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FACULTY OF MANAGEMENT SCIENCES

ACC201 TAXATION 1

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Module 1

Unit 1 Meaning, Types and Functions of Taxation in Nigeria

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1.0 INTRODUCTION

All levels of government need funds to finance their activities. They must find ways of obtaining money to pay for their expenditure. Some of the sources of finance available to the government include taxes, royalties, levies, fines, penalties, loans, grants, and donations given to the government, proceeds from the sale of government-owned companies, lands, buildings and other assets, profits or surpluses made by government-owned enterprises, dividends paid to government on shares owned in companies, interest received on loans made by the government, rent received on government-owned properties, income from the sale of government services, etc.

The major source of federal government revenue in Nigeria is the revenue from the sale of crude oil. On the other hand, state and local governments in Nigeria are financed mostly through the statutory allocations from the federation account. Nevertheless, taxation is still a very important source of revenue to the federal, state and local governments.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- define of tax and taxation
- understand the purposes/objectives/uses of taxation
- know the canons/principles of taxation

3.0 MAIN CONTENT

3.1 Definition of Tax and Taxation

There are quite a number of definitions of Tax and Taxation depending on the qualities it possesses which are as follows:

- **Be a compulsory payment:** A tax is a compulsory payment. A levy, the payment of which is voluntary is not a tax but a contribution or donation;

- **Be a payment to the Government:** Tax must be a payment to a public authority or a government. Where a tax is paid to an individual such as a King, it must be in his capacity as embodiment of the society or state. If not, then, it is an extortion and not a tax;

- **Be common benefit:** A tax must be for common use. It must be for common good. This has to do with the intended purpose(s) of the tax. Thus, where such contribution is made for the use of the an individual, it is not a tax;

- **Have a known formula:** the contribution must be in accordance with a known formula. In the traditional society, it may have flat rate or graduated according to age groups or gender. Nowadays, rates are used; and

- **Have distinctive beneficiary:** The beneficiary society must be a definite and distinctive one such as a kingdom in Yoruba –land or an Emirate in Hausa-land. In modern administrations, it can be government at Federal, State or Local level. In the light of the foregoing, the following definitions can be considered fair:

A tax is the "levy by public authorities with a tax jurisdiction, of compulsory contributions by the citizens to defray part of the cost of government activities in providing the needs of the society".

Taxation is "the process or machinery by which communities or groups of persons are made to contribute in some agreed quantum and method for the purpose of the administration and development of the society". "Taxation is the transfer of real economic resources from the private sector to the public sector to finance public sector activities"

Tax can simply be defined as a charge on income of individuals and corporate bodies by the government. More technically, tax can be defined as compulsory payment imposed by the government through its agents on income of individuals and corporate bodies as well as on goods and services.

A tax is a compulsory payment made by individuals and organizations to the government in accordance with predetermined criteria for which no direct or specific benefit is received by the tax payer. This definition is similar to the one given by Pritchard and Murphy (1998, p.1). According to them, a tax is “a payment to central government, calculated by laid down rules for which nothing specifically usable by that taxpayer alone is transferred.”

In *Mathews v Chikory Marketing Board (Victoria)* (1938), Chief Justice Latham of the Australian Supreme Court defined a tax as “a compulsory extraction of money by a public authority for public purposes”, or taxation is raising money for the purpose of government by means of contributions from individual persons.”

As defined by Black (1990, p. 1457), a tax is “an enforced contribution of money or other property, assessed in accordance with some reasonable rule or apportionment by authority of a sovereign state on persons or property within its jurisdiction for the purpose of defraying the public expenses.

It is important to note that tax is imposed by the government and not individuals or corporate bodies. Revenue generated from taxation is usually used for developmental purposes. The essence of all taxes is the removal of resources from private hands of the individual, corporate bodies, trusts, families, societies and communities into the public sector to finance activities that have to do with whole society.

SELF-ASSESSMENT EXERCISE 1

1. Attempt a broader definition of tax and taxation?

3.2 Purposes/Objectives/Uses of Taxation

Government imposes tax not just for revenue generation but to accomplish various economic objectives. Tax is imposed for the following reasons:

i) To cover the cost of administration, internal and external defence, maintenance of law and order as well as social services required by the citizens.

ii) To protect companies in infant stage industries by reducing their tariffs which will invariably reduce the cost of production relative to imported products that

iii) are substitutes.

iv) To discourage the consumption of dangerous/harmful products.

v) To control the importation, production and consumption of certain goods and services thereby preventing dumping. This can be achieved by increasing tax payable on such goods and services.

vi) To redistribute wealth and income among various income earners through progressive tax system. This helps to reduce income inequality.

vii) To counter inflation by reducing volume of purchasing power.

viii) To provide subsidies in favour of preferred sectors of the economy, e.g agriculture and selected industries.

ix) To service national debt and provide retirement benefit etc

SELF-ASSESSMENT EXERCISE 2

1. Highlight the objectives/uses/purpose of taxation?

3.3 Canons/Principles of Taxation

For a tax system to achieve its objective, it must possess certain principles which include:

i) **Principle of Equity:** A good tax system should be equitable in the distribution of tax burden. To ensure this, person's ability to pay is to be borne in mind by the authority. Progressive tax system possesses this quality.

ii) **Principle of Convenience:** this is in respect of timing and mode of payment. The timing and mode of payment should be convenient to the tax payer. Any inconvenience caused by the mode of payment and timing should be avoided.

iii) **Principle of Certainty:** this stipulates that the time, mode and amount to be paid should be clear to the taxpayer. The procedure for computation should be stated.

iv) **Principle of Simplicity:** A good tax system should be coherent, simple and straight forward. It should be well understood by both the tax payer and tax administrators. It should not be complicated or ambiguous.

v) **Principle of Economy:** this relates to cost of administering tax. It provides that the imposition of tax is uneconomical if the cost of collection is in excess of revenue generated. A tax can be considered economical if the cost of administration is not excessive so that a loss is not incurred in the process.

vi) **Principle of Impartiality:** This advocates that a tax system should not discriminate between tax payers under similar circumstances. It requires that all persons should similarly be placed under the same condition, to pay the same tax.

vii) **Principle of Productivity/Fiscal Adequacy:** This recognizes that the yield from a tax should be adequate to cover government expenditure in terms of promoting economic growth and development. The essence of economic growth and development is to improve the living standard of the citizens (tax payers).

viii) **Principle of Flexibility:** A good tax system should be responsive to changing realities especially in a federal and democratic country where there are always changes of government. It proposes that a tax system should be adjustable to allow for scrapping of obsolete tax system and replacing same with meaningful tax process.

SELF-ASSESSMENT EXERCISE 3

1. Briefly explain five (5) canons of taxation known to you?

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they provide an overview/background knowledge on the concept of tax and taxation, purposes, uses as well as the principles of taxation in Nigeria. This background knowledge is needed by readers as it will enable them know the meaning of taxation as well as the principles governing taxation.

5.0 SUMMARY

The unit has drawn attention to background knowledge on the concept of tax and taxation in Nigeria. Specifically, the following aspects have been dealt with:

- Definition of tax and taxation
- The purposes/objectives/uses of taxation
- The canons/principles of taxation

6.0 TUTOR-MARKED ASSIGNMENT

1. Attempt a broader definition of tax and taxation?
2. Highlight the objectives/uses/purpose of taxation?
3. Briefly explain five (5) canons of taxation known to you?

7.0 REFERENCES/FURTHER READING

David, K.E. (2012). *The tax manual: Principles and practice of taxation in Nigeria, (2nd ed.).*

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Unit 2 Tax Administration Instruments in Nigeria

CONTENT

1.0 INTRODUCTION

The administration of taxation in Nigeria is vested in various tax authorities depending on the type of tax under consideration. Broadly, there are three (3) tax authorities, namely: Federal Inland Revenue Service Board, State Internal Revenue Service Board, and The Local Government Authorities. The enabling law in respect of each type of tax will normally contain a provision as to the body charged with the administration of the tax.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- understand the historical background of taxation in Nigeria
- know the relevant tax authorities in Nigeria

3.0 MAIN CONTENT

3.1 Historical Background of Taxation in Nigeria

Prior to the imposition of colonial rule in Nigeria, a well-organised system of direct taxation was in existence in Northern Nigeria under the autocratic rule of the Fulani conquerors. This was made possible by religion, organized and efficient administration of the Northern Emirs. Whereas in Southern parts on Nigeria, political and administrative institutions were yet to be well developed, consequently the tax system was less developed.

The kings, chiefs and other traditional rulers relied on tributes, tolls and arbitrary levies for their revenue. Such a system led to multiplicity of separate levies, irregular imposition of tax and arbitrary assessment.

In 1904, Lord Luggard introduced income tax in Nigeria with the introduction of community tax in Northern Nigeria. He later made changes which crystallized into the Native Revenue Ordinance of 1917. This Ordinance was amended and extended to Southern Nigeria in 1918 when it became operational in Abeokuta and Benin and was further extended to Eastern Nigeria in 1928.

In 1940 the Direct Taxation Ordinance No. 4 was enacted which incorporated the Native Revenue Ordinances of 1917, 1918 and 1928. The Direct Taxation Ordinance No. 4 of 1940 applied to natives of Nigeria except those in Lagos township. In 1943, the Income Tax Ordinance No. 29 was passed and took effect from 1st April, 1943 which made it possible for non-Nigerians (Europeans) all over the country and Africans living in Lagos to be assessed to tax.

Under the Richard's Constitution which subdivided the country into three regions, viz, the North, East and West, there was no attempt to divide the powers over taxation between the central and regional government. The tax jurisdiction still remained centralized (Okorodudu, 1992, p.52).

When Nigeria became a federation in 1954 under the Macpherson constitution, the three regions had jurisdiction over the taxation of the personal incomes of Africans. Consequently, the Eastern Region enacted its Finance Law No. 1 of 1956 and the Western Region enacted its own Income Tax Law in 1957 to replace the Income Tax Ordinance, but the Northern Region did not enact a similar law.

Following the recommendations of Raisman Commission (whose report was published in 1958), the federal government (federal parliament) was empowered to make tax laws to secure uniform principles for the taxation of incomes in the country. There were provisions in the 1960 Constitution to that effect. Accordingly, the federal government enacted the Income Tax Management Act (ITMA), 1961.

Subsequently all the regions enacted their finance laws to conform with the federal law (ITMA).

The Eastern, Western and Northern Regions enacted the Eastern Region Finance Law of 1962, Western Region Income Tax (Amendment) Law of 1961 and Northern Region Personal Tax Law of 1962 respectively. The Eastern Region Finance Law of 1956, Western Region Income Tax Law of 1957 and the Income Tax Ordinance of 1943 (which was still in operation in the Northern Region) were therefore repealed. The federal government enacted the Personal Income Tax (Lagos) Act of 1961 for the federal territory of Lagos. The Mid Western Region which was carved out of Western Region in 1963 simply adopted the Western Region Income Tax Law. With the creation of twelve states in 1967 out of the former four regions from which they were created.

The federal government also enacted the Petroleum Profits Tax Act of 1959, Stamp Duties Act of 1959, Companies Income Tax Act of 1961, Capital Gains Tax of 1967 and Capital Transfer Tax Act of 1979. In order to ensure complete uniformity in the taxation of individuals throughout the country, the federal military government enacted the Income Tax Management (Uniform Taxation Provisions) Act 1975. Hence, the limited powers that the states had under ITMA 1961 to fix the rates of reliefs/allowances, rate of tax, etc, were withdrawn from the states.

By the 1979 Constitution, the federal government was given exclusive jurisdiction to make laws on tax matters such as customs and excise duties, export duties, stamp duties, taxation of incomes, profits and capital gains. The situation has not changed since then. There have been several amendments to the tax laws since they were enacted. Some of them have been repealed and re-enacted or have been codified. The enabling tax laws as contained in the Laws of the Federation of Nigeria (LFN) 2004 are as follows:

a) Personal Income Tax Act, Cap. P8, LFN 2004;
b) Petroleum Profits Tax Act, Cap. P13, LFN 2004;
c) Stamp Duties Act, Cap. S8, LFN 2004;
d) Companies Income Tax Act, Cap. C21, LFN 2004;
e) Capital Gains Tax Act, Cap. VI LFN 2004
f) Value Added Tax Act, Cap. VI, LFN 2004;
g) Education Tax Act, Cap. E4. LFN 2004

a) Personal Income Tax: Personal Income Tax is payment on the income of individuals, partnerships, executors and trustees. It is governed by the Income Tax Management Act (ITMA) 1961 as amended and now referred to as Personal Income Tax Act (PITA) 104 of 1993 as amended up to 14th June 2011.

b) Petroleum Profit Tax (PPT): This is a tax on income of companies engaged in petroleum operations. The tax law applicable here is the Petroleum Profit

Tax Act (PPTA) 1959, Petroleum Profit Tax Amendment Act of 1999. The current rate of PPT is 85% or 65.75% of chargeable income.

c) **Stamp Duties Act:** which charges duties on specified instruments listed in the Act.
d) **Companies Income Tax:** this tax is on income of Limited and Public Liability Companies other corporation soles and companies engaged in petroleum operations (upstream operations). The current rate of CIT is 30% of chargeable profit.
e) **Capital Gains Tax:** This is charged on gains made from the disposal of a chargeable asset. The current rate of this tax is 10% of chargeable gains.
f) **Value Added Tax (VAT):** This is charged on the value addition during the course of production of goods and services. Value Added Tax (VAT) is charged at 5%.
g) **Education Tax:** This is levied on all companies at the rate of 2% of their assessable profits.

SELF-ASSESSMENT EXERCISE 1

1. Attempt a concise historical background of taxation in Nigeria?

3.2 Relevant Tax Authorities in Nigeria

There are three (3) tax authorities representing the 3 tiers of government:

- Federal Government – Federal Inland Revenue Service (FIRS)
- State Government **-** State Internal Revenue Service (SIRS)
- Local Government – Revenue Committee

3.2.1 Federal Inland Revenue Service (FIRS)

FIRS is the federal tax authority and was created by the Companies Income Tax Act (CITA) of 1979 and now under the FIRS establishment Act, 2007. The Board responsible for its management is Federal Inland Revenue Service Board (FIRSB)

3.2.1.1 Composition of the Board (FIRSB)

The Act stipulates the membership of the FIRSB as follows:

1) There is established for the Service of a Board to be known as the Federal Inland Revenue Service Board which shall have overall supervision of the Service as specified under this Act.

2) The Board shall consist of:

a) The Executive Chairman of the Service who shall be experienced in taxation as Chairman of Service to be appointed by the President and subject to the confirmation of the Senate;
b) Six members with relevant qualifications and expertise who shall be appointed by the President to represent each of the six-geo-political zones;
c) A representative of the Attorney-General of the Federation
d) The Governor of the central Bank of Nigeria or his representative.
e) A representative of the Minister of Finance not below the rank of a Director;
f) The Chairman of the Revenue Mobilisation, allocation and Fiscal Commission or his representative who shall be any of the commissioners representing the 36 states of the Federation;
g) The Group Managing Director of the Nigerian National Petroleum Corporation or his representative who shall not be below the rank of a Group Executive Director of the Corporation or its equivalent;
h) The Comptroller-General of the Corporate Affairs Commission or his representative not below the rank of a Director; and
i) The Chief Executive Officer of the National Planning Commission or his representative not below the rank of a Director;

3) The members of the Board, other than the Executive Chairman, shall be part-time members.

3.2.1.2 Powers and Duties of FIRSB

FIRSB has the powers to assess and collect the following taxes:

1) The Board shall
   a) Provide the general guidelines relating to the functions of the Service;
   b) Manage and superintend the policies of the Service on matters relating to the administration of the revenue, assessment, collection and accounting system under this Act or any enactment or law;
   c) Review and approve the strategic plans of the Service;
   d) Employ and determine the terms and conditions of service including disciplinary measures of the employees of the Service;
   e) Stipulate remuneration, allowances, benefits and pensions of staff and employees in consultation with the National Salaries, Income and Wages Commission; and
   f) Do such other things in its opinion that are necessary to ensure the efficient performance of the functions of the Service under this Act.

