

CHAPTER 173

INCOME TAX MANAGEMENT ACT

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CHAPTER 173

INCOME TAX MANAGEMENT ACT

An Act to regulate the taxation of incomes of persons other than companies and for purposes connected therewith. 1961 No. 21.

[1st April, 1961] Commence-
ment.

PART I.—PRELIMINARY

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

(2) The President, with the consent of the Government of a State, may by order defer from year to year the application of this Act in that State. L.N. 139 of 1965.

(3) Any such order may prescribe that the provisions of the Direct Taxation Act (or of a law of that State replacing the same) and of the Income Tax Act shall continue to apply

in that State 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 Government of that State and with such further modifications as the Government of that State may request with respect to personal reliefs and rates of tax.

Interpre-
tation.

2. In this Act, unless the context otherwise requires—

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

“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 armed forces) for a daily wage or customarily earns his livelihood in more than one place in Nigeria and whose total income does not exceed ₦600;

“law of a territory” means any law in force in the territory concerned;

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

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

“relevant tax authority” means in relation to—

(a) 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;

(b) 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;

(c) a trustee of any trust or settlement—

(a) where all the income of the settlement or trust for a year of assessment arises in one territory, the tax authority of that territory; or

(b) where the income of the settlement or trust for a year of assessment arises in more than one territory, or in any other case (where the relevant tax authority cannot be determined under any of the foregoing provisions) the Federal Board of Inland Revenue,

(d) 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;

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

(f) a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act applies, the Federal Board of Inland Revenue;

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“tax” means any income tax imposed by a law of a territory or the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act, 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;

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“territory” means a State of the Federation;

“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

Imposition of
tax.
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3. (1) Where the law of a territory or the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act 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.

Individuals
other than
itinerant
workers.
First
Schedule.

(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, or as provided by the Income Tax (Armed Forces and Other Persons) (Special Persons) Act.

Itinerant
workers.

(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:

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

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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 law 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.

(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.

Family income.

(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 of which the tax authority 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.

Certain income of settlements trusts and estates. Second Schedule.

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—

Income chargeable.

- (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 including gratuities, compensations, bonuses, premiums, benefits or other perquisites, allowed, given or granted by any person to an employee other than—

(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,

(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,

(v) any compensation for loss of employment;

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

(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—

(a) “allowances” includes 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

(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:

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;

(d) "employment" includes any service rendered by any person in return for any gains or profits.

(3) In this section, "dividend" means—

(a) in relation to a company not being in the process of being wound up or liquidated, any profits distributed whether such profits are of a capital nature or not, including an amount equal to the nominal value of bonus shares, debentures or securities awarded to the shareholders; and

(b) in relation to a company that is being wound up or liquidated, any profits distributed, whether in money or money's worth or otherwise, other than those of a capital nature earned before or during the winding up or liquidation.

5. (1) Where an employer incurs any expense in the provision of any benefit or perquisites in accordance with section 4(1)(b) of this Act, other than the provision of living accommodation to which section 6 of this Act relates, the following provisions shall apply—

General provisions as to valuation of benefits.

(a) in any case where any asset which continues to belong to an employer is used wholly or partly in the making of such provisions, he shall be deemed to incur an annual expense in connection therewith of an amount equal to 5 per cent of the amount expended by him in acquiring the asset, but if that amount cannot be so ascertained, 5 per cent of the marked value of the asset at the time of the acquisition, as determined by the relevant tax authority;

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(b) in a case where any sum by way of rent or hire is payable by the employer in respect of any such asset,

he shall be deemed to incur an annual expense in connection with the making of such provisions equal to the annual amount of the rent or hire expended by him on the asset; and

(c) in any other case, the employer shall be deemed to incur annual expense in connection with the making of such provisions equal to the annual amount expended thereon by him.

(2) The employee shall be treated as being in receipt (in addition to any other emoluments) of emoluments equal to the annual amount so deemed to be incurred by the employer under subsection (1) of this section reduced by so much (if any) of the said expense as is made good to the employer by the employee.

(3) The provisions of subsections (1) and (2) of this section shall not apply to expenses incurred by an employer—

(a) in connection with the provision of meals in any canteen in which meals are provided for the staff generally or of luncheon vouchers for his employees if those vouchers are not assignable by an employee to whom they are issued;

(b) in the provision of any uniform, overall or other protective clothing;

(c) where such expenses are reasonable removal expenses which may or may not include a temporary subsistence allowance incurred by the employer by reason of a change of the employee's employment which requires such employee to change his place of residence,

and the employee shall not be treated as being in receipt of any remuneration in respect of any such benefits.

(4) Any reference in this section to expenses incurred in connection with any matter includes a reference to a proper proportion of any expenses incurred partly in connection with that matter.

