

Casino Taxation Act

CHAPTER 45

CASINO TAXATION ACT

An Act to impose a tax on the net gaming revenue of casino in the Lagos Territory, and for related purposes.

[1st April, 1965]

1965 No. 26
Commencement.

Tax on net gaming revenue of companies licensed to operate casinos. 1964 No. VII.

1. (1) There shall be imposed in respect of every casino licensed under the Casino Licensing Act 1964 (hereafter referred to as a "casino") a tax on the net gaming revenue thereof to be known as casino revenue tax and payable by the licensee as hereafter provided.

(2) Subject to the provisions of this section, the tax shall be twelve and one half *per cent* of such revenue, and a licence to operate a casino shall be granted only to a company having such purpose as its main object, and duly incorporated in Nigeria under the Companies and Allied Matters Act.

(3) Tax under this Act shall rank in priority to tax under the Companies Income Tax Act and be a debt recoverable by the Federal Board of Inland Revenue (hereafter referred to as "the board"); but for the purposes of this Act, the Companies Income Tax Act shall have effect and the provisions thereof, subject to this Act, shall apply so however that, as the case may require-

- (a) references to any person in the Casino Licensing Act 1964 shall be construed as references to a company so incorporated.
- (b) References in this Act to a licensee shall be construed as references to any such company; and
- (c) References in the Companies Income Tax Act to any

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company shall be construed as references to a licensee under this Act.

(4) Tax under this Act shall be a first charge on the assets of the licensee; and anything in any other Act to the contrary notwithstanding the tax shall accordingly rank in priority to all costs, taxes and charges whatsoever.

(5) In the application of this section, "net gaming revenue" means the daily takings in every period, continuous or intermittent, of up to fifteen hours in any one day of twenty-four hours computed from the time when play at tables or elsewhere in the casino is first open for gaming during any such period and thereafter is closed, allowance being made by way of set-off only for winnings paid to patrons or their nominees by the licensee in the course of play or within fifteen hours after play is closed; and daily takings shall be construed accordingly.

(6) The House of Representatives may from time to time by resolution reduce or increase the rate of tax imposed by subsection (1) of this section, and the resolution may specify the date on which it is to take effect. A copy of the resolution certified by the clerk to the House shall be published in the *Federal Gazette*, and the resolution shall have effect on the date specified in the resolution, or the date of such publication, as the case may be.

2. (1) Any person may, on production of a warrant signed by the chairman of the board authorizing him in that behalf, enter on any part of the premises where the casino is, at any time during the hours of play or at reasonable times outside those hours and inspect statements or returns required for the purposes of this Act and where necessary certify as correct any such statement or return, whether or not it is intended to be delivered or sent to the board.

Power to enter
and inspect
etc. returns.

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(2) The warrant of authority under this section shall in addition to authorizing the holder to do such things as the board may require for the purposes of this Act, give information as to the name and status of the person authorized sufficient to identify him, and the warrant shall also be signed by such person.

Returns and
payment of
tax indemnity.

3. (1) The licensee shall in the afternoon of the day when play closes in the casino, or so soon thereafter as may be practicable deliver a return to the board showing the net gaming revenue received during the course of play in that period; and the return shall, before such delivery, be certified as correct by a person authorized for the purpose by the board under this Act.

(2) The licensee shall, in addition, as directed by the board prepare and forward returns at intervals of not more than one week and one month respectively, calculated from such date as the board may in writing prescribe; and the returns shall be a consolidation of the net gaming revenue for the interval in respect of which the return is required.

(3) Where the prescribed interval does not exceed one week, the licensee shall, not later than the third day after delivery of the return to the board is required to be made, calculate and pay to the board an amount as tax under this Act, based on the net gaming revenue for that period.

(4) Where the prescribed interval does not exceed one month, and whether or not returns at lesser intervals are being delivered to the board, the return under this subsection shall be certified by a chartered accountant; and any amount as tax under this Act due and unpaid at the date of delivery of the return shall forthwith be paid by the licensee to the board without any assessment being raised.

