) The Minister may from time to time, by notice in the Gazette declare the establishment of one or more Scrutineer Committees for Lagos (and for any other area in which there is established an office of the Federal Inland Revenue Department for the taxation of the profits of companies) for the purpose of making recommendations in relation to the assessment of profits of companies and to claims for losses incurred by companies in such cases as may be referred to them in accordance with the provisions of this Act. 30 35

(2) A Scrutineer Committee shall consist of not more than six persons, none of whom shall be a public officer.

(3) A member of a Scrutineer Committee—

(a) shall be appointed, by notice in the Gazette, by the Minister from among persons who appear to the Minister to have had experience and shown capacity in the management of a substantial trade or business or the exercise of a profession in Nigeria; 40

(b) shall, subject to the provisions of this subsection, hold office for a period of three years from the date of his appointment; 45

(c) may at any time resign his membership by notice in writing addressed to the Minister;

(d) shall cease to be a member upon the Minister determining that his office as such member be vacant or that the Committee of which he is a member is no longer needed and upon notice of such determination being published in the Gazette; 50

Second  
Schedule.

(e) shall make a declaration of secrecy before a magistrate in the form set out in the Second Schedule and deliver such declaration to the Board ;

5 (f) shall be paid such remuneration and allowances as may be determined by the Minister with the approval of the Council of Ministers.

(4) Without prejudice to the generality of paragraph (4) of subsection (3), if the Minister is satisfied that a member of a Scrutineer Committee—

10 (a) has been absent from two consecutive meetings of the Committee without the written permission of the Chairman where such Committee is meeting in the township of Lagos, or, in any other case, of the officer of the Federal Inland Revenue Department in charge of the office where such meetings are held ; or

15 (b) is incapacitated by physical or mental illness ; or

(c) has been convicted of a felony, or of an offence under any law in Nigeria imposing tax on the income of individuals or companies ; the Minister shall make a determination in accordance with paragraph (d) of subsection (3) that his office as such member is vacant.

20 (5) Any three members of a Scrutineer Committee shall constitute a quorum and at any meeting of a Scrutineer Committee the Committee shall appoint one of its members to be chairman of the meeting.

25 10. (1) Subject to the provisions of subsection (2) of this section, so long as any Scrutineer Committee is established for Lagos for the purposes referred to in subsection (1) of the preceding section, before the making of any assessment on a company the Board shall cause to be prepared, at such time as the Board shall direct, a List for such Committee containing the name and registered address of each such company and the amount of the assessable profits which it is proposed to include in the computation of the total profits of such company for the purpose of making such assessment.

30 (2) So long as any Scrutineer Committee is established for any other area for the purposes referred to in subsection (1) of the preceding section, before any assessment is made on a company by the office of the Federal Inland Revenue Department situated in that area which is responsible for such assessment the Board shall cause a List to be prepared for that Committee in like manner as set out in the preceding subsection and any company included in such List shall be omitted from the Lists to be prepared for any Scrutineer Committee established for Lagos.

35 11. (1) The Board shall instruct an officer of the Federal Inland Revenue Department to act as Secretary to a Scrutineer Committee which shall meet at such office of that Department in the area for which the Committee has been established as shall have been notified to each member of the Committee, at such times and day or days as shall be arranged from time to time between the Committee and the officer-in-charge of that office, who shall have regard to the number of assessments to be scrutinised : Provided that with respect to any day for a meeting so arranged, the officer-in-charge of that office may give due notice to the members of the Committee of the cancellation of such meeting, whenever there are no names for entry in a List for that meeting or an insufficiency of names to warrant a meeting.

Lists of  
companies  
and profits.Meetings  
and duties  
of Scrutineer  
Committees,  
etc.

(2) The Secretary of a Scrutineer Committee shall maintain an Attendance Book in which he shall record the date of each meeting of the Scrutineer Committee and he shall produce the book at each such meeting and each of the members thereof attending that meeting shall sign his name in that book.

(3) At each meeting of a Scrutineer Committee, its Secretary shall produce the appropriate List for the meeting, prepared in accordance with section 10, for scrutiny by the members of the Committee attending such meeting.

(4) At a meeting of a Scrutineer Committee, with respect to the proposed amount of the assessable profits shown against the name of any company on the List produced at such meeting—

(a) the Committee may enquire of its Secretary the nature of the source from which, and the period over which, such profits arose, whether the proposed amount was estimated either in the absence of a return, statement or account, or upon a rejection thereof as unsatisfactory, or was estimated or computed having regard to any such return, statement or account;

(b) the Secretary shall at the request of the chairman of the Committee—

(i) make available for scrutiny by the Committee any return, statement, account or other document received by the Federal Inland Revenue Department in connection with the determination of such profits;

(ii) inform the Committee of the assessable profits of that company for each of the three preceding years;

(c) if after making any such enquiries the Committee, from its local or general knowledge of that company or of any trade or business in which it is engaged, or of the amount of profits arising from a similar trade or business for that period, is of the opinion that the proposed amount is insufficient the chairman of the Committee shall at such meeting record, in writing against the proposed amount, the revised amount which the Committee recommends should replace the proposed amount and the brief reasons for such recommendation.

(5) The officer-in-charge of the Federal Inland Revenue Office where any such recommendation has been made shall have due regard thereto in giving instructions for the making of the assessment in question and, where the difference between the proposed amount and the revised amount recommended is more than five hundred pounds, he shall refer the matter to the Board for its instructions before making any assessment and the Board shall duly consider such recommendation and give such instructions as it thinks fit.

12. (1) Notwithstanding the provisions of sections 10 and 11, where in the case of any company any officer-in-charge of a Federal Inland Revenue Office considers it necessary for any reason of urgency that an assessment should be made upon such company immediately, he may give instructions that such assessment be made at once.

(2) Where any such assessment has been made, the particulars thereof shall be included in the List to be produced at the meeting of the appropriate Scrutineer Committee to be held next after the making of such assessment and the provisions of subsection (4) of section 11 shall



apply, and where any recommendation is made to revise that amount the provisions of subsection (5) of section 11 shall apply with any necessary modifications with a view to increasing such assessment, if under objection or appeal, or to the making of an additional assessment.

- 5 13. Where any company has incurred a loss, then before the amount of the loss is admitted or determined, the name and address of such company and the amount in which it is proposed to admit or determine such loss shall be included in any List prepared in accordance with section 10 in which, if such company had made profits from such trade or business, its name, address and a proposed amount of assessable profits in respect of such trade or business would have appeared, and in such event the provisions of sections 10 and 11 shall apply with any necessary modifications, and in particular, in paragraph (c) of subsection (4) of section 11, substituting for the word "insufficient" the word "excessive".
- 10
14. (1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the profits or items of the profits of any company, as secret and confidential.
- 15
- (2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or profits or losses of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person—
- 20
- (a) other than a person to whom he is authorised by the Minister to communicate it; or
- 25
- (b) otherwise than for the purpose of this Act, or of any enactment in Nigeria imposing tax on the income of persons other than companies;
- 30 shall be guilty of an offence against this Act.
- (3) Any proceedings for an offence against this section may be taken by or in the name of the Board but not by any other person except with the consent of the Director of Public Prosecutions of the Federation.
- 35
- (4) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act, or in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to any tax on income or profits in Nigeria.
- 40
- (5) Where under any law in force in any Commonwealth country provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by this section of this Act shall not prevent the disclosure to the authorised officers of the Government in that country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from the tax in Nigeria or from income tax in that country.
- 45

Losses for  
Scrutiny  
Committee  
Lists.

Official  
Secrecy.



(6) Where any agreement or arrangement with any other country with respect to relief for double taxation of income or profits includes provisions for the exchange of information with that country for the purpose of implementing that relief or preventing avoidance of tax, the obligation as to secrecy imposed by this section shall not prevent the disclosure of such information to the authorised officers of the Government of such country. 5

(7) Every member of a Scrutineer Committee shall—

(a) for the purposes of subsection (1) of section 14, be deemed to be employed in the administration of this Act; and. 10

(b) for the purposes of subsection (2) of that section, be deemed to have possession of any return, statement, account or other document made available for scrutiny by the Committee under sub-paragraph (i) of paragraph (b) of subsection (4) of section 11 of this Act or any information given to the Committee under sub-paragraph (ii) of that paragraph. 15

(8) Notwithstanding anything contained in this section the Board may permit the Director of Federal Audit or any officer duly authorised in that behalf by him to have such access to any records or documents as may be necessary for the performance of his official duties, and the Director of Federal Audit or any such officer shall be deemed to be a person employed in carrying out the provisions of this Act for the purpose of this section. 20

Forms.

15. The Board may from time to time specify the form of returns, claims, statements and notices under this Act. 25

Service and  
Signature at  
notices.  
Cap. 89.

16. (1) Except where it is provided by this Act that service shall be effected either personally or by registered post the provisions of section 55 of the Interpretation Ordinance shall apply to the service of a notice, if such notice is addressed in accordance with the provisions of subsection (3) of this section. 30

(2) Where a notice is sent by registered post it shall be deemed to have been served on the day succeeding the day on which the addressee of the registered letter containing the notice would have been informed in the ordinary course of events that such registered letter is awaiting him at a post office, if such notice is addressed in accordance with the provisions of subsection (3) of this section: Provided that a notice shall not be deemed to have been served under this subsection if the addressee proves that no notification, informing him of the fact that the registered letter was awaiting him at a post office, was left at the address given on such registered letter. 35 40

(3) A notice to be served in accordance with subsection (1) or (2) shall be addressed—

(a) in the case of a company incorporated in Nigeria, to the registered office of the company, and

(b) in the case of a company incorporated outside Nigeria either to the individual authorised to accept service of process under the Companies Ordinance at the address filed with the Registrar of Companies, or to the registered office of the company wherever it may be situated, and 45

(c) in the case of an individual or body of persons to the last known business or private address of such individual or body of persons. 50

Cap. 37.

(4) Any notice to be given, sent or posted under this Act may be served by being left at the appropriate office or address determined under subsection (3) unless such address is a registered post office box number.

### PART III—IMPOSITION OF TAX AND PROFITS CHARGEABLE

5 17. The tax shall, subject to the provisions of this Act, be payable at the rate hereinafter specified for each year of assessment upon the profits of any company accruing in, derived from, brought into, or received in, Nigeria in respect of—

Charge of  
tax.

10 (a) any trade or business for whatever period of time such trade or business may have been carried on ;

(b) rent or any premium arising from a right granted to any other person for the use or occupation of any property ;

(c) dividends, interest, discounts, charges or annuities ;

15 (d) any source of annual profits or gains not falling within the preceding categories ;

(e) any amount deemed to be income or profits under a provision of this Act or, with respect to any benefit arising from a pension or provident fund, of the Income Tax Management Act, 1961 :

No. of  
1961.

20 For the purposes of this section, interest shall be deemed to be derived from Nigeria if—

(i) there is a right to payment of the interest in Nigeria ; or

25 (ii) the interest is by deed, will or otherwise charged upon or reserved out of real or personal estate situate in Nigeria the property of the person paying the same, or as a personal debt or obligation by virtue of any contract which is entered into in Nigeria ; or

(iii) in the case of money lent to a Nigerian company, the loan is evidenced by mortgage, debenture, loan or other stock, whether secured or unsecured, issued by the company in recognition of its debt.

30 18. (1) The profits of a Nigerian company shall be deemed to accrue in Nigeria wherever they have arisen and whether or not they have been brought into or received in Nigeria.

Nigerian  
companies.

35 (2) The profits of a company other than a Nigerian company from any trade or business shall be deemed to be derived from Nigeria to the extent to which such profits are not attributable to any part of the operations of the company carried on outside Nigeria.

Other  
companies.

40 19. (1) Subject to the provisions of paragraph (g) of subsection (1) of section 26 of this Act where a company other than a Nigerian company carries on the business of transport by sea or air, and any ship or aircraft owned or chartered by it calls at any port or airport in Nigeria, its profits or loss to be deemed to be derived from Nigeria shall be the full profits or loss arising from the carriage of passengers, mails, livestock or goods shipped, or loaded into an aircraft, in Nigeria :

Companies  
engaged in  
shipping  
or air trans-  
port.

45 Provided that this subsection shall not apply to passengers, mails, livestock or goods which are brought to Nigeria solely for transshipment or for transfer from one aircraft to another or in either direction between an aircraft and a ship.

(2) For the purposes of the preceding subsection where the Board is satisfied that the taxation authority of any other country computes and assesses on a basis not materially different from that prescribed by this Act the profits of a company which operates ships or aircraft, and that authority certifies—

(a) the ratio of profits or loss, before any allowance by way of depreciation, of an accounting period to the total sums receivable in respect of the carriage of passengers, mails, livestock or goods, and,

(b) the ratio of allowances by way of depreciation for that period to that same total,

then the full profits or loss of that period shall be taken to be that proportion of the total sums receivable in respect of the carriage of passengers, mails, livestock or goods shipped or loaded in Nigeria which is produced by applying the first-mentioned ratio to that total, and in place of any allowances to be given under the provisions of the Third Schedule there shall be allowed the amount produced by applying the second-mentioned ratio to that same total.

(3) Where at the time of assessment the provisions of subsection (2) cannot for any reason be satisfactorily applied, the profits to be deemed to be derived from Nigeria may be computed on a fair percentage of the full sum receivable in respect of the carriage of passengers, mails, livestock and goods shipped or loaded in Nigeria :

Provided that where any company has been assessed for any year by reference to such percentage, it shall be entitled to claim at any time within six years after the end of such year that its liability for that year be recomputed on the basis provided by subsection (2) ; and where such claim has been made and a certificate has been produced to the satisfaction of the Board as provided in that subsection, such repayment of tax shall be made as may be necessary to give effect to this proviso, save that, if the company fails to agree with the Board as to the amount of the tax to be so recomputed and repaid, the Board shall give notice to the company of refusal to admit the claim and the provisions of this Act with respect to objections and appeals shall apply accordingly with any necessary modifications.

