

THE PERSONAL INCOME TAX (LAGOS)
(EMPLOYMENTS) REGULATIONS 1965

ARRANGEMENT OF REGULATIONS

: PART I—GENERAL

1. Citation and Commencement.
2. Interpretation.
3. Intermediate employers.
4. Powers of the Board.
5. Service or issue of notice and tax deduction card.

PART II—DEDUCTION AND REPAYMENT OF TAX

6. Issue and preparation of tax deduction card at beginning of year.
7. Issue of special tax deduction card during year.
8. Determination of aggregated income and free emoluments by Board.
9. Determination by Board that no tax is deductible.
10. Notice of determination by Board.
11. Amendment of determination of aggregated income or free emoluments.
12. Objection to determination of aggregated income or free emoluments.
13. Calculation of deduction or repayment.
14. Net emoluments not paid monthly.
15. Subsidiary net emoluments of employee.
16. Deduction in special cases.
17. Change of directed employment.
18. Death of employee.
19. Employee not producing transfer certificate.
20. Modified method of deduction.
21. Aggregation of net emoluments in non-cumulative cases.
22. Tax free emoluments.
23. Repayment of tax during sickness and unemployment.
24. Certificate of net emoluments and of tax deducted.

PART III—REPAYMENT AND RECOVERY OF TAX

25. Payment of tax by employer.
26. Employer failing to pay tax.
27. Recovery of tax.
28. Return by employer at end of year.
29. Inspection of employer's records.
30. Death of employer.
31. Succession to a business, etc.
32. Set off of tax recovered.
33. Recovery of underpayment of tax.

L.N. 58 of 1965

PERSONAL INCOME TAX (LAGOS) ACT 1961
(1961 No. 23)

**The Personal Income Tax (Lagos) (Employments)
Regulations 1965**

Date of Commencement : 1st April, 1965

In exercise of the powers conferred by section 50 (7) of the Personal Income Tax (Lagos) Act 1961, and of all other powers enabling me in that behalf, I hereby make the following regulations :—

PART I—GENERAL

Citation
and
commence-
ment.

1. These regulations may be cited as the Personal Income Tax (Lagos) (Employments) Regulations 1965, and shall be deemed to have come into operation on 1st April 1965.

Interpreta-
tion.

2. In these regulations, unless the context otherwise requires,—

“Act” means the Personal Income Tax (Lagos) Act 1961 ;

“aggregated income” means the amounts determined by the Board to be aggregated with net emoluments and subject to deduction of tax under these regulations ;

“Board” means the Federal Board of Inland Revenue constituted under section 3 of the Companies Income Tax Act 1961 ;

“cumulative aggregated income”, in relation to any week or month, means the sum of all aggregated income from the beginning of the year up to and including that week or month ;

“cumulative free emoluments”, in relation to any week or month, means the sum of the free emoluments from the beginning of the year up to and including that week or month ;

“cumulative net emoluments”, in relation to any week or month, means the sum of all payments of net emoluments made by the employer to the employee from the beginning of the year up to and including that week or month ;

“cumulative tax”, in relation to any week or month, means the tax due in accordance with the appropriate tax tables in respect of any cumulative taxable emoluments at such week or month ;

“cumulative taxable emoluments”, in relation to any week or month, means the sum of the taxable emoluments from the beginning of the year up to and including that week or month ;

“direction” means any direction given by the Board in pursuance of the provision of section 50 (1) of the Act ;

“emoluments” means income chargeable to tax under the Act from any employment or pension ;

“employee” means any person including a director, receiving emoluments in respect of any employment, office or appointment and in respect of whom a direction has been made by the Board under the provisions of section 50 of the Act ;

“employer” means any person paying emoluments who has received a direction made by the Board under the provisions of section 50 of the Act ;

"free emoluments" means the amount of net emoluments which the Board has determined shall not be subject to deduction of tax ;

"Fund" means the National Provident Fund established under the National Provident Fund Act 1961 ;

"Joint Tax Board" means the Board established under section 27 of the Income Tax Management Act 1961 ;

"month" means any calendar month, and monthly shall be construed accordingly ;

"net emoluments" means emoluments reduced by contributions which are made by the employee to the Fund, and to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board and which are deducted by the employer from such emoluments, and references to payments of net emoluments include references to payments on account of net emoluments ;

"special tax deduction card" means a tax deduction card on which is specified the amount of any aggregated income or any free emoluments as determined by the Board ;

"tax" means the tax imposed under the provisions of the Act ;

"tax deduction card" means a weekly or monthly tax deduction card in the form provided by the Board or such other document corresponding to such a tax deduction card as may be authorised by the Board in any particular case ;

"tax tables" means tax tables prepared by the Board ;

"taxable emoluments" means net emoluments plus any aggregated income or less any free emoluments ;

"total net tax deducted", in relation to the net emoluments paid to any employee during any period, means the total tax deducted from those net emoluments less any tax repaid to the employee ;

"week" means the period of seven days commencing on the first day of any year of assessment and each subsequent period of seven days during such year, and weekly shall be construed accordingly ;

"year" means year of assessment ;

other expressions have the same meaning as in the Personal Income Tax (Lagos) Act 1961 ;

(2) Except where it is expressly provided in any direction to the contrary, every direction given by the Board shall be subject to these regulations.