(5) Every person answerable for payment of tax under this section may retain out of moneys coming into his hands on behalf of a licensee so much thereof as shall be sufficient to pay the tax, and shall be indemnified accordingly by virtue of this Act for all payments of tax made by him for the purposes of this Act.

4. A licensee shall, for the purposes of this Act, be chargeable to tax-

Chargeability
to tax.

- (a) in its own name; or
- (b) in the name of the managing director, or a director as the case may be of the licensee in Nigeria in like manner and to like amount as such company would be chargeable; or
- (c) in the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as the licensee would have been chargeable if no receiver or liquidator had been appointed.

5. (1) If the licensee chargeable with tax under this Act fails or refuses to keep books of accounts which, in the opinion of the board, are adequate for the purposes of such tax, the board may by notice in writing direct it to keep them in the English language and in such form as may be specified ; and subject to the provisions of the next succeeding subsection, the licensee shall comply with any such direction.

Books of
account.

(2) An appeal shall lie to the Appeal Commissioners from any direction by the board under this section in the same manner as if the direction were a requirement under the Companies Income Tax Act; the Appeal Commissioners may confirm or modify any such direction and their decision shall be final.

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(3) The failure to comply with any direction of the board, or requirement of the Appeal Commissioners as the case may be, under this section shall be an offence against this Act.

Assessment
appeals etc.

6. (1) Anything to the contrary in this Act notwithstanding, the board of its own motion, or a licensee, may require an assessment to be raised for any year of assessment to which payment of tax under this Act relates, and the board shall raise an assessment accordingly.

(2) Any such assessment may include any earlier period or periods if the board is satisfied for any reason that a previous assessment is incorrect or has not been raised; but nothing in this subsection shall be construed so as to authorize an assessment for a period more than six years before the date of any assessment under subsection (1) of this section, or as the case may be, six years before the date when the assessment not raised ought, in the ordinary course, to have been raised.

(3) No objection or appeal by a licensee shall lie against the board in respect of any assessment under subsection (1) or (2) of this section raised on figures returned by the licensee; but in any other case the provisions of the Companies Income Tax Act as to objections, revisions and appeals shall have effect so however-

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- (a) that references to tax shall be construed as references to tax under this Act; and
- (b) references to income in relation to assessable, total or chargeable income, shall be construed as references to income in relation to net gaming revenue.

(4) For the purposes of this section-

- (a) "year of assessment" means the period of twelve months commencing on 1st January; and

(b) notwithstanding the fact that under the Companies Income Tax Act an assessment is final and conclusive, the board may take into account the amount which ought to have been charged, and shall consider all other facts which in its opinion are relevant.

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7. (1) Subject to the provisions of this section, where an assessment to tax is raised under this Act and objections and appeals as the case may be have been disposed of, any tax then outstanding and unpaid shall be payable by the licensee at the place stated in the notice of assessment within two months after service of such notice upon the licensee or the disposal of any appeal or objection whichever is the earlier, but the board in its discretion may extend the time within which payment is to be made.

Time within which payment is to be made.

(2) Collection of tax in any case where notice of an objection or an appeal has been given by a licensee under this Act shall remain in abeyance until such objection or appeal is determined, but the board may enforce payment of that portion, if any, of the tax which is not in dispute; and upon the determination of an objection or appeal the board shall serve upon the licensee a notice of the tax payable as so determined, and that tax shall be payable in accordance with the foregoing provisions of this section.

(3) If any tax is not paid as prescribed in this section the licensee shall be guilty of an offence against this Act, and in addition the provisions of this Act as to distraint shall have effect.

8. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or

Errors and defects in assessment and notice.