20. Where a company other than a Nigerian company carries on the business of transmission of messages by cable or by any form of wireless apparatus it shall be assessable to tax as though it operates ships or aircraft, and the provisions of the preceding section shall apply *mutatis mutandis* to the computation of its profits deemed to be derived from Nigeria as though the transmission of messages to places outside Nigeria were equivalent to the shipping or loading of passengers, mails, livestock or goods in Nigeria.

21. (1) Notwithstanding anything to the contrary contained in this Act, it is hereby provided that—

(a) in the case of an insurance company whether proprietary or mutual, other than a life insurance company or a Nigerian company, which carries on business through a permanent establishment in Nigeria, and whose profits accrue in part outside Nigeria, the profits on which tax may be imposed shall be ascertained by taking the gross premiums and interest and other income receivable in Nigeria (less any premiums returned to the insured and premiums paid on reinsurances),

Cable  
under-  
takings.

Certain  
insurance  
companies  
other than  
life in-  
surance  
companies.

and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the net amount so arrived at deducting the actual losses in Nigeria (less the amount recovered in respect thereof under reinsurance), the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company ;

(b) in the case of a life insurance company whether proprietary or mutual, other than a Nigerian company, which carries on business through a permanent establishment in Nigeria, the profits on which tax may be imposed shall be the investment income less the management expenses, including commission :

Certain life insurance companies.

Provided that where the profits of such a company accrue in part outside Nigeria, the profits shall be that proportion of the total investment income of the company as the premiums receivable in Nigeria bear to the total premiums receivable, less the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company :

Provided further that, for the purposes of the foregoing proviso, in the case of such an insurance company having its head office outside Nigeria, the Board may substitute some basis other than that therein prescribed for ascertaining the required proportion of the total investment income ;

(c) in the case of an insurance company which is a Nigerian company the profits on which tax may be imposed shall be ascertained in accordance with the foregoing provisions of this section as though the whole investment and premium income of the company were received in Nigeria, and all the expenses and other outgoings of the company were incurred in Nigeria.

Nigerian insurance companies.

(2) For the purposes of this section the term "permanent establishment" in relation to an insurance company means a branch, management or other fixed place of business in Nigeria, but does not include an agency in Nigeria unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such company.

22. The profits of a company from a dividend received from any other company shall be—

Profits of a company from certain dividends.

(a) if that other company is a Nigerian company, the gross amount of that dividend before the deduction of any tax which that other company has deducted under the provisions of section 34 of this act ;

(b) if that other company is resident in a country to which section 36 of this Act applies, the amount of that dividend increased by the amount of any tax imposed in that country relative to that dividend ; and

(c) if that other company is resident in a country to which section 37 of this Act applies, the amount of that dividend as computed under the provisions of subsection (5) of section 38 of this Act :

Provided that a dividend distributed by a company—

(i) out of any fund of capital profits realised by such company ; or



Cap. 87  
No. 10 of  
1952.

No. 15 of  
1959.

Nigerian  
dividends  
received by  
companies  
other than  
Nigerian  
companies.

Certain  
undistrib-  
uted profits  
may be  
treated as  
distributed.

(ii) if the company is a Nigerian company, out of any profits exempted from tax by any provision of this Act, or of the Industrial Development (Income Tax Relief) Ordinance, or of the Pioneer Industries Ordinance; or

(iii) if the company is chargeable to tax under the provisions of the Petroleum Profits Tax Ordinance, 1959, out of any profits to which section 51 of that Ordinance applies; or

(iv) if a direction has been made with respect to such company under section 24 of this Act, out of any profits treated by that direction as distributed;

shall be excluded from the profits of any other company which is a shareholder in such company, and the amount of any dividend to which sub-paragraph (i), (ii) or (iii) of this proviso applies shall, when excluded from the profits of a Nigerian company, be treated for the purposes of this section and of section 34 of this Act as a fund of capital profits realised by that company.

23. In the case of a company which is neither a Nigerian company nor engaged in a trade or business in Nigeria at any time during a year of assessment—

(a) no tax shall be charged on it for that year in respect of any dividend received by it from a Nigerian company in addition to the tax chargeable on the profits of such Nigerian company; and

(b) nothing in this Act shall confer on such company a right to repayment for that year of any tax deducted at source from any such dividend.

24. (1) Where it appears to the Board that a Nigerian company controlled by not more than five persons, with a view to reducing the aggregate of the tax chargeable in Nigeria on the profits or income of the company and those persons, has not distributed to its shareholders as dividend profits made in any period for which accounts have been made up by such company, which profits could have been distributed without detriment to the company's business as it existed at the end of that period, it may direct that any such undistributed profits of such period be treated as distributed.

(2) Any amount of profits treated as distributed under the provisions of the foregoing subsection shall, for the purposes of this Act and any enactment in Nigeria imposing tax on the incomes of persons other than companies, be deemed to be profits or income from a dividend accruing to those persons who are shareholders in the company in proportion to their shares in the ordinary capital thereof on such day, and the amount of such profits or income to be taken for assessment in the hands of each such person shall be his due proportion thereof increased by such amount in respect of tax deemed to be deducted at source, as the Board may determine.

(3) Any direction by the Board under this section shall be made in writing and be served upon the company, and shall specify—

(a) the day to be taken for the purposes of the preceding subsection;

(b) the net amount of those profits so deemed to be distributed;

(c) the rate of tax deemed to be deducted, being the rate prescribed in section 32 of this Act applying on that day;



(d) the gross amount which after deduction of tax at the said rate leaves such net amount of those profits ; and

(e) the net Nigerian rate of tax applicable to those profits, being such rate as would have been computed or agreed by the Board under the provisions of subsection (3) of section 34 of this Act if those profits had been distributed by the company as a dividend.

(4) For the purposes of this section the Board may give notice to any company which it has reason to believe is controlled by not more than five persons requiring it to supply within such reasonable time limited in such notice full particulars of its shareholders on any day.

(5) Any direction by the Board under this section with respect to the profits of any accounting period of a company shall be made not later than two years after the receipt by the Board of the duly audited accounts of the company for that period.

(6) A company in respect of which any direction is made under this section shall have a right of appeal in like manner as though for the purposes of Part XI of this Act such direction were an assessment.

25. (1) Where the Board is of opinion that any disposition is not in fact given effect to or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, it may disregard any such disposition or direct that such adjustments shall be made as respects liability to tax as it considers appropriate so as to counteract the reduction of liability to tax effected, or reduction which would otherwise be effected, by the transaction and any company concerned shall be assessable accordingly.

Artificial transactions, etc.

(2) For the purposes of this section—

(i) "disposition" includes any trust, grant, covenant, agreement or arrangement ;

(ii) transactions between persons one of whom either has control over the other or, in the case of individuals, who are related to each other or between persons both of whom are controlled by some other person, shall be deemed to be artificial or fictitious if in the opinion of the Board those transactions have ~~not~~ been made on terms which might fairly have been expected to have been made by persons engaged in the same or similar activities dealing with one another at arm's length.

(3) A company in respect of which any direction is made under this section shall have a right of appeal in like manner as though for the purposes of Part XI of this Act such direction were an assessment.

26. (1) There shall be exempt from the tax—

Profits exempted.

(a) the profits of any company being a statutory or registered friendly society in so far as such profits are not derived from a trade or business carried on by such society ;

(b) the profits of any company being a co-operative society registered under the Co-operative Societies Ordinance ;

Cap. 39.

(c) the profits of any company engaged in ecclesiastical, charitable or educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company ;

(d) the profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to such conditions as the Board may prescribe ;

Cap. 200.

(e) the profits of any company being a trade union registered under the Trade Unions Ordinance in so far as such profits are not derived from a trade or business carried on by such trade union ;

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(f) interest received by a company from the Nigerian Post Office Savings Bank ;

Cap. 190.

(g) gains or profits from the business of operating ships or aircraft carried on by a company other than a Nigerian company in so far as in the case of ships the business is not carried on in inland waters only and by means of ships to which the provisions of Part IV of the Shipping and Navigating Ordinance apply :

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Provided that the Board is satisfied that an equivalent exemption from tax is granted to Nigerian companies by the country in which such company is resident ;

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(h) the profits of any company being a body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria, the Western Regional Local Government Law, 1952, or the Local Government Law, 1957, of Western Nigeria or the Eastern Regional Local Government Law, 1960, of Eastern Nigeria, as amended, or any law replacing any of those laws ;

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(i) the profits of any company being a purchasing authority established by the legislature of a Region and empowered to acquire any commodity in that Region for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity ;

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(j) the profits of any company being a corporation established by the legislature of a Region for the purpose of fostering the economic development of that Region, not being profits derived from any trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority ;

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(k) any profits of a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria.

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Power of  
Minister  
to exempt.

(2) The Minister may exempt by order—

(a) any company or class of companies from all or any of the provisions of this Act, or

(b) from tax all or any profits of any company or class of companies from any source,

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on any ground which appears to him sufficient.

Cap. 85.

(3) The Minister may by order amend, add to or repeal any exemption, in so far as it affects a company, made by notice or order under the provisions of subsections (2) or (4) of section 9 of the Income Tax Ordinance, and subject to the foregoing the following notices and order shall continue in force for all purposes of this Act—

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P.N. 220  
of 1943.

(a) The Income Tax Exemption (Interest on Nigerian Public Loans) Notice ;

(b) The Income Tax (Exemption) (Nigerian Broadcasting Corporation) Order, 1957 ;

L.N. 85 of 1957.

(c) The Railway Loan (International Bank) (Exemption of Interest) Notice, 1958.

L.N. 111 of 1958.

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#### PART IV.—ASCERTAINMENT OF PROFITS

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27. Save where the provisions of subsections (2) or (3) of section 19, or section 21 apply, for the purpose of ascertaining the profits or loss of any company of any period from any source chargeable with tax under this Act there shall be deducted all expenses incurred for that period by that company wholly and exclusively in the production of those profits including, but without otherwise expanding or limiting the generality of the foregoing—

Deductions allowed.

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(a) any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profits ;

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(b) rent for that period, and premiums the liability for which was incurred during that period, in respect of land or buildings occupied for the purposes of acquiring the profits ;

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(c) any expense incurred for repair of premises, plant, machinery or fixtures employed in acquiring the profits, or for the renewal, repair or alteration of any implement, utensil or article so employed ;

(d) bad debts incurred in the course of a trade or business proved to have become bad during the period for which the profits are being ascertained, and doubtful debts to the extent that they are respectively estimated to have become bad during the said period notwithstanding that such bad or doubtful debts were due and payable before the commencement of the said period :

Provided that—

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(i) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any previous period been allowed either under the Income Tax Ordinance or this Act in respect of the same debt, the appropriate reduction shall be made in the deduction to be made for the period in question ;

Cap. 85.

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(ii) all sums recovered during the said period on account of amounts previously written off or allowed either under the Income Tax Ordinance or this Act in respect of bad or doubtful debts shall for the purposes of this Act be deemed to be profits of the trade or business of that period ;

Cap. 85.

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(iii) it is proved to the satisfaction of the Board that the debts in respect of which a deduction is claimed either were included as a receipt of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of paragraph (a) of section 28 made in the course of normal trading or business operations ;

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(e) any contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board under the powers conferred upon it by paragraph (f) of section 17 of the Income Tax Management Act, 1961, subject to the provisions of the Fourth Schedule to that Act and to any conditions imposed by that Board and any contribution other than a penalty made under the provisions of any Act establishing a national provident fund or other retirement benefits scheme for employees throughout Nigeria ;

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L.N. 195  
of 1959.

(f) in the case of the Nigerian Railway Corporation such deductions as are allowed under the provisions of the Authorised Deductions (Nigerian Railway Corporation) Rules, 1959, which Rules shall continue in force for all purposes of this Act ;

(g) in the case of profits from a trade or business, any expense or part thereof— 5

(i) the liability for which was incurred during that period wholly and exclusively for the purposes of such trade or business and which is not specifically referable to any other period or periods ; or

(ii) the liability for which was incurred during any previous period wholly and exclusively for the purposes of such trade or business and which is specifically referable to the period of which the profits are being ascertained ; 10

which is not deductible under any other provision of this section ;

(h) such other deduction as may be prescribed by the Minister by any rule. 15

Deductions  
not allowed.

28. Notwithstanding any other provision of this Act no deduction shall be allowed for the purpose of ascertaining the profits of any company in respect of—

(a) capital repaid or withdrawn and any expenditure of a capital nature ; 20

(b) any sum recoverable under an insurance or contract of indemnity ;

(c) taxes on income or profits levied in Nigeria or elsewhere, other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of this Act ; 25

(d) any payment to a savings, widows and orphans, pension, provident or other retirement benefits fund, society or scheme except as permitted by paragraph (e) of section 27 of this Act ; 30

(e) the depreciation of any asset ;

(f) any sum reserved out of profits, except as permitted by paragraph (d) of section 27 of this Act or as may be estimated to the satisfaction of the Board, pending the determination of the amount, to represent the amount of any expense deductible under the provisions of that section the liability for which was irrevocably incurred during the period for which the income is being ascertained. 35

Waiver or  
refund of  
liability  
or expense.

29. When a deduction has been allowed to a company under the provisions of section 27 of this Act in respect of any liability of, or any expense incurred by, that company and such liability is waived or released or such expense is refunded to the company, in whole or in part, then the amount of that liability or expense which is waived, released or refunded as the case may be shall be deemed to be profits of the company on the day on which such waiver, release or refund was made or given. 40 45

#### PART V.—ASCERTAINMENT OF ASSESSABLE PROFITS

Basis for  
computing  
assessable  
profits.