3.—(1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to hereinafter in this regulation as "the intermediate employer") shall be deemed to be the employer for the purposes of these regulations, and the immediate employer shall furnish the intermediate employer with such particulars of the employee's emoluments as may be necessary to enable the intermediate employer to comply with the provisions of these regulations.

Inter-
mediate
employers.

(2) If the employee's net emoluments are actually paid to him by the immediate employer—

(a) the immediate employer shall be notified by the intermediate employer of the amount of tax to be deducted or repaid when the net emoluments are paid to the employee and shall deduct or repay the amount so notified to him accordingly ; and

(b) the intermediate employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which the said emoluments will be paid.

Powers of Board.

4. Anything which is authorised or required by these regulations to be done by the Board may be done by such other person as the Board may direct.

Service or issue of notice and tax deduction card.

5. Section 11 of the Act shall apply to any notice or tax deduction card which is authorised or required to be given, served or issued under these regulations.

PART II—DEDUCTION AND REPAYMENT OF TAX

Issue and preparation of tax deduction card at beginning of year.

6.—(1) Every employer, on making any payment of net emoluments during any year to any employee in his employ at the beginning of the year and in respect of whom a special tax deduction card has been issued by the beginning of the year by the Board for the use of the employer during that year, shall deduct or repay tax in accordance with these regulations and shall have reference to the aggregated income or free emoluments specified on such special tax deduction card.

(2) Every employer, on making any payment of net emoluments during any year to any employee in his employ at the beginning of the year and in respect of whom no special tax deduction card has been issued by the beginning of the year by the Board for the use of the employer during that year, shall deduct or repay tax in accordance with these regulations and shall prepare for use during such year—

(a) a weekly tax deduction card if such employee is paid weekly or fortnightly at an annual rate of less than four hundred pounds ; or

(b) a general purposes tax deduction card if such employee is not so paid.

Issue of special tax deduction card during year.

7.—(1) Where a determination of aggregated income or free emoluments of any employee for any year is amended after the special tax deduction card for such employee has been issued, the Board shall issue to the employer an amended special tax deduction card appropriate to such amended determination, and, on making any further payment of any net emoluments during such year to such employee, the employer shall deduct or repay tax in accordance with these regulations and shall have reference to the aggregated income or free emoluments specified on such amended special tax deduction card.

(2) Where a determination of aggregated income or free emoluments of any employee is first made after a tax deduction card for such employee has been prepared by the employer, the Board shall issue to the employer a special tax deduction card appropriate to such determination, and, on making any further payment of any net emoluments during such year to such employee, the employer shall deduct or repay tax in accordance with these regulations and shall have reference to the aggregated income or free emoluments on such special tax deduction card.

Determination of aggregated income and free emoluments by Board.

8. The aggregated income or free emoluments to be specified in any special tax deduction card issued by the Board shall be determined by it and or that purpose, the Board may have regard to any of the following—

(a) any reliefs from tax, to which the employee is entitled for the year for which the aggregated income or free emoluments are being determined, so far as his title to such reliefs has been established at the time of the determination :

Provided that, where the aggregated income or free emoluments are determined before the beginning of the year for which such aggregated income or free emoluments are to have effect, the Board shall disregard any such relief if it is not satisfied that the employee will be entitled to it for such year ;

(b) any assessable income of the employee for the year for which the aggregated income or free emoluments are being determined other than the emoluments in relation to which the aggregated income or free emoluments are being determined ;

(c) any tax of the employee which is repayable but has not been repaid ;

(d) any tax of the employee which is payable but has not been paid ;

(e) such other adjustments as may be necessary to secure that, so far as possible, the tax in respect of the employee's income for the year for which the aggregated income or free emoluments are to have effect shall be deducted from the net emoluments paid during such year.

9. The Board may at any time determine that no tax shall be deducted from any net emoluments of any employee—

Determination by Board that no tax is deductible.

(a) if such net emoluments will be included in an assessment on income from a trade, business, profession or vocation ; or

(b) if the Board is not satisfied that such net emoluments will be chargeable to tax ;

Provided that, where such determination is made known to the employer during the year, any total net tax deducted from such employee's net emoluments may, if the Board so directs, be repaid to such employee.