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be affected by reason of a mistake, defect or omission therein, if it is in substance and effect in conformity with or according to the intent and meaning of this Act and if the licensee assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

- (2) An assessment shall not be impeached or affected-
- (a) by reason of a mistake therein as to
 - (i) the name of the licensee or of a person in whose name the licence is chargeable, or
 - (ii) the description of any profits, or
 - (iii) the amount of tax charged;
 - (b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment the notice thereof shall be duly served on the licensee or the person in whose name the licensee is chargeable, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in
respect of
error or
mistake

9. (1) If the licensee having paid tax for any year assessment thereafter alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the licensee for the purposes of the assessment, the licensee may, at any time not later than one year after the end of the year of assessment within which the assessment was made, make an application in writing to the board for relief.

(2) The board shall, on receipt of the application, make such enquiries as are necessary and, subject to the provisions of this section, give by way of refund of tax, such relief in respect of the error or mistake as appears to be reasonable and just; but no such relief shall be given in respect of an error or mistake as to

the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the board generally prevailing at the time when the return, statement or account was made.

(3) The board shall in respect of applications under this section have regard to all the relevant circumstances of the case, and shall take into account the liability of the licensee and assessments made upon the licensee in respect of other years, and consider whether the granting of relief would result in the exclusion from charge to tax of any part of the net gaming revenue of the licensee.

(4) Any determination by the board under this section shall be final and conclusive.

10. (1) Except in the case of personal service under the Companies Income Tax Act as affected by this Act, it shall be sufficient compliance therewith if a duly stamped envelope containing the document to be served by post is addressed to the registered office of the licensee, or to the last known address of the licensee, as the case may be.

Service of documents, and failure to comply with terms of any notice
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(2) Where the document served is a notice touching or concerning tax under this Act the failure to comply with its requirements shall be an offence against this Act.

11. (1) Any person other than a licensee under this Act or any person in the employ of the licensee who-

(a) for the purpose of obtaining any deduction, set-off, relief or payment in respect of tax under this Act or in any return, account or particulars made or furnished with

False statements and returns.

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reference to such tax, knowingly makes any false statement or false representation; or

(b) aids, abets, assists, counsels, incites or induces any other person-

(i) to make or deliver any false return of statement under this Act; or

(ii) to keep or prepare any false accounts or particulars concerning any net gaming revenue on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax, shall be guilty of an offence against this Act.

(2) The board may compound any offence under this section and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

12. (1) If the licensee or any person in the employ of the licensee without reasonable excuse-

(a) makes or certifies a return which by reason of any omission or under-statement of the net gaming revenue liable to tax under this Act is incorrect; or

(b) gives any incorrect information in relation to any matter or thing affecting the liability of the licensee to tax;

the licensee and any such person shall be guilty of an offence against this Act, and in addition shall be liable to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) Nothing in the foregoing subsection shall apply unless the complaint concerning the offence was made in the year of assessment in respect of or during which the offence was committed, or within six years after the expiration thereof.

Incorrect
returns by
licensee etc.

(3) The board may compound any offence under this section, and with the leave of the court may, before judgement, stay or compound any proceedings thereunder.

13. Tax under this Act may be recovered in any court of competent jurisdiction in the same manner as if it were tax for the purposes of the Companies Income Tax Act, and the provisions of that Act as to suits by the board shall with all necessary modifications, have effect accordingly.

Action for tax
by board.

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14. Any person who-

(a) being a person appointed for the due administration of this Act or employed in connection with the assessment and collection of the tax who-

(i) without proper regard thereto willfully or negligently certifies figures in the daily return of net gaming revenue of a casino; or

(ii) demands from the licensee an amount in excess of the authorized assessment of the tax; or

(iii) withholds for his own use or otherwise any portion of the amount of tax collected; or

(iv) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or

(v) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully with the board; or

(b) not being authorized under this Act to do so, collects or attempts to collect the tax under this Act, shall be guilty of an offence against this Act.

Offences
relating to
collection etc.
of tax.

15. (1) No goods or chattels belonging to the licensee at the time any tax under this Act becomes in arrear shall be liable to

Priority of
claim for tax.

be taken by virtue or any execution or other process, warrant or authority whatever, or by virtue of any assignment on any account or pretence whatever, unless the person at whose suit the execution or seizure is made or to whom the assignment was made, pays or causes to be paid to the board, before the sale or removal of the goods or chattels all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made.

