

Supplement to Official Gazette Extraordinary No. 31, Vol. 74, 2nd June,
1987—Part A

**FINANCE (MISCELLANEOUS TAXATION PROVISIONS)
DECREE 1987**



Decree No. 12

[See Section 21 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—INCOME TAX MANAGEMENT ACT 1961

1. The Income Tax Management Act 1961 (hereinafter referred to as "the 1961 Act") shall be amended as provided for in the following provisions of this Part of this Decree.

Amendment
of 1961
No. 21.

2. Section 20A of the 1961 Act, as amended by the Finance (Miscellaneous Taxation Provisions) Decree 1985, is hereby amended—

Amendment
of section 20.

(a) in subsection 2 thereof, for the words, "N1,200 plus 12½ per cent of earned income in excess of N6,000.00" there shall be substituted the words "N1,000 plus 12½ per cent of earned income";

(b) in subsection 3 thereof, for the words "three hundred", "two hundred and fifty" and "four hundred" appearing in paragraphs (a), (b), and (c) of that subsection, there shall be substituted the words "five hundred", "four hundred" and "six hundred" respectively;

(c) immediately after paragraph (d) (iv) of subsection (3) thereof, there shall be added the following new paragraphs, that is—

"(e) a deduction in respect of his equity shareholdings in a company floated exclusively for the purpose of research and development :

Provided that any deduction under this subsection shall not exceed an amount which is equal to 25 per cent of the total income of the individual for the year of assessment ;

(f) a deduction for donations made to approved research institutions and centres subject to a maximum of ten per cent of his chargeable income for the year of assessment."

3. Section 21AA of the 1961 Act, as inserted by the Finance (Miscellaneous Taxation Provisions) Decree 1985, is hereby deleted.

Deletion of
section
21AA.
Amendment
of section
21E.

4. Immediately after section 21E of the 1961 Act, as inserted by the Finance (Miscellaneous Taxation Provisions) Decree 1985, there shall be inserted the following new section, that is—

"Deduction of tax at source. 21EE.—(1) Income tax assessable on any person whether or not an assessment has been made, shall, if the Board so directs, be recoverable from any payments made by any person to such person.

(2) Any direction under subsection (1) of this section may apply to any person or class of persons specified in such direction, either with respect to a person or persons or a body of individuals, liable to pay tax.

(3) Any direction under subsection (1) of this section shall be in writing addressed to the person or be published in the *Gazette* and shall specify the nature of payments and the rate at which tax is to be deducted.

(4) In determining the rate of tax to be applied to any payments made to a person, the Board may take into account—

(a) any assessable income of that person for the year arising from any other source chargeable to income tax under this Act ; and

(b) any income tax or arrears of tax payable by that person for any of the six preceding years of assessment.

(5) Income tax recovered under the provisions of this section by deduction from payments made to a person shall be set-off for the purposes of collection against tax charged on such person by any assessment, but only to the extent that the total of such deductions does not exceed the amount of the assessment.

(6) Every person required under any provisions of this Act to make any deduction from payments made to any person shall account to the Board in such manner as the Board may prescribe for the deduction so made.

(7) The Minister of Finance, on the advise of the Board, may from time to time make regulations for carrying out the provisions of this section.

**Amendment
of section 33.**

5. Section 33 of the 1961 Act, as inserted by Finance (Miscellaneous Taxation Provisions) Decree 1985, is hereby amended by substituting for subsection (1) thereof the following new subsection, that is—

“Tax clear-
ance
certificate.

33.—(1) Whenever a tax authority is of the opinion that tax assessed on the income of any person for the three years immediately preceding the current year of assessment has been fully paid or that no tax is due on such income or the person is not liable to tax for any of the said three years, it shall issue within a reasonable time a tax clearance certificate to the person whenever such certificate is demanded by that person so however, that the payment of current year tax shall not be made a condition for the issuance of the certificate unless the applicant is leaving the country finally.”.

**Amendment
of the Third
Schedule.**

6. The Third Schedule to the 1961 Act is hereby amended as follows, that is—

(a) immediately after paragraph (p) thereof, there shall be inserted new paragraph (pp), that is—

“(pp) Gratuities payable to an employee in the private sector in respect of services rendered by him under a contract of service with his employer and described as gratuities either in such contract or some other document issued by or on behalf of such employer in connection with such contract, provided that—

(i) where the period of service does not amount to ten years the exemption provided under this Schedule shall not apply,

(ii) where the total gratuity payable exceeds the amount of ₦50,000 the amount of any excess shall not be so exempt but shall be deemed to be income of the employee on the last day of his employment including any terminal leave arising there from.” ;

(b) immediately after paragraph “xx” there shall be inserted a new paragraph “y” as follows, that is—

“(y) Dividends paid to any person by any company incorporated in Nigeria :

Provided that the equity participation of the person in the company paying the dividends is either wholly paid for in foreign currency or by assets brought into Nigeria between 1st January 1987 and 31st December 1992 and the person to whom the dividends are paid owns not less than 10 per cent of the equity share capital of the company. For the purpose of this exemption, the dividend tax-free period shall commence from the year of assessment following the year in which the new capital is brought into Nigeria for the real purpose of the trade or business in Nigeria of the company paying the dividends and shall continue for 5 years if the company paying the dividends is engaged in agricultural production within Nigeria or processing of Nigeria agricultural products produced within Nigeria or production of petro-chemicals or liquefied natural gas. In any other case, the tax-free period shall be limited to three years.”