10.—(1) After the Board has determined the aggregated income or free emoluments of any employee for any year, it shall give notice of such determination to such employee before the special tax deduction card is issued to the employer.

Notice of determination by Board.

(2) If the Board determines that no tax shall be deducted from any net emoluments of any employee for any year, it shall give notice of such determination to the employer.

11.—(1) If a determination of aggregated income or free emoluments is found to be inappropriate because the actual circumstances are different from the circumstances by reference to which the aggregated income or free emoluments were determined, the Board may, and if it is so required by the employee shall, amend such determination by reference to the actual circumstances.

Amendment of determination of aggregated income or free emoluments.

(2) After the Board has amended the determination of aggregated income or free emoluments, it shall give notice of such amended determination to the employee not later than the date on which the special tax deduction card or the amended special tax deduction card under regulation 7, as the case may be, is issued to the employer.

12.—(1) If the employee is aggrieved by any determination, or amended determination, of aggregated income or free emoluments, he may give notice of objection in writing to the Board, stating the grounds of his objection, within forty-two days after the date of issue of the notice of such determination or amended determination.

Objection to determination of aggregated income or free emoluments.

(2) On receipt of the notice of objection, the Board shall consider such objection and may amend the determination of aggregated income or free emoluments.

Calculation
of deduc-
tion or
repayment.

13.—(1) On the occasion of any payment of net emoluments to the employee, the employer, except where these regulations otherwise provide, shall ascertain, at the week or month of payment, the cumulative net emoluments, the cumulative taxable emoluments and the corresponding cumulative tax in respect of such employee.

(2) If the said cumulative tax exceeds the cumulative tax corresponding to the employee's cumulative taxable emoluments at the week or month of the last preceding payment of net emoluments (hereinafter in this regulation referred to as "the previous cumulative tax"), the employer shall deduct the excess from the net emoluments on making the payment in question.

(3) If the said cumulative tax is less than the previous cumulative tax, the employer shall repay the difference to the employee on making the payment in question :

Provided that, if the amount of tax repayable is not less than five pounds and the employer has not received prior authorisation from the Board, the employer shall forthwith notify the Board and shall not make the repayment until authorised to do so by the Board.

(4) If the said cumulative tax is equal to the previous cumulative tax, the employer shall neither deduct nor repay tax when the payment in question is made.

(5) Where the payment in question is the first payment in the year, paragraphs (2), (3) and (4) of this regulation shall not apply but the employer shall deduct the said cumulative tax from the net emoluments on making the payment in question.

(6) The employer shall record, for the week or month in which any payment of net emoluments is made to the employee, either on the tax deduction card or in such other form as may be authorised by the Board, the following particulars—

- (a) the net emoluments ;
- (b) the cumulative net emoluments ;
- (c) the cumulative taxable emoluments ;
- (d) the corresponding cumulative tax ; and
- (e) the amount of tax, if any, deducted or repaid on making the payment.

(7) Where the Board determines that no tax shall be deducted from any net emoluments of any employee, the foregoing provisions of this regulation shall not apply and the employer shall deduct no tax but shall record, either on the tax deduction card or in such other form as may be authorised by the Board, the net emoluments and the cumulative emoluments :

Provided that, where the Board's determination that no tax shall be deducted is an amended determination, the employer shall, if the Board so directs, make any repayment of tax which may be due by reference to the employee's cumulative emoluments and the corresponding cumulative tax and shall record the particulars prescribed in paragraph (6) of this regulation.

14.—(1) Where net emoluments are paid at regular intervals of longer than a month, any payment of such net emoluments shall be deemed for the purposes of these regulations to be made in the month in which it would have been made if a payment had been made in the last month of the preceding year :

Net emolument not paid monthly.

Provided that the employer shall record, either on the tax deduction card or in such other form as may be authorised by the Board, for every such payment, the actual month of payment.

(2) Where net emoluments are paid at regular intervals of less than a month to an employee liable to payment of tax upon his chargeable income or for whom a special tax deduction card has issued, any payment of such net emoluments within a particular month shall be deemed for the purposes of these regulations, to be made on the date on which the final payment of net emoluments within that month is made ; and, on the occasion of such payment, tax shall be deducted or repaid by reference to the total net emoluments payable in the month.

(3) Where net emoluments are paid at regular intervals of less than a month to an employee liable to payment of tax upon his chargeable income and in respect of whom no special tax deduction card has been issued, any payment of such net emoluments made on 30th or 31st March in any leap year, or on 31st March in any other calendar year, shall be deemed for the purposes of these regulations to be made in a fifty-third week of the year of assessment.

