

FINANCE (MISCELLANEOUS TAXATION PROVISIONS)
DECREE 1976



Decree No. 15

[1st April 1975]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Companies Income Tax Act 1961 is hereby amended as follows :—

Amendment
of certain
income tax
provisions.

(a) The rate at which a company is liable to pay tax in respect of its total profits for each year of assessment shall, with effect from the year of assessment beginning on 1st April 1975 be forty kobo for every naira ; accordingly, for section 32 thereof (which prescribes the rate of tax), there shall be substituted the following, that is—

1961 No. 22.

“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 forty kobo for every naira.”

(b) For section 33 thereof, there shall be substituted the following, that is—

“Relief from the tax. 33.—(1) Every Nigerian company shall be entitled to relief from the tax in the manner and to the extent hereinafter provided.

(2) Relief from the tax shall be given at a rate equal to the full rate of tax upon the first ₦6,000 of the total profits of such a company :

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.

(3) No relief shall be granted under this section to any company formed to acquire the whole or any part of trade or business previously carried on by another company.

(4) Where a company has applied any profits in respect to 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.

(5) 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."

(c) Subsections (2), (3), (5) and (6) of section 34 thereof (which were deleted by section 1 (c) of the Finance (Miscellaneous Taxation Provisions) Decree 1972) are hereby revived ; accordingly, for the said section 34 as amended by the said Decree, there shall be substituted the following, that is—

"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 ;

(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 :

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.

(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.

(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.

(6) Nothing in this section shall be construed as requiring a company to deduct tax from a dividend that is not paid in money."

(d) The First and Second Tables of the Third Schedule thereof are hereby amended by the substitution respectively of the figures "5" and "10" for the figures "Nil" and "5" where they occur in the columns opposite—

(i) "Qualifying Expenditure in respect of :—

Qualifying Building Expenditure", and

(ii) "Residue Qualifying Expenditure in respect of :—

Qualifying Building Expenditure",

in the said Tables.

1967 No. 44
Amendment
of the Capital
Gains
Tax Decree
1967.
1972 No. 51
1967 No. 44

2. The Capital Gains Tax Decree 1967 is hereby amended as follows, that is—

(a) Every person chargeable to income tax under the Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972 shall be subject to all the provisions of the Capital Gains Tax Decree 1967 ; accordingly, after subsection (2) of section 1 of the said Capital Gains Tax Decree, there shall be added a new subsection (3) as follows—

“(3) In this Decree, unless the context otherwise requires, any reference to a person shall include a reference to any person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972 applies.” ;

(b) For subsection (2) of section 45 thereof, there shall be substituted the following, that is—

“(2) References in this Decree to any person to whom any chargeable gains accrue include—(a) references to any company or other body corporate established by or under any law in force in Nigeria or elsewhere to whom such gains accrue ; or or (b) references to a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972 applies to whom the gains accrue.” ;

(c) Sub-section (3) of section 46 thereof shall be deleted.

3. This Decree may be cited as the Finance (Miscellaneous Taxation Provisions) Decree 1976, and shall be deemed to have come into force on 1st of April 1975.

MADE at Lagos this 18th day of March 1976.

LT.-GENERAL O. OBASANJO,
Head of the Federal Military Government,
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 purpose)*

The Decree makes provision for relief from the tax of an amount not exceeding ₦6,000 from the total profits of any company liable to tax under the Companies Income Tax Act 1961 ; revives the pre-1972-73 position of provisions relating to the taxation of dividends ; amends the rates of initial and annual allowances relating to qualifying building expenditure ; and makes the Capital Gains Tax Decree applicable throughout the Federation not only to companies but also to all those persons liable to tax under the Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972.

NIGERIAN SECURITY ORGANISATION DECREE 1976



Decree No. 16

[24th March 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. There is hereby established a body to be known as the Nigerian Security Organisation (in this Decree referred to as "the Organisation").

Establish-
ment of
Nigerian
Security
Organisa-
tion.

2.—(1) The Organisation shall be employed—

(a) for the prevention and detection of any crime against the security of Nigeria ;

(b) the protection and preservation of all classified matter concerning or relating to the security of Nigeria ;

(c) for such other purposes, whether within or without Nigeria, as the Head of the Federal Military Government may deem necessary with a view to securing the maintenance of the security of Nigeria.

General
duties of the
Organisa-
tion.

(2) Subsection (1) of this section shall have effect without prejudice to any provision of any other law on any matter therein mentioned.

(3) In this section—

"classified matter" has the same meaning as in section 9 of the Official Secrets Act 1962.

3.—(1) The Head of the Federal Military Government may by an Instrument under his hand make provisions with respect to the following matters, that is to say—

(a) the structure of the Organisation (including the designation and the appointment of the principal officers of the Organisation) and the manner in which the affairs of the Organisation are to be administered ;

(b) the manner in which the powers of the Organisation are to be exercised and the conferment on specified officers of the Organisation of the powers of a superior police officer ; and

(c) such other matters concerning or incidental to any of the matters mentioned in paragraphs (a) or (b) of this subsection as the Head of the Federal Military Government may deem fit.

Instrument
relating to
the structure,
etc. of the
Organisa-
tion.

(2) An Instrument made under subsection (1) of this section shall, notwithstanding anything to the contrary in any law, have the like effect as a Decree and shall not be published in the Gazette.

Citation.

4. This Decree may be cited as the Nigerian Security Organisation Decree 1976.

MADE at Lagos this 24th day of March 1976.

LT.-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*