(5) Any reference in this section to anything provided for an employee shall, unless the reference is expressly to

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something provided for the employee himself, be construed as including a reference to anything provided for the spouse, family, servant, dependant or guest of that employee in relation to any service rendered by the employee to the employer.

6. (1) Where any premises in Nigeria are made available to the occupier by reason of his or his wife's holding an office or employment and—

- (a) the occupier pays no rent for the premises; or
- (b) the rent which the occupier pays for the premises is less than the annual value of the premises,

the employee shall be treated as being in receipt (in addition to any other emoluments) of emoluments at an annual rate equal to the annual value of the premises, as determined under subsection (2) of this section, reduced by the annual amount of rent which the occupier pays for the premises.

(2) In this section, "the annual value of the premises" means—

- (a) in relation to premises subject to any law governing assessment of local rates, the annual value of the premises as determined for purposes of local rates under that law;
- (b) in any other case, the annual value as determined by the relevant tax authority,

and a reference in this section to annual value shall include a reference (where applicable) to such proper proportion of the annual value—

(i) in relation to a period of occupation within a year,

(ii) in relation to the part of the premises occupied,

or

(iii) in relation to both a period of occupation within a year and the part of the premises occupied,

as may be determined by the relevant tax authority.

(3) Subsection (1) of this section shall apply to an occupier being a woman as it applies to an occupier being a

Valuation as to living accommodation.

man with the substitution of "her husband" for "his wife" and that subsection shall accordingly be so construed.

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

7. Where an individual, 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 on outside Nigeria.

Relevant tax authority may assess and charge tax on the turnover of a business etc.

8. (1) Where, in respect of any business carried on by any person it appears to the relevant tax authority that for any year of assessment, the business produces either no assessable income or an assessable income which in the opinion of the relevant tax authority is less than might be expected to arise from that business or, as the case may be, the true amount of the assessable income of that person from the business cannot be readily ascertained, the relevant tax authority may for that year of assessment, in respect of that business, and notwithstanding any other provision of this Act—

- (a) if the whole of the operations of the business are carried on in Nigeria, assess and charge the person carrying on the business on such fair and reasonable percentage of the turnover of the business, as the relevant tax authority may determine;
- (b) if only part of the operations of the business are carried on in Nigeria, assess and charge the person carrying on the business on such fair and reasonable percentage of that part of the turnover of the business attributable to the operations carried on in Nigeria, as the relevant tax authority may determine.

(2) The provisions of this Act as to notice of assessment, additional assessment, appeal and other proceedings shall apply to an assessment or additional assessment made under this section as they apply to assessment or additional assessment made under any other section of this Act.

(3) In this section—
"business" includes any trade, profession or vocation;

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“person” in relation to the carrying on of a business has the meaning assigned by section 2 of this Act but does not include a company.

9. (1) The gains or profits from a partnership of a partner ^{Partnerships.} therein shall be the sum of—

(a) 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

(b) 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 subparagraph 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 subsection (1)(a) of section 20 of this Act if incurred directly by that partner,

and when the income computed under paragraph (b) 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 19 of this Act, 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 of which the tax authority is the relevant authority in relation to that partnership.

(6) For the purposes of paragraph 6 of the First Schedule to this Act, 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 tax 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 tax authority within thirty days of such agreement.

(8) Where the particulars of any partnership have been registered under the provisions of subsection (7) of this section, 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 part-

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nership 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 tax authority.

10. 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.

11. (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 one hundred and eighty-three 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 subsection (1) of this section, 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 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.

12. (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.

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(2) Any amount of the undistributed profits of a Nigerian company which is treated as distributed under the provisions of any law in force in Nigeria imposing taxation on the profit of companies 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

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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.

13. 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:

Foreign
income.

Provided that—

- (a) if the income arose in a country to which section 29 of this Act 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;
- (b) if the income arose in a country to which section 30 applies, the amount of that income to be taken for assessment shall be the amount computed under subsection (5) of section 31 of this Act.

14. The income from any interest on money lent by an individual, or an executor, or a trustee, outside Nigeria to a person in Nigeria (including a person who is resident or present in Nigeria at the time of the loan) shall be deemed to be derived from Nigeria if—

Interest
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- (a) there is a right to payment of the interest in Nigeria;
- (b) 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;
- (c) 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; or

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(d) the interest is payable on money lodged at interest in Nigeria.

Territory in which a dividend or interest paid by a Nigerian company arises.
Cap. 174.

15. 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 to this Act, shall be deemed to be derived from the territory in which the recipient of the dividend or interest, resides or, where the recipient is not resident in Nigeria and is not a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provision) Act applies, from the territory on which the company paying the dividend or interest has its principal office.

Settlements, trusts and estates.
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Second Schedule.

16. 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, or in the case of a settlement or trust made, created or administered outside Nigeria shall be ascertained in accordance with the provisions of the Second Schedule to this Act.

Artificial transactions, etc.