15.—(1) If the employer makes a payment in respect of overtime or other extra earnings to an employee whose main net emoluments are paid monthly and that payment is made at an earlier date in the month than that on which the main net emoluments are paid, the employer shall repay no tax to the employee on the occasion of that payment, notwithstanding that tax may be repayable under the provisions of regulation 13, but in such a case regulation 13 shall have effect as if that payment were made on the same date in that month as the date on which the main net emoluments are paid.

Subsidiary net emolument of employee.

(2) The foregoing provisions of this regulation shall apply with the necessary modifications to payments in respect of overtime or other extra earnings which are made to an employee whose net emoluments are paid at intervals greater than a month.

16.—(1) This regulation applies to—

(a) payments of net emoluments made to an employee after he has ceased to be employed by the person making the payments ; and

(b) any other payments of net emoluments made to any other employee to which the Board directs that this regulation shall apply.

Deduction in special cases.

(2) Regulation 13 shall not apply to payments of net emoluments to which this regulation applies, and, on making any such payment, the employer shall deduct therefrom the amount of tax which would have been deductible therefrom if the payment had been made on the preceding 1st April and if the employee had been in that employment on the same day.

(3) On making any such payment as aforesaid, the employer shall record, either on the tax deduction card or in such other form as may be authorised by the Board, the following particulars—

(a) the week or month of payment ;

(b) the net emoluments ;

(c) the taxable emoluments ; and

(d) the amount of tax deducted :

Provided that, where tax is deducted by reference to regulation 19 (2) the aforesaid particulars, except for taxable emoluments, shall be recorded on the card provided or authorised by the Board for that purpose.

Change of
directed
employment.

17.—(1) If the employer ceases to employ an employee, he shall forthwith send to the Board a certificate, on the form provided or authorised by the Board, containing, subject to regulation 19, the following particulars—

- (a) the name of the employee ;
- (b) any number used to identify the employee ;
- (c) the address of the employee ;
- (d) the name, address and identifying number of the employer ;
- (e) the date on which the employment ceased and, if appropriate, the date on which the employee is expected to depart from Nigeria ;
- (f) the type of tax deduction card used ;
- (g) the cumulative net emoluments at the week or month in which the last payment of net emoluments was made to the employee by that employer, or in a case falling within regulation 14 was deemed to be so made ;
- (h) the corresponding cumulative tax ; and
- (i) the name and address of any new employer, if known :

Provided that, where any payment of net emoluments to which regulation 16 (1) (a) applies is made, the employer shall forthwith send to the Board a supplementary certificate on the form provided or authorised by the Board containing particulars of such payment and the corresponding tax.

(2) The employer shall make, on the form provided or authorised by the Board, two copies of the said certificate and shall deliver them to the employee on the date on which the employment ceases or on the date of any payment of net emoluments made to the employee after cessation of employment.

(3) Immediately on commencing his next employment the employee shall deliver the two copies of the said certificate to his new employer, who shall, subject to the provisions of paragraphs (4) and (5) of this regulation—

- (a) Insert on one copy of the said certificate—
 - (i) the address of the employee if different from the existing entry made by the former employer ;
 - (ii) the date on which the employment commenced ;
 - (iii) the nature and place of the employment ;
 - (iv) the type of tax deduction card prepared ;
 - (v) the cumulative tax at the week or month in which the former employment ceased, if different from the cumulative tax recorded on the said certificate by the former employer ; and
 - (vi) the name and address of the new employer,
 and forthwith send that copy to the Board ;
- (b) prepare a tax deduction card in accordance with the particulars given in the two copies of the said certificate and record on such card the cumulative net emoluments as at the date on which the employee left his former employment and the corresponding cumulative tax as shown by the tax tables ; and
- (c) on making any payment of net emoluments to the employee, deduct or repay tax in accordance with regulation 13 and keep the records required by that regulation as if the cumulative net emoluments and cumulative tax shown on the tax deduction card prepared in accordance with subparagraph (b) of this regulation represented net emoluments paid to the employee by the new employer and tax deducted by him :

Provided that, if tax is repayable on the occasion of the first such payment and the amount repayable exceeds five pounds the new employer shall forthwith notify the Board and shall not make the repayment until authorised to do so by the Board.

(4) Where the two copies of the said certificate show that the last payment of net emoluments was in the year preceding that in which the new employment commences, the new employer shall—

(a) render a return to the Board, on the form authorised by the Board giving the name and address of the employee, the date on which his employment commenced and such other particulars as may be necessary to secure the issue of the appropriate tax deduction card ;

(b) comply with the provisions of paragraph (3) (a) of this regulation, but deduct tax from each payment of net emoluments made by him to the employee and keep records on the card mentioned in regulation 16 (3) as if those payments had been payments to which regulation (19 (2) applies.