30. (1) Save as provided in this section, the profits of any company for each year of assessment from each source of its profits (hereinafter referred to as the "assessable profits") shall be the profits of the year immediately preceding the year of assessment from each such source. 50



(2) When the Board is satisfied that a company makes or intends to make up accounts of its trade or business to some day other than the thirty-first day of March it may direct that the assessable profits of that Company shall be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment :

Provided that where the assessable profits of a company have been computed by reference to accounts made up to a certain day, and such company fails to make up an account to the corresponding day in the year following, the assessable profits of that company for the year of assessment in which such failure occurs and for the two years of assessment next following shall be computed on such basis as the Board in its discretion may decide.

(3) The assessable profits of any company from any trade or business for the year of assessment in which it commenced to carry on such trade or business (or in the case of a company other than a Nigerian company, for the year of assessment in which it commenced to carry on such trade or business in Nigeria) and for the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year", and "the third year") shall be ascertained in accordance with the following provisions—

New trades  
or business.  
or businesses

(a) for the first year the assessable profits shall be the amount of the profits of that year ;

(b) for the second year the assessable profits shall, unless such notice as hereinafter mentioned is given, be the amount of the profits of one year from the date of the commencement of the trade or business as determined for the purposes of paragraph (a) of this subsection ;

(c) for the third year the assessable profits shall, unless such notice as hereinafter mentioned is given, be computed in accordance with subsection (1) ;

(d) a company shall be entitled, on giving notice in writing to the Board within two years after the end of the second year, to require that the assessable profits both for the second year and the third year (but not for one or other only of those years) shall be the profits of the respective years of assessment :

Provided that the company may, by notice in writing given to the Board within twelve months after the end of the third year, revoke the notice, and in such case the assessable profits both for the second year and the third year shall be computed as if the first notice had never been given ;

(e) where such notice as aforesaid has been given or revoked, such additional assessments or such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to paragraph (d) of this subsection :

Provided that, if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the Board shall give notice to the company of refusal to admit such reduction or repayment and the provisions of Part XI of this Act shall apply accordingly with any necessary modifications as though such notice were an assessment.



Cessation of  
trades or  
businesses.

(4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria its assessable profits therefrom shall be—

(a) as regards the year of assessment in which the cessation occurs, the amount of the profits of that year ;

(b) as regards the year of assessment preceding that in which the cessation occurs, the amount of the profits as computed in accordance with the foregoing subsections, or the amount of the profits of such year, whichever is the greater ;

and the company shall not be deemed to derive assessable profits from such trade or business for the year of assessment following that in which the cessation occurs.

(5) Where the provisions of subsection (4) of this section apply, such additional assessments or, on a claim being made by the company for this purpose in writing, such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to these provisions :

Provided that, if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the Board shall give notice to the company of refusal to admit the claim to such reduction or repayment and the provisions of Part XI of this Act shall apply accordingly with any necessary modifications as though such notice were an assessment.

Apportion-  
ment of  
profits.

(6) Where in the case of any trade or business it is necessary in order to arrive at the profits of any year of assessment or other period to allocate or apportion to specific periods the profits or loss of any period for which accounts have been made up, or to aggregate any such profits or loss or any apportioned parts thereof, it shall be lawful to make such allocation, apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods unless the Board, having regard to any special circumstances, otherwise directs.

Receipts  
and pay-  
ments after  
cessation of  
a trade or  
business.

(7) Where after the date on which a company has permanently ceased to carry on a trade or business (as determined for the purposes of subsection (4) of this section) the company, its receivers or liquidators, receive or pay any sum which would have been included in or deducted from the profits of that trade or business if it had been received or paid prior to that date, such sum shall be deemed for all purposes of this Act to have been received or paid by the company on the last day before such cessation occurred.

Certain  
partner-  
ships.

(8) Where a company is engaged in a trade or business in partnership with any other person in Nigeria that trade or business shall be deemed to constitute a separate source of profits, and the assessable profits of the company from that source shall be determined under the provisions of the Income Tax Management Act in like manner as would be the assessable income of any individual partner in that partnership :

Provided that, with respect to any asset of such partnership, where any annual, initial or balancing allowance or charge would fall to be given to or made upon the company for any year under the

provisions of the Fifth Schedule to that Act, if the company were an individual partner in that partnership, such allowance or charge shall be given or made as though due under the provisions of the Third Schedule to this Act and in place of any other allowance or charge arising thereunder with respect to the same asset.

Third  
Schedule.

Trades or  
businesses  
sold or  
transferred.

(9) Where a trade or business carried on by a company is sold or transferred to a Nigerian company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria and any asset employed in such trade or business is so sold or transferred, if the Board is satisfied that one company has control over the other or that both are controlled by some other person or are members of a recognised group of companies, the Board may in its discretion direct that—

(a) the provisions of subsections (3) and (4) of this section shall not apply to such trade or business ; and

(b) for the purposes of the Third Schedule each such asset shall be deemed to have been sold for an amount equal to the residue of the qualifying expenditure thereon on the day following such sale or transfer ; and

(c) the company acquiring each such asset shall not be entitled to any initial allowance with respect thereto and shall be deemed to have received all allowances given to the vendor company in respect of that asset under the said Schedule and any allowances deemed to have been received by the vendor company under the provisions of this paragraph :

Provided that the Board in its discretion—

(i) may require either company directly affected by any such direction which is under consideration by the Board to guarantee or give security, to the satisfaction of the Board, for payment in full of all tax due or to become due by the company selling or transferring such trade or business ; and

(ii) may impose such conditions as it sees fit on either or both the companies directly affected ;

and in the event of failure by either company to carry out or fulfil such guarantee or conditions the Board may revoke the direction and make all such additional assessments or repayments of tax as may be necessary so as to give effect to such revocation :

For the purposes of this subsection references to a trade or business shall include references to any part thereof.

#### PART VI.—ASCERTAINMENT OF TOTAL PROFITS

31. (1) The total profits of any company for any year of assessment shall be the amount of its total assessable profits from all sources for that year together with any additions thereto to be made in accordance with the provisions of the Third Schedule to this Act, less any deductions to be made or allowed in accordance with the provisions of this section and of the said Schedule.

Total profits  
from all  
sources.

Third  
Schedule.

(2) Subject to the provisions of subsection (4) of this section there shall be deducted—

(a) the amount of a loss incurred by the company during the year of assessment in any trade or business :

Provided that no such deduction shall be made unless it is claimed in writing within twelve months after the end of the year of assessment ;

(b) the amount of a loss which the Board is satisfied has been incurred by the company in any trade or business during any year preceding the year of assessment which has not been allowed against assessable profits or income of the company of any preceding year either under the provisions of this section or under the corresponding provisions of the Income Tax Ordinance :

Cap. 85.

Provided that—

(i) in no circumstances shall the aggregate deduction from assessable profits or income in respect of any such loss exceed the amount of such loss ; and

(ii) a deduction under this paragraph for any year of assessment shall not exceed the amount, if any, of the assessable profits, included in the total profits for that year of assessment, from the trade or business in which the loss was incurred and shall be made as far as possible from the amount of such assessable profits of the first year of assessment after that in which the loss was incurred, and, so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on ; and

(iii) no deduction under this paragraph shall be made in respect of a loss incurred prior to the first day of April, 1945.

(3) For the purposes of subsection (2) the loss incurred during any year of assessment shall be computed, where the Board so decides, by reference to the year ending on a day in such year of assessment which would have been adopted under subsection (2) of section 30 for the computation of assessable profits for the following year of assessment if such profits had arisen.

(4) Where under the provisions of subsection (6) of section 30 for the purpose of computing the profits of a period from a source chargeable with tax under this Act, being a period the profits of which are assessable profits from that source for any year, it has been necessary to allocate or apportion to specific periods which fall within that whole period both profits and losses, then no deduction shall be made under the provisions of subsection (2) of this section in respect of the loss or apportioned part thereof referable to any such specific period except to the extent that such loss or part thereof exceeds the aggregate profits apportioned to the remaining specific period or periods within that whole period.

(5) (a) Where a claim has been made under the provisions of paragraph (a) of subsection (2) of this section, then—

(i) if the Board is satisfied that the amount of the claim should be allowed in accordance with the provisions of this section, it may admit the claim ;

(ii) if the Board is not satisfied with the amount of the claim it shall determine the claim in such amount as it thinks fit and shall give to the claimant notice of refusal to admit the claim as desired ; or

(iii) if the Board is not satisfied that the claimant is entitled to make the claim it shall give to the claimant notice of refusal to admit the claim.

(b) Where a notice of refusal has been given under paragraph (a) of this subsection, the provisions of Part XI shall apply accordingly with any necessary modifications as though such notice were an assessment.

(c) If at the time when any such claim is admitted or finally determined under the foregoing provisions of this subsection or under those provisions and the provisions of Part XI of this Act, any assessable profits (from which any deduction falls to be made in consequence of any such admission or final determination) of the claimant for any year of assessment are the subject of an assessment which is final and conclusive, then, such set-off or repayment of tax shall be made as represents the difference between the tax payable or paid respectively under such assessment and the tax which would have been payable under such assessment if it had been reduced by the amount of such admitted or finally determined claim, or by the balance of such amount not the subject of a previous set-off or repayment of tax.

#### PART VII.—RATE OF TAX, DEDUCTION OF TAX FROM DIVIDENDS AND RELIEF FOR DOUBLE TAXATION

32. There shall be levied and paid for each year of assessment in respect of the total profits of every company tax at the rate of eight shillings for every pound.

Rate of tax.

33. (1) Any company incorporated and controlled in Nigeria being a private company within the meaning of section 128 of the Companies Ordinance shall be entitled to relief from the tax in the manner and to the extent hereinafter provided.

Relief for small companies.  
Cap. 37.

(2) Relief from the tax shall be given—

(a) for the year of assessment within which the company first commences trading and the next following year of assessment, at a rate equal to the full rate of tax;

(b) for the two years of assessment next following, at a rate equal to two-thirds of the rate of tax;

(c) for the two years of assessment next following, at a rate equal to one-third of the rate of tax.

(3) Relief at the rates specified in subsection (2) shall be granted upon the total profits assessed for the appropriate years of assessment but not exceeding the first £1,000 of such profits, and where the total profits exceed the sum of £1,000, the amount of the profits to be relieved of tax shall be the sum of £1,000 reduced by one-half of the excess of the total profits over £1,000:

Provided that where the Board is of opinion that any remuneration charged in the accounts of a company in respect of any director's services to the company is excessive in relation to those services or the nature or extent of the trade or business carried on, it may direct that the whole or any part of that remuneration be treated as forming part of the total profits of the company for the purpose of determining the amount by which the profits to be relieved of tax shall be reduced under the foregoing provisions of this subsection.

(4) No relief shall be granted under this section to any company formed to acquire the whole or any part of a trade or business previously carried on by another company.



(5) Where a company has applied any profits in respect of which relief has been given under the provisions of this section either—

(a) in payment of any dividend, other than a dividend in the form of shares arising from the capitalisation of profits; or

(b) in reduction of paid-up share capital; or

(c) in making any loan to any director of the company;

the Board in its discretion may make such assessments to tax upon the company as will counteract the benefit of such relief attributable to the profits so applied.

(6) Where a company to which relief has been given under the provisions of this section is wound up or liquidated for purposes which include, in the opinion of the Board, the transfer of the benefit of such relief to the shareholders, such assessments to tax shall be made upon the receiver or liquidator in the name of the company as will counteract the benefit of all such relief which is not counteracted by assessment under the provisions of the preceding subsection.

Dividends  
paid by  
Nigerian  
companies.

34. (1) In respect of every dividend paid by a Nigerian company, being a dividend to which the proviso to section 22 applies, the company shall issue to each of its shareholders a certificate setting out the amount thereof to which such shareholder is entitled and describing the profits out of which the dividend is paid, and the company shall not be entitled to deduct tax from any such dividend on payment thereof.

(2) In respect of every dividend paid by a Nigerian company not being a dividend specified in the preceding subsection the company shall issue to each of its shareholders a certificate setting out—

(a) the net amount of the dividend to be paid or credited to that shareholder;

(b) the gross amount which after deduction of tax at the rate prescribed in section 32 for the year of assessment in which payment of the dividend becomes due leaves that net amount;

(c) the amount of the tax so deducted;

(d) the accounting period or periods, if any, of the company out of the profits of which the dividend is declared to be payable, and the date on which payment is due; and

(e) the net Nigerian rate of tax applicable to the dividend.

(3) For the purposes of subsection (2) the net Nigerian rate of tax applicable to a dividend shall be the rate computed or agreed by the Board in the following manner—

(a) where the accounting period of a company out of the profits of which a dividend is declared to be wholly payable coincides with any single basis period of that company for a year of assessment (as determined under the provisions of Part V of this Act) the net Nigerian rate of tax applicable to that dividend shall be computed by dividing—

(i) the tax payable by the company for that year of assessment after deduction of any relief given under the provisions of section 36 or 38 of this Act; by—

(ii) the distributable profits, as shown by the accounts of the company, arising during that period, before deduction of any tax but after deduction of any profits specified in subsection (1) of this section;

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(b) in any other case, the net Nigerian rate of tax applicable to the dividend shall be determined by the Board as may appear to it to be just and equitable :

5 Provided that in no case shall the net Nigerian rate of tax applicable to a dividend exceed the rate specified by section 32 for the year of assessment in which payment of the dividend becomes due.

10 (4) Within fourteen days thereof every Nigerian company shall supply full particulars to the Board of each dividend declared, and on request of the Board shall supply a list of the shareholders to whom the dividend is payable showing their respective shares therein.

15 (5) In the event that the net Nigerian rate of tax applicable to a dividend has not been agreed or computed by the Board before the date on which payment of that dividend becomes due, the certificate to be given for the purposes of subsection (2) of this section shall so specify, and no repayment out of tax deducted from that dividend shall be made to any shareholder until that rate has been finally determined.