17. (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 tax 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 tax authority considers appropriate so as to counteract the reduction of liability to tax effected, or reduction which would otherwise be effected by the transaction.

(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) of this section shall be performed by the Board alone and any decision or direction of the Board under this section shall be binding on all tax authorities.

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- (3) For the purpose of this section—
- (a) “disposition” includes any trust, grant, covenant, agreement or arrangement;
- (b) 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 both 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.

18. Any appeal with respect to assessment of income arising from any decision or direction of the Board under subsection (2) of section 17 of this Act, shall lie only to the Federal High 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 12 of this Act.

Certain Appeals.

19. (1) There shall be exempt from the tax all that income specified in the Third Schedule to this Act.

Income exempted—
Third Schedule.

(2) The Minister of Finance and Economic Development may by notice include in the Third Schedule to this Act 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—

- (a) any treaty, convention or agreement between the Federal Government of Nigeria and any other country or any arrangement with or decision of an international organisation of which the Federal Government of Nigeria is a member; or
- (b) any arrangement in that behalf subsisting between the Government of the Federation and the Government of each State.

(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.

PART III.—ASCERTAINMENT OF INCOME

Deductions
allowed.
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20. (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, exclusively and necessarily incurred during that period and ultimately borne by that individual in the production of the income including—

- (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;
- (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:

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:

Provided that—

- (i) where in any period a deduction under this paragraph is to be made as respects any particular

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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,

(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 21 of this Act 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 Pensions Act or under any approved scheme within the meaning of that Act, 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. 346.

(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 to this Act 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 moneys 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 38 of this Act, less than thirty-three and one third *per centum* of all moneys 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 moneys 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, and for the purpose 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.

21. 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;

Deductions
not allowed.

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 moneys 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, and for the purpose 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.

21. 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;

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- (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 13 of this Act;
- (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 subsection (1) of section 20 of this Act.
- (g) the depreciation of any asset;
- (h) any sum reserved out of profits, except as permitted by paragraph (d) of subsection (1) of section 20 of this Act 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;

22. Where a deduction has been allowed under the provisions of section 20 of this Act 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.

Waiver or refund of liability or expense.

PART IV.—ASCERTAINMENT OF ASSESSABLE INCOME

23. (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

Basis for computing assessable income.

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; but where 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, that an appeal against a determination of the Board under this subsection shall lie only to the Federal High Court at the instance of the individual.

New trades,
etc.

(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—

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

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- (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) of this section;
- (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—

- (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

Cessation of trades, etc.

to derive assessable income from such trade, business, profession or vocation for the year of assessment following that in which the cessation occurs.

Employments 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 to this Act 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.

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(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.

Apportionment of income.

(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.

Receipts and payments after cessation of a trade, etc.

24. (1) Where under the law of a territory, 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 shall, notwithstanding anything to the contrary in any other enactment or law relating to the ascertainment of chargeable income, be the amount of the total income of that individual for that year, ascertained under the provisions of this Act, after any income exempted has been excluded therefrom and the deductions allowed by this Part have been made.

Chargeable income.

(2) In the case of every such individual there shall be allowed a deduction of six hundred naira.

(3) In the case of an individual who ordinarily resides in Nigeria, or who at any time during the year of assessment—

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

Cap. 174.

- (b) exercises any employment, the whole gains or profits of which are deemed under the provisions of section 12 of this Act to be derived from Nigeria; or
- (c) is a person liable to tax under the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act, not being a person mentioned in paragraph (d) of section 1(1) thereof,
- there shall be allowed—
- (d) a deduction of three hundred naira 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 three hundred naira 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;
- (e) a deduction of two hundred and fifty naira 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) no additional deduction shall be allowed in respect of the costs incurred in connection with the education of any child in respect of whom he is entitled to a deduction under this paragraph,
- (iii) where the cost of maintaining any child is shared between two or more persons, the relevant tax authority may apportion the sum of two hundred and fifty naira as may seem to it to be equitable between

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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;

- (f) 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 of the year preceding the year of assessment exceeded six hundred naira,

(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 four hundred naira and, if the total of the costs incurred by term in respect of the same relative exceed that sum, then the amount of the deduction to be allowed to any such individual shall be that 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 four hundred naira;

- (g) 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 premium 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 20 of this Act; and

(c) in the case of any employee, paragraph (f) of subsection (1) of section 20 of this Act,

shall not exceed two thousand naira 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 provision 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 one year of assessment was equal to the aggregate total income for that year of such husband and his wife or wives.

(4) (a) Any deduction to be allowed to an individual for a year of assessment under the provisions of this section, other than paragraph (a) of subsection (3)(iii) 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.

(b) Where a deduction is claimed in respect of any one child under paragraph (b) of subsection (iii), or any

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one dependent under paragraph (c) of subsection (3)(iii), or any one annual premium under paragraph (d), for the same year of assessment, by both husband and wife and the aggregate amount of the deductions so claimed exceeds the amount to be allowed then in any such case the relevant tax authority 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.