(5) Where the two copies of the certificate—

(a) are not identical ;

(b) show that a special tax deduction card was used by the previous employer ; or

(c) have been completed under regulation 19 (4) the new employer shall comply with the provisions of paragraph (3) (a) of this regulation, but he shall deduct tax from each payment of net emoluments paid by him to the employee and keep records on the card mentioned in regulation 16 (3) as if those payments had been payments to which regulation 19 (2) applies.

(6) If the new employer ceases to employ the employee he shall comply with the provisions of paragraphs (1) and (2) of this regulation as if a deduction card in respect of the employee had been issued to him by the Board.

(7) If the employee objects to the disclosure to his new employer of his aforesaid cumulative net emoluments, he may deliver the two copies of the certificate to the Board before he commences his new employment, and the Board may direct that regulation 16 shall apply to all payments of net emoluments which the new employer makes to the employee during the year.

(8) Retirement on pension shall not be treated as a cessation of employment for the purposes of this regulation if the net emoluments are paid by the same person both before and after the retirement.

18.—(1) On the death of any employee, the employer shall forthwith send to the Board the certificate mentioned in regulation 17 (1) or the certificate mentioned in regulation 19 (4), as the case may require, together with the two copies of the said certificate mentioned in regulation 17 (2), and shall insert thereon the name and address of the personal representative of the deceased employee, if they are known to him.

Death of
employee.

(2) If any net emoluments are paid by the employer after the date of the employee's death in respect of his employment with him, the employer shall, on making any such payment, deduct or repay tax as if the deceased employee was still in his employment at the date of the payment in a case where the payment is made during the year in which the employee died or, if the payment is not so made, as if the deceased employee had ceased to be in his employment and, in every case—

(a) if the amount of those net emoluments and the date on which they will be paid are known to him at the time he completes the certificate mentioned in paragraph (1) of this regulation, he shall include thereon the amount of the net emoluments, the date on which they will be paid, and the amount of tax which will be deducted or repaid ; or

(b) if the amount of those net emoluments and the date on which they will be paid are not known to him at the time he completes the certificate mentioned in paragraph (1) of this regulation, he shall indicate thereon that a further payment of net emoluments will be made by him.

Employee
not
producing
transfer
certificate.

19.—(1) If the employer makes any payment of net emoluments to an employee who, on commencing employment, did not deliver the two copies of the certificate mentioned in regulation 17 (2), the employer, on the occasion of the first such payment, shall forthwith render a return, on the form provided by the Board, to the Board giving the name and address of the employee, the date on which his employment commenced and such other particulars as may be necessary to secure the issue of any appropriate tax deduction card.

(2) On making any payment of net emoluments to the employee before any tax deduction card has been issued in respect of him by the Board the employer shall deduct tax and keep records on the card mentioned in regulation 16 (3) as if the payment was one to which regulation 16 applied and as if no aggregated income or free emoluments had been determined by the Board.

(3) On making any payment of net emoluments to the employee after any tax deduction card has been issued in respect of him by the Board the employer shall deduct or repay tax in accordance with regulation 13 and keep the records required by that regulation, and, for those purposes—

(a) any cumulative net emoluments entered on the tax deduction card by the Board shall be treated as if they represented net emoluments paid to the employee by the new employer ; and

(b) the cumulative tax before the first payment as aforesaid shall be taken to be the sum of any cumulative tax entered as aforesaid and any tax which the new employer was liable to deduct from the employee's net emoluments under paragraph (2) of this regulation.

(4) Where paragraph (2) of this regulation applies and the employer ceases to employ the employee before any tax deduction card in respect of the employee has been issued to him by the Board, regulation 17 shall apply but subject to the modification that the certificate mentioned in paragraph (1) of that regulation shall contain particulars of the net emoluments and the tax deducted therefrom as recorded by the employer on the card mentioned in regulation 16 (3).

Modified
method of
deduction.

20.—(1) Where net emoluments are paid weekly or fortnightly at an annual rate of less than four hundred pounds, the Minister, on being satisfied by the employer as to the general concurrence of the employees whose emoluments are so paid or of the authorised representatives of such employees and as to the adequacy of the records maintained by the employer, may permit the Board to authorize the employer—

(a) in the first year for which a direction under section 50 of the Act applies to such employer, to deduct tax from the net emoluments paid to all such employees in accordance with arrangements agreed to by the Board and the employer, and to the extent that it is so agreed these regulations shall not apply ; or

(b) in any year, to deduct tax from the net emoluments paid to all such employees in accordance with the following provisions of this regulation, and regulation 13 shall not apply where that authority is given.