20 35. (1) Where any dividend paid by a Nigerian company, or any amount of profits treated under the provisions of section 24 as distributed by any such company is included in the assessable profits of any other Nigerian company for any year of assessment, the tax deducted from that dividend under the provisions of subsection (2) of section 34 or deemed to have been deducted under the provisions of subsection (2) of section 24 shall be set-off against the tax payable by that other company for that year.

Set-off and  
repayment  
of tax de-  
ducted from  
dividends.

25 (2) Subject to the provisions of subsection (5) of the preceding section, where any amount to be set-off under the provisions of subsection (1) of this section against the tax payable by a Nigerian company exceeds the amount of such tax (after all other reliefs afforded by this Act have been given) the amount of that excess shall be repayable by  
30 the Board to the company :

35 Provided that where the net Nigerian rate of tax applicable to any sum so included in the assessable profits of a Nigerian company is less than the rate of tax deducted or deemed to be deducted from that sum, repayment shall only be made of any excess of the aggregate of tax at the net Nigerian rate on each sum so included over the tax payable by the company after all other reliefs as aforesaid have been given.

40 36. (1) If any Nigerian company which has paid, by deduction or otherwise, or is liable to pay, tax under this section for any year of assessment on any part of its profits proves to the satisfaction of the Board that it has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of its profits, it shall be entitled to relief from tax paid or payable by it under this Act on that part of its profits at a rate thereon to be determined as follows :—

Relief in re-  
spect of  
Common-  
wealth in-  
come tax.

45 (a) if the Commonwealth rate does not exceed one-half of the rate of tax under this Act, the rate at which relief is to be given shall be the Commonwealth rate of tax ;

(b) in any other case the rate at which relief is to be given shall be half the rate of tax under this Act.

(2) If any company, other than a Nigerian company which has d, by deduction or otherwise, or is liable to pay, tax under this Act for any year of assessment on any part of its profits proves to the satisfaction of the Board that it has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year of assessment in respect of the same part of its profits, it shall be entitled to relief from tax paid or payable by it under this Act on that part of its profits at a rate thereon to be determined as follows :—

(a) if the Commonwealth rate of tax does not exceed the rate of tax under this Act, the rate at which relief is to be given shall be one-half of the Commonwealth rate of tax ;

(b) if the Commonwealth rate of tax exceeds the rate of tax under this Act, the rate at which relief is to be given shall be equal to the amount by which the rate of tax under this Act exceeds one-half of the Commonwealth rate of tax.

(3) For the purposes of this section—

“Commonwealth income tax” means any tax on income or profits of companies charged under a law in force in any country within the Commonwealth or in the Republic of Ireland which provides for relief from tax charged both in that country and Nigeria in a manner corresponding to the relief granted by this section ;

“the rate of tax” under this Act of a company for any year of assessment means the rate determined by dividing the amount of tax imposed for that year (before the deduction of any double taxation relief granted by this Part) by the amount of the total profits of the company for that year, and the Commonwealth rate of tax shall be determined in a similar manner.

(4) Any claim for relief from tax for any year of assessment under this section shall be made not later than six years after the end of that year, and if the claim is admitted, the amount of the tax to be relieved shall be repaid out of the tax paid for that year of assessment or set-off against the tax which the company is liable to pay for that year of assessment :

Provided that if the company fails to satisfy the Board as to the amount of the tax to be relieved, the Board shall give notice of refusal to admit the claim and the provisions of Part XI of this Act shall apply accordingly with any necessary modifications as though such notice were an assessment.

37. (1) If the Minister by order declares that arrangements specified in the order have been made with the Government of any country outside Nigeria with a view to affording relief from double taxation in relation to tax imposed on profits charged by this Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect notwithstanding anything in this enactment.

(2) On the making of an order under this section with respect to arrangements made with the Government of any Commonwealth country or the Republic of Ireland, section 36 of this Act shall cease to have effect as respects that country and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) Where any arrangements have effect by virtue of this section any obligation as to secrecy in this Act shall not prevent the disclosure to any authorised officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(4) The Minister may make rules for carrying out the provisions of any arrangements having effect under this section.

(5) An order made under the provisions of subsection (1) of this section may include provisions for relief from tax for periods commencing or terminating before the making of the order and provisions as to profits which are not themselves liable to double taxation.

(6) The orders set out in the Fourth Schedule shall be deemed to have been made under the provisions of subsection (1) of this section and the arrangements specified in the Schedules to those orders shall have effect with respect to tax chargeable under this Act for the year of assessment beginning on the first day of April, 1961, and for subsequent years.

Fourth  
Schedule.

38. (1) The provisions of this section shall have effect where, under arrangements having effect under section 37 of this Act, foreign tax payable in respect of any profits in the country with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of those profits under this Act; and in this section "foreign tax" means any tax payable in that country which under the arrangements is to be so allowed.

Method  
of calcula-  
ting relief  
to be allowed  
for double  
taxation.

(2) The amount of the tax chargeable in respect of the profits which are liable to both tax and foreign tax shall be reduced by the amount of the credit admissible under the terms of the arrangement:

Provided that no credit shall be allowed to a company for a year of assessment unless during some part of that year it was a Nigerian company.

(3) The credit shall not exceed the amount which would be produced by computing, in accordance with the provisions of this Act, the amount of the profits which are liable to both tax and foreign tax, and then charging that amount to tax at a rate ascertained by dividing the tax chargeable (before the deduction of any double taxation relief granted by this Part) on the total profits of the company entitled to the profits by the amount of the total profits.

(4) Without prejudice to the provisions of subsection (3), the total credit to be allowed to a company for a year of assessment for foreign tax under all arrangements having effect under section 37 of this Act shall not exceed the total tax payable by it for that year of assessment.

(5) In computing the amount of the profits—

(a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other profits);

(b) where tax chargeable depends on the amount received in Nigeria the said amount shall be increased by the appropriate amount of the foreign tax in respect of the profits; and

(c) where the profits include a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against tax in respect of the dividend,



the amount of the profits shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit, but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the profits exceeds the credit therefor.

(6) Paragraphs (a) and (b) of subsection (5) (but not the remainder thereof) shall apply to the computation of total profits for the purposes of determining the rate mentioned in subsection (3), and shall apply thereto in relation to all profits in respect of which credit falls to be given for foreign tax under arrangements for the time being in force under section 37 of this Act.

(7) Where—

(a) the arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against tax chargeable in respect of the profits of a company for any year of assessment if the company elects that credit shall not be allowed in the case of those profits for that year.

(9) Any claim for an allowance by way of credit shall be made not later than two years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable in Nigeria or elsewhere, nothing in this Act limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in Nigeria or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

#### PART VIII—PERSONS CHARGEABLE, AGENTS, LIQUIDATORS, ETC.

39. A company shall be chargeable to tax—

(a) in its own name; or

(b) in the name of any principal officer, attorney, factor, agent or representative of the company in Nigeria in like manner and to like amount as such company would be chargeable; or

(c) in the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as such company would have been chargeable if no receiver or liquidator had been appointed.

40. The principal officer or manager in Nigeria of every company shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Act for the assessment of the company and payment of the tax.

- 5 41. (1) The Board may by notice in writing appoint any person to be the agent of any company and the person so declared the agent shall be the agent of such company for the purposes of this Act, and may be required to pay any tax which is or will be payable by the company from any moneys which may be held by him for, or due by or to become  
10 due by him to, the company whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him.

Manager,  
etc., to be  
answerable.

Power to  
appoint  
agent.

- (2) For the purposes of this section the Board may require any person to give information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any company.

- 15 (3) The provisions of this Act with respect to objections and appeals shall apply to any notice given under this section as though such notice were an assessment.

42. Every person answerable under this Act for the payment of tax on behalf of a company may retain out of any money coming in to his hands on behalf of such company so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Act.

Indemni-  
fication of  
manager,  
etc., or agent.

- 25 43. Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to the shareholders thereof unless he has made provision for the payment in full of any tax which may be found payable by the company.

Company  
wound up.

#### PART IX—RETURNS

- 30 44. (1) For each year of assessment every company, when required to do so by any notice in writing given by the Board in pursuance of this Act, shall, within the period limited by such notice, and in the form of return containing such notice, prepare and deliver to the Board a true and correct statement in writing, containing—

Notice of  
charge-  
ability and  
returns.

- 35 (a) the amount of its profits from each and every source, of such period or periods, as are indicated in such form, computed in accordance with the provisions of this Act and any rules made thereunder; and

- 40 (b) such particulars as by such form of return, may be required for the purposes of this Act, and of such rules, with respect to any such profits, allowances, reliefs, deductions or otherwise as may be material under or by virtue of the provisions of this Act and such rules.

- 45 (2) Such form of return shall contain a declaration, which shall be signed on behalf of any company to which a notice has been given under subsection (1) of this section, that the return contains a true and correct statement of the amount of its profits, computed in respect of all sources, in accordance with the provisions of this Act, and any rules made thereunder, and that the particulars given in such return are true and complete.

(3) Every company which has been required to prepare and deliver a statement under the foregoing provisions of this section shall do so whether or not it is chargeable to tax.

(4) Within three months after the commencement of each year of assessment every company which is engaged in a trade or business in Nigeria at the commencement of that year or is chargeable to tax for that year on profits arising from any source in Nigeria shall, unless it has been required to make a return of its profits for that year under the provisions of subsection (1) of this section, give notice to the Board in writing that it is so engaged or chargeable :

Provided that any company which commences to carry on a trade or business in Nigeria during any year of assessment shall give such notice within one month of the date of such commencement.

Board may  
call for fur-  
ther returns.

45. The Board may give notice in writing to any company when and as often as it thinks necessary requiring it to deliver within a reasonable time limited by such notice fuller or further returns respecting any matter as to which a return is required or prescribed by this Act.

Power to  
call for  
returns,  
books,  
documents  
and infor-  
mation.

46. (1) For the purpose of obtaining full information in respect of the profits of any company the Board may give notice to any person requiring him, within the time limited by such notice, to—

(a) complete and deliver to the Board any return specified in such notice ;

(b) attend personally before an officer of the Federal Inland Revenue Department for examination with respect to any matter relating to such profits ;

(c) produce or cause to be produced for examination at the place and time stated in such notice, which time may be from day to day for such period as the Board may consider necessary, for the purpose of such examination any books, documents, accounts and returns which the Board may deem necessary ; or

(d) give orally or in writing any other information specified in such notice :

Provided that a person engaged in banking including any person appointed to carry the Savings Bank Ordinance into effect shall not be required to disclose any information concerning depositors other than in respect of interest paid or credited to any company.

(2) For the purposes of paragraph (a) or (b) or (d) of the preceding subsection the time limited by such notice shall not be less than twenty-one days from the date of service of such notice, and for the purposes of paragraph (c) the time stated in such notice shall commence from a date not less than seven days from the date of such service.

47. A return, statement or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognisant of all matters therein.

48. (1) If a company chargeable with tax fails or refuses to keep books or accounts which, in the opinion of the Board, are adequate for the purposes of income tax, the Board may by notice in writing require it to keep such records, books and accounts as the Board considers to be

Returns to  
be deemed to  
be furnished  
by due  
authority.

Books of  
account.

adequate in such form and in such language as may be specified in the said notice and, subject to the provisions of the next succeeding subsection, the company shall keep records, books and accounts as directed.

(2) Any direction of the Board made under this section shall be subject to objection and appeal in like manner as an assessment save that any decision of the Appeal Commissioners thereon shall be final.

(3) On hearing such appeal the Appeal Commissioners may confirm or modify such direction.

#### PART X—ASSESSMENTS

49. (1) The Board shall proceed to assess every company chargeable with tax as soon as may be after the expiration of the time allowed to such company for the delivery of the return provided for in section 44.

Board to  
make  
assessments.

(2) Where a company has delivered a return the Board may—

(a) accept the return and make an assessment accordingly; or

(b) refuse to accept the return and, to the best of its judgment, determine the amount of the total profits of the company and make an assessment accordingly.

(3) Where a company has not delivered a return and the Board is of the opinion that such company is liable to pay tax, the Board may, according to the best of its judgment, determine the amount of the total profits of such company and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such company by reason of its failure or neglect to deliver a return.

(4) Nothing in this section shall prevent the Board from making an assessment upon a company for any year before the expiration of the time within which such company is required to deliver a return or to give notice under the provisions of section 44, if the Board or any officer of the Federal Inland Revenue Department duly authorised by the Board considers such assessment to be necessary for any reason of urgency.

50. (1) If the Board discovers or is of the opinion at any time that any company liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Board may, within the year of assessment or within six years after the expiration thereof and as often as may be necessary assess such company at such amount or additional amount, as ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.

Additional  
assessments.

(2) For the purpose of computing under subsection (1) of this section the amount or the additional amount which ought to have been charged, all relevant facts consistent with the proviso to section 60 shall be taken into account even though not known when any previous assessment or additional assessment on the same company for the same year was being made or could have been made.

51. (1) The Board shall as soon as possible prepare lists of companies assessed to tax.

Lists of  
companies  
assessed.

(2) Such lists, herein called the assessment lists, shall contain the names and the addresses of the companies assessed to tax, the name and address of any person in whose name any such company is chargeable, the amount of the total profits of each company, the amount of tax payable by it, and such other particulars as may be prescribed by the Board.



(3) Where complete copies of all notices of assessment and of all notices amending assessments are filed in the offices of the Board they shall constitute the assessment lists for the purpose of this Act.

Service of  
notice of  
assessment.

52. The Board shall cause to be served on or sent by registered post to each company, or person in whose name a company is chargeable, whose name appears on the assessment lists a notice stating the amount of the total profits, the tax payable, the place at which such payment should be made, and setting out the rights of the company under the next following section.

Revision of  
assessment  
in case of  
objection.