7. The Fifth Schedule to the 1961 Act, as amended by the Finance (Miscellaneous Taxation Provisions) Decree 1985, shall be amended as follows, that is—

Amendment
of the Fifth
Schedule.

(a) sub-paragraph (8) (d) of paragraph 29 thereof shall be deleted ;

(b) for Tables I and II thereof, there shall be substituted the following new Tables, that is—

“TABLE I—INITIAL ALLOWANCE (Paragraph 7)

Qualifying Expenditure in respect of—	Rate per centum
Qualifying Building Expenditure	5
Qualifying Industrial Building Expenditure	15
Qualifying Mining Expenditure	20
Qualifying Plant Expenditure (excluding furniture and fittings)	20
Qualifying Furniture and Fittings Expenditure	15
Qualifying Motor Vehicle Expenditure	25
Qualifying Plantation Equipment Expenditure	20
Qualifying Housing Estate Expenditure	20
Qualifying Ranching and Plantation Expenditure	25
Qualifying Research and Development Expenditure	25

TABLE II—ANNUAL ALLOWANCE (Paragraph 8)

Qualifying Expenditure in respect of—	Rate per centum
Qualifying Building Expenditure	10
Qualifying Industrial Building Expenditure	10
Qualifying Mining Expenditure	10
Qualifying Plant Expenditure (excluding furniture and fittings)	10

Qualifying Furniture and Fittings Expenditure	10
Qualifying Research and Development Expenditure	12½
Qualifying Housing Estate Expenditure	10
Qualifying Ranching and Plantation Expenditure	15
Qualifying Motor Vehicle Expenditure	20
Qualifying Plantation Equipment Expenditure	33½."

Amendment—
of the
Seventh
Schedule.

8. For Table 2 of the Seventh Schedule to the 1961 Act, as amended by the Finance (Miscellaneous Taxation Provisions) Decree 1985, there shall be substituted the following new Table, that is—

"TABLE 2—INCOME TAX

(Section 21B)

<i>Income to be taxed</i>	<i>Rate of Tax</i>	<i>Per cent</i>
For every naira of the first ₦2,000	10k per ₦	10
For every naira of the next ₦2,000	15k per ₦	15
For every naira of the next ₦2,000	20k per ₦	20
For every naira of the next ₦2,000	25k per ₦	25
For every naira of the next ₦2,000	30k per ₦	30
For every naira of the next ₦5,000	35k per ₦	35
For every naira of the next ₦5,000	40k per ₦	40
For every naira of the next ₦10,000	45k per ₦	45
For every naira of the next ₦10,000	50k per ₦	50
For every naira of the income over ₦40,000	55k per ₦	55"

PART II—COMPANIES INCOME TAX 1979

Amendment
of 1979
No. 28.

9. The Companies Income Tax Act 1979 (hereinafter referred to as "the 1979 Act") shall be amended as provided for in the following provisions of this Part of this Decree.

Amendment
of section 16.

10. Section 16 (b) of the 1979 Act, as inserted by Finance (Miscellaneous Taxation Provisions) Decree 1985, is hereby amended as follows, that is—

"(b) where any dividend is paid out of profits on which no tax is payable due to no total profits or total profits which are less than the amount of dividend which is paid whether the recipient of the dividend is a Nigerian company or not, the company paying the dividend shall be charged to tax at the rate prescribed in subsection (1) of section 28 as if such dividend is the total profits of the company for the year of assessment which relates to accounts out of which the dividend is declared ;".

Amendment
of section 19.

11. Immediately after section 19 (1) (f) of the 1979 Act, there shall be inserted a new subsection "ff" as follows, that is—

"(ff) dividend derived by a company from another company incorporated in Nigeria :

Provided that the equity participation of the recipient of the dividend in the company paying the dividend is either wholly paid for in foreign currency or by assets brought or imported into Nigeria between 1st January 1987 and 31st December 1992 and the company receiving the dividend is the beneficial owner of not less than 10 per cent of the equity share capital of the company paying the dividend. For the purpose of this subsection, the dividend tax-free period shall commence from the year of

assessment following the year in which the new capital is brought into Nigeria for the purpose of the trade or business in Nigeria of the company paying the dividend and shall continue for five years if the company paying the dividend is in the agro-allied industry as defined in section 9 (8) of the Act or is engaged in the production of petro-chemicals or liquefied natural gas. In any other case the dividend tax-free period shall be limited to three years." ;

12. For the words "forty five kobo" in section 28 (1) of the 1979 Act, there shall be substituted the words "forty kobo".