(2) The employer shall deduct tax from each payment of net emoluments which he makes to the employee by reference to the rate prescribed in Schedule 2 Table 2 of the Act, without regard to the cumulative net emoluments and the corresponding cumulative tax :

Provided that, if the employment ceases, the employer shall ascertain the cumulative net emoluments in relation to the week in which the last payment of net emoluments was made to the employee by him and the corresponding cumulative tax and shall deduct from such net emoluments the difference between such corresponding cumulative tax and the total net tax previously deducted during the year.

(3) The employer, on the occasion of the payment to the employee of net emoluments in every sixth week and on the occasion of the last payment to the employee of net emoluments in the year, shall ascertain the cumulative net emoluments in relation to the week of payment and the corresponding cumulative tax and shall deduct from such net emoluments the difference between such corresponding cumulative tax and the total tax previously deducted during the year :

Provided however, that if on such occasion the cumulative tax is less than the total tax previously deducted since the beginning of the year the employer shall repay to the employee, upon being authorised by the Board to do so, the difference on the occasion of the next payment of emoluments, in addition to making any necessary deduction under paragraph 2 of this regulation.

(4) Where tax is deducted in accordance with this regulation, the employer shall record, either on the tax deduction card or in such other form as may be authorised by the Board—

(a) for every week in which a payment of net emoluments is made to the employee, the net emoluments and the amount of tax deducted therefrom in accordance with paragraph (2) of this regulation ; and

(b) for each week in which they are ascertained, the cumulative net emoluments and the corresponding cumulative tax.

21. Where under these regulations tax is deductible otherwise than by reference to cumulative net emoluments and the corresponding cumulative tax, the amount of tax to be deducted in any week or month shall be calculated by reference to the aggregate of the net emoluments paid to the employee in that week or month.

Aggregation of net emoluments in non-cumulative cases.

22. Any payment which the employer makes to the employee or for the benefit of the employee in respect of his income tax, shall be included in the net emoluments of the employee for the purposes of deduction and repayment of tax under these regulations.

Tax free emoluments.

23.—(1) If, owing to absence from work through sickness or other similar cause, the employee is entitled to receive no net emoluments on the usual pay day, the employer shall, on application being made in person by the employee or his authorised representative, make such repayment of tax to the employee as may be appropriate, having regard to his cumulative taxable emoluments at the date of the pay day in question and the corresponding cumulative tax.

Repayment of tax during sickness and unemployment.

(2) If, owing to absence from work otherwise than as in paragraph (1) of this regulation, the employee is entitled to receive no net emoluments on the usual pay day, the employer may, on application being made in person by the

employee or his authorised representative, make such repayment of tax to the employee as may be appropriate, having regard to his cumulative taxable emoluments at the date of the pay day in question and the corresponding cumulative tax.

(3) In the case of an individual who has ceased to be employed, any repayment which may be appropriate at any date, having regard to his cumulative taxable emoluments at that date and the corresponding cumulative tax, shall be made to him in accordance with section 53 of the Act; and such individual who has ceased to be employed shall, on applying for repayment produce to the Board the copies of the certificate mentioned in regulation 17 (2) and such evidence of his unemployment as the Board may require.

Certificate
of net
emoluments
and of tax
deducted.

24.—(1) After the end of the year, the employer shall give the employee a certificate showing the total amount of the net emoluments paid by the employer to the employee during the year, the total net tax deducted from such net emoluments or repaid and such other particulars as the Board may require.

(2) In the case of an employee taken into employment after the beginning of the year, the said certificate shall include any net emoluments paid to the employee by any previous employer and any net tax deductible from those net emoluments, being net emoluments and net tax which the employer giving the certificate was required to take into account for the purposes of deducting or repaying tax in the case of any net emoluments paid by him.

(3) A certificate shall be given under this regulation to every employee who is in the employer's employment on the last day of the year and from whose net emoluments any tax has been deductible during the year.

PART III—PAYMENT AND RECOVERY OF TAX

Payment of
tax by
employer.

25.—(1) Within fourteen days of the end of every month, the employer shall pay to the Board or as the Board shall direct all amounts of tax which the employer was liable under these regulations to deduct from net emoluments paid by him during such month, reduced by any amounts which he has repaid under these regulations during such month.

(2) The Board shall give the employer a receipt on the form, authorised by the Board, for the total amount so paid to it.

(3) If the amount which the employer is liable to pay to the Board under paragraph (1) of this regulation, exceeds the amounts actually deducted by him from net emoluments paid by him during the relevant month, reduced by any amounts which have actually been repaid by him during such month, the Board on being satisfied by the employer that he took reasonable care to comply with the provisions of these regulations and that any under-deduction or over-repayment of tax was due to an error made in good faith, may direct that the excess shall be recovered from the employee in respect of whom such under-deduction or over-repayment was made, and, where the Board so directs, the employer shall not be liable to pay the amount of the excess to the Board.