3.2.1.3 Technical Committee of the FIRSB

This is also a creation of the Companies Income Tax Amendment Act, 2007 as amended. It has the following as members;

i. Executive Chairman who is also the chairman of the service

ii. Directors and heads of department of the service
iii. The legal adviser of the service
iv. The secretary of the Board

The committee has power to co-opt additional member(s) as may be required in the discharge of its duties. It has the following functions to carry out:

i. To consider tax matters requiring professional and technical expertise and make recommendations to the Board.
ii. To advise the Board on its powers and duties
iii. To carry out any other duty assigned to it by the Board

3.2.2 State Inland Revenue Service Board (SIRSB)

The State Internal Revenue Service was established by the Personal Income Tax Decree of 1993 as the state tax authority. The operational arm of the board is the state internal revenue service board. The PITD (1993) section 85A (1) provide a uniform composition for the boards in all the states of the federation. The composition is follows:

a. The executive head of internal revenue service who shall be designated as the chairman of the board. He shall be a person experienced in tax matters and be appointed by the state government from within the state service.
b. Three persons nominated by the commissioner of finance of the state on their personal merits.
c. All the directors and head of the state internal revenue service
d. A director from the state ministry of finance
e. The legal adviser to the board
f. The secretary to the board who shall be an ex-officio member appointed by the board from within SIRSB.

3.2.2.1 Functions of the Board (SIRSB)

a) Ensuring the effectiveness and optimum collected of all taxes and penalties due to the government under the relevant laws.
b) Doing all such things that may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the commissioner.
c) Making recommendations, where appropriate to the joint tax board on tax policies, tax reforms, tax legislation, tax treaties and exemption as may be required from time to time.
d) Generally controlling the management of the service on matters of policy subject to the provisions of the law setting up the service.
e) Appointing, promoting, transferring and imposing discipline on employees of the state service.

3.2.2.2 Technical Committee of SIRSB

The technical committee of the board of the State Internal Revenue was also established by the Personal Income Tax Decree (1993). It comprises of the following as members:

i. The Chairman of the State Board of Internal Revenue who is also the chairman of the technical committee.
ii. All the directors of the state internal revenue service
iii. The legal adviser to the state board
iv. The secretary to the technical committee.

3.2.2.3 Functions of the State Technical Committee SIRS

i. To advise the State Board on matters that requires professional and technical expertise
ii. To carry out any other duty assigned to it by the State Board

3.2.3 Joint Tax Board (JTB)

The Joint Tax Board was established by sec. 85 of PIT as amended. Its function include among things, mediation between tax authorities of the states and the federation in case of tax disputes. The composition of the board as provided by the Personal Income Tax Decree of 1993 is as follows:

i. The Chairman of the Federal Inland Revenue Service who is also the Chairman of the Joint Tax Board.
ii. One member from each state of the Federation, being a person experienced in tax matters nominated by the commissioner of finance.
iii. The secretary to the board who shall be an officer experienced in tax matters, appointed by the federal civil service commissioner, though not a member, but he is responsible for keeping records of the board's proceedings and performing other administrative duties.
iv. The legal adviser of the Federal Inland Revenue Service Board is to be in attendance at the board's meeting and is to be the legal adviser to the board.

3.2.3.1 Power and Duties of JTB

The personal Income Tax Decree of 1993 stipulates the powers and duties of the Joint Tax Board as follows:

i. To exercise the powers or duties conferred on it by express provision of this decree, and any other powers, and duties arising under this decree which may be agreed by the government of each territory to be exercised by the board.

ii. To exercise powers and perform duties conferred on it by any enactment of the Federal Government imposing tax on the income and profit, of companies, or which may be agreed by the Federal Inland Revenue service Board.
iii. To advise the federal government requests, in respect of double taxation arrangement concluded or under consideration with any other country, and in respect of rates of capital allowances and other taxation matters having effect throughout Nigeria and in respect of any proposed amendment to this decree.
iv. To use its best endeavours to promote uniformity both in the application of tax laws and in the incidence of tax on individuals throughout Nigeria.
v. Impose its decision on matters of procedure and interpretation of this decree on any state for purpose of conforming to agreed procedure or interpretation.
vi. Processing for approval decisions on provident funds schemes are to be recognized as tax allowance deductions.
vii. Resolving any dispute in determination of residence between taxpayers and a tax authority.
viii. To exercise any other powers or duties arising under the decree which may be agreed to by government of each state.

From the above powers and duties it could be seen that the JTB harmonises tax administration in the country.

3.2.4 State Joint Revenue Committee (SJRC)

This is established for each state of the federation. It shall comprise:

a. The Chairman of the State Internal Revenue Service as the Chairman
b. The Chairman of the Local Government Revenue Committees
c. A representative of the Bureau on Local Government affairs not below the rank of a director.
d. A representative of the revenue mobilization allocation and fiscal commission, as an observer.
e. The state sector commander of the Federal Road Safety Commission, as an observer.
f. The legal adviser of the State Internal Revenue Service
g. The secretary of the committee who shall be a staff of the State Internal Revenue

3.2.4.1 Functions of SJRC

The following are the functions of SJRC

i. Implementing decisions of the Joint Tax Board
ii. To advise the Joint Tax Board and the State and Local Government on revenue matters.

iii. Harmonise tax administration in the state.
iv. Enlighten members of the public generally on state and local government revenue
v. Carry out such other functions as may be assigned to it by the Joint Tax Board.

3.2.5 Local Government Revenue Committee (LGRC)

The local government revenue committee is the local government tax authority. The committee was established by the provision of sec. 85 of Personal Income Tax Decree of 1993. The committee is empowered to collect taxes at the local government level. The taxes to be collected by the local government revenue committee are listed in appendix one of the decree. The compositions of the governing body of the revenue committee are as follows:

a. The Chairman who is to the supervisor of finance
b. Three local government councilors
c. Two persons to be nominated by the chairman of the local government. Those to be nominated must be experienced in revenue matters.

3.2.5.1 Functions of LGRC

The following are the functions of LGRC:

i. It shall be responsible for the assessment and allocation of all taxes, fines and rates under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the chairman of the local government.
ii. It shall be autonomous of the local government treasury and be responsible for the day to day administration of the department, which form its operational arm.
iii. Advice the local government on tax related matters.

SELF-ASSESSMENT EXERCISE 2

1. List the relevant tax authorities in Nigeria, their compositions, power/duties as well as functions?

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they provide background knowledge the historical development of taxation in Nigeria and the tax machineries saddled with the responsibility of the administration of taxation in Nigeria. This background knowledge is needed by readers as it will enable them know how tax is administered in Nigeria.

5.0 SUMMARY

The unit has drawn attention to the historical background of taxation as well as the tax instruments or relevant tax authorities in Nigeria. Specifically, the following aspects have been dealt with:

- Historical background of taxation in Nigeria
- Relevant tax authorities as well as their compositions, functions, powers and duties

6.0 TUTOR-MARKED ASSIGNMENT

1. Attempt a concise historical background of taxation in Nigeria?
2. List the relevant tax authorities in Nigeria, their compositions, power/duties as well as functions?

7.0 REFERENCES/FURTHER READING

David, K.E. (2012). *The tax manual: Principles and practice of taxation in Nigeria, (2nd ed.).*

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Unit 3 Structure and Procedures of Nigerian Tax System

CONTENT

1.0 INTRODUCTION

Taxes have been classified in various ways by various authors. For example, Powell (1989) states that taxes can be classified in a number of ways, viz: (a) according to who levies the tax, (b) according to what is taxed (income, expenditure and capital) and (c) direct and indirect taxation. Anyafo (1996) classifies taxes in two ways: (a) on the basis of variations in the rates of taxes (i.e proportional tax, progressive tax and regressive tax) and (b) on the basis of the method of payment (i.e direct taxation and indirect taxation). In the light of the above, the structure of Nigerian tax system, basically, deals with classification and types of taxes.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the classification of Nigerian tax
- understand the advantages and disadvantages of direct and indirect taxes

3.0 MAIN CONTENT

3.1 Classification of Nigerian Tax

Nigerian taxes can be classified in any of the following ways: Proportional, Progressive and Regressive taxes and Direct and Indirect taxes (incidence).

3.1.1 Classification based on Income

This group constitutes the following:

(i) **Proportional Tax:** A proportional tax is one in which each taxpayer pays the same rate or percentage of his income as tax, for example, an income tax may be levied on all eligible taxpayers at the rate of 20%. In Nigeria, companies' income tax is levied at the rate of 30% on companies' profits.

Table 1: Proportional Tax

Taxable Income	Rate of Tax	Tax Paid
₦	%	₦
50,000	10	5,000
100,000	10	10,000
150,000	10	15,000
200,000	10	20,000

(ii) **Progressive Tax:** A progressive tax is one in which the rate of tax increases as the income of the taxpayer increases. In other words, the higher the income, the higher the rate of tax. Personal income tax is a good example of progressive tax.

Table 2: Progressive Tax

Taxable Income	Rate of Tax	Tax Paid
₦	%	₦
50,000	10	5,000
100,000	15	15,000
150,000	25	37,500
200,000	40	80,000

(iii) **Regressive Tax:** A regressive tax is the opposite of a progressive tax. It is one in which the rate of tax decreases as the income of the taxpayer increases. In other words, the higher the income, the lower the rate of tax. So the poor man pays tax at a higher rate than the rich man.

Table 3: Regressive Tax

Taxable Income	Rate of Tax	Tax Paid
₦	%	₦
50,000	40	20,000
100,000	25	25,000
150,000	15	22,500
200,000	10	20,000

3.1.2 Classification based on Burden

Under this, taxes are classified as direct and indirect

(i) **Direct Taxes:** These are imposed directly on the income of individuals and companies. The burden of direct tax is borne by the tax payer i.e. it cannot be shifted to another person. Examples are; personal income tax, company income tax, petroleum profit tax, capital gains tax etc.

(ii) **Indirect Taxes:** These are taxes imposed on goods and services. They are sometimes referred to as expenditure taxes. The burden of an indirect tax can be shifted wholly or partly from the tax payer (manufacturer, seller) to another person (consumer) depending on the elasticity point facing the item. Examples include, Excise Duties, Value Added Tax (sales tax up to 1993), Import Duties, Export Duties etc.

3.1.2.1 Types of Indirect Taxes

Indirect taxes can be specific or ad varolem

(a) **Specific Tax:** Where a certain amount of tax is levied on each unit of a commodity produced or sold, it is a specific tax. For example, if a tax of ₦20 is imposed on every crate of beer sold by a brewery, the amount of tax payable on 10,000 crates sold would be ₦200,000.

(b) **Ad varolem:** Ad varolem tax is levied on the value of the product being taxed. In other words, ad varolem tax is calculated as a certain percentage of the price of the commodity. VAT is an example of ad varolem tax. In Nigeria, VAT is levied at the rate of 5% on the value of taxable goods and services. If the price of a crate of beer sold by brewery is ₦800, the amount of VAT payable on 10,000 crates sold would be ₦8,000,000 x 5% = ₦400,000.

SELF-ASSESSMENT EXERCISE 1

1. Attempt a broader classification of tax known to you?

3.2 Advantages and Disadvantages of Direct and Indirect Taxes

3.2.1 Advantages of Direct Taxes

The following are the advantages of direct taxes:

(a) Equitable: Direct taxes are considered to be more equitable than indirect taxes since they are based on the ability to pay principle. Direct taxes can be progressive so that different tax rates apply to different income levels, with the rates increasing as income increases. For example, small companies in Nigeria pay 20% while other companies pay 30% of their profits as income tax. In the case of individuals' income, the first ₦300,000 is taxed at the rate of 7%, the next ₦300,000 at 11%, the next ₦500,000 at 15%, the next ₦500,000 at 19%, the next ₦1,600,000 at 21% and above ₦3,200,000 at 24% at 2012.

(b) Redistribution of Income: Since direct taxes are often progressive, they can be used as an instrument for the reduction of inequality in the distribution of income and wealth. The rich people are taxed more heavily than the poor people so that the gap between the rich and poor is narrowed down. The tax collected can be used to provide goods and services that will be more beneficial to the poor than the rich.

(c) **Certain:** The amount the government expects to realize from direct taxes can be estimated in advance with a reasonable degree of accuracy. This estimate is very helpful to the government when making its budget of revenue and expenditure. The taxpayer also knows how much tax he ought to pay and time for payment.

(d) Control of Inflation: Unlike indirect taxes which are added to the prices of goods and services and can cause inflation, direct taxes reduce the disposable income of the taxpayer (i.e amount available for the taxpayer to spend after tax) and that has the effect of reducing demand and prices.

(e) Civil Consciousness: The taxpayer knows exactly how much direct taxes he is paying to the government unlike indirect taxes which are wrapped up in the prices of goods and services and may not be known by the taxpayer. The implication of this is that the taxpayer is aware that he is making financial contribution towards government expenditure and would be more interested in civil affairs.

(f) Economical: Direct taxes, for example, pay as you ears (PAYE) do not cost much money to collect. Secondly, most direct taxes are paid to the tax authority by the taxpayers themselves. In the case of indirect taxes, there are many intermediaries or agents involved in collecting the taxes on behalf of the government. Dome of them may collect the indirect taxes and put in their pockets without remitting them to the tax authority. So part of the indirect taxes may never get to the government.

3.2.2 Disadvantages of Direct Taxes

(a) Unpopular: Direct taxes are very unpopular because people know exactly how much they are being taxed unlike indirect taxes which are hidden in the prices of goods and services. Generally, people do not feel happy to pay tax especially when no direct benefit is derived.

(b) Inconvenient: We pay taxes when we buy goods on which they are imposed so we can avoid them by not buying such goods. Again we pay them in bits depending on the value of items purchased. Most direct taxes are paid in a lump sum (i.e a large sum of money at a time). Some are even paid in advance. So the taxpayer feels the pains when paying a direct tax than when paying an indirect tax. He even has to file tax returns.

(c) Tax Evasion: The tax rate of invasion is high. Apart from PAYE income tax which is deducted from workers' salaries by employers and paid over to the tax authorities, many businessmen and companies are not always willing to come forward and declare their true incomes and profits to the tax authorities for tax purposes. Many of them do not even maintain accounts of their business transactions. It may cost tax authority a lot of time, energy and money to track down tax evaders.

(d) Disincentive to Work: In a progressive system of taxation where a high income is taxed at a higher rate a lower income, people may be discouraged from working harder since they know that the more they earn, the larger the proportion of their income that would be taken by the government through taxation.

(e) Disincentive to Investment: Where a high rate of tax is imposed on a firm's profits, entrepreneurs may be discouraged from establishing businesses in the country. This could lead to capital flight to other places where taxes are minimal (tax haven). Secondly, a high income tax will leave the firm with less profit to plough back into the business.

3.2.3 Advantages of Indirect Taxes

Some of the advantages of indirect taxes are as follows:

(a) Wider Tax Base: Indirect taxes are levied on a wide range of goods and services. Many of the people and organizations (e.g children, students, unemployed, government agencies, religious organizations etc) which are usually exempted from income tax are required to pay indirect taxes in as much as they buy the goods and services on which they are imposed. As a result, the amount of revenue raised by the government through indirect taxes is very substantial.

(b) Difficult to Evade: Since indirect taxes are hidden in the prices of goods and services, the consumer cannot evade payment of indirect taxes as long as he buys the goods and services on which they are imposed. The degree of voluntary compliance is high.

(c) Convenient: We pay an indirect tax when we buy the goods and services on which it is imposed (i.e Pay-As-You-Buy). This means that we pay an indirect tax at a time we can afford it. It is paid in installments (bits) depending on the value of each transaction unlike a direct tax which is usually paid in a lump sum. Thus, one does not feel much pain when paying an indirect tax as when paying a direct tax.

(d) Beneficial Social Effects: Indirect taxes can be imposed on certain goods considered to be harmful to raise their prices and discourage people from consuming them, for example alcohol, cigarettes, etc.

(e) Equitable: Indirect taxes can be made more equitable by imposing a higher rate of tax on goods and services consumed mostly by the rich (i.e luxuries) and a lower rate of tax on goods and services consumed mainly by the poor (i.e necessities or essential) or complete exemption of such goods and services from tax.

3.2.2 Disadvantages of Indirect Taxes

The following are the disadvantages of indirect taxes:

(a) Inequality: Whereas direct taxes can be made progressive, indirect taxes are regressive. Both the rich and the poor buy in the same market. If a wealthy man buys a crate of Hi-malt costing ₦800, he will pay a VAT of ₦40 (i.e 5% of ₦800). A poor man who buys a crate of Hi-malt will equally pay VAT of ₦40. Indirect taxes do not take into account the inequalities of incomes. Both the rich and poor pay indirect taxes at the same rates. Therefore, indirect taxes hit the poor harder than the rich. Indirect taxes violate the principle of ability to pay and are, therefore, unfair to the poor. The adverse effects of indirect taxes can be corrected by imposing a higher a rate of indirect taxes on luxury items consumed mostly by the rich and a low rate on necessaries of life consumed mostly by the poor or complete exemption of necessaries from indirect taxes.