Amendment
of section 28.

13. In section 40 (1) (a) of the 1979 Act, immediately after the words "audited accounts" there shall be inserted a comma, ",", and then the words "tax and capital allowances computations".

Amendment
of section 40.

14. In section 43 of the 1979 Act, the existing section 43 shall be re-numbered "section 43 (1)" and a new subsection (2) shall be inserted as follows, that is—

Amendment
of section 43.

"(2) Subject to the foregoing provisions of this section, for the purpose of obtaining information relative to taxation, the Board may give notice to any person including a person engaged in banking business in Nigeria and any person charged with the administration of the Federal Savings Bank Act 1974 to provide within the time stipulated in the notice information including the name and address of any person specified in the notice:

Provided that a person engaged in banking business in Nigeria including any person charged with the administration of the Federal Savings Bank Act 1974 shall not be required to disclose any further information under this section unless such disclosure is required by a notice signed by the Chairman of the Board."

15. In section 54 of the 1979 Act, in line 17 of subsection (8) thereof, between the word "lesser" and the comma, ",", there shall be inserted the words "plus a sum equal to ten *per cent* of the amount of the said deposit".

Amendment
of section 54.

16. Immediately after the words "ten *per cent*" in section 60 (1) (a) of the 1979 Act there shall be added the words "*per annum*".

Amendment
of section 60.

17. In Schedule 2 to the 1979 Act—

Amendment
of Schedule 2.

(a) immediately after sub-paragraph (1) of paragraph 7, as inserted by the Finance (Miscellaneous Taxation Provisions) Decree 1985, there shall be inserted the following proviso, that is—

1985 No. 4.

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

(b) in paragraph 24 (8) thereof, as inserted by Finance (Miscellaneous Taxation Provisions) Decree 1985, the words "and also a company engaged in food production" shall be deleted ;

(c) For Tables I and II thereto, there shall be substituted the following new Tables, that is—

"TABLE I—INITIAL ALLOWANCE

(Paragraph 6)

Qualifying Expenditure in respect of —	Rate per cent
Qualifying Building Expenditure	5
Qualifying Industrial Building Expenditure	15

Qualifying Mining Expenditure	20
Qualifying Plant Expenditure (excluding furniture and fittings)	20
Qualifying Furniture and Fittings Expenditure	15
Qualifying Motor Vehicle Expenditure	25
Qualifying Plantation Equipment Expenditure	20
Qualifying Ranching and Plantation Expenditure	25
Qualifying Research and Development Expenditure	25
Qualifying Housing Estate Expenditure	20

TABLE II—ANNUAL ALLOWANCE (Paragraph 7)

Qualifying Expenditure in respect of—	Rate per centum
Qualifying Building Expenditure	10
Qualifying Industrial Building Expenditure	10
Qualifying Mining Expenditure	10
Qualifying Plant Expenditure (excluding furniture and fittings)	10
Qualifying Furniture and Fittings Expenditure	10
Qualifying Motor Vehicle Expenditure	20
Qualifying Plantation Equipment Expenditure	33½
Qualifying Ranching and Plantation Expenditure	15
Qualifying Research and Development Expenditure	12½
Qualifying Housing Estate Expenditure	10.

PART III—PETROLEUM PROFITS TAX ACT 1959

Amendment of 1959 No. 15

18. The Petroleum Profits Tax Act 1959 (hereinafter referred to as “the 1959 Act”), shall be amended as provided for in the following provisions of this Part of this Decree.

Amendment of section 35.

19. In section 35 of the 1959 Act—

(a) the word “may” in line 7 of the section shall be replaced with the word “shall” ;

(b) immediately after paragraph (b) of subsection (13) there shall be inserted a new paragraph (c) as follows, that is—

“(c) Notwithstanding that an appeal is pending, tax shall be paid in accordance with the decision of the Appeal Commissioner within one month of notification of the amount of the tax payable in pursuance to subsection (9) of this section.”.

PART IV—MISCELLANEOUS

Interpretation.

20. In this Decree, unless the context otherwise requires—

“the 1959 Act” has the meaning assigned thereto in section 18 of this Decree ;

“the 1961 Act” has the meaning assigned thereto in section 1 of this Decree ;

“the 1979 Act” has the meaning assigned thereto in section 9 of this Decree.

Citation and Commencement.

21.—(1) This Decree may be cited as the Finance (Miscellaneous Taxation Provisions) Decree 1987.

(2) The provisions of paragraph (pp) (ii) of the Third Schedule to the 1961 Act as inserted by section 6 (a) of this Decree shall be deemed to have come into force on 1st January 1986.

MADE at Lagos this 25th day of May 1987.

MAJOR-GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree but is intended to
explain its purport)*

The Decree, amongst other things, amends the Income Tax Management Act 1961 to give certain tax reliefs under the Pay as You Earn System