(4) If the amount which the employer is liable to pay under paragraph (1) of this regulation, had he complied with the provisions of these regulations, exceeds the amounts actually deducted by him from net emoluments paid by him during the relevant month, reduced by any amounts which have actually been repaid by him during such month, and the Board is of the opinion that

any employee has received his net emoluments knowing that the employer has wilfully failed to deduct therefrom the amount of tax which he was liable to deduct under these regulations, or has received an over-repayment of tax knowing that the employer has wilfully repaid tax contrary to these regulations, the Board may direct that the amount of the excess shall be recovered from the employee in respect of whom such under-deduction or over-repayment was made, and, where it so directs, the employer shall not be liable to pay the amount of the said excess to the Board.

(5) If a difference arises between the employer and the employee as to whether the employer has deducted tax from net emoluments paid to the employee, as to the amount of the tax that has been so deducted, or as to the amount of the tax that has been repaid by the employer to the employee, the matter shall, for the purpose of ascertaining the amount of any tax to be recovered from the employee under paragraph (3) or (4) of this regulation, be determined by the Board.

(6) If the total of the amounts which the employer was liable under these regulations to repay during any month exceeds the total of the amounts which he was liable under these regulations to deduct during that month, he shall be entitled to deduct the excess from any subsequent payment which he is liable to make under paragraph (1) of this regulation or to recover it from the Board.

26.—(1) If, within fourteen days of the end of any month the employer has paid no amount of tax to the Board, under regulation 25 for that month and the Board is unaware of the amount, if any, which the employer is liable so to pay, the Board may give notice to the employer requiring him to render, within the time limited in the notice, a return showing the name of every employee to whom he made any payment of net emoluments or repayment of tax in the period from the preceding 1st April, to the day (being the last day of a month) limited by the notice, together with such particulars with regard to each such employee as the notice may require, being particulars of—

Employer
failing to
pay tax.

(a) any determination under regulation 8 appropriate to the employee's case;

(b) the payments of net emoluments made to the employee during the period; and

(c) any other matter affecting the calculation of the tax which the employer was liable under these regulations to deduct or repay to the employee during that period.

(2) The Board, by reference to the tax tables and such other documents as may be necessary, shall ascertain and certify the amount of tax which the employer is liable to pay to the Board under regulation 25 in respect of the month in question.

(3) The production of the return made by the employer under paragraph (1) of this regulation or of the certificate of the Board under paragraph (2) of this regulation shall be sufficient evidence that the amount shown in the said certificate is the amount of tax which the employer is liable to pay under regulation 25 in respect of the month in question and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Where a notice given by the Board under paragraph (1) of this regulation extends to two or more consecutive months, the provisions of these regulations shall have effect as if the said consecutive months were one month.

(5) A notice may be given by the Board under paragraph (1) of this regulation notwithstanding that an amount of tax has been paid under regulation 25 by the employer for any month, if the Board is not satisfied that the amount so paid is the full amount which the employer is liable to pay to the Board under regulation 25 for that month, and the provisions of this regulation shall have effect accordingly.

Recovery
of tax.

27.—(1) The provisions of the Act relating to the recovery of tax shall apply to the recovery of any amount of tax which an employer is liable to pay to the Board under regulation 25 of these regulations.

(2) Proceedings for the recovery of tax as aforesaid may be brought by the Board for the recovery of the total amount which the employer is liable to pay as aforesaid for any month, without distinguishing the amounts which he is liable to pay in respect of each employee and without specifying the employees in question, and for the purpose of such proceedings the said total amount shall be one matter of complaint; but nothing in this paragraph shall prevent the bringing of separate proceedings for the recovery of each of the several amounts which the employer is liable to pay as aforesaid for any month in respect of his several employees.

(3) A certificate of the Board that any amount of tax such as is mentioned in paragraph (1) of this regulation has not been paid to it or, to the best of its knowledge and belief, to any other person acting on its behalf shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Government of the Federal Republic of Nigeria and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

Return by
employer at
end of year.

28.—(1) Not later than one month after the end of each year, the employer shall render to the Board, either on the tax deduction card or in such other form as the Board may provide or authorise, a return in respect of each employee in the employer's employ at any time during that year showing—

- (a) the name of the employee;
- (b) the place and nature of the employment at the end of the year or at the date of cessation of employment if earlier;
- (c) any determination under regulation 8 appropriate to the employee;
- (d) the total amount of any contributions made by the employee to the Fund and to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board and deducted by the employer from the employee's emoluments during the year;
- (e) the total amount of any net emoluments paid to the employee by the employer during the year;
- (f) the total net tax deducted from net emoluments or refunded to the employee by the employer during the year;
- (g) the total amount of any net emoluments paid to the employee by any previous employer during the year and of any net tax deductible from those net emoluments, being net emoluments and net tax which the employer rendering the return was required to take into account for the purposes of deducting or repaying tax in the case of any net emoluments paid by him;

(h) the date of cessation of the employment if that employment ceased during the year ; and

(i) such other particulars (if any) as the Board may require.