(2) In case of neglect or refusal to pay the tax so claimed, the board may distrain the goods and chattels notwithstanding the seizure or assignment, and may proceed to the sale thereof, as prescribed by section 16 of this Act for the purpose of obtaining payment of the whole of the tax charged and claimed, and reasonable costs and charges attending such distress and sale, and the board and every person acting under the authority of the board so doing shall be indemnified by virtue of this Act.

Power to
distrain.

16. (1) If the licensee neglects or refuses to pay the sum charged upon demand made, a principal inspector of taxes shall for non-payment thereof distrain upon the premises in respect of which the tax is charged, without any further authority for the purpose than a warrant under this section issued for the purpose by the board.

(2) The sum included in the demand shall be deemed to be a debt by the licensee as judgement debtor owing to the board as judgement creditor and payable under a judgement of a High Court in the Federation, and for the purpose of levying distraint under the foregoing subsection, the chairman of the board or in his absence his deputy, shall have the powers of registrar and sheriff of such a court; but any seizure and sale by way of distress may be enforced under the following provision of this

section by a principal inspector of taxes acting under a warrant signed by the chairman of the board, or his deputy.

(3) For the purpose of levying any such distraint, any inspector duly authorized by a warrant for that purpose, may break open in the day-time any premises, calling to his assistance any constable, and any such constable shall, when so required, aid and assist the inspector in the execution of the warrant and in levying the distress.

(4) The warrant to break open shall be executed by or under the direction of and in the presence of the inspector, and any distress so levied shall be kept for five days at the costs and charges of the licensee.

(5) If the licensee does not pay the sum due, together with the costs and charges within the said five days, the distress shall be appraised by a competent valuer and shall be sold by public auction for payment of the sum due and all costs and charges. Any overplus coming by the distress, after the deduction the costs and charges and of the sum due, shall be restored to the licensee.

(6) If the premises are unoccupied and no distress can be found thereon at the time the tax is payable, the inspector may at any future time when there is any distress to be found on the premises enter, seize and sell under the same powers as if a distraint had been made on the premises at the time the tax became due and as if the licensee had been in occupation at that time.

17. Any offence under this Act shall be deemed to occur at the place where the offence was committed, or in Lagos.

Place of an
offence.

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Delegation of
certain
powers by
board
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18. (1) Subject to the provisions of this section, the board may by notice in the *Federal Gazette* or in writing delegate to any person any special power or duty of the board under this Act or the Companies Income Tax Act, and may authorize any person to receive notices or other documents on its behalf. The delegation or authority as the case may require may be given upon such terms and conditions as the board thinks fit; but nothing in this section shall be construed -

(a) so as to authorize delegation of any power

(i) to administer this Act or the Companies Income Tax Act; or

(ii) to commence prosecution for offences under this Act; or

(iii) to decide to appeal against any decision of a judge, magistrate or the Appeal Commissioners under the Companies Income Tax Act; or.

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(b) so as to prohibit the board from itself exercising any power so delegated, if the chairman thinks fit.

(2) The power conferred by this section to delegate authority shall not be exercised in favour of any officer below the rank of principal inspector of taxes without the approval in writing of the Minister, given on such terms as he thinks fit.

Signification
and execution
of powers
duties etc.

19. (1) Subject to the provisions of this section, anything required to be done by the board for the purposes of this Act, shall be signified under the hand of the chairman or any person duly authorized by him; and notice thereof shall be published in the *Federal* or any *State Gazette* as the case may be, unless the chairman otherwise directs.

(2) Anything so done shall, until the contrary is shown, be valid if-

- (a) the notice of documents, as the case may be, is printed and the name of the board appears in any manner thereon; and
- (b) it purports to be signed by the chairman or by any person authorized by the chairman.