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

PART V.—ASCERTAINMENT OF TOTAL INCOME

25. (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 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 income from all sources. Fifth Schedule.

(2) There shall be deducted—

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

Loss in 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,

(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,

(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 20 of this Act 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 tax authority responsible for the administration of the relevant enactment or has been established on appeal against a direction of such tax authority: and for the purposes of this subsection, 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.

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(3) For the purposes of subsection (2) of this section, 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 23 of this Act 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 23 of this Act 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.—IMPOSITION OF TAX

26. (1) Subject to subsection (2) of this section, in addition to the tax referred to in section 27 of this Act there shall also be payable by every person subject to tax under the law of any territory the income rate specified in Table 1 of the Sixth Schedule of this Act:

Provided that where the amount of the total income of a person exceeds the minimum amount specified in Table 1 of the said Schedule in respect of a particular range of income by such an amount that a deduction of the applicable income rate would render the resulting income to be less than the minimum amount of a particular range of income, then and in such a case such a person shall only be liable to pay the income rate prescribed in respect of the next lower range of income plus not more than one half of the amount by which his income exceeds the minimum income of that range of income, subject to the maximum amount of the applicable income rate.

Charge of
income tax
Sixth
Schedule.

1975 No. 7.

Charge of
income rate.Sixth
Schedule.Table 1
of the
Sixth
Schedule
of the
Income Tax
Act, 1975

(2) Any territory may instead of the income rate prescribed in subsection (1) of this section retain any capitation, community development, education, poll or other general tax or levy imposed on income by any law of that territory and may, from time to time, vary such general tax or levy.

Charge of
income tax.
Sixth
Schedule.

27. Subject to provisions of this Act, the income tax that may be payable under the law of each territory on the chargeable income of an individual ascertained in accordance with the provisions of this Act shall in respect of each year of assessment, be assessed at the rate or rates specified in Table 2 of the Sixth Schedule of this Act.

PART VII.—DOUBLE TAXATION RELIEF

Interpre-
tation.

28. 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 29 of this Act; “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
Common-
wealth
income tax.

29. (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—

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- (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 of this Act) 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.

Double
taxation
arrange-
ments.

30. (1) If the Minister of Finance and Economic Development 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.

(2) On the making of an order under this section with respect to arrangements made with the Government of any Commonwealth country, section 29 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 and Economic Development, 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 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 Seventh 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 January 1989.

Seventh
Schedule.

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31. (1) The provisions of this section shall have effect where, under arrangements having effect under section 30 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; in this section, the expression "foreign tax" means any tax payable in that country which under the arrangements is to be so allowed.

Method of calculating relief to be allowed for double taxation.

(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 of this Act) 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) of this section, the total credit to be allowed to an individual for any year of assessment for foreign tax under all arrangements having effect under section 30 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) of this section, (but not the remainder thereof), shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3) of this section, 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 30 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.

(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.

(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 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.

Income Tax Management Act

32. (1) When for any year of assessment, a dividend distributed or treated under the provisions of subsection (2) of section 12 of this Act 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 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 subsection (2) of this section, where the amount so to be set-off exceeds the tax payable, that excess shall be refunded to the individual by the relevant tax authority in relation to that individual for that year; and 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.

(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 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 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 Accountant-General of the Federation to reimburse to the Government of that other tax authority all tax which that other tax authority has to set-off or refunded, save only where—

- (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 and Economic Development may by regulations, prescribe.

(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 Federal High Court.

PART VIII.—ADMINISTRATIVE AND TRANSITIONAL PROVISIONS

33. (1) There is hereby established a Board which shall be known as the Joint Tax Board.

(2) The Board shall consist of the following members, that is to say—

(a) the Chairman of the Federal Board of Inland Revenue, appointed pursuant to section 1 of the Companies Income Tax Act who shall be the Chairman of the Board; and

(b) one member for each State, being a person experienced in income tax matters nominated either by name or office from time to time, by the Commissioner of the State in question charged with responsibility for matters relating to income tax; and any nomination under this paragraph shall be evidenced by notice thereof in writing delivered to the Secretary of the Board.

Joint Tax Board.

Cap. 60.

Income Tax Management Act

(3) The Federal Civil 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.

(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.

(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 seven members or their representatives shall constitute a quorum.

1973
No. 17.

(7) The Chairman or any person duly authorised to represent him under subsection (6) of this section shall preside at all meetings of the Board and every decision of the Board shall, when there is no consensus, be by majority of the members present and voting, and the Chairman shall have a casting vote apart from his deliberative vote when there is a deadlock.

(8) The Legal Adviser, Federal Board of Inland Revenue shall be in attendance at meetings of the Board and shall serve thereat as adviser to the Board.