(2) The returns required under paragraph (1) of this regulation shall be accompanied by a statement and declaration in the form provided or authorised by the Board containing—

(a) a list of all tax deduction cards prepared by the employer or issued to him by the Board and in the use during year ;

(b) particulars of the total net tax deducted or the total net tax repaid in the year in the case of each employee in the employer's employ at any time during the year, the total net tax deducted or the total tax repaid by the employer in respect of such employees during the year and the amount of any tax which the employer is liable to pay under regulation 25 (1) for the final month of the year ; and

(c) a list of the names and places of residence of any class of employees the Board may require whether or not a direction under section 50 of the Act applies to such class of employees.

(3) Where the employer is a body corporate, the statement and declaration referred to in paragraph (2) of this regulation shall be signed either by the secretary or by a director of the body corporate.

(4) If more than one month after the end of the year the employer has failed to pay to the Board or as the Board has directed the total net amount of tax which he is liable to pay under regulation 25, the Board may prepare a certificate showing the net amount of tax remaining unpaid for that year ; and to the amount shown in the said certificate the provisions of regulation 27 shall apply with any necessary modifications.

29.—(1) Every employer, whenever called upon to do so by any person authorised by the Board, shall produce to that person for inspection, at the employer's premises or at such other place as may be notified to the employer by the Board—

Inspection
of employ-
er's records.

(a) all wage sheets, salary vouchers, tax deduction cards, and any other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees in respect of the years or months specified by the authorised person or to the deduction or repayment of tax by reference to such net emoluments ; or

(b) such of those wage sheets, salary vouchers, tax deduction cards or other documents and records as may be specified by the authorised person.

(2) The person authorised by the Board may, on the occasion of each inspection, prepare a certificate by reference to the information obtained from the inspection of the documents and records produced under paragraph (1) of this regulation, and such certificate shall show—

(a) the amount of tax which it appears from the documents and records so produced that the employer would have been liable to pay under regulation 25 for the years or months covered by the inspection had he complied with the provisions of these regulations ; and

(b) any amount of such tax which, to the best of his knowledge and belief, has not been paid to the Board or to any other person acting on its behalf.

(3) The production of the certificate mentioned in paragraph (2) of this regulation shall be sufficient evidence that the employer is liable to pay in respect of the years or months mentioned in the certificate the amount

shown therein pursuant to paragraph (2) (b) of this regulation; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) The provisions of regulation 27 shall apply with any necessary modifications to the amount shown in the said certificate pursuant to paragraph (2) (b) of this regulation.

Death of
employer.

30. If an employer dies, anything which he would have been liable to do under these regulations shall be done by his personal representative, or, in the case of an employer who paid net emoluments on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid such net emoluments.

31.—(1) This regulation applies where there has been a change in the employer from whom an employee receives net emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property.

Succession
to a busi-
ness, etc.

(2) Where this regulation applies, the change shall be treated as a cessation of employment for the purposes of regulation 17, but, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these regulations if the change had not taken place.

32. For the purposes of determining the amount of tax to be set off against tax charged upon the employee by an assessment, the Board shall refer to—

Set off of
tax
recovered.

(a) any tax which the employer is liable to deduct from the employee's emoluments but which the employer has failed so to deduct, having regard to whether or not a direction has been made under regulation 25 that such tax be recovered from the employee; and

(b) any tax repayable or remaining unpaid for any year.

Recovery of
underpay-
ment of tax.

33. If tax which is payable by the employee under the provisions of the Act in respect of any year has not otherwise been paid, the Board may require the employee to pay such tax to the Board instead of taking it into account in any determination of aggregated income or free emoluments under regulation 8.

MADE at Lagos this 19th day of May, 1965.

F. S. OKOTIE-BOH,
Federal Minister of Finance

EXPLANATORY NOTE

These regulations, for Income Tax Under Pay As You Earn, provide generally for the carrying out of the provisions of section 50 of the Personal Income Tax (Lagos) Act 1961, relating to the recovery by deduction from emoluments of an employee of income tax chargeable upon any such employee by any assessment, whether or not such assessment has been made. Every direction made by the Federal Board of Inland Revenue under section 50 (1) of the said Act (including the direction published as Government Notice No. 1307 of 1961) is subject to these regulations except where in any such direction it is expressly provided to the contrary.