(b) Inflation: Indirect taxes are added to the prices of goods and services so they end up increasing the prices of such goods and services. In our economy where the prices of goods and services are always rising, indirect taxes have helped to worsen the situation. Imagine what will happen when the rate of VAT or import duty or excise duty is increased. Prices of the taxed commodities will skyrocket. The sellers usually hide under the canopy of indirect taxes to increase prices unduly. For example, if the government increases import duties by 5%, the distributors will use that as an excuse to increase their prices by over 10%. The consumers end up paying much more than what the government receives.

(c) Certain: The revenue that the government expects to raise from indirect taxes (i.e tax yield) cannot be estimated in advance with a fair degree of accuracy. It is not easy for the government to estimate how much people will spend on goods and services. Imposition of taxes or raising the rate of tax on certain goods may cause demand for such goods to drop to zero if the demand is perfectly elastic. Furthermore, revenue from indirect taxes may fall drastically during a period of depression.

(d) Loss of Revenue: There are many intermediaries involved in the collection of indirect taxes for the government, for example, the manufacturer, wholesaler, retailer, etc are registered to collect value added tax (VAT). Some of them may collect the indirect taxes and fail to remit the whole or part of the amount to the tax authority. Some may even understate the amount collected.

(e) Tax Evasion: Some indirect taxes are easily evaded. For example, some importers and exporters who smuggled goods into or out of the country do not pay customs duties on such goods. Government spends a lot of money to maintain custom officials, police, etc to check smuggling. Unfortunately, some of these law enforcement agents even aid and abet smuggling. Some importers also advise their foreign suppliers to understate the value of items imported on the invoice (i.e under invoicing) so that the customs duties payable will be reduced. In the case of VAT collection, many businesses have not registered for VAT collection. Nigeria is a large country with a population of over 170 million people and many small-scale businesses scattered all over the country. The tax authorities do not have the muscle to ensure that all these taxable persons are registered and account for VAT collected.

SELF-ASSESSMENT EXERCISE 2

1. Highlight the advantages and disadvantages of direct and indirect taxes.

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they provide a clue on the classification of Nigerian tax system. This background knowledge is needed by readers as it will enable them how the tax system in Nigeria is be categorized.

5.0 SUMMARY

The unit has drawn attention to the classification of Nigerian tax system. Specifically, the following aspects have been dealt with:

- The classification of Nigerian tax
- The advantages and disadvantages of direct and indirect taxes

6.0 TUTOR-MARKED ASSIGNMENT

1. Attempt a broader classification of tax known to you?
2. Highlight the advantages and disadvantages of direct and indirect taxes.

7.0 REFERENCES/FURTHER READING

Fasoto, F. (2007). *Nigerian taxation.* Lagos: Hosrtosaf Limited

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Unit 4 Returns, Assessments, Appeal and Postponement

CONTENTS

1.0 INTRODUCTION

The Federal Board of Inland Revenue is mandated by the Act to assess every company chargeable with tax as may be after the expiration of the time allowed to such company for the delivery of the audited accounts and return (See Section 47 CITA LFN 1990).

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know returns by taxable persons
- understand assessment of tax
- ascertain the objections to assessment of tax
- explain the appeals to assessment of tax
- explain the tax appeal tribunal

3.0 MAIN CONTENT

3.1 Returns by Taxable Persons

3.1.1 Requirements to File Return and Exemption

For each year of assessment, it is mandatory for a taxable person to file a return of income (i.e income tax return) in the prescribed form with the tax authority of the state in which he is deemed to be resident.

A taxable person whose only source of income in any year of assessment is employment in not required to file a return if the employment income is not more than ₦30,000 (rate applicable from 1998)

3.1.2 Time Limit for Filing of Tax Return

Once every year a company is required to render an account within six months of its accounting year end. In the case of a newly incorporated company within 18 months of incorporation. Any company may apply in writing to the board for an extension of the time within which returns must be filed, provided; the company makes the application before the expiration of the time stipulated for filing of returns.

If a company shows a good course as stated, it may be granted the extension of time for making the return to such a time as it may consider appropriate.

3.1.3 Contents of Tax Return

The annual return to be filed by any company will include:

(a) Signed audited financial statement of the company
(b) Computation of capital allowance
(c) Computation of tax liability and other details as may be considered necessary.

3.1.4 Penalty for Late Filing of Returns

The penalty for late filing of tax returns is ₦25,000 in the 1st month in which the failure occurs and ₦5,000 for each and subsequent months as the failure continues.

SELF-ASSESSMENT EXERCISE 1

1. What are the penalties for late filing of returns?

2. List the requirements needed to file a return and exemption?
3. List the contents of tax return known to you?

3.2 Assessment of Tax

Assessment shall be raised as soon as possible after the expiration of the stipulated time required for rendering returns. Where a company has rendered a return and the return is accepted by the board an assessment is raised. When the return is not accepted by the board, a best of judgement assessment is raised. Best of judgement will be raised where a return has not been rendered at the stipulated time. An additional assessment will be made by the board at any time during the year of assessment or within years after the year of assessment.

If the board discovers that the company has not been assessed well enough or was under assessed, a reviewed assessment will be raised on the company. The difference in tax computed will be settled by the tax payer.

3.2.1 Service of Notice of Assessments

The Board shall cause to be served on or sent by registered post to each company, or person in whose name a company is chargeable, a notice stating:

(a) The amount of total profits
(b) The tax payable
(c) The place at which such payment should be made.

When a taxpayer receives a notice of assessment, he either agrees with it or disagrees. Where he agrees, he is required to effect payment of the tax within 60 days from the date of receipt of the assessment. However, where he is aggrieved, there are laid down procedures to be followed for the matter to be resolved.

3.2.2 Types of Assessment

1. **Self-Assessment:** This involves the taxpayer preparing his account, computing the tax payable based on the account, submitting the account to tax office before the due date, together with the cheque or draft for payment of the tax liability.

Advantages of Self-Assessment

i. The tax payer is entitled to 1% bonus of the tax payable
ii. Self assessment files are exempted from payment of provisional tax
iii. Self assessment filers are entitled or may apply for installment payment of the tax liability

2. **Government Assessment:** This is the assessment raised by the tax authority on tax payer either on the account submitted or at the discretion of the relevant tax authority (i.e Best of Judgement)

3. **Turnover Assessment:** This is raised by the tax authority which is based on a percentage of the turnover of a company. This is normally used for non-resident companies and sometimes where the return of a company is not acceptable to the tax authority.
4. **Additional Assessment:** If the board discovers or is of the opinion that income has not been assessed or has been under-assessed or that excessive relief has been given, an assessment or an additional assessment can be made. An assessment or additional assessment cannot be made later than six years from the end of the year to which it relates, except in cases of fraud, willful default or neglect where there is no time limit within which any assessment can be made.

SELF-ASSESSMENT EXERCISE 2

1. In your own view, what do you understand by assessment of tax?
2. List and briefly explain the types of assessment of tax known to you?

3.3 Objections

If the tax payer disagrees with the assessment, he must give notice of objection in writing to the board within the time limit stated in the notice of assessment. Presently, notice of objection must be given within 30 days from the date of service of the assessment on the tax payer.

The notice of objection should state precisely the grounds of objection and will require the board to review and reverse the assessment. If a valid objection is made, the board will attempt to settle the disagreement with the tax payer. If an agreement is reached, the assessment will be amended accordingly and a notice of amended assessment will be served on the taxpayer. If no agreement is reached the board will give a notice of refusal to amend to the taxpayer.

SELF-ASSESSMENT EXERCISE 3

1. Briefly explain how objection relates to assessment of taxation in Nigeria?

3.4 Appeals

When a notice of refusal to amend has been received by the taxpayer, the taxpayer, if he so wishes, can appeal against the assessment within 30 days from the date of service of that notice. All appeals shall, in the first instance, be sent to the body of Appeal Commissioners, except where there is no such body established or where it has been specifically provided in the Acts that such shall be to the State High Court.

A late appeal may be accepted upon an application being made to the Appeal Commissioner or the High Court as appropriate, if there is reasonable excuse for the delay

SELF-ASSESSMENT EXERCISE 4

1. Briefly explain the concept of appeal as it relates to assessment of taxation in Nigeria?

3.5 Tax Appeal Tribunal

Tax Appeal Tribunal is established vide sec.59 of the Federal Inland Revenue Service (Establishment) Act of 2007 with details in the 5th Schedule of the Act. The body shall consist of five (5) members none of whom shall be a public officer and one of whom shall be the chairman appointed by the Minister of Finance.

- Appointment shall be made through a notice in the Federal Gazette for 3 years and subject to renewal only once.
- Appeal commissioner shall be a person with experience in the management of substantial trade or business or the exercise of profession of law or Accountancy in Nigeria. Their allowance will be as determined by the board.

SELF-ASSESSMENT EXERCISE 5

1. Highlight the constituents of the tax appeal tribunal in Nigeria?

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they provide a background knowledge on returns, assessment, appeal and postponement as they relate to taxation in Nigeria. This background knowledge is needed by readers as it will enable them know the scope of tax returns, assessments as well as appeal as they relate to taxation in Nigeria.

5.0 SUMMARY

The unit has drawn attention to returns, assessment, appeal and postponement as they relate to taxation in Nigeria. Specifically, the following aspects have been dealt with:

- Returns by taxable persons

- Assessment of tax
- The objections to assessment of tax
- The appeals to assessment of tax
- The tax appeal tribunal

6.0 TUTOR-MARKED ASSIGNMENT

1. List the requirements needed to file a return and exemption?
2. List the contents of tax return known to you?
3. What does “assessment of tax” stand for?
4. List and briefly explain the types of assessment of tax known to you?
5. Highlight the constituents of the tax appeal tribunal in Nigeria?

7.0 REFERENCES/FURTHER READING

Fasoto, F. (2007). *Nigerian taxation.* Lagos: Hosrtosaf Limited

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Unit 5 Tax Collection (reference to all necessary Legislations)

CONTENTS

1.0 INTRODUCTION

The legislation guiding collection of taxes is Taxes and Levies (Approved list for collection) Act 21 of 1998.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know how tax is being collected in Nigeria
- ascertain taxes and levies imposed and collected by each tier of government
- identify taxes to be collected by the federal government
- know taxes and levies to be collected by the state governments
- understand taxes and levies to be collected by local governments
- differentiate between taxes and levies

3.0 MAIN CONTENT

3.1 Tax Collection in Nigeria

Following the outcry of the citizenry to the problem of multiplicity of taxes, especially its unorthodox collection procedures, the Federal Military Government of

Nigeria intervened by the promulgation of Act 21 which was cited as the Taxes and Levies (Approved List for Collection).

The purpose of the Act was to resolve the confusion created by the multiplicity of taxes imposed by the three tiers of Government, namely; Federal, State and Local Governments. It lays down in very clear terms, the types of taxes collectible by each tier of Government. The number of taxes each tier of government is authorised by the Act to collect is as follows:

Tier of Government	**No of Taxes Collectible**
Federal	8
State	11
Local	20

SELF-ASSESSMENT EXERCISE 1

Briefly explain how taxes are collected in Nigeria?

3.2 Taxes and Levies imposed and collected by each tier of Government

3.2.1 Taxes to be collected by the Federal Government

i) Companies Income Tax;
ii) Withholding Tax on Companies, residents of the FCT and non-resident individuals;
iii) Petroleum Profits Tax;
iv) Value Added Tax;
v) Education Tax;
vi) Capital Gains Tax on Companies, residents of FCT and non-resident individuals;
vii) Stamp Duties on Corporate bodies and residents of FCT; and
viii) Personal Income Tax on:
- Members of the Armed Forces of the Federation of Nigeria;
- Members of the Nigerian Police Force
- Residents of the FCT
- Staff of the Ministry of External Affairs and non-resident individual

3.2.2 Taxes and Levies to be collected by the State Governments

i) Pay As You Earn (PAYE);
ii) Withholding Tax on individuals;
iii) Capital Gains Tax on individuals;
iv) Stamp Duties on Investments executed by individuals;
v) Pools betting, Lotteries, Gambling and Casino Taxes

vi) Road Taxes; and
vii) Business Premises Registration Fees, for:
- Urban Areas – as defined by each state:
  - ₦10,000.00 (maximum) for registration
  - ₦5,000.00 for annual renewal of registration.
- Rural Areas as defined by each state:
  - ₦2,000.00 for registration; and
  - ₦1,000.00 for annual renewal of registration

viii) Development Levy (individuals only), not more than ₦100.00 per annum on all taxable individuals;
ix) Naming of street registration fees in State Capital;
x) Right of Occupancy Fees on Lands owned by the State in urban cities of the state; and
xi) Market taxes and levies where state finance is involved.

3.2.3 Taxes and Levies to be collected by Local Governments

i) Shops and kiosks rates;
ii) Tenement rates;
iii) Marriage, birth and death registration fees;
iv) Slaughter slab fees
v) On and off liquor license fees;
vi) Street naming registration fee except in state capital
vii) Right of occupancy fees on lands in rural areas (exclusive of those collectable by Federal and State Governments);
viii) Market taxes and levies excluding any market where state finance is involved;
ix) Motor park fees;
x) Domestic animal license fees;
xi) Bicycle, truck, canoe, wheel barrow and cart fees, other than a mechanically propelled truck;
xii) Cattle tax-payable by cattle farmers only;
xiii) Road closure levy;
xiv) Radio and television license fees (other than radio and television transmitter);
xv) Radio license fees (to be imposed by the local government of the state in which the car is registered);
xvi) Illegal parking fees;
xvii) Public convenience sewage and refuse disposal fees;
xviii) Customary burial ground permit fees;
xix) Religious places establishment permit fees; and
xx) Signboard and advertisement permit fees.

SELF-ASSESSMENT EXERCISE 2

List the taxes collectible at the various tiers of government in Nigeria?

3.3 Distinction between Taxes and Levies

Taxation is defined as monetary charge imposed by the government on persons, entities or property to yield revenue. Therefore, the term "tax" is restrictive and specific in its meaning and application. Examples of taxes are Companies Income Tax, Personal Income Tax, Value Added Tax, Petroleum Profit Tax. On the other hand, the term "levy" is generic, as it could be described as the imposition by legal authority of tax, penalties and fines.

It follows, therefore, that while all forms of taxes can be described as levies since they constitute imposition, not all levies can be properly described as tax. For the purpose of illustration, while the tax imposed by Section 9 (1) of the Companies Income Tax Act C21 LFN 2004 on profits of companies, accruing in, derived from, brought into or received in Nigeria can be rightly described as Tax, the penalty and fine imposed by Section 85 (1) CITA can at best be described as a levy and not tax.

Tax, like levy, is not involuntary in the sense that its compliance is compulsory but not intended to be punitive as a levy. Tax must be charged and exacted pursuant to legislative authority, that is, supported by a particular written law and if there is an invalid tax law, a charge cannot suffice for tax. If it is backed by a particular valid tax law, it is a tax irrespective of whether it is described as levy or tax.

SELF-ASSESSMENT EXERCISE 2

Differentiate between taxes and levies?

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they explain the legislative framework for the collectability of taxation in Nigeria. This background knowledge is needed by readers as it will enable them know the different taxes collectible at all levels of government in Nigeria.

5.0 SUMMARY

The unit has drawn attention to the legislative framework for the collectability of taxation in Nigeria. Specifically, the following aspects have been dealt with:

- How tax is being collected in Nigeria
- Taxes and levies imposed and collected by each tier of government

- Taxes to be collected by the federal government
- Taxes and levies to be collected by the state governments
- Taxes and levies to be collected by local governments
- Differences between taxes and levies

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly explain how taxes are collected in Nigeria?
2. List the taxes collectible at the various tiers of government in Nigeria?
3. Differentiate between taxes and levies?

7.0 REFERENCES/FURTHER READING

Fasoto, F. (2007). *Nigerian taxation.* Lagos: Hosrtosaf Limited

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MODULE 2

UNIT 1 PERSONAL INCOME TAX (PIT) IN NIGERIA

CONTENTS

1.0 INTRODUCTION

Taxation of employees and sole proprietors is covered by the Personal Income Tax Act (PITA). This comes under the personal income tax system in Nigeria. Before 2011, the Personal Income Tax Act Cap .P8 Laws of The Federation of Nigeria (LFN) 2004 governed the administration of Personal Income Tax in Nigeria. The Personal Income Tax (Amendment) Act 2011 was enacted to revise the Personal Income Tax Act Cap. (LFN) 2004 and related matters. Though dated 24th of June, 2011, it was on Tuesday, December 13th, 2011, that the then President of Nigeria, Dr. Goodluck Ebele Jonathan, while presenting the 2012 Federal Budget proposal to the joint session of the National Assembly confirmed the signing into law of the Bill enacting the Personal Income Tax (Amendment) Act 2011.