(9) 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;

- (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 Minister of Finance and Economic Development to be exercised by it under such enactment in place of the Federal Board of Inland Revenue;
- (c) shall advise the Federal Government, 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.

(10) The Federal Government 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 State Governments either in proportion to their respective tax revenues or in some other manner as those Governments may agree upon from time to time.

Disclosure
and
procurement
of
information.

34. (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.

(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 provisions of subsections (1), (2) and (3) 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 including name and address specified therein within the time limited by such notice:

1966
No. 65.

Provided that a person engaged in banking in Nigeria shall not be required to disclose any information including name and address 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 thirty naira in any period of twelve months.

35. Without prejudice to the provisions of section 34, every person engaged in banking including any person charged with the administration of the Federal Savings Bank Act, shall prepare a return at the end of each month specifying the names and addresses of new customers of the bank, and shall not later than the seventh day of the next following month deliver the return to a tax authority of the area where the bank operates, or where such customer is a company to the Federal Board of Inland Revenue.

Information
to be
delivered by
bankers.
Cap. 142.

36. (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 tax 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:

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.

(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 tax 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.

Returns, etc.

37. (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 tax authority, proceedings may be taken by that other tax authority in respect of that offence as though the return, statement or information had been made or given to that other tax authority in the first instance.

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 tax authority, or at the place where the person charged with the offence resides or at such other place as that tax authority may decide.

1966 No. 65.

Income Tax Management Act

38. (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—

Continuing effect of decisions etc.

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

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 re-determined by the tax authority by which it was first agreed or determined.

(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.

(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 eighty kabo

Cap. 85 of
1958 Edition.

in every two naira leaves the net amount of the dividend so distributed, notwithstanding any provision of the Income Tax Act which applied at the date of such distribution.

(5) Any pension, provident or other society, fund or scheme approved before the first day of April, 1961, for the purposes of any like provision contained in any income tax law of a State or of the Federation in force prior to that date, shall be deemed to have been approved by the Board on such conditions as applied to such approval immediately before that day:

Provided that—

- (a) if conditions have been imposed upon the approval of any fund both for the purposes of the Income Tax Act and any such State or Federal income tax law, or for the purposes of two or more State 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
- (b) 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.

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

39. Save as may be provided in any order made under the provisions of section 1 of this Act, the Income Tax Act, the Income Tax Administration Act and the Direct Taxation Act 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 Acts, except where otherwise expressly provided in this Act, shall cease similarly to apply.

Income Tax Management Act

FIRST SCHEDULE

(Subsection 3(2))

DETERMINATION OF RESIDENCE

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

Interpreta-
tion.

“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—

(a) 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;

(b) 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.

2. An individual not being a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act applies, 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.

Foreign
employ-
ments.
Cap. 174.

Nigerian
employ-
ments.

3. 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.

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 a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act applies.

Cap. 174.

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, not being a Nigerian pension in respect of which the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act applies 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.

(3) An individual whose only source of earned income arising in Nigeria on the 1st day of April in a year of assessment was a Nigerian pension, and who had no place of residence on that day shall, if the pension is payable by more than one Government or if there are two or more pensions arising in different territories to the individual on that day, be subject to the Income Tax (Armed Forces and Other Persons) (Special Provisions) Act.

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

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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: Other earned income.

Provided that—

- (a) 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 Unearned income.
- (b) in any other case the individual shall be deemed to be resident for that year in any territory from which any part or the whole of his earned income arising in Nigeria is derived, if such income is derived from more than one territory. 1973 No. 17.

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—

- (a) 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;
- (b) 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 territory from any part of the unearned income arises. 1973 No. 17.

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. Application.

(2) If, by reason of sub-paragraph (1) of this paragraph, or otherwise, a determination of residence of an individual for a year of assessment falls to be revised by 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.

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 any part or the whole of its income liable to tax in Nigeria arises for that year. Corporation sole or body of individuals.
1973 No. 17.

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 tax 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 tax 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) of this paragraph 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 sub-paragraph (4) of this paragraph, 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

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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 High 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

Section 3(2)

SETTLEMENTS, TRUSTS AND ESTATES

PART I.—GENERAL

1. Subject to Part II and notwithstanding Part III of this Schedule, the income of a settlement or trust shall for all the purposes of this Act be deemed to be the income of the settlor or person creating the trust, as the case may be, if—

- (a) 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
 - (b) that settlor or person makes use directly or indirectly, by borrowing or otherwise, of any person of the income arising under the settlement or trust; or
- the settlement or trust is revocable in circumstances whereby that settlor or person, or the spouse thereof, resumes control over any part of the income or assets comprised therein:

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.

2. (1) For the purposes of this Part and Part III of this Schedule the income of a settlement or trust, other than a settlement or trust to which the provisions of paragraph 4 of this Schedule 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.