53. (1) If any company disputes the assessment it may apply to the Board, by notice of objection in writing, to review and to revise the assessment made upon it. Such application shall state precisely the grounds of objection to the assessment and shall be made within forty-two days from the date of the service of the notice of assessment :

Provided that the Board, upon being satisfied that owing to some reasonable cause, the company disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(2) On receipt of the notice of objection referred to in subsection (1), the Board may require the company giving the notice of objection to furnish such particulars as the Board may deem necessary and to produce all books or other documents relating to the profits of the company, and may summon any person who may be able to give evidence respecting the assessment to attend for examination by an officer of the Federal Inland Revenue Department on oath or otherwise.

(3) In the event of any company assessed, which has objected to an assessment made upon it, agreeing with the Board as to the amount at which it is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such company :

Provided that, if an applicant for revision under the provisions of subsection (1) fails to agree with the Board the amount at which the company is liable to be assessed, the Board shall give notice of refusal to amend the assessment as desired by such company and may revise the assessment to such amount as the Board may, according to the best of its judgment, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Act to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this proviso.

Errors and  
defects in  
assessment  
and notice.

54. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or any Act amending the same, and if the company assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

(i) the name of a company liable or of a person in whose name a company is chargeable ; or

(ii) the description of any profits ; or

(iii) the amount of tax charged ;

(b) by reason of any variance between the assessment and the notice thereof :

- 5      Provided that in cases of assessment the notice thereof shall be duly served on the company intended to be charged or the person in whose name such company is chargeable and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

#### PART XI—APPEALS

- 10      55. (1) The Minister may establish, by notice in the Gazette, a body of Appeal Commissioners.

(2) The body of Appeal Commissioners shall consist of not more than six persons, none of whom shall be a public officer.

(3) Each Appeal Commissioner—

- 15      (a) shall be appointed by notice in the Gazette by the Minister from among persons appearing to him to have had experience and shown capacity in the management of a substantial trade or business or the exercise of a profession in Nigeria and, so far as possible, the Minister shall endeavour to secure that one Commissioner is a member of an incorporated body of accountants ;

20      (b) shall, subject to the provisions of this subsection hold office for a period of three years from the date of his appointment ;

25      (c) may at any time resign as an Appeal Commissioner by notice in writing addressed to the Minister, save that on the request of the Minister he may continue to act as an Appeal Commissioner after the date of his resignation, and sit at any further hearing in any case in which he has already sat before that date to hear an appeal, until a final decision has been given with respect to such appeal ;

30      (d) shall cease to be an Appeal Commissioner upon the Minister determining that his office be vacant and upon notice of such determination being published in the Gazette ;

(e) shall be paid such remuneration and allowances as may be determined by the Minister with the approval of the Council of Ministers.

- 35      (4) Without prejudice to the generality of paragraph (d) of the preceding subsection, if the Minister is satisfied that an Appeal Commissioner—

40      (a) has been absent from two consecutive meetings of the body of Appeal Commissioners (other than any meeting at which, by virtue of subsection (2) of section 57 of this Act, he may not sit) without the written permission of the Chairman of the Board ; or

(b) is incapacitated by physical or mental illness ; or

(c) has failed to make any declaration and give any notice in accordance with subsection (2) of section 57 of this Act ; or

45      (d) has been convicted of a felony, or of an offence under any enactment in Nigeria imposing tax on income or profits ;

the Minister shall make a determination that his office as an Appeal Commissioner is vacant.

Establishment and constitution of body of Appeal Commissioners.

(5) Where for any reason there is an insufficient number of Appeal Commissioners to hear one or more particular appeals the Minister may make an *ad hoc* appointment in writing, from among persons of the kind mentioned in paragraph (a) of subsection (3) of this section, of a person to be an Appeal Commissioner for the purpose of his hearing such appeal or appeals.

(6) The Minister shall designate a public officer to be Secretary to the body of Appeal Commissioners and the official address of the Secretary shall be published in the Gazette.

(7) Those persons duly appointed as Appeal Commissioners and Secretary to the body of Appeal Commissioners for the purposes of the Income Tax Ordinance as amended by the Income Tax Administration Ordinance, 1958, and holding office as such immediately before the date of commencement of this Act shall be deemed to have been appointed or designated, as the case may be, to like offices under the provisions of this section, and the Appeal Commissioners so deemed to be appointed shall constitute the body of Appeal Commissioners on that date.

Cap. 85.  
No. 39 of  
1958.

Appeals to  
Appeal Com-  
missioners.

56. (1) Any company which, being aggrieved by an assessment made upon it, has failed to agree with the Board in the manner provided in subsection (3) of section 53, may appeal against the assessment to the Appeal Commissioners upon giving notice in writing to the Board and to the Secretary to such Commissioners within thirty days after the date of service upon such company of notice of the refusal of the Board to amend the assessment as desired :

Provided that, notwithstanding the expiration of such period of thirty days, within a further period of sixty days a company may apply for an extension of time within which to give notice of appeal against an assessment upon delivering to the Secretary to the Appeal Commissioners—

(i) the particulars of such assessment ; and

(ii) the reasons why notice of appeal against that assessment was not given within the proper time,

and the Secretary shall put such application before the next meeting of the Appeal Commissioners who may grant or reject the application as to them seems reasonable and their decision shall be communicated in writing to the company and to the Board by the Secretary, whereupon, if the application has been granted, the company shall have twenty-one days after the receipt of such communication within which to give notice of appeal as herein provided.

(2) A notice of an appeal against an assessment, to be given under subsection (1), shall specify the following particulars—

(a) the official number of the assessment and the year of assessment for which it was made ;

(b) the amount of the tax charged by such assessment ;

(c) the amount of the total profits upon which such tax was charged as appearing in the notice of assessment ;

(d) the date upon which the appellant was served with notice of refusal by the Board to amend the assessment as desired ;

(e) the precise grounds of appeal against the assessment ; and

(f) an address for service of any notices, precepts or other documents to be given to the appellant by the Secretary to the Appeal Commissioners : Provided that at any time the appellant may give notice to

such Secretary and to the Board, by delivering the same or by registered post, of a change of such address but any such notice shall not be valid until delivered or received.

5 (3) All notices or documents to be given to the Appeal Commissioners shall be addressed to the Secretary and be delivered at or sent by registered post to his official address.

(4) A company may discontinue any appeal by it under this section on giving notice to the Secretary to the Appeal Commissioners in writing at any time before the hearing of such appeal.

10 (5) Notwithstanding that notice of appeal against an assessment has been given by a company under this section the Board may revise the assessment in agreement with the company, and upon notice of such agreement being given in writing by the Board to the Secretary to the Appeal Commissioners at any time before the hearing of the  
15 appeal such appeal shall be treated as being discontinued.

(6) Upon the discontinuance of any appeal under the provisions of this section the amount or revised amount of the assessment, as the case may be, shall be deemed to have been agreed between the Board and the company under the provisions of subsection (3) of section 53.

20 57. (1) As often as may be necessary, Appeal Commissioners shall meet to hear appeals in any town in which is situated an office of the Federal Inland Revenue Department and, subject to the provisions of the next following subsection, at any such meeting—

Procedure  
before  
Appeal Com-  
missioners,  
etc.

25 (a) any three or more Appeal Commissioners may hear and decide an appeal; and

(b) the Appeal Commissioners present shall elect one of their number to be the chairman for the meeting.

30 (2) An Appeal Commissioner having a direct or indirect financial interest in any company (including the holding of or the beneficial interest in any shares, stock or debentures issued by such company) or being a relative of any person having such an interest, and having knowledge thereof, shall, when any appeal by such company is pending before the body of Appeal Commissioners, declare such interest to the other Commissioners and give notice to the Board in writing of such  
35 interest or relationship and interest, and he shall not sit at any meeting for the hearing of that appeal. The like provisions shall apply when any Appeal Commissioner is a legal practitioner or an accountant, and the company is or has been a client of that Commissioner.

40 (3) The Secretary to the Appeal Commissioners shall give twenty-one clear days notice to the Board and to the appellant of the date and place fixed for the hearing of each appeal except in respect of any adjourned hearing for which the Appeal Commissioners have fixed a date at their previous hearing.

45 (4) All notices, precepts and documents, other than decisions of the Appeal Commissioners, may be signified under the hand of the Secretary.

(5) All appeals before Appeal Commissioners shall be held in camera.

50 (6) Every company so appealing shall be entitled to be represented at the hearing of the appeal: Provided that, if the person intended by the company to be its representative in any appeal is unable for good cause



shown to attend the hearing thereof, the Appeal Commissioners may adjourn the hearing for such reasonable time as they think fit, or admit the appeal to be made by some other person or by way of written statement.

(7) The onus of proving that the assessment complained of is excessive shall be on the appellant. 5

(8) At the hearing of any appeal against an assessment the representative for the Board may inform the Appeal Commissioners of any recommendation made by a Scrutineer Committee which is relevant to that assessment. 10

(9) The Appeal Commissioners may confirm, reduce, increase or annul the assessment or make such order thereon as they see fit.

(10) Every decision of the Appeal Commissioners shall be recorded in writing by their chairman and a certified copy of such decision shall be supplied to the appellant or the Board, by the Secretary, upon a request made within three months of such decision. 15

(11) Where, upon the hearing of an appeal—

(a) no accounts, books or records relating to profits were produced by or on behalf of the appellant; or

(b) such accounts, books or records were so produced but the Appeal Commissioners rejected the same on the ground that it had been shown to their satisfaction that they were incomplete or unsatisfactory; or 20

(c) the appellant or his representative, at the hearing of the appeal, has neglected or refused to comply with a precept delivered or sent to him by the Secretary to the Appeal Commissioners without showing any reasonable excuse; or 25

(d) the appellant or any person employed, whether confidentially or otherwise, by the appellant or his agent (other than his legal practitioner or accountant acting for him in connection with his liability to tax) has refused to answer any question put to him by the Appeal Commissioners, without showing any reasonable cause, the chairman of the Appeal Commissioners shall record particulars of the same in his written decision. 30

(12) The Minister may make rules prescribing the procedure to be followed in the conduct of appeals before Appeal Commissioners. 35

58. (1) Notice of the amount of the tax chargeable under the assessment as determined by the Appeal Commissioners shall be served by the Board upon the company or upon the person in whose name such company is chargeable. 40

(2) Where the tax chargeable upon a company for a year of assessment in accordance with a decision of the Appeal Commissioners does not exceed two hundred pounds no further appeal by the company shall lie from that decision except with the consent of the Board.

(3) Notwithstanding that a further appeal is pending, tax shall be paid, in accordance with the decision of the Appeal Commissioners, within one month of notification of the amount of the tax payable pursuant to subsection (1) of this section, and if it is not so paid, with or without applying the provisions of section 62 as the Board thinks fit, proceedings may be taken for its recovery in accordance with section 63. 45 50

Appeals  
to Court.

59. (1) Subject to the provisions of subsection (2) of section 58 any company which, having appealed against an assessment made upon it to the Appeal Commissioners under the provisions of section 56, is aggrieved by the decision of such Commissioners may appeal against the assessment and such decision to the High Court of Lagos upon giving notice in writing to the Board within thirty days after the date upon which such decision was given :

Provided that, notwithstanding the expiration of such period of thirty days, within a further period of sixty days a company may apply to the Court for an extension of time within which to give notice of appeal against an assessment, and if the Court is satisfied that the company was prevented by some reasonable cause from giving notice of appeal within the said period of thirty days the Court may grant the application, whereupon the company shall have twenty-one days after the granting of the application within which to give notice of appeal as herein provided.

(2) Where no body of Appeal Commissioners has been appointed with jurisdiction to hear an appeal against an assessment made upon any company, such company, being aggrieved by the assessment and having failed to agree with the Board in the manner provided in subsection (3) of section 53 of this Act, may appeal against the assessment to the High Court of Lagos upon giving notice in writing to the Board within thirty days after the date of service of notice of the refusal by the Board to amend the assessment as desired and the proviso to subsection (1) hereof shall apply.

(3) If the Board is dissatisfied with a decision of the Appeal Commissioners, it may appeal against that decision to the High Court of Lagos upon giving notice in writing to the other party to the appeal within thirty days after the date upon which such decision was given.

(4) Seven clear days notice of the date fixed for the hearing of the appeal shall, unless rules made hereunder otherwise provide, be given to all the parties thereto.

(5) The provisions of subsections (6), (7) and (9) of section 57 and of subsection (1) of section 58 of this Act shall apply to an appeal under this section with any necessary modifications.

(6) All appeals shall be heard in camera unless the judge shall, on the application of the company otherwise direct.

(7) If upon the hearing of any appeal from a decision of the Appeal Commissioners given under the provisions of section 57 of this Act a certified copy of that decision is produced before the Court and such decision contains a record by reference to—

(i) paragraph (a) of subsection (11) of that section, the Court shall dismiss such appeal ; or

(ii) paragraph (b) of subsection (11) of that section, the Court may dismiss such appeal upon such *prima facie* evidence, with respect to the accounts, books or records having been incomplete or unsatisfactory, as to the Court may seem sufficient ; or

(iii) paragraph (c) or (d) of subsection (11) of that section, the Court shall dismiss such appeal unless it considers that the cause of the neglect or refusal was reasonable.

(8) Notwithstanding anything contained in section 61, if in any particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered he may on application being made by or on behalf of the Board require the appellant to furnish within such time as may be specified security for payment of the tax and if such security is not given within the time specified the tax assessed shall become payable and recoverable forthwith.

(9) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(10) The Chief Justice of the Lagos High Court may make rules providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure to be followed by a judge upon stating a case for the opinion of the Federal Supreme Court, and in making, amending or replacing any such rules there may be made such retrospective provisions as may be considered necessary; and until so replaced the Income Tax Appeals (Lagos) Rules, 1957, shall remain in force as though made under the provisions of this subsection.

(11) An appeal against the decision of a judge shall lie to the Federal Supreme Court—

(a) at the instance of the company, where the decision of the judge is to the effect that the tax chargeable upon the company for the relevant year of assessment exceeds five hundred pounds; and

(b) at the instance of or with the consent of the Board, in any case:

Provided that no costs shall be awarded against the company in any appeal instituted by the Board under this subsection unless such decision of the judge was to the effect mentioned in paragraph (a) hereof.