Note that the collection of personal income tax is vested in the State Board of Internal Revenue (SBIR) of the principal place of residence of self – employed individuals and principal place of business of employed individuals. Each SBIR is assisted by its operational arm- the State Internal Revenue Service (IRS), in carrying out its primary duties which include assessment and collection of taxes from individuals, resident or working in a state.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- understand the key concepts under PITA (e.g. income tax, benefits in kind (BIK), resident, place of residence, itinerant worker, earned and unearned incomes etc)
- explain allowable and non-allowable deductions
- know the personal income tax rate

3.0 MAIN CONTENT

3.1 Key Concepts under Personal Income Tax Act (PITA) 2011

The following concepts as they relates to personal income tax are explained below:

3.1.1 Income tax

Income tax is a levy imposed by the government of a country on its citizens, individual or entities known as the taxpayers. The levy imposed on the taxpayers is such that it varies with the level of income or profits of the taxpayers. Taxes imposed on the taxpayers or corporations or entities is termed "Company Income Tax" while those imposed on the personal income of an individual taxpayer is termed "Personal Income Tax". Thus, personal income tax signifies taxes imposed on the personal income of the individual. These taxes are imposed on the income of the individual on a basis of 'Pay as You Earn" (PAYEE) and the individual taxpayer must be an employed person and expected to file returns on a yearly basis.

The Personal Income Tax (Amendment) Act 2011 demands that a taxpayer files returns for the preceding year within 30 days of the end of the year (i.e January 31st. – previously 90 days, i.e. March 31st.). According to the Personal Income Tax Act 2011, income tax is to be paid on income from sources within and outside Nigeria, in specific term, but not restricted to the following:

- Gains or profit from trade, business, profession or vocation,
- Dividend, interest or rent,
- Any charge or annuity,
- Gains or profits including any premiums arising from a right granted to any person for the use or occupation of any property,
- Emolument or Remuneration from an employment from both the public and private sectors. Remuneration covers salaries, wages, fees, allowances including compensations, commissions, bonuses, premiums, benefits or other perquisites allowed, given or granted by any person to an employee,

- Any balancing charge arising where a business person disposed off an asset used for the purpose of trade or business carried on by it at a profit, and
- Any profit, gain or other payments accruing to an individual not falling within items listed above.

In Nigeria tax system, profits emanating from a trade, profession or vocation is predisposed to tax irrespective of the period such a trade, profession or vocation has been carried on. Also, the income from employment is predisposed to tax when a taxpayer turn out to be a resident. Thus, the assessment of the income is usually done on the preceding year basis.

Note that remuneration does not include refund of out-of-pocket expenses, medical expenses, and cost of passages to and from Nigeria. In addition, it does not comprise of sums received for upkeep of a child; these are all exempted from personal income tax computation.

3.1.2 Benefits In Kind (BIK)

The term BIK refers to "Benefits in Kind". BIK are reimbursements other than cash enjoyed by employees in the course of their employment in Nigeria. BIK comprised of the following:

a) Cost of water and electricity consumption borne by employer.
b) The use of a motor vehicle provided by an employer (official car - free company car);
c) Free food provided by an employer;
d) Furniture and accommodation provided by an employer;
e) Services of domestic servants paid for by an employer;
f) Other services paid for by the employer

The Personal Income Tax Act 2011 provides that BIK should be assessed to tax under the following conditions:
Where an asset belonging to an employer is made available for an employee's use, the employee will be treated as receiving a taxable benefit equal to:

a) 5% of the cost of the asset to the employer; or
b) where the cost cannot be ascertained, 5% of the market value of the asset at the date it was acquired by the employer;
c) where the employer rents or hires an asset, which is thereafter made available for employee's use, the taxable benefit received by the employee is the annual cost of the rent or hire;
d) where living accommodation is provided for an employee or the employee's spouse, he will be assessed to taxable benefit equal to the annual value for local rating purposes, less any rent refunded or otherwise suffered by the employee or his spouse. If the living accommodation is not assessed to local rates, then the tax authority of the territory in which the individual resides will determine the annual value to use;

e) where an employee receives a benefit in kind in respect of free accommodation, which is considered as necessary for him to do his job properly or which his position demands, for example, hotel managers, housekeepers, night watchmen etc., the benefit in kind shall not be assessed to tax. The accommodation is regarded as a representative accommodation.

3.1.3 Resident

In PITA 2011, residence decides the extent to which the income of a taxpayer is subjected to Nigerian tax. A resident taxpayer is assessable to tax on his global income. Global income connotes income accruing in, derived from, brought into, or received in Nigeria. Consequently, an individual is regarded as resident in Nigeria in an assessment year if he/she:

a) Is domiciled in Nigeria
b) Sojourns in Nigeria for a period or periods amounting to 183 days or more in a 12 month period. This includes periods of temporary absence or leave, or
c) Serves as a diplomat or diplomatic agent of Nigeria in a country other than Nigeria.

Contrarily, a non-resident taxpayer or person pays tax on the quantum of his/her income obtained in Nigeria. In other words, such income becomes liable to tax from the day they begin to carry on trade, business, vocation and so on in Nigeria. Since double taxation treaties have been concluded with a number of countries, double taxation relief pertains to such income.

3.1.4 Place of Residence

A place of residence is that which is available for domestic use of an individual in Nigeria on the first day in a relevant tax year. This does not include any hotel, rest house or other temporary residence, unless no more permanent place of residence is available for use by the individual on that first day of the relevant tax year.

Where an individual has more than one (1) place of residence on the relevant day, the principal place of residence will include:

a) The place where an individual normally resides (for individuals Holding a Nigerian Employment)
b) The territory in which the principal office of the employer is resident (for individuals holding foreign employment)
c) The state where the individual is normally resident or the place nearest to his place of work or the state where all his income is derived (where there is earned income other than pension or employment) Note that where the income is derived from more than one state, the principal place of resident will be the Federal Capital Territory.

d) The place where the individual usually resides (where there is unearned income)
e) The place where the principal office is situated (for body of individuals)
f) Places where branch offices and operational site of companies are situated. Operational sites include oil terminals, oil platforms, flow stations, construction sites etc with a minimum of 50 workers

3.1.5 Itinerant Worker

An itinerant worker is an individual or person who works in more than one place in Nigeria or who earns daily wages. This does not include members of the armed forces. According to the PITA (Amendment) 2011, an itinerant worker comprises of any individual or person irrespective of status who works at any time in any state during a year of assessment (other than a member of the armed forces) for wages, salaries, livelihood by working in more than one state for a minimum of 20 days in at least 3 months of every assessment year. The relevant tax authorities are empowered to collect taxes from an itinerant worker.

In arriving at the taxes of an itinerant worker, the relevant tax authority normally recognize and utilize the individual's gross income to date, the tax paid to date and the free pay to date in any other tax authority. The commencement and cessation rules apply where the itinerant worker is regarded as a quasi-business entity.

3.1.6 Earned and Unearned Income

Earned income means income derived from a trade, business, profession, vocation or employment carried on by a person and a pension derived by him/her in respect of any previous employment. Income tax is paid under the PAYE system such that it becomes the responsibility of every employer to deduct income tax at source from the wages and salary of his/her employees for onward remittance to the relevant tax authorities by the 10^{th} day of the month following the deduction.

On the other hand, unearned income, connotes rent, dividends, royalty, discounts, which may be received net of withholding tax. These are also known as investment incomes. Where they are received net of withholding tax, they signified "Franked Investment Income".

SELF-ASSESSMENT EXERCISE 1

1. Explain the following concepts as they apply to Personal Income Tax:
   (i) Income Tax
   (ii) Benefit in Kind
   (iii) Resident/Non-Resident
   (iv) Place of Resident

(v) Itinerant Worker
(vi) Earned and Unearned Income
(vii) Franked Investment Income

3.2 Allowable and Non-Allowable Deductions under PIT

There are certain deductions that are allowed and those not allowed under personal income tax in order to arrive at the tax liability of the individual taxpayer. These deductions are grouped as allowable and non-allowable deductions. In line with the provisions of PITA, it ensures that before the income of individuals could be liable to tax, certain expenses should be deducted. These classes of expenses are referred to as allowable deductions while other expenses classified as non-allowable deductions are by the provisions of the Act not allowed to be deducted.

3.2.1 Allowable deductions

PITA provides that all outgoings and expenses wholly, exclusively, necessarily and reasonably incurred during that period and ultimately borne by the business of individuals in the production of their income are deductible in the process of determining the assessable income or profit to be used for tax purposes. These deductions comprise of the following:

a) Interest on loan – any interest on money borrowed and employed as capital in acquiring the income;
b) Rent & rates - this should be in respect of the land & building occupied for the purpose of an individual's business;
c) Repairs and maintenance of any asset employed in the business;
d) Provision for doubtful debts of a specific nature;
e) Bad debts written off;
f) Contribution to a pension scheme approved by the Joint Tax Board (JTB);
g) Legal expenses that are limited to:
   (i) general legal advisory services;
   (ii) retainership fees;
   (iii) renewal of a short lease- that is, lease with tenure of not more than 50 years;
   (iv) any cost of protecting and defending the properties of the business.
h) Any other expense proved by the board to have been incurred for the purpose of the individual's business.

3.2.2 Deductions not allowed

PITA provides that the following items shall not be allowed as deductions for the purpose of arriving at the income of an individual.

a) Private/personal expenses;

b) Capital expenditure or withdrawal of capital;
c) Any loss or expenses recoverable under insurance or contract of indemnity;
d) Rent & 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 PITA;
f) Any unapproved payment to a pension scheme, provident, savings or widows society/orphanages, or any other fund or scheme- except as permitted by paragraphs (f) and (g) of subsection 20 of PITA;
g) Depreciation of any asset;
h) Any sum reserved out of profits except there is an expression permission of section 20 of the PITA;
i) Any provision for doubtful debt of a general nature;
j) Any payment of management fees except with the approval of the commission;
k) Legal expenses that include:
    (i) the cost of defending a traffic offence
    (ii) acquisition of new lease – long or short
l) Donations- however, some donations are allowed under CITA;
m) Fines and penalties.

SELF-ASSESSMENT EXERCISE 2

1. What are allowable and non-allowable deductions?
2. Identify some of those allowable and non-allowable expenses as provided for by the Personal Income Tax Act (amended) 2011.

3.3 Personal Income Tax Rate

The taxable income of an individual is assessed to tax at the rate which is prescribed by the government and may be reviewed from time to time. These rates varies in line with the tax policy of the government. The table below shows the personal income tax rates for different accounting periods:

EFFECTIVE FROM 1995

Taxable income (N)	**Rate of Tax** (%)
1st 10,000	5
2nd 10,000	10
3rd 10,000	15
4th 10,000	20
Next 20,000	25
Over 60,000	30

EFFECTIVE FROM 1996

Taxable income (N)		**Rate of Tax** (%)
1st	10,000	5
2nd	10,000	10
Next	20,000	15
4Next	20,000	20
Over	60,000	25

EFFECTIVE FROM 1998

Taxable income (N)		**Rate of Tax** (%)
1st	20,000	5
2nd	20,000	10
Next	40,000	15
4Next	40,000	20
Over	120,000	25

EFFECTIVE FROM 2001

Taxable income (N)		**Rate of Tax** (%)
1st	30,000	5
2nd	30,000	10
Next	50,000	15
4Next	50,000	20
Over	160,000	25

EFFECTIVE FROM 14th JUNE 2011

Taxable income (N) Annual		**Tax Rate** (%)	**Taxable income** (N) Monthly	**Tax Rate** (%)
1st	300,000	7	25,000	7
2nd	300,000	11	25,000	11
Next	500,000	15	41,666	15
Next	500,000	19	41,666	19
Next	1,600,000	21	133,333	21
Above	3,200,000	24	266,666	24

SELF-ASSESSMENT EXERCISE 3

1. List the relevant tax rates known to you effective from 1995

4.0 CONCLUSION

The discussions in this chapter are indispensable to readers/students since they provide overview/background knowledge on Personal Income Tax. This background knowledge is needed by readers as it will enable them know the scope of the PITA which forms the foundation of computing personal income tax.

5.0 SUMMARY

The unit has drawn attention to PITA in Nigeria. Specifically, the following aspects have been dealt with:

- Key concepts under PITA (e.g. income tax, benefits in kind (BIK), resident, place of residence, itinerant worker, earned and unearned incomes
- Allowable and non-allowable deductions
- Personal income tax rates

6.0 TUTOR-MARKED ASSIGNMENT

1. List and explain the following concepts as they apply to PITA
   (i) Income Tax
   (ii) Benefit in Kind
   (iii) Resident
   (iv) Place of Resident
   (v) Itinerant Worker
   (vi) Earned and Unearned Income
   (vii) Franked Investment Income

2. List some of the allowable and non-allowable expenses as provided for by PITA

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Unit 2 Law and Practice of Income Tax Relating to Individuals

CONTENTS

1.0 INTRODUCTION

Income tax relating to individuals is established by the Personal Income Tax Act 2011 as amended. Thus, the law and practices of income tax relating to individuals in Nigeria is contained in the Personal Income Tax Act (as amended by Act No. 20 2011) from Part I – Part XIII in 1-8 schedules. Schedule 1 covered the determination of residence of an individual; schedule 2: income from settlement, trusts and estates; schedule 3: income exempted; schedule 4: retirement benefits schemes; schedule 5: capital allowances; schedule 6: income tax table; schedule 7: double taxation arrangements and schedule 8: warrant and authority to enter premise. However, this unit take a cursory look at the laws and guiding practice of income tax relating to individuals by exploring fundamental issues such as imposition of tax, persons on whom tax is to be collected, incomes exempted from tax relating to individuals and a host of other issues.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the imposition of tax on individuals
- identify persons on whom tax is to be collected

- understand incomes exempted and those not exempted from tax relating to individuals
- know the list of persons assessed under personal income
- highlight the penalty for failure to deduct tax

3.0 MAIN CONTENT

3.1 Imposition of tax on individuals

The law and practices of imposition of tax on individuals is provided for under Part I of the Personal Income Tax Act 2011 as amended. The Act imposed a tax on the income:

(a) of individuals, communities and families; and

(b) arising or due to a trustee or estate, which shall be determined under and be subject to the provisions of this Act.

SELF-ASSESSMENT EXERCISE 1

1. Briefly list those the Personal Income Tax Act 2011 (as amended) imposed tax on?

3.2 Persons on whom tax is to be collected

The Personal Income Tax Act 2011 makes provision for persons on whom tax is to be collected and they include:

(1) Tax of an amount to be determined from the Table set out in the Sixth Schedule (in PITA referred to as "income tax") shall be payable for each year of assessment on the total income of:

a) Notwithstanding anything in the Principal Act, the relevant tax authority in a State shall have powers to collect tax under PITA from itinerant workers, and

b) every individual other than persons, corporations, sole or body of individuals deemed to be resident for that year in the relevant State under the provision of PITA; and

c) the following other persons, that is
   - i) persons employed in the Nigerian Army, the Nigerian Navy, the Nigerian Air Force, the Nigerian Police Force other than in a civilian capacity;
   - ii) officers of the Nigerian Foreign Service;
   - iii) every resident of the Federal Capital Territory, Abuja; and
   - iv) a person resident outside Nigeria who derives income or profit from Nigeria.

(2) In case of an individual, other than a worker and persons covered under paragraph (ci – iv above), tax for any year of assessment may be imposed only by the State which the individual is deemed to be resident for that year under the provision of PITA and in the case of other persons who do not fall

into this category, tax shall be imposed by the Federal Board of Inland Revenue.

(3) In case of an itinerant workers, tax may be imposed for any year by any State in which the itinerant worker is found during the year; provided that:
   a) 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
   b) collection of so much of any tax imposed in a tertiary on an itinerant worker for a year of assessment as remained unpaid on 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 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.

It is worthy to state that PITA emphatically specify persons to whom tax is to be collected in the case of communities, families and trustees. These provisions are contained in paragraph(s) 4 – 6 of PITA 2011 as amended.

SELF-ASSESSMENT EXERCISE 2

1. The Personal Income Tax Act 2011 makes provision for persons on whom tax is to be collected. List the once known to you?

3.3 Incomes exempted and those not exempted from tax relating to individuals

The provisions of PITA for incomes exempted from tax relating to individuals comprise of the following:

(1) There shall be exempt from tax in the hands of the recipients, any interest, bonuses, salaries or wages paid wholly or in part out of income exempted thereby; or

(2) Authorize a State Government; a company or any person or agency of government, a company or any person, whether resident or not in Nigeria, to provide tax exemption clauses in an agreement or arrangement without seeking approval first from the Minister of Finance and thereafter from the President.