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

(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

(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 section 23(1) of this Act.

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

(a) where—

(i) the terms of the deed of settlement or trust or of a 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 among the beneficiaries entitled thereto, from time to time, or

(ii) by operation of law, upon any intestacy, the income of an estate is to be divided in the manner referred to in sub-paragraph (a)(i) of this paragraph,

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

2. (1) For the purposes of this Part and Part III of this Schedule the income of a settlement or trust, other than a settlement or trust to which the provisions of paragraph 4 of this Schedule 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.

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

(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

(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 section 23(1) of this Act.

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

(a) where—

(i) the terms of the deed of settlement or trust or of a 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 among the beneficiaries entitled thereto, from time to time, or

(ii) by operation of law, upon any intestacy, the income of an estate is to be divided in the manner referred to in sub-paragraph (a)(i) of this paragraph,

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

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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.

PART II.— PROVISIONS AS TO SETTLEMENT ON UNMARRIED CHILDREN

4. (1) Notwithstanding any other provision of this Act where, by virtue or in consequence of any settlement and during the life of the settlor any income is paid to or for the benefit of a child of the settlor in any year of assessment, the income shall, if at the time of payment the child was an infant and unmarried, be treated for the purposes of this Act as the income of the settlor for that year and not as the income of any other person.

(2) Income paid to or for the benefit of a child of a settlor shall not be treated as provided in sub-paragraph (1) of this paragraph for any year of assessment in which the aggregate amount of the income paid to or for the benefit of that child, which but for this sub-paragraph, would be so treated by virtue of sub-paragraph (1) of this paragraph, does not exceed twenty naira.

(3) This paragraph shall not apply in relation to any income arising under a settlement in any year preceding a year of assessment if the settlor 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.

5. For the purposes of paragraph 4 of this Schedule—

- (a) income which, by virtue or in consequence of any settlement may become payable or applicable to or for the benefit of a child of the settlor in the future (whether on the fulfilment of a condition or on the happening of a contingency, or as the result of the exercise of a power or discretion conferred on any person, or otherwise) shall be deemed to be paid to or for the benefit of that child; and

(b) any income dealt with as aforesaid which is not required by the settlement to be allocated, at the time when it is so dealt with, to any particular child or children of the settlor shall be deemed to be paid in equal shares to or for the benefit of each of the children to or for the benefit of whom or any of whom the income or assets representing the income will or may become payable or applicable.

6. (1) Where, by virtue of paragraph 4 of this Schedule, any income tax becomes chargeable on and is paid by the settlor, he shall be entitled

(a) to recover from any trustee or other person to whom the income is payable by virtue or in consequence of the settlement the amount of the tax so paid; and

(b) for that purpose to require the relevant tax authority to furnish to the settlor a certificate specifying the amount of income in respect of which he has so paid tax and the amount of the tax so paid,

and any certificate so furnished shall be conclusive evidence of the facts appearing therein.

(2) Where the settlor obtains from any trustee or other person a payment in excess of the amount he is entitled to recover by virtue of sub-paragraph (1) of this paragraph then, an amount equal to the excess shall be paid by him to the trustee or other person to whom the income is payable by virtue or in consequence of the settlement, or, where there are two or more such persons, the amount shall be apportioned among those persons as the case may require.

(3) If any question arises as to the amount of any payment or as to any apportionment to be made under sub-paragraph (2) of this paragraph, that question shall be decided by the relevant tax authority and its decision thereon shall be final and not subject to an appeal or any review whatsoever by any court of law.

7. (1) In the case of any settlement where there are more than one settlor, paragraph 4 of this Schedule shall, subject to the provisions of this paragraph, have effect in relation to each settlor as if he were the only settlor.

(2) In the case of any such settlement as aforesaid, income originating from that settlor or person may, for the purposes of the said paragraph 4 of this Schedule, be taken into account, in relation to any settlor, as income paid by virtue or in consequence of the settlement to or for the benefit of a child of the settlor.

(3) References in this paragraph to income originating from a settlor shall include references to the following, that is to say—

(a) income from property which that settlor has provided directly or indirectly for the purposes of the settlement; and

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- (b) income from property representing that property including accumulated income from that property; and
- (c) income from so much of any property which represents both property provided as aforesaid and other property as, on a just apportionment, represents the property so provided.

8. In this Part of this Schedule—

“child” includes a stepchild, an adopted child and an illegitimate child;
“settlement” includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

“settlor”, in relation to a settlement, includes any person by whom the settlement was made or entered into directly or indirectly, and in particular (but without prejudice to the generality of the foregoing) includes any person who has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

PART III

SUPPLEMENTARY PROVISIONS

9. For the purposes of this Act, where any assets of a trade or business, profession or vocation 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 the expenditure on the asset on the day following the death of the individual; and
- (c) in the event of the disposal of the 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 the asset to the individual and to the estate.