Assessments  
to be final  
and  
conclusive.

60. Where no valid objection or appeal has been lodged within the time limited by section 53, 56 or 59 of this Act, as the case may be, against an assessment as regards the amount of the total profits assessed thereby, or where the amount of the total profits has been agreed to under subsection (3) of section 53 of this Act, or where the amount of such total profits has been determined on objection, revision under the proviso to subsection (3) of section 53 of this Act, or on appeal, the assessments as made, agreed to, revised or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such total profits; and if the full amount of the tax in respect of any such final and conclusive assessment is not paid within the appropriate period or periods prescribed in this Act, the provisions thereof relating to the recovery of tax, and to any penalty under section 62 of this Act, shall apply to the collection and recovery thereof subject only to the set-off of the amount of any tax repayable under any claim, made under any provision of this Act, which has been agreed to by the Board or determined on any appeal against a refusal to admit any such claim:

Provided that:

(a) where an assessment has become final and conclusive any tax overpaid shall be repaid;

(b) nothing in section 53 or in Part XI of this Act shall prevent the Board from making any assessment or additional assessment for any year of assessment which does not involve re-opening any issue, on the same facts, which has been determined for that year of assessment under subsection (3) of section 53 of this Act by agreement or otherwise or on appeal.

#### PART XII.—COLLECTION, RECOVERY AND REPAYMENT OF TAX

61. (1) Tax charged by any assessment which is not or has not been the subject of an objection or appeal by the company shall be payable (after the deduction of any amount to be set-off for the purposes of collection under any provision of this Act) at the place stated in the notice of assessment within two months after service of such notice upon the company :

Time within which payment is to be made.

Provided that—

(a) if such period of two months expires before the twenty-first day of March within the year of assessment for which the tax has been charged, and the aggregate of any tax to be set-off, and of any tax paid for that year within such period, amounts to not less than one-half of the tax so charged, then payment of any balance of such tax may be made not later than that day ;

(b) the Board in its discretion may extend the time within which payment is to be made.

(2) Subject to the provisions of subsection (3) of section 58 of this Act, collection of tax in any case where notice of an objection or an appeal has been given by the company shall remain in abeyance until such objection or appeal is determined, save that the Board may enforce payment of that portion, if any, of the tax which is not in dispute.

(3) Upon the determination of an objection or appeal the Board shall serve upon the company a notice of the tax payable as so determined, and that tax shall be payable within one month of the date of service of such notice upon the company :

Provided that, if such period of one month ends before the twenty-first day of March within the year of assessment for which the tax has been charged and the conditions specified in proviso (a) to subsection (1) of this section are satisfied with respect to the amount of the tax charged as so determined, then any balance of the tax payable may be paid not later than that day.

62. (1) Subject to the provisions of subsection (3) of this section, if any tax is not paid within the periods prescribed in section 61 of this Act—

Addition for non-payment of tax and enforcement of payment.

(a) a sum equal to ten *per centum* of the amount of the tax payable shall be added thereto, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum ;

(b) the Board shall serve a demand note upon the company or person in whose name the company is chargeable ; and if payment is not made within one month from the date of the service of such demand note, the Board may proceed to enforce payment as herein-after provided ;



(c) an addition imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Act.

(2) Any company which without lawful justification or excuse, the proof whereof shall lie on the company, fails to pay the tax within the period of one month prescribed in paragraph (b) of subsection (1) of this section, shall be guilty of an offence against this Act.

(3) The Board may, for any good cause shown, remit the whole or any part of the addition due under subsection (1) of this section.

Action for  
tax by Board.

63. (1) Tax may be sued for and recovered in a court of competent jurisdiction, at the place stated in the notice of assessment as being the place at which payment should be made, by the Board in its official name with full costs of action from the company charged therewith as a debt due to the Government of the Federation.

(2) For the purposes of this section a court of competent jurisdiction shall include a magistrate's court, which court is hereby invested with the necessary jurisdiction, provided that the amount claimed in any action does not exceed the amount of the jurisdiction of the magistrate concerned with respect to actions for debt.

(3) In any action brought under subsection (1) of this section the production of a certificate signed by any person duly authorised by the Chairman of the Board giving the name and address of the defendant and the amount of tax due shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for the said amount.

Refusal of  
clearance  
where tax is  
in arrear.

(4) In addition to any other powers of collection and recovery provided in this Act, the Board may, where the tax charged on the profits of any company which carries on the business of shipowner or charterer has been in default for more than three months, whether such company is assessed directly or in the name of some other person, issue to the Federal Board of Customs and Excise or other authority by whom clearance may be granted a certificate containing the name or names of the said company and particulars of the tax in default, and on receipt of such certificate, the said Board of Customs and Excise or other authority shall be empowered and is hereby required to refuse clearance from any port in Nigeria to any ship owned wholly or partly or chartered by such company until the said tax has been paid.

(5) No civil or criminal proceedings shall be instituted or maintained against the said Board of Customs and Excise or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

Remission  
of tax.

64. The Governor-General in Council may remit, wholly or in part, the tax payable by any company if he is satisfied that it will be just and equitable to do so.

Relief in  
respect of  
error or  
mistake.

65. (1) If any company which has paid tax for any year of assessment alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the company for the purposes of the assessment, it may, at any time not later than six years after the end of the year of assessment within which the assessment was made, make an application in writing to the Board for relief.

(2) On receiving any such application the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment of tax such relief in respect of the error or mistake as appears to be reasonable and just :

5        Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the Board generally prevailing at the time when the return, statement or  
10        account was made.

(3) In determining any application under this section the Board, shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the  
15        company, and for this purpose the Board may take into consideration the liability of the company and assessments made upon it in respect of other years.

(4) A determination by the Board under this section shall be final and conclusive.

20        66. (1) Save as is otherwise in this Act expressly provided, no claim for repayment of tax shall be allowed unless it is made in writing within six years after the end of the year of assessment to which it relates.

Repayment  
of tax.

(2) The Board shall give a certificate of the amount of any tax to be repaid under any of the provisions of this Act or under any order of a court of competent jurisdiction and upon the receipt of the certificate the Accountant-General of the Federation shall cause repayment to be made in conformity therewith.  
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### PART XIII.—OFFENCES AND PENALTIES

30        67. (1) Any person guilty of an offence against this Act or any person who contravenes or fails to comply with any of the provisions of this Act or of any rule made thereunder for which no other penalty is specifically provided, shall be liable on conviction to a fine of one hundred pounds, and where such offence is the failure to furnish a return, statement or information or to keep records required, a further  
35        sum of twenty pounds for each and every day during which such failure continues, and in default of payment to imprisonment for six months, the liability for such further sum to commence from the day following the conviction, or from such day thereafter as the court may order.

Penalty for  
offences.

(2) Any person who—

40        (a) fails to comply with the requirements of a notice served on him under this Act ; or

(b) without sufficient cause fails to attend in answer to a notice or summons served on him under this Act or having attended fails to answer any question lawfully put to him,

45        shall be guilty of an offence against this Act.

(3) Notwithstanding any of the provisions of the Criminal Procedure Ordinance a magistrate may dispense with personal attendance of the defendant if he pleads guilty in writing or so pleads by a legal practitioner.

Cap. 43.

(4) In the case of failure by a company to comply with the requirements of any notice given by the Board under the provisions of section 44 or 45 of this Act for the purpose of the tax to be charged upon the company for any year of assessment, the Board may, in lieu of the institution of proceedings under subsection (2) of this section, impose a penalty upon the company of an amount equal to the tax chargeable upon the company for the preceding year of assessment : 5

Provided that—

(a) written notice of the penalty shall be served upon the company ; 10  
and

(b) any amount of such penalty remaining unpaid thirty days after service of such notice may be sued for and recovered in a court of competent jurisdiction by the Board in its official name with full costs of action from the company liable thereto as a debt due to the Government of the Federation ; and 15

(c) a certificate signed by an officer of the Federal Inland Revenue Department duly authorised by the Board setting out the name and address of such company, the date of service of the said notice, and the amount of the penalty remaining unpaid, shall be sufficient authority for the court to give judgment for that amount ; and 20

(d) the Board may remit the whole or any part of such penalty, whether before or after judgment, for any reason which appears to it to be adequate.

Penalty for making incorrect return.

68. (1) Every company which, and every other person who, without reasonable excuse— 25

(a) makes an incorrect return by omitting or understating any profits liable to tax under this Act ; or

(b) gives any incorrect information in relation to any matter or thing affecting the liability of any company to tax ;

shall be guilty of an offence and shall be liable on conviction to a fine of one hundred pounds and double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct. 30

(2) No company or other person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within six years after the expiration thereof. 35

(3) The Board may compound any offence under this section, and may before judgment stay or compound any proceedings thereunder. 40

(4) For the purposes of this section a return shall be deemed to be made both by the company and any other person signing such return on behalf of the company.

False statements and returns.

69. (1) Any person other than a company who—

(a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax for any company, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representation ; or 45

(b) aids, abets, assists, counsels, incites or induces any other person—

(i) to make or deliver any false return or statement under this Act; or

(ii) to keep or prepare any false accounts or particulars concerning any profits on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax, shall be guilty of an offence and shall be liable on conviction to a fine of five hundred pounds, or to imprisonment for five years, or to both such fine and imprisonment.

(2) The Board may compound any offence under this section and with the leave of the court may before judgment stay or compound any proceedings thereunder.

70. Any person who—

(a) being a person appointed for the due administration of this Act or employed in connection with the assessment and collection of the tax who—

(i) demands from any company an amount in excess of the Authorised assessment of the tax; or

(ii) withholds for his own use or otherwise any portion of the amount of tax collected; or

(iii) renders a false return, whether orally or in writing, of the amounts of tax collected or received by him; or

(iv) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully with the Board; or

(b) not being authorised under this Act to do so, shall collect or attempt to collect the tax under this Act,

shall be guilty of an offence and be liable on conviction to a fine of three hundred pounds or to imprisonment for three years or both.

71. The institution of proceedings for, or the imposition of a penalty, fine or term of imprisonment under this Act shall not relieve any company from liability to payment of any tax for which it is or may become liable.

72. No prosecution in respect of an offence under sections 68, 69 or 70 may be commenced except at the instance of or with the sanction of the Board.

73. The provisions of this Act shall not affect any criminal proceedings under any other enactment.

74. Any offence under this Act shall be deemed to occur in Lagos.

#### PART XIV.—MISCELLANEOUS

75. Parliament may, by resolution, revoke or vary for any year of assessment—

(a) the rate of tax specified in section 32 of this Act; and

(b) any rate of any annual or initial allowance specified in the Third Schedule to this Act, save that with respect to an initial allowance any such variation may be expressed to apply to qualifying expenditure incurred after the date of such resolution or some later specified date.

Penalties for offences by authorised and unauthorised persons.

Tax to be payable notwithstanding proceedings for penalties.

Prosecution to be with the sanction of the Board.

Saving for criminal proceedings.

Place of an offence.

Power to alter rate of tax, etc. by resolution.



Conduct of  
proceedings  
in Magis-  
trate's  
Courts.

76. Any officer of the Federal Inland Revenue Department duly authorised in writing in that regard by the Chairman of the Board may prosecute or conduct on behalf of the Board any prosecution or other proceedings arising under this Act in any Magistrate's Court in the Federation.

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Effect of  
existing  
Ordinances.  
Cap. 85.  
No. 39 of  
1958.

77. (1) Subject to the provisions of section 6 of this Act, the Income Tax Ordinance and the Income Tax Administration Ordinance shall cease to have effect with respect to tax on the income or profits of companies for all years of assessment beginning after the thirty-first day of March, 1961, save that any option exercised by any company and other matter determined or agreed under the said Ordinances which has any continuing effect for any such year shall be given such effect unless expressly precluded by any provision of this Act.

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Third  
Schedule.  
Cap. 85.

(2) Without prejudice to the generality of the preceding subsection, whenever necessary for the purpose of computing any initial, annual or balancing allowance, or balancing charge, the provisions of the Third Schedule to this Act shall be applied as though such Schedule and the Fourth Schedule to the Income Tax Ordinance were one and the same schedule.

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(3) All rules, orders, notices or other subsidiary legislation made under the Income Tax Ordinance or the Income Tax Administration Ordinance, unless expressed to remain in force by any provision of this Act, shall cease to have effect with respect to tax on the income or profits of companies for all years of assessment beginning after the thirty-first day of March, 1961.

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Cap. 85.

(4) For the purpose of ascertaining the profits from a dividend distributed or treated as distributed by a Nigerian company during the year ended on the thirty-first day of March, 1961, such dividend shall be deemed to be of such amount as after deduction of tax at the rate of eight shillings in each pound leaves the net amount of the dividend so distributed, notwithstanding any provision of the Income Tax Ordinance which applied at the date of such distribution.

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Saving for  
Pioneer  
Relief  
legislation,  
Cap. 87.  
Fifth  
Schedule.

78. The Industrial Development (Income Tax Relief) Ordinance shall, for all years of assessment beginning after the thirty-first day of March, 1961, be read as one with this Act as though references in that Ordinance to the "principal Ordinance" were references to this Act, and with the modifications set out in the Fifth Schedule.

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## SCHEDULES

### FIRST SCHEDULE (*Sections 4 (4), 5 (1) and 8*)

POWERS OR DUTIES WHICH THE BOARD MAY NOT DELEGATE EXCEPT TO THE JOINT TAX BOARD WITH THE CONSENT OF THE MINISTER 40

1. In this Schedule any reference to powers and duties shall not include any part of any power or duty of the Board either to make enquiries or to carry out or give effect to any decision of the Board.