Thus, for the purpose of ascertaining the income or loss of an individual for any period any source chargeable with tax under PITA there shall be deducted all outgoing expenses, or any part thereof, wholly exclusively, necessarily and reasonably incurred during that period and ultimately borne by that individual in the production of the income, including:

a) a sum payable by way of interest on money borrowed and employed as capital in acquiring the income;
b) interest on loans for developing an owner-occupied residential house;
c) 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; and
d) any expense incurred for repair of premises, plant, machinery or fixture employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed:

Provided that if the premises, plant, machinery, fixtures, implement, utensil or article are in used in part for domestic or private purposes, so much of the expenses as relates to such use shall be deducted;

e) bad debts incurred in trade, business, profession or vocation, proved to have come 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 and notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period and provided that:
    i) where in any period of deduction under this paragraph is to be made as respect any particular 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 PITA 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 they were incurred, or were advanced not falling within the provisions of PITA made in the course of normal trading, business, professional or vocational operations;
f) a contribution or an abatement deducted from the salary or pension of a public officer under PITA or under any approved scheme within the meaning of PITA, and any contribution, other than a penalty, made under the provisions of any Act establishing the Nigeria Social Insurance Trust Fund or other retirement benefits scheme for employees throughout Nigeria;
g) a contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Board, subject to the provisions of the PITA as the Board in its absolute discretion may prescribe.
h) in teh cae of income from a trade, business, profession or vocation, any expenses or part thereof incurred for that period (whether the liability was

met during that or any previous period) wholly and exclusively for the purpose of the trade, business, profession or vocation unless those expenses are or the same part thereof is deductible for that or any other period under the foregoing provision of PITA, 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;

i) any expenses which are proved to the satisfaction of the relevant tax authority to have been incurred by the individual on research for the period including the amount of level paid by him under the National Agency for Science and Engineering Infrastructure Act.

Subject to the express provisions of PITA, no deductions shall be allowed for the purpose of ascertaining the income of any individual in respect of:

i) domestic or private expense;
ii) capital withdrawn from a trade, business, profession or vocation and any expenditure of a capital structure;
iii) any loss or expense recoverable under an insurance or contract of indemnity;
iv) rent of or cost of repairs to any premises or part of premises not incurred for the purpose of producing the income;
v) taxes on income or profits levied in Nigeria or elsewhere except as provided in PITA
vi) any payment to a pension, provident, savings or widows' and orphans' society, fund or scheme, except as permitted by certain provisions of PITA
vii) depreciation of any asset;
viii) any sum received out of profits, except as permitted by PITA or as may be estimated by the relevant tax authority, pending determination of the amount, to represent the amount of any expense deductible, the liability for which was irrevocably incurred during the period for which the income is being ascertained;
ix) any expenses of any description incurred within or outside Nigeria for the purpose of earning management fees unless prior approval of an agreement giving rise to such management fees has been obtained from the Minister; and
x) any expense whatsoever incurred within or outside Nigeria as management fees under any agreement entered into after the commencement of this PITA except to the extent as the Minister may allow.

SELF-ASSESSMENT EXERCISE 3

1. List those incomes exempted and those not exempted from tax relating to individuals as provide for by PITA

3.4 List of persons assessed under Personal Income

It is worthy to note that the Personal Income Tax Act 2011 (as amended) is yet to release or prepare a list of taxable persons assessed to income tax under PITA. This list of persons assessed under personal income is referred to as "The Assessment List". The list however, shall contain the following information:

i) the names and addresses of the taxable persons assessed to tax,
ii) the names and addresses of any person in whose name the taxable person is chargeable,
iii) the amount of the assessable,
iv) total or chargeable income on which, as the case may be, the tax is computed,
v) the amount of the income tax charged, and
vi) such other particulars as may be prescribed by the relevant tax authority.

SELF-ASSESSMENT EXERCISE 4

1. What do you understand by the term "Assessment List"?
2. Enumerate the items that may be contained in the assessment list?

3.5 Penalty for failure to deduct tax

PITA provides that any person or body corporate who, being obliged to deduct tax, fails to deduct or having deducted, fails to remit such deductions to the relevant tax authority within thirty (30) days from the date the amount was deducted or the time the duty to deduct arose, shall be liable to a penalty of an amount of 10 per cent of the tax not deducted or remitted plus interest at the prevailing monetary policy of the Central Bank of Nigeria (CBN).

Furthermore, the Accountant-General of the Federation shall have power to deduct at source, from its budgetary allocation, un-remitted taxes due from any Ministry, Department or Government Agency and transfer such deductions to the relevant State upon request by such State.

SELF-ASSESSMENT EXERCISE 5

1. What is the penalty attached to failure to deduct or remit tax under PITA?

4.0 CONCLUSION

In this unit, the discussion was fastened on the laws and principles of income tax relating to an individual in Nigeria. This unit is crucial in that students are better equipped on the laws and principles on personal income tax and most importantly, the offences and penalties relating to authorized and authorized persons as enshrined in the Personal Income Tax Act 2011 as amended.

5.0 SUMMARY

This unit emphasized the laws and practices of income tax relating to an individual in Nigeria. In particular, the following issues were covered:

- The imposition of tax on individuals
- Persons on whom tax is to be collected
- Incomes exempted and those not exempted from tax relating to individuals
- The list of persons assessed under personal income
- The penalty for failure to deduct tax

6.0 TUTOR-MARKED ASSIGNMENT

1. The Personal Income Tax Act 2011 makes provision for persons on whom tax is to be collected. List the once known to you?

2. List those incomes exempted and those not exempted from tax relating to individuals as provide for by PITA

3. Briefly explain the term “Assessment List”? Enumerate the items that may be contained in the assessment list?

4. What is the penalty attached to failure to deduct or remit tax under PITA?

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Unit 3 Introduction to Taxation of Income from Trusts, Settlements and Estates

CONTENTS

1.0 INTRODUCTION

Taxation of income from trusts, settlements and estates is a fundamental issue discussed in the Personal Income Tax Act 2011 as amended. Paragraph 16 of PITA 2011 provides that 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 in Nigeria, shall be ascertained in accordance with the provision of PITA. However, this unit dealt with taxation of income from trusts, settlements and estates.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- conceptualize certain terminologies in Incomes from trusts, settlements and estates
- know tax exemptions and settlements in Nigerian tax laws
- understand the accounts under trusts, settlements and estates such as the preparation of accounts and responsibilities for accounts preparation

- compute of income under trusts, settlements and estates such as specific deductions and apportionment of computed income
- know the basis of tax assessment under trusts, settlements and estates, especially in the area of aggregates of apportionment computed income, double tax relief, appeal, loss relief and capital allowances
- compute chargeable income

3.0 MAIN CONTENT

3.1 Conceptualization of Terminologies in Incomes from Trusts, Settlements and Estates

- **Trust:** This is an obligation or authorization given in faith to one or more individual (known as the trustee) to dispose or value property and apply the benefits arising out of the property for the advantage of the owner of the property (known as the beneficiaries).
- **Estate:** This refers to a property of a deceased person or the aggregate of the things possessed by a person. The properties could be in form of money, goods and property of any kind.
- **Settlement:** This refers to an agreement whereby a sum of money is set aside to make provision for another person. Settlement also is a scheme by which the enjoyment of an estate under the same deed or will may be had by persons in succession.
- **An Estate:** This is the aggregate of a person's possession either in his life time or at death which will comprise of his personal chattels, goods, money and properties.
- **Executor:** This refers to an individual that is appointed in a will to administer the estate of a person or appointed by a court where executor refuses to act or the person died intestate.
- **Administrator:** This is an individual appointed by the court to manage the estate of an interstate or of a testator where an executor has not been appointed or if appointed, does not act.
- **Intestate:** This refers to a situation when a person dies and lives no valid will or leaves a will but has not disposed off all his property by the will, he is said to have died intestate, while the person who died leaving a will is known as a testator.
- **A Legatee:** This is the beneficiary or recipient of the legacy bequest in a will. A legatee is also referred to as a devisee.
- **An Annuitant:** This refers to the recipient of a fixed amount or payment specified in the deed of trust.
- **A Settlement:** This is the transfer of a property for the future use or need of a person which will comprise of any disposition, covenant, arrangement and agreement

- **A Settler:** This is the individual that creates a trust or settlement either directly or indirectly.

SELF-ASSESSMENT EXERCISES 1

1. Differentiate between trust, settlement and estate.
2. What are the similarities between a settler, an executor and an administrator?

3.2 Accounts under Trusts, Settlements and Estates

Under this, we shall look at the accounts prepared under trusts, settlements and estates as well as the responsibilities for accounts preparation.

3.2.1 Preparation of Accounts

The preparation of accounts under trust, settlement and an estate are usually meant to show how the funds relating to any of the beneficiaries have been put to use in accordance with the instruments setting them up. The preparation of the accounts will then provide information about the dealings or business activities as well as the current state of affairs to the beneficiaries, trustees and other interested parties (e.g. relevant tax authorities) to the trust.

3.2.2 Responsibilities for Accounts Preparation

In Nigeria, it is the sole responsibility of a trustee of a trust, settlement or the executor of an estate to prepare accounts of the income from all sources for consecutive periods to 31st December of each year, and to the date in which the assets of the settlement, trust or estate are finally distributed. The trustee of a settlement or trust or executor of an estate shall be answerable for all things to be done in connection with related tax issues.

According to the Personal Income Tax Act 2011 (as amended), the income of a trust, settlement and estate shall for all purposes of the act be deemed to be the income of the person creating the trust, as the case may be; and this shall be so much of that income as is derived from a source in Nigeria and any of the income brought into Nigeria.

Furthermore, the income 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 in Nigeria, shall be ascertained in accordance with the provision of PITA.

SELF-ASSESSMENT EXERCISES 2

1. Briefly illustrate the provisions of PITA on preparation of accounts of a trust, settlement or an estate and responsibility for the preparation of the accounts?

3.3 Computation of Income under Trusts, Settlements and Estates

Income subject to income tax under trusts, settlements and estates are computed in a manner that is similar to that of a sole proprietor and partnerships. However, PITA provides for specific deductions, apportionment of computed income of a trust, settlement and estate. These issues are discussed below:

3.3.1 Specific Deductions

In addition to the deductions allowed listed in PITA 2011 (as amended), the following
deductions are unique to income of this nature:

a) any expenses of the trustee or executor relative to the settlement, trust or estate which is authorised by the terms of the deed of settlement, trust or estate or of the will as the case may be;
b) any annuity of fixed annual amounts paid out of the income of the settlement, trust or estate, in accordance with the provisions of the deed or will.

Where the income includes any gain or profit from a trade, business or vocation or any rent or premium, there shall be added or deducted- as the case may be, any sum which would have been added or deducted for the next following year of assessment under the provisions of PITA, if the income from those sources had been the assessable income of an individual for that year of assessment under the provisions of PITA.

3.3.2 Apportionment of Computed Income

PITA provides that the computed income of a year of assessment of a settlement, trust or estate shall be apportioned for the settlement in the following manner:

(a) Deed of Settlement:

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 annuity of fixed amount is to be divided in specific proportion among the beneficiaries entitled thereto, from time to time; or

ii. By operation of the law of intestacy, the income of an individual is to be divided as above (i), the income of each beneficiary of any year from the settlement trust or estate shall be his similarly apportioned share of the computed income;

(b) Discretion to make Payment

i. 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 from time to time, then the amount of the payment be treated as income of that year which is assessable to tax in the hands of that beneficiary and

ii. Out of the remainder of the computed income after deducting the aggregate amount of all the payments during any year, there shall be apportioned to each beneficiary who has any specified proportion to the remainder, provided that if the aggregate amount exceeds the computed income, the amount of each 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 amount so reduced does not exceed the computed income.

(c) Computed Income of a Settlement, Trust or Estate: Any remainder of the computed income of a settlement, trust or estate of any year after deducting all amount apportioned to beneficiaries or treated as income in the hands of beneficiaries under this sub-paragraph shall be reduced proportionally. Income paid for the benefit of a child of the settler in a year of assessment shall be treated for the purpose of the act as the income of the settler and not the income of any other person if at the time of payment; the child is an infant and unmarried- except where:

i. in a year of assessment, the aggregate amount of the income paid to or for the benefit of that child does not exceed N500 only;

ii. the income arising under a settlement in a year preceding a year of assessment if the settler is not in Nigeria at any time during that year of assessment, or is not in Nigeria for a period or periods amounting to 183 days or more in any twelve months period, commencing in the calendar year and ending either in the same year or the following year.

SELF-ASSESSMENT EXERCISES 3

1. List the specific deductions under settlements, trusts or estate?

3.4 Basis of Tax Assessment under Trusts, Settlements and Estates

The assessment of income from settlements, trust and estates to tax is established by the provisions of PITA 2011 (as amended) as follows:

(a) Individuals receiving a fixed annuity- an individual on receipt of an annuity of fixed annual amount paid out of the income of a settlement, trust or an estate shall be assessable to tax on the full amount of the annuity; the income is assessed to tax on preceding year basis and is included in his/her income tax assessment;

(b) Beneficiary, trustee or executor- part of the computed income received by any beneficiary, trustee, executor or annuitant for a year of assessment shall be assessed on preceding year basis.

However, the following key issues should be taken into consideration:

(i) The income of a beneficiary is included in his income tax assessment in the same way as income from other sources accruing to him;

(ii) The income of a trustee or executor is not included in any assessment on him as an individual, but is assessed separately in his name as trustee or executor. He cannot therefore, as a trustee or executor, claim personal relief.

3.4.1 Aggregates of Apportionment Computed Income

It is worthy to note that if the aggregate amount apportioned exceeds the computed income, the amounts of payments made to all beneficiaries are proportionally reduced so that the total amounts equal the computed income. The below formats can be used in a situation of aggregates of apportionment computed income:

Format 1	₦
Computed Income	XX
Discretionary Payments (Admin Expenses)	(X)
Specific payments (Beneficiaries)	(X)
Non–apportioned balance	X

Format 2	
Computed Income	XX
Discretionary Payments (Admin Expenses)	(X)
Specific payments (Beneficiaries)	(X)
Excess apportionment	X

3.4.2 Double Tax Relief

Double taxation relief shall be granted to any settlement, trust or estate that the income includes any income which has suffered tax in Nigeria or outside Nigeria. The relief shall be computed in accordance with the rules for apportioning the computed income of the year in proportion to the respective shares. Where there is no computed income, that is, where the income of the settlement, trust or estate is exhausted through expenses, annuities and other deductions, the relief or repayment shall be given or made to the trustee or executor for the account of the settlement, trust or estate.

3.4.3 Appeal

An appeal against the inclusion of an income of settlement, trust or estate in an assessment to tax by any tax authority is established by the appeal provisions of the income tax laws of the territory to the tax authority of which the trustee or executor is answerable for the relevant year of assessment.

3.4.4 Loss Relief and Capital Allowances

Note that if the income includes profits from a trade, business, profession or vocation, or any rents or premiums, the same sum deducted would have been allowed as loss relief in the next year of assessment to an individual carrying on that trade etc., and assessed on Preceding Year Basis. In the case of capital allowances, the treatment is the same as that of any trade, business, profession or vocation.

SELF-ASSESSMENT EXERCISES 4

1. State the basis of tax assessment under trusts, settlements and estates?
2. Relate the concept of double tax relief under trusts, settlements and estates?
3. How is loss relief and capital allowance treated under trusts?

3.5 Determination of Chargeable Income

Format for Determining Chargeable Income

	₦	₦
Income		
Interest	x	
Rent	x	
Dividend	x	
Trading Profit	x	
Sundry Income	x	
Total income		xx
Deduct Expenses		
Trustee Remuneration	x	
Trustee Annuity	x	
Specific Legatee	x	
Residual Legatee	x	
Administration Expenses	x	
Authorized payment	x	(xx)
Computed Income		xxx
Less:		
Discretionary Payment		

A	x	
B	<u>x</u>	<u>(xx)</u>
Remainder of computed Income		xx
Distribution to beneficiaries		
A	x	
B	<u>x</u>	<u>(xx)</u>
Trustee income Taxable		Xx

Income of beneficiaries

	A	B
	₦	₦
Discretionary Payment	x	x
Distribution	x	x
	xx	xx

Illustration I

Mr. Kolo is a staff of NEXIM Bank Plc with a consolidated monthly salary of ₦784,261. In addition he receives ₦396,000 p.m for his accommodation.
He receives Additional Income on the following:

Year	source		
	Trading	Dividend	Rent
	₦	₦	₦
2010	9,308,652	900,000	1,500,000
2011	6,500,000	705,000	1,500,000
2012	12,800,000	840,000	1,500,000

Note: All dividend and Rent are reported gross.