10. 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 of the annuity.

11. 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 the income ascertained under the foregoing provisions of this Schedule of the year preceding that year.

12. 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 the 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 of this Schedule 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.

13. 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.

14. 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.

15. 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 paragraph 13 of this Schedule.

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THIRD SCHEDULE

Section 16

INCOME EXEMPTED

- (a) The official emoluments of the President, and of the Governor of any State and of any person performing the functions of the said President received by such person in his capacity as such. L.N. 139 of 1965.
- (b) The official emoluments of the holders for the time being of the following offices—
- (i) Vice-President,
 - (ii) Deputy Governor, Bauchi State,
 - (iii) Deputy Governor, Bendel State,
 - (iv) Deputy Governor, Benue State,
 - (v) Deputy Governor, Borno State,
 - (vi) Deputy Governor, Imo State,
 - (vii) Deputy Governor, Kaduna State,
 - (viii) Deputy Governor, Kwara State,
 - (ix) Deputy Governor, Ogun State,
 - (x) Deputy Governor, Ondo State,
 - (xi) Deputy Governor, Oyo State,
 - (xii) Deputy Governor, Rivers State, and
 - (xiii) Deputy Governor, Sokoto State.
- (c) The emoluments payable from United Kingdom Funds to members of the visiting or other 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: L.N. 139 of 1965.
- Provided that this exemption shall not apply to any individual who is a citizen of Nigeria or who ordinarily resides in Nigeria.
- (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 Merchant Shipping Act apply: Cap. 224.
- Provided that—
- (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.

(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—

(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) Act,

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

(iv) where the Minister of Finance and Economic Development 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.

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

(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.

(i) Any income in respect of which tax is remitted or exempted under the provisions of the Diplomatic Immunities and Privileges Act or of any enactment, order or notice continued in force or affected by that Act.

(j) The income of any Local Government Council 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.

(l) Wound and disability pensions granted to members of the Armed Forces or of any recognised national defence organisation or to persons injured as a result of enemy action.

(m) Pensions granted to any person under the provisions of the Pensions Act relating to widows and orphans.

Cap. 387.

L.N. 139 of
1965.
Cap. 99.

Cap. 346.

Income Tax Management Act

(n) The income of any trade union registered under the Trade Unions Act, in so far as such income is not derived from a trade or business carried on by such trade union. Cap. 437.

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

(p) Gratuities payable to a public officer by the Government of the Federation or of a State 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 three hundred and twenty naira *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.

(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 such contract, subject to the like provisions as those contained in the proviso to paragraph (p) of this Schedule:

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 Act.

Cap. 135 of
1958 Edition.

(r) Gratuities payable to an employee or former employee under a contract of service with a body established pursuant to the Nigerian Research Institutes Act or any Act repealed by that Act or by the West African Council for Medical Research Act,

Cap. 326.
Cap. 215 of
1958 Edition.

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 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 three hundred naira 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 the said 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 Act.
- (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 20 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 20 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 eight-three days or more during that year of assessment.
- (y) The income of any person, other than a citizen of Nigeria, from employment by any government, organisation or agency between which and the Government of the Federation or of a State there exists an arrangement for Technical Assistance, insofar as and to the extent only that the employment is solely in pursuit of such technical assistance arrangement.

Cap. 39 of
1958 Edition.

L.N. 33 of
1963.

Income Tax Management Act

(z) Fifty *per centum* of the income of any person from employment, being the arrears of the income of such a person paid to him either—

L.N. 59 of
1975.

(i) as a result of the decision of the Federal Government contained in paragraph 127 of the "Government Views on the Report of the Public Service Review Commission" published in December 1974 in the case of employees in the public services of Nigeria, or

(ii) in pursuance of grants of increases in salaries or wages made or offered to and accepted by employees not in the civil services of Nigeria by their employers following negotiations held as directed by the Federal Government in paragraph 131 of the "Government Views on the Report of the Public Service Review Commission" published in December 1974.

FOURTH SCHEDULE

Section 20(f)

RETIREMENT BENEFITS SCHEMES

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 20(1) of this Act shall, subject to any conditions which the Board may prescribe, be computed in accordance with the provisions of this Schedule.

1966 No. 65.

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 dependants;

"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 dependants, after his death, or for any group or class of individuals and their dependants.

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 two thousand naira for a year of assessment of the aggregate of the following amounts—

- (a) deductions allowed under paragraph (e) of section 20 of this Act;
- (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. (1) 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 three hundred naira *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:

(2) 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, an Act 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.

