

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

THE INCOME TAX (RENTS) BILL

EXPLANATORY MEMORANDUM

The purpose of this Bill is to enable the Minister of Finance to grant relief from income tax on payments by way of rent received in respect of dwelling houses built in Lagos. Relief under the Bill will be in lieu of certain capital allowances which can be granted under the existing tax code.

Clause 1 of the Bill provides that in the case of an advance payment of rent, the relief will apply to the whole of the payment if it does not exceed the cost of construction of the house. If the payment exceeds the cost of construction, the relief will apply to a proportion of the payment equal to the cost of construction, and tax on the balance will be payable in the current year of assessment.

A person seeking tax relief under clause 1 of the Bill must give certain undertakings to the tax authorities, and these will be specified by regulations. If an undertaking is broken the full amount of tax will become payable, and a person claiming relief must charge the house with the payment of this amount. It will also be an offence to break an undertaking.

Clause 3 makes provision for the application of the Bill to payments of rent other than lump sum advance payments.

F. S. OKOTIE-EBOH,
Minister of Finance

A BILL

FOR

AN ACT TO MAKE PROVISION FOR THE GRANTING OF RELIEF FROM INCOME TAX ON PAYMENTS BY WAY OF RENT RECEIVED IN RESPECT OF CERTAIN DWELLING HOUSES ; AND FOR PURPOSES CONNECTED THEREWITH.

[]

Commence-
ment.

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 :—

- 5 1.—(1) Subject to the provisions of this Act, in ascertaining in respect of the year of assessment beginning on the first day of April, 1962, and any subsequent year of assessment—

(a) the chargeable income for the purposes of the Personal Income Tax (Lagos) Act, 1961, of any taxable person within the meaning of that Act ; or

Tax relief
on certain
advance
payments by
way of rent.

1961, No. 23.

1961, No. 22.

(b) the profits for the purposes of the Companies Income Tax Act, 1961, of any Nigerian company within the meaning of that Act, there shall, if the taxable person or company with the consent of the Minister so elects in the prescribed manner and within the prescribed period, be left out of account any income of the taxable person in respect of relevant gains or profits or, as the case may be, any profits of the company which are relevant gains or profits.

In this subsection, "relevant gains or profits" means, in relation to any taxable person or company, gains or profits which arise from a right granted to any other person for the use or occupation of any eligible property and which consist of— 10

(i) a payment made by way of rent paid in advance, in a case where the payment does not exceed the cost of construction of the property as ascertained in the prescribed manner; or

(ii) in any other case, the proportion of the payment equal to the said cost. 15

(2) An election under this section shall be made only in respect of a single payment identified in the prescribed manner in the instrument of election; and no election under this section shall be made in respect of any eligible property— 20

(a) if such an election has previously been made by any person in respect of the property or any part of it; or

(b) except in such cases and subject to such conditions as may be prescribed, if an initial or annual allowance in pursuance of the provisions of the Fifth Schedule to the Income Tax Management Act, 1961, or the Third Schedule to the Companies Income Tax Act, 1961, or the corresponding provisions of the Income Tax Act, has been made to any person in respect of the property or any part of it. 25

1961, No. 21
and No. 22.
Cap. 85.

(3) An election made by a taxable person or company in pursuance of subsection (1) of this section in respect of any property shall not have effect unless that person or company (hereafter in this Act referred to as the "elector")— 30

(a) gives to the Federal Board of Inland Revenue such undertakings with respect to the property as may be prescribed; and

(b) charges the property in the prescribed manner with the payment of the amount of any tax which may become payable in respect of the property by virtue of the following provisions of this subsection; 35

and on the breach of any such undertaking the liability to tax of the elector shall, unless the Board determines to waive the breach, be the same as if the relevant election had not been made. 40

(4) If an elector commits or permits a breach of an undertaking given by him in pursuance of this section, he shall, without prejudice to any liability to tax arising under the last foregoing subsection by reason of the breach, be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years. 45

(5) Where an election takes effect under this section, such steps shall be taken, by way of revision of assessment and otherwise in respect of any such year of assessment as is mentioned in subsection (1) of this section, as may be necessary in consequence of the election.

2.—(1) Where by virtue of paragraph (ii) of subsection (1) of the foregoing section a proportion only of a payment made by way of rent paid in advance is left out of account as mentioned in that subsection, the balance shall (notwithstanding any provision of the enactments relating to income tax which provides for advance payments of rent to be treated as accruing from day to day over a period) be treated for the purposes of those enactments as accruing to the elector on the date the payment is made.

Provisions
supplemen-
tary to s. 1.

(2) Where an election under the foregoing section takes effect, then, subject to subsection (3) of that section, no such allowances as are mentioned in paragraph (b) of subsection (2) of that section shall, as respects the first year of assessment for which the election has effect and every subsequent year of assessment, be made to the elector in respect of, or of any part of, the property to which the election relates; so however that where the cost of construction of the property as ascertained in the prescribed manner exceeds the amount of the payment to which the election relates, nothing in this subsection shall affect the grant, by reference to the amount of the excess, of any such allowance as respects any year of assessment beginning after the end of the period in respect of which the payment is made.

(3) Regulations may provide that in cases where, apart from this Act, relevant gains or profits within the meaning of subsection (1) of the foregoing section would fall to be taken into account in respect of the year of assessment beginning on the first day of April, 1962, and any previous year of assessment, the amount to be left out of account in pursuance of that section is reduced to the prescribed extent; and the regulations may provide that this Act shall have effect, in relation to any such case, subject to such modifications as may be prescribed.

3. The Minister may by regulations provide for the application of this Act, subject to such modifications as may be provided by the regulations, to payments by way of rents received in respect of eligible property other than payments falling within section one of this Act; and the regulations may include provision for the imposition of penalties for breaches of the regulations or of conditions imposed in pursuance of the regulations, not exceeding in the case of any particular breach imprisonment for a term of two years or a fine of one hundred pounds or both.

Application
of Act to
other pay-
ments by
way of rent.

4. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

Inter-
pretation,
etc.

“elector” has the meaning assigned to it by subsection (3) of section one of this Act;

“eligible property” means property consisting only of a building (with or without a curtilage and ancillary buildings of a kind usually provided with a building of the type in question) which—

(a) is situated in the Federal territory; and

(b) is constructed or adapted for use wholly or mainly as a private dwelling house or a number of private dwelling houses; and

(c) has foundations of which the construction was begun after the prescribed date; and

(d) had on such other date as may be prescribed the value, as ascertained in the prescribed manner, of not less than two thousand five hundred pounds and

(e) satisfies such other requirements, if any, as may be prescribed ;

"the Minister" means the Minister of the government of the Federation responsible for finance ;

"prescribed" means prescribed by regulations ;

"regulations" means, except in section three of this Act, regulations made by the Federal Board of Inland Revenue ;

"year of assessment" has the same meaning as in the Income Tax Management Act, 1961 ;

and the powers to make regulations conferred by this Act includes power to make different provision by the regulations for different circumstances.

Short title
and extent.

5.—(1) This Act may be cited as the Income Tax (Rents) Act, 1963. 15

(2) This Act shall apply to the Federal territory only, so however that in relation to the profits of companies it shall apply throughout the Federation.

(870)