Required: Determine Mr. Kolo's tax liability for 2012 YOA.

Suggested Solution

Mr. Kolo
Determination of Tax Liability for 2012 YOA

	₦	₦
Earned Income:		
Salaries	9,411,132	
Accommodation	4,752,000	
Trading	6,500,000	20,663,132
Unearned Income:		
Dividend	705,000	
Rent	1,500,000	2,205,000
Gross income (GI)		22,868,132
Relief & Allowances:		
Consolidated Relief		
(200,000 or 1% of GI) + 20% of GI		
which ever is higher		
228,681 + 4,573,626		(4,802,307)
Chargeable Income		18,065,825
Less Frank Investment		(705,000)
Taxable Income		17,360,825

Tax liability

1st	300,000 @ 7%	=	21,000.00
Next	300,000 @ 11%	=	33,000.00
Next	500,000@ 15%	=	75,000.00
Next	500,000@19%	=	95,000.00
Next	1,600,000 @21%	=	336,000.00
Next	14,160,825 @24%	=	3,398,597,90
			₦3,958,597.90
Less Advance Tax credit			150,000.00
Tax Payable			₦3,808,597.90

Illustration II

Mr. Okoro was retired from the public service of the Federal Government on 31st March 2006. He then secured employment with a public limited liability company based in Lagos, effective 1st April 2006 as managing Director. The following information has been provided by Mr. Okoro:

(a) Salary-from old employment is ₦20,000 per month New employment ₦300,000 per annum.

(b) Pension Income effective 1/4/06 ₦60,000 p.a

(c) Transport Allowance new employment ₦24,000 p.a

(d) Rent Allowance by new employer ₦100,000 p.a

(e) Entertainment allowance is ₦2,000 per month

(f) Dividends received (Gross)

	₦
h. Paid 3/3/05	9,625
i. Paid 7/8/05	8,415
j. Paid 26/2/06	4,800
k. Paid 20/8/06	6,000
1. Paid 2/12/06	7,200

(g) Rents collected (gross) 1/7/05-30/6/06 ₦ 84,040

(h) Expenses on property

	₦
- Water rate	1,500
- General rate	2,750
- Repairs rate	2,500
- Insurance	5,800

(i) Mr Okoro is married and has five children aged between 4 years and 18 years. All except one, named Kuta-aged 18 are still in school. Kuta is however unemployed.

(j) Capital allowance on building has been agreed with the Revenue at ₦16,000.

(k) Mr Okoro has a life Assurance policy on Kuta-with sum assured of ₦200,000 and annual premium of ₦20.000.

(1) His widowed mother lives with him and he spend ₦18,000 per annum maintaining her. Although she has an investment income of ₦12,000 per annum of her own.
(m) Other expenses-Donation to disabled persons ₦5,000.
(n) His new employer also provided him with a car (costing ₦350,000) for his exclusive use.

You are required to compute the Income Tax Payable by Mr. Okoro for 2006 year of assessment.

Suggested Solution

Mr. Okoro

Computation of Income Tax Liability for 2006 Year of Assessment.

	₦	₦
Earned Income		
Employment Income salary	285,000	
- Pension	45,000	
- Transport Allowance ,	6750	
- Entertainment	13,500	
- Benefit-in-Kind	13,125	363,375
Unearned Income-Rent	27,920	
- Dividend	18,040	45,960
- Statutory Total Income		409,335
Deduct Relief: Personal Allowance (20% of El+5000)	77,675	
- Children Allowance	10,000	
- Dependent Relative Allowance	-	
- Life Assurance Policy Allowance	20,000	107,675
Taxable Income		301,660

Tax Payable:	=	₦
1st 30,000 at 5%	=	1,500
Next 30,000 at 10%	=	3,000
Next 50,000 at 15%	=	7,500
Next 50,000 at 20%	=	10,000
141,660 at 25%	=	35,415
		57,145

Working Notes:

1. Salaries

1/1/06-31/03/06 = 20,000x3	=	60,000
1/4/00-31/12/06 = 9/12 x 300,000	=	225,000
		285,000

2. Pension

1/4/06-31/12/06 = 9/12x60,000 = 45,000

Pension becomes taxable with effect from April 1,2006

3. Transport Allowance

1/4/06-31/12/06 = 9/12 x (24,000-15,000) = 6,750

Transport allowance is exempted from tax provided it does not exceed ₦15,000 p.a. from 2001year of assessment. Any amount in excess of this is charged to tax.

4. Rent Allowance ;,,.

The rent allowance not exceeding ₦100.000 per annum is exempted from tax.

5. Entertainment Allowance .

1/4/06-31/12/06 = 9/12 = [(2000xl2)-6000] = 13,500

6. Rental income (1/7/05-30/6/06)

	₦	₦
Amount collected		84,040
Less: Water rate	1,500	
General rate	2,750	
Repairs	2,500	
Insurance	4,800	
Interest on loan	650	12,200
Net Income		71,840
Capital Allowance		(16,000)
Chargeable Income		55,840
For 2006 year of assessment = 6/12 x 55,840 =		27,920

7. Dividend Income:

Since dividend income is charged on the preceding year basis. Only dividend received in 2005 are relevant for the 2006 year of assessment.

		₦
Received on 3/3/05	9,625	
Received on 7/8/05	8,415	
		18,040

8. Benefit-in-Kind ,

Car = 9/12 x 5% x 350,000 = 13,125

9. He is not entitled to dependent Relative Allowance because the dependent earns a total income that exceeds ₦600 per annum.

10. Life Assurance policy allowance is claimed as follows:

The lowest of:	₦
(a) Annual premium =	20,000
(b) 10% of capital sum assured	20,000
(c) 20% of statutory total Income	66,867

11. The donation to the disabled society is not an allowable deduction.

4.0 CONCLUSION

Taxation of individuals, partnership as well as executorships, trust law and accounts are interwoven such that they should be studied together. However, this unit dealt with taxation of income emanating from settlements, trusts and estates as covered by PITA 2011 as amended.

5.0 SUMMARY

This unit dealt with taxation of income from trusts, settlements and estates. Specifically, it covered the following areas:

- Conceptualizing of terminologies in incomes from trusts, settlements and estates
- Tax exemptions and settlements in Nigerian tax laws
- Accounts under trusts, settlements and estates such as the preparation of accounts and responsibilities for accounts preparation
- Computation of income under trusts, settlements and estates such as specific deductions and apportionment of computed income
- Basis of tax assessment under trusts, settlements and estates, especially in the area of aggregates of apportionment computed income, double tax relief, appeal, loss relief and capital allowances
- Calculate chargeable income

6.0 TUTOR-MARKED ASSIGNMENT

1. State the basis of tax assessment under trusts, settlements and estates?
2. List the specific deductions under settlements, trusts or estate?
3. How is loss relief and capital allowance treated under trusts, settlements and estate?
4. Briefly illustrate the provisions of PITA on preparation of accounts of a trust, settlement or an estate and responsibility for the preparation of the accounts?
5. Differentiate between trust, settlement and estate.
6. What are the similarities between a settler, an executor and an administrator?

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Unit 4 Other Issues under Personal Income Tax

CONTENTS

1.0 INTRODUCTION

In order to arrive at the profits or gains arising from a sole proprietorship trade for tax purpose, there is need for the computation of adjusted profit in respect of a defined period. This is done by considering statutory total incomes and deducting all allowable deductions. For an individual who is engaged in an activity to be referred to as a sole proprietor or trader, he must be operating a legal and registered business which is not in contravention of the law in any way. Also, for a sole trader to be assessed to tax, he must have been in business for, at least, three years from the date of commencement. However, this unit took a glance at some issues relating to personal income tax in Nigeria.

2.0 OBJECTIVES

Having read through this unit, the student should be able to:

- ascertain adjustment of income statements
- know the methods for adjusting for the accounting profit
- understand reliefs and allowances
- know the penalties for non-compliance

- be acquainted with the personal income tax rates

3.0 MAIN CONTENT

3.1 Adjustment of Income Statements

The preparation of a fresh income statement for the purpose of income tax computation may not be needed since the income statement prepared by the Accountant can serve that purpose, but with some adjustments to make the balances of the taxable profit to conform with the relevant tax law. The adjustment is necessary as the account was prepared on the basis of financial accounting principles.

The process of adjusting the accounting profit in-line with the provisions of relevant tax laws is referred to as ascertainment of adjusted profit. As mentioned earlier, for the purpose of determining adjusted profit, there shall be a deduction of revenue expenditure which is wholly, exclusively, necessarily and reasonably incurred. Detail of this deduction is explained in the following section.

What is wholly, Reasonably, Exclusively and Necessarily (WREN)?

(i) **Wholly** – where an individual uses a part of a building privately, as well as for business, the amount paid in any year of assessment will be apportioned on the basis of usage; and the amount attributable to private use will not qualify as an allowable expense in the computation of assessable profit. In effect, the term "wholly" is in reference to the quantum of the money expended for the business. It must be totally for the purpose of business. Thus, an expense is said to be wholly incurred if the entire amount is incurred for the purpose of the business.

(ii) **Reasonably** – Expenses that are deductible must be reasonable in cost and quantity. This means that such allowable expenses must be incurred for the purpose of generating the income of the business, trade or vocation. Any expense to the contrary should be disallowed. Note that an expense is said to be reasonably incurred based on the amount or size involved. This is determined through trend and cross-sectional analysis.

(iii) **Exclusively** – the word exclusively is better illustrated with the word "solely". Thus, for expenses to be exclusive, it means that such expenses must have been incurred solely for the purpose of the business. That is, solely for the aim of promoting the business or its profit earning capacity.

(iv) **Necessarily** – all expenses that are reasonable will certainly be necessary for the purpose of producing income in a business. By implication, an expense is said to be necessarily incurred if the business cannot earn an income without incurring the expenses. The two words, “reasonably and necessarily” connote element of compulsion.

SELF-ASSESSMENT EXERCISE 1

1. Briefly explain the implication of expenses being Wholly, Reasonably, Exclusively and Necessarily incurred?

3.2 Methods for Adjusting for the Accounting Profit

There are two methods for arriving at the adjusted accounting profit of an individual taxpayer. They include the Simplified and Detailed Methods. Note that this unit/module did not cover a detailed analysis and computation needed for adjusting of the accounting of profit. However, in order to adjust for the accounting profit on an individual for tax purpose, the following approaches/steps should be taken:

1) Begin with the net profit or loss as shown in the income statement for the period.

2) Add the items listed below to (1) above.
   a) Expenses which have been debited to the income statement which are not allowable as expenses for income tax purpose. A good example is depreciation.
   b) Any income that is accruable to trade, business etc, which has not been credited in the account, and which is subject to income tax. E.g. discount received.

3) Deduct the following from the summation of (1) and (2) above.
   a) Any item which has been credited to the income statement but is exempted from income tax. Example is profit on disposal of fixed assets.
   b) Any item that is allowable as deductible expenses but has not been properly treated in the income statement. Example is any omitted revenue expense.

SELF-ASSESSMENT EXERCISE 2

1. Highlight the methods for adjusting for the accounting profit?
2. Briefly explain how the basis for adjusting for the accounting profit under personal income tax?

3.3 Reliefs and Allowances

In arriving at the taxable or chargeable income, reliefs and allowances are granted against the statutory income. Statutory income here simply refers to the addition of the earned and unearned income. The reliefs and allowances according to the Personal Income (Amendment Act) 2011 are as follows:

Higher of:

a. 1% of gross income **OR**
b. A consolidated relief allowance on income at a flat rate of N200,000;

Plus 20% of gross income

Tax Exempt Income
The following deductions are tax exempt:

a. National Housing Fund Contribution
b. National Health Insurance Scheme
c. Life Assurance Premium
d. National Pension Scheme
e. Gratuities

SELF-ASSESSMENT EXERCISE 3

1. What are reliefs and allowances?
2. List deductions that are tax exempt

3.4 Penalties for Non-Compliance

The penalty for failing to file returns according to the Personal Income Tax (Amendment) Act, 2011 is N500,000 for corporate organizations and N50,000 for individuals.

Payment of Consolidated Relief with from 2011
Recall that Section 33 of the Principal Act was amended in June 2011 which reads as follows:

"there shall be allowed a consolidation relief allowance of ₦200,000.00 subject to a minimum of 1 percent of gross income whichever is higher plus 20 per cent of the gross income and the balance shall be taxable in accordance with the Income table in the Sixth Schedule to this Act".

With the above amendment to the provisions of the Act, all previous reliefs and allowances are now consolidated into one. After the relief allowance and exemptions had been granted in accordance with paragraphs 1 and 2 of the 6th Schedule, the balance of income shall be taxed.

SELF-ASSESSMENT EXERCISE 4

1. What are the penalties for non-compliance to PITA?
2. What is the relief allowance for Personal Income Tax with respect to the provisions of the Personal Income Tax (Amendment) Act 2011?

3.5 Personal Income Tax Rates

The taxable income of an individual is assessed to tax at the rate which is published by the government and may be reviewed from time to time. These rates change in line with the tax policy of the government.

The table below shows the personal income tax rates for different fiscal years.

EFFECTIVE FROM 1995

Taxable income (N)	**Rate of Tax** (%)
1st 10,000	5
2nd 10,000	10
3rd 10,000	15
4th 10,000	20
Next 20,000	25
Over 60,000	30

EFFECTIVE FROM 1996

Taxable income (N)	**Rate of Tax** (%)
1st 10,000	5
2nd 10,000	10
Next 20,000	15
4^{Next} 20,000	20
Over 60,000	25

EFFECTIVE FROM 1998

Taxable income (N)	**Rate of Tax** (%)
1st 20,000	5
2nd 20,000	10
Next 40,000	15
4^{Next} 40,000	20
Over 120,000	25

EFFECTIVE FROM 2001

Taxable income (N)	**Rate of Tax** (%)
1st 30,000	5

2^{nd}	30,000	10
Next	50,000	15
4^{Next}	50,000	20
Over	160,000	25

EFFECTIVE FROM 14th JUNE 2011

Taxable income (N) Annual		**Tax Rate** (%)	**Taxable income** (N) Monthly	**Tax Rate** (%)
1st	300,000	7	25,000	7
2nd	300,000	11	25,000	11
Next	500,000	15	41,666	15
Next	500,000	19	41,666	19
Next	1,600,000	21	133,333	21
Above	3,200,000	24	266,666	24

SELF-ASSESSMENT EXERCISE 5

1. With effect from 14th June 2011, what is the picture of the personal income tax table?

4.0 CONCLUSION

This unit dealt with some issues relating to personal income tax in Nigeria. However, the issues covered are preliminary issues the knowledge of it is needed in computing personal income tax.

5.0 SUMMARY

This unit covered some issues relating to personal income tax in Nigeria. However, the following were dealt with:

- Adjustment of income statements
- The methods for adjusting for the accounting profit
- Reliefs and allowances
- The penalties for non-compliance
- The personal income tax rates

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the implication of expenses being Wholly, Reasonably, Exclusively and Necessarily incurred?
2. Briefly explain how the basis for adjusting for the accounting profit under personal income tax?
3. List deductions that are tax exempt
4. What are the penalties for non-compliance to PITA?

7.0 REFERENCES/FURTHER READING

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Module 3

Unit 1 Principles and Scope of Company Tax

CONTENTS

1.0 INTRODUCTION

Company Tax is established by the Companies Income Tax Act (CITA) CAP C21 2004 LFN for both resident and non-resident companies in Nigeria. A resident company is one whose operations are carried and managed and is liable to Nigerian tax law. On the other hand, a non-resident company is one whose portion of its income is obtainable in Nigeria and is liable to any such laws in force in any given country outside Nigeria. Company tax is controlled and managed by the Federal Inland Revenue Service (FIRS) through various large tax offices and incorporated tax offices. Companies are taxed on the basis on certain expenditure in determining whether they are incurred wholly, exclusively, necessarily or reasonably in earning the income.

2.0 OBJECTIVES

Having read this unit, the student should be familiar with:

- the meaning and principles of company tax;

- scope and basis of charging company tax;
- categories of assessment in company tax;
- deductions allowed and deductions not allowed in company tax

3.0 MAIN CONTENT

3.1 Meaning and Principles of Company Tax

Company tax or company income tax is a levy imposed on all companies carrying out their businesses or trades in Nigeria (resident companies) and those outside Nigeria (non-resident companies). Resident companies are incorporated under the Companies and Allied Matters Act (CAMA) 2004 while non-resident companies are incorporated under any law in operation in any given country external to Nigeria. The principle associated with company tax is that resident and non-resident companies are taxed except those wholly exempted under Company Income Tax Act (CITA) in the respective countries.