20. (1) The board may from time to time prescribe forms for use under this Act, and include therein a declaration as to the truth of the contents and if any such form purports to be completed and signed by or on behalf of a licensee, it shall for all purposes be deemed to have been furnished accordingly, unless the contrary is proved; any person signing a prescribed form shall be deemed to be cognizant of all matters therein.

Returns etc. to
be furnished.

(2) Any return, claim, objection or appeal under this Act shall, if a form is prescribed, be prepared on that form with such modifications as are necessary, unless the board for any reason dispenses with its use.

21. (1) All returns and other documents whatsoever relating to the operation of a casino and tax payable under this Act shall be classified as confidential and be so dealt with by all persons engaged in administering this Act

Official
secrecy.

(2) Any matter so classified may in any particular case, if the Minister thinks fit, be treated as classified matter under the Official Secrets Act the disclosure of which would be prejudicial to the security of Nigeria, and that Act shall have effect accordingly.

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(3) In any other case the disclosure without the authority of the board of matter classified as confidential under this section shall be an offence against this Act; but, without the authority

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in writing of the Minister, matter so classified shall not be divulged or communicated to any court in any prosecution under this section.

Refund of tax. 22. (1) Unless otherwise provided by this Act, a claim for refund of tax shall not be allowed unless it is made in writing within one year after the end of the year of assessment to which it relates.

(2) If the board certifies the amount of tax to be refunded under this Act or pursuant to any order of a court of competent jurisdiction, the Accountant-General of the Federation shall upon delivery to him of the certificate pay that amount to the person entitled.

Prosecutions and liability to tax. 23. (1) Without prejudice to the institution of proceedings by the Attorney-General of the Federation, a prosecution in respect of any offence touching or concerning assessment to tax shall not be commenced except with the approval of the board.

(2) The institution of proceedings for, or the imposition of a penalty, fine or term of imprisonment shall not relieve a licensee from liability to payment of any tax for which the licensee is or may become liable under this Act.

Penalties. Cap. 60 24. Any person guilty of an offence against this Act, or against the Companies Income Tax Act as applied by this Act and notwithstanding penalties for offences as therein prescribed, shall on conviction-

- (a) for a first offence involving the licensee or a director of the casino, or its manager or secretary (not being the failure to furnish returns, statements or information where required or to keep prescribed records) be liable to a fine of one thousand naira or to imprisonment for a term of

- two years or to both, and on any subsequent conviction whether for the same type of offence or not, be liable to a fine of two thousand naira or to imprisonment for a term of three years, or to both, and in addition on such subsequent conviction to forfeiture of the casino licence;
- (b) if the offence involves failure to furnish returns, statements or information where required or to keep prescribed records, the offender shall be liable to a further sum of one hundred naira for each and every day during which such failure continues, and in default of payment, in the case of a natural person to an additional term of imprisonment for a term of six months, and the liability therefor shall commence as directed by the court so convicting, or in default of such direction, on the day following the conviction;
- (c) for a first offence not involving the licensee or a director of the casino, or its manager or secretary, in any case be liable to a fine of four hundred naira or to imprisonment for a term of one year or to both, and on any subsequent conviction whether for the same type of offence or not, to a fine of one thousand naira or to imprisonment for a term of two years, or to both.

25. The Minister may make Regulations generally for the purpose of this Act.

Regulations.

26. (1) This Act may be cited as the Casino Taxation Act, and shall apply to the Lagos territory, so however that in respect of any company liable to tax under this Act, it shall apply to the Federation.

Short title and interpretation.

(2) In this Act-
"board" means the Federal Board of Inland Revenue established under the Companies Income Tax Act;

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“casino” has the meaning assigned by the Casino Licensing Act 1964;

“licensee” means any company within the meaning of section 1 of this Act operating a casino in the Federal territory, and liable to tax under this Act;

“Minister” means the Minister of the Government of the Federation charged with responsibility for finance.

“net gaming revenue” has the meaning assigned by section 1 (3) of this Act.