*Signature of Magistrate*

(ii) where two basis periods coincide, they shall be treated as overlapping, and the basis period for the earlier year of assessment shall be treated as ending before the end of the basis period for the later year of assessment ;

5 (iii) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then unless the second-mentioned year of assessment is the year in which, for the purposes of subsection (4) of section 30, such company permanently ceases to carry on the trade or business, the interval shall be deemed to be part of the  
10 second basis period ; and

(iv) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade or business permanently ceases, for the purposes of subsection (4) of section 30, to be carried on by such company and the basis  
15 period for the year in which it so ceases, the interval shall be deemed to form part of the first basis period ;

"concession" includes a mining right and a mining lease ;

20 "lease" includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage, and the expression "leasehold interest" shall be construed accordingly and—

25 (a) where, with the consent of the lessor, a lessee of any asset remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Schedule to continue so long as he remains in possession as aforesaid ; and

30 (b) where, on the termination of a lease of any asset, a new lease of that asset is granted to the lessee the provisions of this Schedule shall have the effect as if the second lease were a continuation of the first lease ;

"qualifying expenditure" means, subject to the express provisions of this Schedule, expenditure incurred in a basis period which is—

40 (a) capital expenditure (hereinafter called "qualifying plant expenditure") incurred on plant, machinery or fixtures ;

45 (b) capital expenditure (hereinafter called "qualifying building expenditure") incurred on the construction of buildings, structures or works of a permanent nature, other than expenditure which is included in sub-paragraphs (a) or (c) of this definition ;

50 (c) capital expenditure (hereinafter called "qualifying mining expenditure") incurred in connection with, or in preparation for, the working of a mine, oil well or other source of mineral deposits of a wasting nature (other than expenditure which is included in sub-paragraph (a) of this definition)—

(i) on the acquisition of, or of rights in or over, the deposits or on the purchase of information relating to the existence and extent of the deposits ;

55 (ii) on searching for or on discovering and testing deposits, or winning access thereto ; or

(iii) on the construction of any works or buildings which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a concession,

## THIRD SCHEDULE (Sections 31 and 77 (2))

## ARRANGEMENT OF PARAGRAPHS

## Paragraph

1. Interpretation.
2. Provisions relating to mining expenditure.
3. Owner and meaning of relevant interest.
4. Sale of buildings.
5. Qualifying industrial building expenditure.
6. Initial allowances.
7. Annual allowances.
8. Asset to be in use at end of basis period.
9. Balancing allowances.
10. Balancing charges.
11. Residue.
12. Meaning of "disposed of".
13. Value of an asset.
14. Apportionment.
15. Part of an asset.
16. Extension of meaning of "in use".
17. Exclusion of certain expenditure.
18. Application to lessors.
19. Asset used or expenditure incurred partly for the purposes of a trade or business.
20. Disposal without change of ownership.
21. Meaning of allowances made.
22. Claims for allowances.
23. Election in double taxation cases.
24. Manner of making allowances and charges.

## FIRST TABLE

## SECOND TABLE

Interpreta-  
tion.

1. For the purposes of this Schedule—  
"basis period" has the meaning assigned to it by the following provisions of this definition—

(a) in the case of a company to or on which any allowance or charge falls to be made in accordance with the provisions of this Schedule, its basis period for any year of assessment is the period by reference to the profits of which any assessable profits for that year fall to be computed under the provisions of section 30 ;

(b) such profits mean profits in respect of the trade or business in which there was used an asset in connection with which such allowance or charge falls to be made :

Provided that, in the case of any such trade or business—

(i) where two basis periods overlap, the period common to both shall be deemed, except for the purpose of making an annual allowance, to fall in the basis period ending at the earlier date and in no other basis period ;



(ii) where two basis periods coincide, they shall be treated as overlapping, and the basis period for the earlier year of assessment shall be treated as ending before the end of the basis period for the later year of assessment ;

(iii) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then unless the second-mentioned year of assessment is the year in which, for the purposes of subsection (4) of section 30, such company permanently ceases to carry on the trade or business, the interval shall be deemed to be part of the second basis period ; and

(iv) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade or business permanently ceases, for the purposes of subsection (4) of section 30, to be carried on by such company and the basis period for the year in which it so ceases, the interval shall be deemed to form part of the first basis period ;

"concession" includes a mining right and a mining lease ;

"lease" includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage, and the expression "leasehold interest" shall be construed accordingly and—

(a) where, with the consent of the lessor, a lessee of any asset remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Schedule to continue so long as he remains in possession as aforesaid ; and

(b) where, on the termination of a lease of any asset, a new lease of that asset is granted to the lessee the provisions of this Schedule shall have the effect as if the second lease were a continuation of the first lease ;

"qualifying expenditure" means, subject to the express provisions of this Schedule, expenditure incurred in a basis period which is—

(a) capital expenditure (hereinafter called "qualifying plant expenditure") incurred on plant, machinery or fixtures ;

(b) capital expenditure (hereinafter called "qualifying building expenditure") incurred on the construction of buildings, structures or works of a permanent nature, other than expenditure which is included in sub-paragraphs (a) or (c) of this definition ;

(c) capital expenditure (hereinafter called "qualifying mining expenditure") incurred in connection with, or in preparation for, the working of a mine, oil well or other source of mineral deposits of a wasting nature (other than expenditure which is included in sub-paragraph (a) of this definition)—

(i) on the acquisition of, or of rights in or over, the deposits or on the purchase of information relating to the existence and extent of the deposits ;

(ii) on searching for or on discovering and testing deposits, or winning access thereto ; or

(iii) on the construction of any works or buildings which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a concession,

which are likely to become valueless when the concession comes to an end to the company working the source immediately before the concession comes to an end ; or

(d) capital expenditure (hereinafter called "qualifying plantation expenditure") incurred in connection with a plantation—

(i) on the clearing of land for planting ; and

(ii) on planting (other than replanting).

For the purposes of this definition where—

(i) expenditure is incurred for the purposes of a trade or business by a company about to carry on such trade or business, and

(ii) that expenditure is incurred in respect of an asset owned by that company if that expenditure would have fallen to be treated as qualifying expenditure if it had been incurred by that company on the first day on which it carries on that trade or business, that expenditure shall be deemed to be qualifying expenditure incurred by it on that day ;

"trade or business" means a trade or business or that part of a trade or business the profits of which are assessable under this Act.

2. (1) For the purposes of this Schedule, where—

(a) qualifying mining expenditure has been incurred on the purchase of information relating to the existence and extent of the deposits or on searching for or on discovering and testing deposits or winning access thereto and such expenditure has been incurred for the purposes of a trade or business carried on by the company incurring the expenditure, or expenditure has been incurred for the purposes of a trade or business about to be carried on by the company incurring the expenditure and such expenditure would have fallen to be treated as such qualifying mining expenditure if it had been incurred in a basis period ; and

(b) such expenditure has not brought into existence an asset ; and

(c) such trade or business consists of the working of a mine, oil well or other source of mineral deposits of a wasting nature,

then such expenditure shall be deemed to have brought into existence an asset owned by the company incurring the expenditure and in use for the purposes of such trade or business.

(2) For the purposes of this Schedule, an asset in respect of which qualifying mining expenditure has been incurred by any company for the purposes of a trade or business carried on by it and which has not been disposed of shall be deemed not to cease to be used for the purposes of that trade or business so long as such company continues to carry on that trade or business.

(3) So much of any qualifying mining expenditure incurred on the acquisition of rights in or over mineral deposits and on the purchase of information relating to the existence and extent of the deposits as exceeds the total of the original cost of acquisition of such rights and of the cost of searching for, discovering and testing such deposits prior to the purchase of such information shall be left out of account for the purposes of this Schedule :

Provided that where such costs were originally incurred by a company which carried on a trade or business consisting, as to the whole or part thereof, in the acquisition of such rights or information with a view to the assignment or sale thereof, the price paid on such assignment or sale shall be substituted for the aforementioned costs.

3. (1) For the purposes of this Schedule, where an asset consists of a building, structure or works the owner thereof shall be taken to be the owner of the relevant interest in such building, structure or works.

Owner and meaning of relevant interest.

(2) Subject to the provisions of this paragraph, in this Schedule, the expression "the relevant interest" means, in relation to any expenditure incurred on the construction of a building, structure or works, the interest in such building, structure or works to which the person who incurred such expenditure was entitled when he incurred it.

(3) Where, when he incurs qualifying building expenditure or qualifying mining expenditure on the construction of a building, structure or works, a person is entitled to two or more interests therein, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Schedule.

4. Where capital expenditure has been incurred on the construction of a building, structure or works and thereafter the relevant interest therein is sold, any company which buys that interest shall be deemed, for all the purposes of this Schedule except the granting of initial allowances, to have incurred, on the date when the purchase price became payable, capital expenditure on the construction thereof equal to the price paid by it for such interest or to the original cost of construction whichever is the less :

Sale of buildings.

Provided that where such relevant interest is sold before the building, structure or works has been used, the foregoing provisions of this paragraph shall have effect with respect to such sale with the omission of the words "except the granting of initial allowances" and the original cost of construction shall be taken to be the amount of the purchase price on such sale :

Provided also that where any such relevant interest is sold more than once before the building, structure or works is used, the provisions of the foregoing proviso shall have effect only in relation to the last of those sales.

5. For the purposes of this Schedule—

Qualifying industrial expenditure.

(a) Where but for this paragraph a company is entitled to an annual allowance in respect of qualifying building expenditure in respect of an asset in use, for the purposes of a trade or business carried on by it at the end of its basis period for any year of assessment, if that asset is an industrial building or structure in use as such at the end of its basis period for any such year then, in lieu of such allowance and qualifying building expenditure, the qualifying expenditure in respect of that asset shall be taken to mean "qualifying industrial building expenditure" for any allowances to be made to such company, in respect of that qualifying expenditure, for that year ; and

(b) "industrial building or structure" means any building or structure in regular use—

(i) as a mill, factory, mechanical workshop, or other similar building, or as a structure used in connection with any such buildings ;

(ii) as a dock, port, wharf, pier, jetty or other similar building or structure ;

(iii) as an hotel having a minimum of twenty bedrooms for guests ;

(iv) as a store house or for any plant and in either case used wholly and exclusively for or in connection with either any building or structure mentioned in provisions (i), (ii) or (iii) of this definition or any office or dwelling mentioned in provision (vii) of this definition ;

(v) for the operation of a railway for public use or of a water or electricity undertaking for the supply of water or electricity for public consumption ;

(vi) for the running of a plantation or for the working of a mine or other source of mineral deposits of a wasting nature ;

(vii) as an office or dwelling wholly, exclusively and regularly in use by employees of the owner of such office or dwelling whose duties are solely concerned either with the trade or business operations carried on in or directly connected with the regular use of any building or structure falling within provisions (i), (ii), (iii) or (iv) of this definition or with the operation, running or working of any such railway, undertaking, plantation or mine ;

(viii) as a warehouse, whether refrigerated or not, wholly, exclusively and regularly in use for the hire of storage space to the public, and any office or dwelling wholly, exclusively and regularly in use by employees of the owner of such office or dwelling whose duties are solely concerned with the running of any such warehouse ;

(ix) for the purpose of carrying on at such building the business of banking.

Initial allow  
ances.

6. (1) Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning any asset has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by it, there shall be made to that company for the year of assessment in its basis period for which that asset was first used for the purposes of that trade or business an allowance (in this Schedule called "an initial allowance") at the appropriate rate *per centum*, set forth in the First Table to this Schedule, of such expenditure.

(2) Where capital expenditure is incurred on the purchase of an asset and either the purchaser is a person over whom the seller has control, or the seller is a person over whom the purchaser has control, or some other person has control over both the purchaser and the seller, then, the amount of any initial allowance to be made in respect of such expenditure shall be such an amount as the Board may determine to be just and reasonable having regard to all the circumstances relating to such asset and control :

Provided that any such amount shall not exceed the amount of the initial allowance which would have been allowable apart from the provisions of this sub-paragraph.

Annual  
allowances.

7. (1) Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning any asset has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by it, whether



or not an initial allowance may be made in respect of that qualifying expenditure, there shall be made to that company for each year of assessment, in its basis period for which that asset was used for the purposes of that trade or business, an allowance (hereinafter called "an annual allowance") at the appropriate rate *per centum*, hereinafter mentioned, of the residue of such expenditure at the end of the basis period for that year of assessment :

Provided that where the basis period for any year of assessment is a period of less than one year any such allowance for that year of assessment shall be proportionately reduced.

(2) The said rate shall, in the case of—

(i) qualifying building expenditure, or qualifying industrial building expenditure be at the rate specified in respect thereof in the Second Table to this Schedule ;

(ii) qualifying mining expenditure, be such a rate *per centum*, not being less than fifteen *per centum*, as shall be determined by the Board to be just and reasonable having regard to the rate of exhaustion of the mineral deposits in connection with which such expenditure has been incurred ;

(iii) qualifying plant expenditure, be such a rate *per centum* as shall be determined by the Board to be just and reasonable having regard to the working life of the asset and to the estimated value thereof at the end of such working life ; and

(iv) qualifying plantation expenditure be such a rate *per centum* as shall be determined by the Board to be just and reasonable having regard to the productive life of the plantings :

Provided that—

(a) in determining the said rate in the case of qualifying mining expenditure, the Board may have regard to the rate of exhaustion of all deposits of the same or associated minerals in Nigeria, being deposits from which the company incurring the expenditure has the right to extract the deposits or in respect of which such company has any title to acquire such a right ;

(b) in determining the said rate in the case of qualifying mining expenditure, or qualifying plant expenditure, or qualifying plantation expenditure, the Board shall disregard any initial allowance which falls to be made in respect of such expenditure.

8. An initial or an annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be made to a company for a year of assessment if at the end of its basis period for that year it was the owner of that asset and that asset was in use for the purposes of a trade or business carried on by that company.

Asset to be in use at end of basis period.

9. Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning an asset, which has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by it, disposes of that asset an allowance (hereinafter called "a balancing allowance") shall be made to that company for that year of the excess of the residue of that expenditure, at the date such asset is disposed of, over the value of that asset at that date ;

Balancing allowances.

Provided that a balancing allowance shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred.

Balancing  
charges.

10. Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning an asset, which has incurred in respect thereof qualifying expenditure wholly and exclusively for the purposes of a trade or business carried on by it, disposes of that asset, a charge (hereinafter called "a balancing charge") shall be made on that company for that year of the excess of the value of that asset, at the date of its disposal, over the residue of that expenditure at that date :

Provided that a balancing charge shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred and shall not exceed the total of any allowances made to such owner under the provisions of this Schedule in respect of such asset and, in cases falling under paragraph 19 of the Fourth Schedule to the Income Tax Ordinance, of any deductions made under section 10 of that Ordinance in respect of the capital cost of such asset.

Cap. 85

Residue.

11. (1) The residue of qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner thereof at that date, in respect of that asset, less the total of any initial or annual allowances made to such owner, in respect of that asset, before that date.

(2) For the purposes of this paragraph, an initial allowance or annual allowance shall be deemed to be made at the end of the basis period for the year of assessment for which any such allowance is made.

Meaning  
of "disposed  
of".

12. Subject to any express provision to the contrary, for the purposes of this Schedule—

(a) a building, structure or works of a permanent nature is disposed of if any of the following events occur—

(i) the relevant interest therein is sold ; or

(ii) that interest, being an interest depending on the duration of a concession comes to an end on the coming to an end of that concession ; or

(iii) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon ; or

(iv) the building, structure or works of a permanent nature are demolished or destroyed or, without being demolished or destroyed, cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(b) plant, machinery or fixtures are disposed of if they are sold, discarded or cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(c) assets in respect of which qualifying mining expenditure is incurred are disposed of if they are sold or if they cease to be used for the purposes of the trade or business of the company incurring the expenditure either on such company ceasing to carry on such trade or business or on such company receiving insurance or compensation monies therefor.

13. (1) The value of an asset at the date of its disposal shall be the net proceeds of the sale thereof or of the relevant interest therein, or, if it was disposed of without being sold, the amount which, in the opinion of the Board, such asset or the relevant interest therein, as the case may be, would have fetched if sold in the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold.

Value of  
an asset.

(2) For the purpose of this paragraph, if an asset is disposed of in such circumstances that insurance or compensation monies are received by the owner thereof, the asset or the relevant interest therein, as the case may be, shall be treated as having been sold and as though the net proceeds of the insurance or compensation monies were the net proceeds of the sale thereof.

14. (1) Any reference in this Schedule to the disposal, sale or purchase of any asset includes a reference to the disposal, sale or purchase of that asset, as the case may be, together with any other asset, whether or not qualifying expenditure has been incurred on such last-mentioned asset, and, where an asset is disposed of, sold, or purchased together with another asset, so much of the value of the assets as, on a just apportionment, is properly attributable to the first-mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of or the price paid for that asset, as the case may be.

Appor-  
tionment.

For the purposes of this sub-paragraph, all the assets which are purchased or disposed of in pursuance of one bargain shall be deemed to be purchased or disposed of together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.

(2) The provisions of sub-paragraph (1) of this paragraph shall apply, with any necessary modifications, to the sale or purchase of the relevant interest in any asset together with any other asset or relevant interest in any other asset.

15. Any reference in this Schedule to any asset shall be construed whenever necessary as including a reference to a part of any asset (including an undivided part of that asset in the case of joint interests therein) and when so construed any necessary apportionment shall be made as may, in the opinion of the Board, be just and reasonable.

Part of an  
asset.

16. (1) For the purposes of this Schedule, an asset shall be deemed to be in use during a period of temporary disuse.

Extension  
of meaning  
of "in use".

(2) For the purposes of paragraphs 6, 7 and 8—

(a) an asset in respect of which qualifying expenditure has been incurred by the company owning such asset for the purposes of a trade or business carried on by it shall be deemed to be in use, for the purposes of that trade or business, between the dates hereinafter mentioned, where the Board is of the opinion that the first use to which the asset will be put by the company incurring such expenditure will be for the purposes of that trade or business;

(b) the said dates shall be taken to be the date on which such expenditure was incurred and the date on which the asset is in fact first put to use:

Provided that where any allowances have been given in consequence of this sub-paragraph and the first use to which such asset is put is not for the purposes of such trade or business, all such additional assessments shall be made as may be necessary to counteract the benefit obtained from the giving of any such allowances.

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Exclusion  
of certain  
expenditure.

17. Where any company has incurred expenditure which is allowed to be deducted, in computing the profits of its trade or business under section 27 of this Act, such expenditure shall not be treated as qualifying expenditure.

Application  
to lessors.

18. (1) Where a company owning any asset—

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(a) has incurred capital expenditure in respect thereof for the purposes of leasing that asset for use wholly and exclusively for the purposes of a trade or business carried on or about to be carried on by a person, and

(b) leases the asset to such person, and

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(c) during the whole or part of the term of the lease, the asset is used wholly and exclusively by such person in such trade or business, the provisions of this Schedule shall apply, with such necessary modifications as the Board may direct, as though such expenditure were incurred wholly and exclusively for the purposes of a trade or business carried on by the owner from the date when such expenditure was incurred and as though the owner were using the asset for the purposes of such last-mentioned trade or business, in the way in which and for the period or periods during which the asset is in fact used in the first-mentioned trade or business.

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(2) For the purposes of this paragraph in relation to the trade or business which an owner is to be treated as carrying on his basis period for any year of assessment shall be taken to be the year immediately preceding that year of assessment.

Asset used  
or expendi-  
ture incur-  
red partly  
for the  
purposes of  
a trade or  
business.

19. (1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset—

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(a) the owner of the asset has incurred in respect thereof qualifying expenditure partly for the purposes of a trade or business carried on by him and partly for other purposes ;

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(b) the asset in respect of which qualifying expenditure has been incurred by the owner thereof is used partly for the purposes of a trade or business carried on by such owner and partly for other purposes.

(2) Any allowances and any charges which would be made if both such expenditure were incurred wholly and exclusively for the purposes of such trade or business and such asset were used wholly and exclusively for the purposes of such trade or business shall be computed in accordance with the provisions of this Schedule.

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(3) So much of the allowances and charges computed in accordance with the provisions of sub-paragraph (2) of this paragraph shall be made as in the opinion of the Board is just and reasonable having regard to all the circumstances and to the provisions of this Schedule.

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20. Where an asset in respect of which qualifying expenditure has been incurred by the owner thereof has been disposed of in such circumstances that such owner remains the owner thereof, then, for the purposes of determining whether and, if so, in what amount, any annual or balancing allowance or balancing charge shall be made to or on such owner in respect of his use of that asset after the date of such disposal,

Disposal  
without  
change of  
ownership.

(a) qualifying expenditure incurred by such owner in respect of such asset prior to the date of such disposal shall be left out of account ; but

(b) such owner shall be deemed to have bought such asset immediately after such disposal for a price equal to the residue of such qualifying expenditure at the date of such disposal, increased by the amount of any balancing charge or decreased by the amount of any balancing allowance made as a result of such disposal.

21. Any reference in this Schedule to an allowance made includes a reference to an allowance which would be made but for an insufficiency of assessable profits against which to make it.

Meaning of  
allowances  
made.

22. No allowance shall be made to any company for any year of assessment under the provisions of this Schedule unless claimed by it for that year or where the Board is of the opinion that it would be reasonable and just so to do.

Claims for  
allowances..

23. (1) Where a company makes a claim to an initial or annual allowance under this Schedule in connection with any trade or business, if the taxes in respect of the profits of the trade or business are the subject of an arrangement, having effect by virtue of section 37, between Nigeria and any other territory, for relief from double taxation, it may elect, at the time of making such claim or within such reasonable time thereafter as the Board may allow, that that allowance shall be calculated at a lesser rate than that provided for in paragraph 6 or 7 and in making such election it shall specify the amount of such lesser rate.

Election in  
double  
taxation  
cases.

(2) Where an election has been made under this paragraph, the amount of such lesser rate shall be taken to be the appropriate rate in relation to that allowance for all the purposes of this Schedule.

24. (1) The amount of any charge to be made on a company under the provisions of this Schedule shall be made by making an addition to its assessable profits for the year of assessment for which such charge falls to be made under the provisions of this Schedule :

Manner  
of making  
allowances  
and charges..

Provided that where any such charge falls to be made on any company for any year of assessment, whenever necessary by reason of the assessment on that company having become final and conclusive for that year or for other sufficient reason, the Board may make an additional assessment upon such company in respect of the amount of such charge.

(2) Subject to the provisions of this paragraph, the amount of any allowance to be made to a company under the provisions of this Schedule shall be made by making a deduction from the remainder of its assessable profits for the year of assessment for which such allowance falls to be made under the provisions of this Schedule.

(3) For the purposes of this paragraph any such remainder for a year of assessment shall be ascertained by first giving full effect to the provisions of sub-paragraph (1) of this paragraph and to the provisions of section 31 relating to the deduction of the amount of any loss.

(4) Where full effect cannot be given to any deduction to be made under sub-paragraph (2) of this paragraph for any year of assessment owing to there being no such remainder for that year, or owing to the remainder for that year being less than such deduction, the deduction or part of the deduction to which effect has not been given as the case may be, shall, for the purpose of ascertaining total profits (of the company entitled to such deduction) under section 31 for the following year, be deemed to be a deduction for that year, in accordance with the provisions of sub-paragraph (2) of this paragraph, and so on for succeeding years.

(5) Where a company is entitled to a deduction under the preceding sub-paragraph, or to a deduction in respect of a balancing allowance, in respect of an asset used in a trade or business carried on by it, for a year of assessment in which that trade or business permanently ceases to be carried on by it and full effect cannot be given to any such deduction for that year owing to there being no such remainder of assessable profits for that year, or owing to the remainder of its assessable profits for that year being less than such deduction, that deduction or the part to which effect has not been given, as the case may be, may, on a claim being made by such company, be given by way of a deduction from any remainder of its assessable profits for the preceding year of assessment, and so on for other preceding years, so, however, that no such deduction shall be given by virtue of this sub-paragraph for any year earlier than the fifth year before the first-mentioned year of assessment:

Provided that where any relief is given under this sub-paragraph in respect of any such deduction the provisions of the preceding sub-paragraph shall cease to have effect in respect of that deduction for any year of assessment subsequent to the year of assessment in which such trade or business ceases.

(6) Where any deduction falls to be given under the provisions of the preceding sub-paragraph for any preceding years of assessment, whenever necessary, by reason of any assessments for those years having become final and conclusive, or for other sufficient reason, the Board with respect to each such year may make such repayment or set-off of the tax, or of any part of such tax, paid or charged for any such year, as may be appropriate, in lieu of making any such deduction.

#### FIRST TABLE (PARAGRAPH 6)

| <i>Qualifying Expenditure in respect of:-</i> |    |    |    |    |    | <i>Rate per<br/>centum</i> |
|---|----|----|----|----|----|----------------------------|
| Qualifying Building Expenditure               | .. | .. | .. | .. | .. | Nil                        |
| Qualifying Industrial Building Expenditure    | .. | .. | .. | .. | .. | 20                         |
| Qualifying Mining Expenditure                 | .. | .. | .. | .. | .. | 25                         |
| Qualifying Plant Expenditure                  | .. | .. | .. | .. | .. | 40                         |
| Qualifying Plantation Expenditure             | .. | .. | .. | .. | .. | 25                         |

## SECOND TABLE (PARAGRAPH 7)

Residue of Qualifying Expenditure  
in respect of :-Rate per  
centum

|  |    |
|--|----|
| Qualifying Building Expenditure .. .. .            | 10 |
| Qualifying Industrial Building Expenditure .. .. . | 10 |

## FOURTH SCHEDULE

(Section 37(6))

## DOUBLE TAXATION ARRANGEMENTS

Order in Council

Short Title

|                          |   |
|--------------------------|---|
| No. 5 of 1948 .. .. .    | The Double Taxation Relief (Taxes on Income) (United Kingdom) Order in Council, 1948. |
| No. 16 of 1950 .. .. .   | The Double Taxation Relief (Gold Coast) Order in Council, 1950.                       |
| No. 17 of 1950 .. .. .   | The Double Taxation Relief (Sierra Leone) Order in Council, 1950.                     |
| No. 18 of 1950. .. .. .  | The Double Taxation Relief (Gambia) Order in Council, 1950.                           |
| No. 43 of 1951 .. .. .   | The Double Taxation Relief (Taxes on Income) (New Zealand) Order in Council, 1951.    |
| No. 11 of 1952 .. .. .   | The Double Taxation Relief (Taxes on Income) (Canada) Order in Council, 1952.         |
| L.N. 176 of 1954 .. .. . | The Income Tax (Double Taxation Relief) (Sweden) Order, 1954.                         |
| L.N. 110 of 1955 .. .. . | The Income Tax (Double Taxation Relief) (Denmark) Order, 1955.                        |
| L.N. 64 of 1956 .. .. .  | The Income Tax (Double Taxation Relief) (Norway) Order, 1956.                         |
| L.N. 207 of 1958 .. .. . | The Income Tax (Double Taxation Relief) (U.S.A.) Order, 1958.                         |

## FIFTH SCHEDULE

(Section 78)

## PIONEER RELIEF

For the purpose of applying the provisions of the Industrial Development (Income Tax Relief) Ordinance together with the provisions of this Act, references in that Ordinance to the words, Parts and Sections specified in the first column of the sub-joined Table shall be construed as meaning the words, Parts and Sections of this Act, specified in the second column.

Cap. 87.

## TABLE

First Column

Commissioner  
Parts XI and XII  
Section 20  
Fourth Schedule  
Section 27A

Second Column

Board  
Parts X and XI  
Section 31  
Third Schedule  
Section 33.