SELF-ASSESSMENT EXERCISE 1

1. In your own view, what do you understand by the term "Company Tax?
2. Differentiate between resident and non-resident companies?

3.2 Scope and Basis of Charging Company Tax

In the foregoing discussion, we articulated that there are exemptions to company income. These exemptions are those established by CITA. Thus, the extent to which taxes are levied on companies is premised on whether the company is resident or non-resident. Precisely, the basis for which taxes are charged on company incomes involve the following:

a) For a non-resident company, the portion of profits obtainable from such company's operations in Nigeria is chargeable to tax.

b) The global profits of resident companies are liable to tax irrespective of whether or not they are brought into or received in Nigeria. However, for a resident company, dividend income is considered as Franked Investment income on which no income tax is payable.

c) For a non-resident company, dividends, interests or royalties are assessed at 10% on the gross amount due (i.e. withholding tax rate) and only the net is payable to the relevant company.

SELF-ASSESSMENT EXERCISE 2

The basis for which taxes are charged on company incomes are numerous. Provide highlights of the basis involved?

3.3 Categories of Assessment in Company Tax

3.3.1 Best of Judgment Assessment of Tax Payable

Best of Judgment (BOJ) assessment is a term employed in describing the estimation used by the relevant tax authority as the basis of assessment in a circumstance where no financial records exist or returns submitted by taxpayers to the tax authority. BOJ may also be employed in circumstances where the financial records are seen to be unreliable.

3.3.2 Self-Assessment of Tax Payable

Self-assessment of tax payable is a system where a company pays tax by instalment and is allowed by the relevant tax authority to estimate the company's chargeable income and tax payable thereon for a year of assessment. Self-assessment of tax payable is provided for under section 53 of the Company Income Tax Act (CITA), 2011. In this regard, every company filling a return under Section 58 of CITA or required by notice of the Board to file a return under section 59 of CITA shall:

a) in the return, compute the tax payable by the company for the year of assessment; and

b) forward with the tax return, evidence of direct payment of the whole or part of tax due into a bank designated for the payment of tax.

3.3.2 Currency of Assessment

CITA makes provision for the currency of assessment of tax payable by a company as contained under section 54. Under this section, the Act provides that:

a) notwithstanding anything to the contrary in any law, an income tax assessment under sections 52, 53 or 55 of this Act shall be made in the currency in which the transaction giving rise to the assessment was effected.

SELF-ASSESSMENT EXERCISE 3

Briefly explain the following:

1. Best of Judgment (BOJ) assessment of tax payable?
2. Self-Assessment of tax payable?
3. Currency of Assessment?

3.4 Deductions Allowed and Deductions Not Allowed in Company Tax

In the Nigerian tax law, there are sufficient provisions on deductions allowed and deductions not allowed for companies. The deductions allowed and deductions not allowed in company tax are discussed below:

3.4.1 Deductions Allowed

CITA provides for deductions allowed from profits of companies wholly, exclusively, necessarily and reasonably incurred in the production of those profits including, but without otherwise expanding or limiting the generality of the foregoing:

a) any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profits;

b) rent for that period, and premiums, the liability for which was incurred during that period, in respect of land or building occupied for the purposes of acquiring the profits, subject, in the case of residential accommodation occupied by employees of the company, to a maximum of 100% of the basic salary of employees;

c) any outlay or expenses incurred during the year in respect of:
   i. slavery, wages or other remuneration paid to the senior staff and executives;
   ii. cost to the company of any benefit or allowance provided for the senior staff and executives, which shall not exceed the limit of the amount prescribed by the collective agreement between the company and the employees and approved by the Federal Ministry for Labour matters as the case may be;

d) any expenses incurred for repair of premises, plant, machinery or fixtures employed in acquiring the profits, or for the renewals, repair or alteration of any implement, utensil or article so employed;

e) bad debts incurred in the course of a trade or business proved to have become bad during the period for which the profits are being ascertained, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said period notwithstanding that such bad or doubtful debts were due and payable before the commencement of the said period provided that:
   i. all sums recovered during the said period on account of amounts previously written off or allowed either under the CITA 1961 or this

current CITA 2011 in respect of bad or doubtful debts shall for the purposes of this Act be deemed to be profits of the trade or business of that period;

f) any contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board under the powers conferred upon the Personal Income Tax Act and any contribution other than a penalty made under the provisions of any enactment establishing a national provident fund or other retirement benefits scheme for employees throughout Nigeria;

g) in the case of the Nigerian Railway Corporation, such deductions are allowed under the provisions of the Authorized Deductions (Nigerian Railway Corporation) Rules, which shall continue in force for all purposes of this Act;

h) in the case of profits from a trade or business, any expenses or part thereof:-
   i. the liability for which was incurred during that period wholly, exclusively, necessarily and reasonably for the purposes of such trade or business and which is not specifically referable to any other period or periods; or

   ii. the liability for which was incurred during any previous period wholly, exclusively, necessarily and reasonably for the purpose of such trade or business and which is specifically referable to the period of which the profits are being ascertained; and
   iii. the expenses proved to the satisfaction of the Board to have been incurred by the company on research and development for the period including the amount of levy paid it to the National Science and Technology Fund which is not deductible under any other provision of this Act.

i) such other deductions as may be prescribed by the Minister by any rule that can be applied to Companies carrying on trade or business in Nigeria.

3.4.2 Deductions Not Allowed

CITA provides for deductions not allowed from profits of companies wholly, exclusively, necessarily and reasonably incurred in the production of those profits notwithstanding any other provision of this Act, no deduction shall be allowed for the purpose of ascertaining the profits of any company in respect of:

a) capital repaid or withdrawn and any expenditure of a capital nature;

b) any sum recoverable under an insurance or contract of indemnity

c) taxes on income or profits levied in Nigeria or elsewhere, other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of CITA.

d) any payment to a savings, widows and orphans, pension, provident or other retirement benefit fund, society or scheme except as permitted by the Joint Tax Board;

e) the depreciation of any asset;

f) any sum reserved out of profits, except as permitted by the Joint Tax Board or President by order in the Federal Gazette or as may be estimated to the satisfaction of the Board (JTB), pending the determination of the amount, to represent the amount of any expense deductible under the provisions of CITA, liability for which was irrevocably incurred during the period for which the income is being ascertained;

g) any expense of any description incurred within and outside Nigeria for the purpose of earning management fee unless prior approval of an agreement giving rise to such management fee has been obtained from the Minister;

h) any expense whatsoever incurred within or outside Nigeria as management fee under any agreement entered into after the commencement of CITA to the extent as the Minister may allow; and

i) any expense of any description incurred outside Nigeria for and on behalf of any company except of a nature and to the extent as the Board may consider allowable.

SELF-ASSESSMENT EXERCISE 4

Based on the provisions of CITA, there are certain deductions that are exempted while some are not. List the deductions allowed and those not allowed?

4.0 CONCLUSION

In this unit, the deliberation was anchored on the principles and scope of company tax by examining the basis of charging company tax, categories of assessment as well as deductions allowed and those not allowed in company tax. This unit is essential in that students can now take note of the criteria for identifying those deductions that are allowed or not allowed as the case may be, as this is the key to determining how much a company should pay as tax.

5.0 SUMMARY

This unit emphasized the scope and principles of company tax in Nigeria. In particular, the following issues were covered:

- The Meaning and Principles of Company Tax;
- The Scope and Basis of Charging Company Tax (categories of assessment in company tax; best of judgment assessment of tax payable; self-assessment of tax payable and currency of assessment); and
- Deductions Allowed and Deductions Not Allowed in Company Tax

6.0 TUTOR-MARKED ASSIGNMENT

1. Define Company Tax?

2. Differentiate between resident and non-resident companies?

3. Briefly explain the following:
   (a) Best of Judgment (BOJ) assessment of tax payable?
   (b) Self-Assessment of tax payable?
   (c) Currency of Assessment?

4. List the deductions allowed and those not allowed by the Company Income Tax?

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

Federal Republic of Nigeria (2011). *Tax laws in Nigeria.* Abuja: Princeton Publishing Company

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Olufunke, S. (n.d). *Companies income tax computations and treatment in financial statements.* Peak Professional Services, Nigeria.

Unit 2 Computation of Company Income Tax

CONTENTS

1.0 INTRODUCTION

The Company Income Tax Act (CITA) provides that company income tax is levied and payable for each year of assessment at the rate of thirty kobo for every Naira in respect of a company's total profits. In order to facilitate the ease of company tax computation by the student, the provisions for exemptions on donations and specific items is paramount. In addition to this, the manner in which profits are determined for companies is a prerequisite to understanding company tax computation in Nigeria. Thus, the emphasis of this unit is the computation of company tax in Nigeria.

2.0 OBJECTIVES

Having read this unit, the student should be familiar with:

- provisions for exemptions on donations to funds, bodies and institutions and specific items in Nigeria;
- profits determination in company tax
- computation of company income tax

3.0 MAIN CONTENT

3.1 Provisions for Exemptions on Donations to Funds, Bodies and Institutions and Specific Items in Nigeria

In some situations, companies are engaged in philanthropic or charitable activities by means of cash or material donations. As a way of encouraging such companies to extend their charitable or philanthropic activities, the tax authority provides for exemptions on such donation. The provisions for exemptions are limited to certain funds, bodies and institutions and not peculiar to all in Nigeria. The provisions for exemptions on donations are contained in the fifth schedule of the Company Income Tax Act, 2011. The implication is that donations to funds, bodies and institutions not included on this list, will not be an allowable deduction. These funds, bodies and institutions comprise of the following:

a) Youths and Philanthropic Organizations: The youths/philanthropic organizations as provided by CITA comprised of:
   i. Boys Brigade of Nigeria
   ii. Boys Scouts of Nigeria
   iii. Girls Guides of Nigeria
   iv. Nigerian Red Cross
   v. National Youth Council of Nigeria
   vi. Nigerian Youth Trust

b) Religious Bodies: The religious bodies that donations can be made to comprised of:
   i. Christian Council of Nigeria
   ii. Islamic Education Trust

c) Medical Association: Any hospital owned by the federal or state government, university teaching hospital or any hospital which is carried on by a society or association otherwise than for the purpose of profits or gains, to the individual members of that society or association.

d) Educational Bodies: Donations are exempted from tax to educational activities and they comprise of:
   i. Institute of Medical Laboratory Technology
   ii. National Library
   iii. National Braille Library of Nigeria
   iv. Van Leer Nigerian Educational Trust
   v. The Institute of Chartered Accountants of Nigeria Building Fund
   vi. Nigerian Accounting Standards Revenue Service
   vii. Paterson Zochonis Nigeria Technical Education Trust Fund
   viii. Educational Cooperative Society

ix. Any educational institution affiliated under any law with any University in Nigeria or established under any law in Nigeria and any other educational institution recognized by any government in Nigeria.

x. A public fund established and maintained exclusively for providing money for the acquisition, construction, maintenance or equipping a building used or to be used as a school/college by the federal or state government or by a public authority or society, association which is carried on otherwise than for the purpose of profit or gain to the individual members of that society or association.

e) Relief Funds: Tax are allowable to relief funds that fall under the following category:

i. Southern African Relief Fund
ii. National Commission for Rehabilitation
iii. A public fund established and maintained for providing fund for the construction or maintenance of a public memorial relating to the civil war in Nigeria which ended on 15 January, 1970
iv. Any public fund established by the federal, or state government in aid of or for the relief of drought or any other natural disaster in any part of the federation or state.

f) Research Institutions: Tax are allowable to research institutions that fall under the following group:

i. Nigerian Institute of Trypanosomiasis Research
ii. National Science and Technology Fund
iii. Nigerian Institute for Oil Palm Research
iv. Nigerian Institute for International Affairs
v. National Council for Medical Research
vi. Cocoa Research Institute of Nigeria
vii. National Science and Technology Development Agency

g) Welfare Funds: Welfare funds are tax allowable but limited to the following categories:

i. Musical Society of Nigeria
ii. Rotary International (Polioplus programme)
iii. Training Centres and Residential Schools for the Blind in Nigeria
iv. Associations or Societies for the Blind in Nigeria
v. Society for the Blind
vi. Nigerian National Advisory Council for the Blind
vii. Nigerian Society for the Deaf and Dumb
viii. National Sports Commission and its State Associations
ix. A public institution or public fund comprising of the Armed Forces Comfort Fund, Navy or Air Force established or maintained for the comfort, recreation or welfare of its members.
x. National Sports Commission and its State Associations

h) Foundation and/or Endowment Funds: Tax are permissible to foundation and/or endowment funds. These foundation or endowment funds comprise of the following:

   i. University College Hospital Endowment Fund
   ii. Afprint Foundation Limited
   iii. Kewalfram Chanrai Foundation Limited

i) Research and Development Institutions: The allowable amounts with respect to research and developments comes in two dimensions. However research and development are tax allowable:

   i. First, actual expenditure on research and development are allowable deductions in accordance with the provisions of the Act.
   ii. Second, reserve made out of profits for research and development expenditure are allowable deductions from profit subject to the maximum fixed.

j) Other Funds: There are other funds or activities not classified in any of the above but they are tax allowable. They comprise of the Nigerian Museum and Nigerian Conservation Fund.

Based on the provisions of CITA, companies are not allowed to make deductions twice. If the deduction was made when the reserve was made, such deductions cannot be made again when the actual expenditure is incurred. CITA provides 20% investment tax credit on the qualifying expenditure of companies and other organizations involved in research and development activities for commercialization once the expenditure are incurred for that purpose.

In addition, there are specific items that are tax allowed by CITA. These specific items other than donations include:

a) Bad and Doubtful Debts: The striking issues to observe with respect to the treatment of bad and doubtful debts for the purpose of tax include:

   - They must relate to debts incurred in the ordinary course of the business
   - They must be identifiable to specific debts. That is to say, general reserves against bad and doubtful debts are not allowable deductions
   - Reserves no longer required are taxable if previously allowed.
   - Debts previously written off, allowed in tax computation, and later received are taxable as income for the year in which recovered are made
   - Necessary evidence must be provided at the request of the revenue service to prove that the debts have become bade or estimated to be doubtful of recovery.

b) Rental Charges: Rental charges in respect of residential accommodation occupied by employees of the entity are allowable up to a ceiling of 100% of the basic salary of employees.

c) Repairs and Renewals: The usual items under this heading are those expense incurred in maintain the earnings capacity of the assets of the entity. In line with the above, the keeping of such assets in good working condition is very important for the entity to acquire profits, costs connected with such exercise must, by reasonable expectation be allowable deductions.

d) Property Holding Companies: The allowable deductions for property holding companies are limited to:
   - expenses attributable to the maintenance of the property concerned; and
   - directors remuneration of up to ₦10,000 per annum per director payable to a ceiling of three directors in any one company.

SELF-ASSESSMENT EXERCISE 1

1. List the funds, bodies and institutions exempted from donations in company taxation
2. Briefly explain the specific items exempted from company tax.

3.2 Profits Determination in Company Tax

In the determination of profits, adjustments are considered fundamental in the light of the provisions of the Company Income Tax Act (CITA). First, the accounting profits will be adjusted to arrive at the profits for tax purposes. The profits for tax purpose is referred to as the adjusted or assessable profits. These adjustments are made to accounting profits in order to arrive at the taxable profits. The adjustments are generally with respect to the following items:
a) Deductions not Allowed (expenditure liable to tax)
b) Deductions Allowed (expenditures not liable to tax)
c) Items liable to tax but not credited in the profit or loss account;
d) Items credited in the statement of comprehensive income but not taxable; and

There are conventional provisions in CITA that are applicable to ascertaining the items in a company's trading transactions that will fall into any of the categories mentioned above and for which adjustment will be essential. Second, in order to arrive at the taxable profit, the following adjustments are then made:
a) capital allowances and balancing allowances;
b) balancing charge; and
c) loss relief;

SELF-ASSESSMENT EXERCISE 2

1. Briefly describe how profits are determined in company tax?
2. How is adjusted profit and taxable profits ascertained with respect to company tax?

3.3 Computation of Company Income Tax

The computation of company income tax is premised on the determination of the adjusted and taxable profits. However, it is worthy to mention that the minimum tax applicable to company taxation is paramount. However, subsequent unit of this module will consider the minimum tax applicable to companies in Nigeria. Thus, our emphasis in the computation of company income tax is with respect to adjusted and taxable profits.