(3) This paragraph shall, as respects a person who is not a citizen of Nigeria and ceases to be employed by a body corporate or unincorporate as is mentioned in sub-paragraph (2) of this paragraph, have effect subject to the following provisions, that is—

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- (a) if the relevant tax authority within the meaning of the Act 1962 No. 35. aforesaid is satisfied that the employment in question ceased with a view to the employment of a citizen of Nigeria in the place of that person, the provisions of this paragraph 6 shall not apply in relation to that employment; and
- (b) the relevant tax authority may if it thinks fit, in a case not falling within the foregoing paragraph, determine that those provisions shall apply in relation to that employment with the substitution for the reference to the rate aforesaid of a reference to such larger rate as may be specified in the determination.

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.

8. Where in respect of any pension or provident fund any benefit is paid to an employee before the cessation of his employment with an employer, such benefit shall be deemed to be income derived by him from his employment on the date on which the benefit is paid. 1966 No. 65.

FIFTH SCHEDULE

Section 25

CAPITAL ALLOWANCES

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.
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9. Asset to be in use at end of basis period.
10. Balancing allowances.
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12. Residue.
13. Meaning of "disposed of".
14. Value of an asset.
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16. Part of an asset.
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.
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.
26. Meaning of allowances made.
27. Claims for allowances.
28. Election in double taxation cases.
29. Manner of making allowances and charges.

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 shall 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.

Interpretation.

2. 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 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 shall be the period by reference to the profits of which any assessable income for that year falls to be computed, under the provisions of section 23 of this Act;
- (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,

(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 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.

Provisions
relating to
mining
expenditure.

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, 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.

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 shall be 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 costs 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

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(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 structure,

(iii) 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; and

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

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.

(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:

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 purposes of that trade or business, an allowance (hereinafter called "an annual allowance") at the rate specified in respect thereof in the Second

Table of this Schedule of the residue of such expenditure of the end of the basis period for that year of assessment:

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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.

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.

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, disposed 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.

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.

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:

Balancing charges.

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 this Schedule, of any allowances or deductions made under any income tax law in Nigeria in respect of the capital cost of such asset.

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.

Residue.

(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 then 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 moneys 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 moneys were the net proceeds of the sale thereof.

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(3) So much of sub-paragraph (1) of this paragraph as relates to the circumstances for determining the value of an asset by reference to the disposal of such asset other than by way of sale shall have effect—

- (a) in relation to any asset or the relevant interest therein disposed of, not being by way of bargain made at arm's length; or
- (b) where the sale is between persons who are related to each other or between persons both of whom are controlled by some other person or one of whom has control over the other.

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 of this Schedule—

(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.

Exclusion of certain expenditure.

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 20 of this Act such expenditure shall not be treated as qualifying 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.

(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.

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

20. (1) Where—

- (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
- (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.

(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.

(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
- (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.

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

- (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;
- (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—

- (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;

Application to lessors.

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

(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.

Disposal
without
change of
ownership.

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,

- (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 profes-
sions 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 sub-paragraph,

(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 sub-paragraph:

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.

Meaning of allowances made.

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.

Claims for allowances.

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.

Election in double taxation cases.

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 30 of this Act, between Nigeria and any other territory, for relief from double taxation, 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 of this Schedule 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.

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:

Manner of making allowances and charges.

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 25 of this Act 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 25 of this Act 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:

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

	Rate per centum
Qualifying Expenditure in respect of—	Nil
Qualifying Building Expenditure	10
Qualifying Industrial Building Expenditure	20
Qualifying Mining Expenditure	15
Qualifying Plant Expenditure	10
Qualifying Plantation Expenditure	10

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SECOND TABLE

	Rate per centum
Residue of Qualifying Expenditure in respect of—	2
Qualifying Building Expenditure	5
Qualifying Industrial Building Expenditure	10
Qualifying Mining Expenditure	10
Qualifying Plant Expenditure	10
Qualifying Plantation Expenditure	10

Income Tax Management Act

SIXTH SCHEDULE

TABLES OF INCOME TAX RATE

1975 No. 7.

TABLE 1

INCOME RATE

<i>On Total Income</i>	<i>Amount of Income Rate</i> ₦
Not exceeding ₦1,000	4
Exceeding ₦1,000 but not exceeding ₦2,000	8
Exceeding ₦2,000	20

TABLE 2

INCOME TAX

<i>Income to be taxed</i>	<i>Rate of Tax</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 over ₦30,000	50k per ₦ 50%

SEVENTH SCHEDULE

Section 30(6)

DOUBLE TAXATION ARRANGEMENTS

The double taxation arrangements referred to in section 30(6) of this Act are contained in the Double Taxation Relief between the Federal Republic of Nigeria and the United Kingdom of Great Britain and Northern Ireland Order 1988 published as a subsidiary legislation under the Companies Income Tax Act (Cap. 60.).

The Order was made under powers conferred by the Companies Income Tax Act, this Act and the Petroleum Profits Act.

INCOME TAX MANAGEMENT ACT

CHAPTER 173

SUBSIDIARY LEGISLATION

No Subsidiary Legislation