3.3.1 Computation of Adjusted Profit

Adjusted profit is computed after adding back, disallowed expenses and deducting allowable expenses and incomes exempted. The value derived from this computation is the adjusted profit and at this point, education tax rate can be applied. Education tax rate is 2% of adjusted profit. Using the below format, adjusted profit can be computed:

Computation of Adjusted Profit for the Year Ended 20xx

		₦	₦
Net profit as per profit or loss account			XX
Add:	Disallowed Expenses		XX
			XX
Deduct:	Allowable items not so treated	XX	
	Income Exempted	XX	XX
Adjusted Profit			**XX**

3.3.2 Computation of Taxable Profit

After arriving at the adjusted profit, there is the need to compute the taxable profit. Thus, the taxable profit is arrived at after adding the balancing charge to the adjusted profit while subtracting the capital allowance and loss relief. The value derived from this computation is the taxable profit and at this point, the relevant tax rate can be applied. The company income tax rate is 30%. Using the below format, the taxable profit can be computed:

Computation of Taxable Profit for the Year Ended 20xx

		₦	₦
Adjusted Profit Brought Down			XX
Add:	Balancing Charge		XX
			XX
Less:	Capital Allowances	XX	
	Loss Relief	XX	XX
Taxable or Chargeable Profit			**XX**

Illustration I

The following information relates to New Age Nigeria Limited for the year ended 31st December, 2015

	₦'000	₦'000
Gross Profit b/f		44,847
Profit on sale of investment		48
Dividends received (gross)		1,000
		45,895
Less other Expenses:		
Audit Fee	70	
Loan Interest	200	
Bad Debts	125	
Depreciation	1,563	
General Expenses	500	
Carriage	200	
Lighting	425	
Salaries & Wages	10,000	
Rent & Rates	1,250	
Repairs and Maintenance	400	
Staff Welfare	1,000	
Telephone/Postage	1,500	
Motor Running	2,100	
Travelling Expenses	1,050	
Donation	512	20,895
Net profit		25,000

The following additional information is available:

(a) Bad Debt

	₦
Employee's loan written off	60
General provision	50
Specific debt	85
Bad debt recovered	(70)
	125

(b) General expenses are made up as follows:

	₦	₦
Sundry expenses (allowable)		145
Luncheon vouchers		147
Subscription:		
Trade	40	
Social club	48	88
Printing		40
Legal cost:		
Lease on new premises	60	

	Customer's claim	20	80
			500
(c)	**Repairs and Maintenance:**		
	Decoration of new premises		180
	Repairs to plant		50
	Renovation of old Factory		170
(d)	**Donation**		
	Political parties		150
	ICAN		250
	Boy's Scout of Nigeria		63
	Society for the blind		50
			513

(e) Capital allowances as agreed with the tax authorities is ₦1,537

(f) The loan interest shown in the profit or loss account is the interest on loan to a friend of one of the management staff of the company.

Required:

(i) Computed the Adjusted Profit; and

(ii) Income Tax Liability for 2016 year of assessment.

Suggested Solution

NEW AGE NIGERIA LIMITED

(i) Computation of Adjusted Profit for the Year Ended 2016

		₦'000	**₦'000**
Gross Profit b/f			44,847
Add:	Dividend Received		1,000
			45,847
Less operating expenses allowed:			
	Audit fee	70	
	Bad debts (85 – 70)	15	
	General expenses	392	
	(145+ 40 + 40 + 20 + 147)		
	Carriage	200	
	Lighting	425	
	Salaries & Wages	10,000	
	Rent & Rates	1,250	
	Repairs & Maintenance	220	
	Staff welfare	1,000	
	Telephone/postage	1,500	
	Motor running	2,100	
	Travelling expenses	1,050	
	Donation (63+ 50)	113	18,335
Adjusted Profit			**27,512**

NEW AGE NIGERIA LIMITED

(ii) Computation of Tax Liability for Year Ended 2016

	₦
Adjusted profit	27,512
Less Education Tax @ 2%	539
(27,512 x 2/102)	26,973
Less: Capital Allowances	1,537
Taxable Profit	**25,436**
Tax Liability @ 30% of ₦25,436	7,631

NEW AGE NIGERIA LIMITED

Computation of Adjusted Profit for the Year 2008 (Indirect Method)

	₦'000	**₦'000**	**₦'000**
Net profit b/f			25,000
Add Back Disallowable:			
Loan Interest	200		
Bad debt:			
Employee's Loan	60		
General Provision	50	110	
General Expenses:			
Subscription (Social Club)	48		
Legal Cost (Lease)	60	108	
Depreciation	1,563		
Repairs and Maintenance:			
Decoration to new Premises		180	
Donation:			
Political Parties	150		
ICAN	250	400	2,561
			27,561
Less:			
Profit on Sale of Investment			48
Adjusted Profit			**27,513**

SELF-ASSESSMENT EXERCISE 3

Differentiate between adjusted, assessable and taxable profits?

4.0 CONCLUSION

In this unit, the deliberation was anchored on the computation of company tax by exploring examining the provisions for exemptions on donations to funds, bodies and institutions and specific items as well as the way in which profits are determined in company tax. This unit is essential in that students can now understand how they can compute company tax.

5.0 SUMMARY

This unit emphasized the computation of company tax in Nigeria. In particular, the following areas were covered:

- The Provisions for Exemptions on Donations to Funds, Bodies and Institutions and Specific Items in Nigeria;
- Profits Determination in Company Tax
- Computation of Company Income Tax

6.0 TUTOR-MARKED ASSIGNMENT

The following information relates to Agofure Group of Companies Limited for the year ended 31st December, 2014.

	₦
Turnover	920,000
Direct Cost	(510,000)
	410,000
Other Income	90,000
	500,000
Administrative and other expenses	(270,000)
	230,000
Bad Debt Provision	(85,000)
Profit before tax	145,000
Taxation	(25,000)
Profit after tax	120,000
Proposed Dividend	(100,000)
Transfer to Reserve	20,000

Addition Information

(i) **Other income includes the following:**

Profit on sale of fixed assets	2,500,000
Net of Dividend	3,000,000
Interest on foreign placement	14,000,000

(ii) Administrative expenses include the following:

Depreciation	175,000,000
Directors remuneration	22,000,000
Audit fees	5,500,000
Other operating expenses	70,500,000

(iii) Other operating expenses include the following:

* Total rent paid for the period N20m. The amount relating to residential accommodation was N12.5m. The total basic salary of the staff involved amounted to N9.5m. Donations were as follows:

i.	Afrprint Foundation Limited	2,500,000
ii.	Islamic Disaster Fund	3,000,000
iii.	Islamic Education Trust Fund	1,500,000
iv.	Better-Life Foundation	4,000,000

(iv) Bad Debt Provision

	₦'000		₦'000
Bad debt w/off	80,000	Provision b/f	
Staff debt w/off	7,000	Specific	30,000
Provision c/f		General	40,000
Specific	20,000	Recover	12,000
General	60,000	P/L	85,000
	167,000		167,000

(v) Unrelieved loss brought forward amounted to ₦46,500,000

(vii) Capital Allowance used computed as follows:

	₦'000
Unabsorbed Capital Allowance b/f	183,000
Initial allowance	170,000
Annual allowance	135,000
Investment allowance	42,000
Balancing allowance	22,000
Balancing charge	185,000

Required:

(i) Computed the Adjusted Profit; and

(ii) Income Tax Liability for 2015 year of assessment.

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

David, K.E. (2012). *The tax manual: Principles and practice of taxation in Nigeria, (2nd ed.).*

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Unit 3 Other Issues in Company Income Tax

CONTENTS

1.0 INTRODUCTION

- The concept of minimum tax came into existence in the tax law as a result of the promulgation of the Finance (Miscellaneous Taxation Provisions) Decrees No. 21 of 1991 and No. 63 of 1991 in Nigeria. Now, it is referred to as the Minimum Tax as found in Section 33 of Companies Income Tax Act (CITA) CAP C21 LFN, 2004 (as amended). However, these amendments influenced the following provisions of the Nigerian tax laws:
- Income Tax Management Act (ITMA), 1961;
- Petroleum Profit Tax Act (PITA), 1959;
- Income Tax (Armed Forces and Other Persons) (Special Provisions) Act, 1972; and
- Companies Income Tax Act (CITA), 1979 (i.e. payment of minimum tax Section 28A was inserted).

Inserting Section 28A (LFN 33) in the Company Income Tax Act, 1979, provided for a minimum tax payable by every Company in Nigeria which has been in business or trade for not less than four (4) calendar years. The purpose of which is to ensure that all companies, business or trade pay tax, however, minimal.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the conditions for minimum tax for company income
- ascertain the exceptions to minimum tax for company income
- explain certain concepts connected with company tax

- understand the basis of computation for company income tax

3.0 MAIN CONTENT

3.1 Conditions for Minimum Tax for Company Income

In Nigeria, minimum tax is payable by every company, business or trade which has been in business for not less than four (4) calendar years, if, in any year of assessment:

a) Companies, trade or business total profits from all sources produced no tax payable;
b) It must be a Nigerian company;
c) Ascertainment of total profits result in a loss;
d) Company must have been in business for not less than four (4) calendar years; and
e) The payable tax is less than the minimum tax

SELF-ASSESSMENT EXERCISE 1

List the conditions for minimum tax for company income in Nigeria?

3.2 Exceptions to Minimum Tax for Company Income

Minimum tax is not applicable in the following conditions:

a) Companies, trade or business exempted from income tax e.g. export trade, pioneer (for the period of pioneering only) companies;
f) Companies, trade or business with at least 25% imported equity share capital;
g) Any company, trade or business for the first four (4) calendar years of its commencement of business or trade; and
h) Companies, trade, or business carrying on agricultural trade as defined in Section 11(9) of the Act

SELF-ASSESSMENT EXERCISE 2

What are the exceptions for minimum tax for company income in Nigeria?

3.3 Definition of Terms connected with Company Tax

The following terms have been defined in connection with minimum tax for companies, business or trade:

- **Paid Up Share Capital:** This refers to all issued and fully paid ordinary share as well as preference share capital;

- **Turnover:** This encompasses all net receipts of goods and services sold in the normal course of trade or business of the company. It will however not comprise other income not derived from the normal trade or business of the company, although separately disclosed in the accounts;

- **Imported Equity Capital:** This refers to the foreign currency portion of the ordinary share capital that is brought into Nigeria from abroad via approved government channels. It does not encompass loan capital, debentures, preference shares and any other item not part of ordinary share capital;

- **Gross Profit:** This is the net turnover less the cost of sales reported in the profit or loss accounts. In other words, it is the traditional gross profit. For the purpose of determining the minimum tax, the other incomes derived outside the normal line of trade or business are to be aggregated to the gross profits, although such other incomes, by convention, should be separately disclosed in the financial statements of the entity;

- **Net Asset:** This refers to the total of all assets less all liabilities. In other words, it is represented by the share capital plus all reserves to form the shareholders fund. For the purpose of computing tax for private companies, the Director's loan account, deposit for shares and loan owed to shareholders of the company, however classified, will not be treated as current or long term liabilities in arriving at the net asset. These items inter-alia are to be taken as part of the shareholders fund. The purpose of doing this is to avoid the likely abuses which may arise from the use of these identified accounts as avenues of hiding shareholders fund in privately owned and closed companies;

SELF-ASSESSMENT EXERCISE 3

Briefly explain the following terms:
(i) Net Asset;
(ii) Gross Profit;
(iii) Imported Equity Capital;
(iv) Paid Up Share Capital; and
(v) Turnover

3.4 Basis of Computation for Company Income Tax

The following are the criteria for computing the minimum tax for companies, trade or business:

A) Where the turnover is ₦500,000 and below, the minimum tax is the highest of any of the following:
   i. 0.5% of Gross Profit;

ii. 0.5% of Net Asset;
iii. 0.25% of Paid Up Share Capital; and
iv. 0.25% of Turnover of the company for the year.

B) Where the turnover is higher than ₦500,000, the minimum tax payable will be computed as follows:
i. The highest of ‘A’ above plus; and
ii. 0.125% of the excess of the turnover over ₦500,000.

Illustration 1

The following information relates to Delsu Printing Press Limited who have been in business for more than 4 calendar years now without imported foreign equity capital:

DELSU PRINTING PRESS LIMITED
STATEMENT OF FINANCIAL POSITION

Year of Assessment	2016
Year of Account	2015
ASSETS	**₦**
Non-Current Assets	
Fixed Assets	10,500,000
Preoperational Expenses	17,500,000
Total Non-Current Assets	**28,000,000**
Current Assets	
Inventories	875,000
Trade Receivables	2,100,000
Cash and Cash Equivalents	7,875,000
Total Current Assets	**10,850,000**
TOTAL ASSETS	**38,850,000**
EQUITY AND LIABILITIES	
Equity	
Issued and Fully Paid Up Shares	17,500,000
Retained Earnings	962,500
Revaluation Reserve	700,000
Total Equity	**19,162,500**
Non-Current Liabilities	
Deposit for Shares	10,500,000
Total Non-Current Liabilities	**10,500,000**
CURRENT LIABILITIES	
Trade and Other Payables	8,750,000
Taxation Provision	437,500

Total Current Liabilities	**9,187,500**
TOTAL LIABILITIES	**19,687,500**
TOTAL EQUITIES AND LIABILITIES	**38,500,000**

DELSU PRINTING PRESS LIMITED
STATEMENT OF COMPREHENSIVE INCOME

Year of Assessment	2016
Year of Account	2015
	₦
Turnover	26,250,000
Cost of Sales	26,250,000
Gross Profit	**52,500,000**
Administrative Expenses	
Audit Fes	297,500
Advert and Publicity	25,375
Consultancy and Professional Fees	280,000
Internet and DSTV Subscription	70,000
Printing and Stationery	57,750
Rent	350,000
Repairs and Maintenance	24,500
Salaries and Wages	1,925,000
Technical Services	140,000
Telephone and Postages	7,000
Tenement Rate	4,550
Utility	26,250
Total Administrative Expenses	**3,207,925**
Distribution Expenses	
Transport and Travelling	346,281
Total Distribution Expenses	**346,281**
Finance Costs	
Bank Charges	85,794
Total Finance Costs	**85,794**
Notional Items	
Depreciation	735,000
Total Notional Items	**735,000**
Profit/Loss Before Tax	875,000
Taxation	437,500

Profit/Loss After Tax	**437,500**
Retained Profit Brought Forward	**Nil**
RETAINED PROFIT CARRIED FORWARD	**437,500**

DELSU PRINTING PRESS LIMITED
Computation Of Minimum Tax for the Relevant Year

Item(s)	**Tax Rate(s)**	**₦**	**₦**
Gross Profit	0.005	52,500,000	26,250
Net Asset	0.005	29,662,500	14,8313
Paid Up Capital	0.0025	28,000,000	70,000
Turnover	0.0025	875,000	2,188
Excess Turnover	0.00125	25,375,000	31,719
Total			**180,031**

4.0 CONCLUSION

In this unit, the deliberation was premised on other issues connected to company income tax in Nigeria such as the conditions for minimum tax, exceptions to minimum tax, the basis of computation for company income tax as well as reviewing certain concepts connected with company taxation in Nigeria. This unit is essential in that students can now understand the basis of computing minimum tax, conditions and exceptions to minimum tax for companies in Nigeria.

5.0 SUMMARY

This unit emphasized other issues in relation to company tax in Nigeria. In particular, the following areas were covered:

- The conditions for minimum tax for company income
- The exceptions to minimum tax for company income
- The basis of computation for company income tax
- Certain concepts connected with company tax

6.0 TUTOR-MARKED ASSIGNMENT

1a List the exceptions for minimum tax for company income in Nigeria?
1b. There are conditions for minimum tax for companies in Nigeria. State the conditions?

1c. Explain the following in relation to minimum tax for companies:

a. Turnover
b. Gross Profit
c. Net Asset
d. Imported Equity Capital

2. The following information relates to Nnamdi Azikiwe Limited who has been in business for more than 4 calendar years now without imported foreign equity capital:

STATEMENT OF FINANCIAL POSITION

Year of Assessment	2014
Year of Account	2015
ASSETS	₦
Non-Current Assets	
Fixed Assets	6,000,000.00
Preoperational Expenses	10,000,000.00
Total Non-Current Assets	16,000,000.00
Current Assets	
Inventories	500,000.00
Trade Receivables	1,200,000.00
Cash and Cash Equivalents	4,500,000.00
Total Current Assets	6,200,000.00
TOTAL ASSETS	22,200,000.00
EQUITY AND LIABILITIES	
Equity	
Issued and Fully Paid Up Shares	10,000,000.00
Retained Earnings	550,000.00
Revaluation Reserve	400,000.00
Total Equity	10,950,000.00
Non-Current Liabilities	
Deposit for Shares	6,000,000.00
Total Non-Current Liabilities	6,000,000.00
CURRENT LIABILITIES	
Trade and Other Payables	5,000,000.00
Taxation Provision	250,000.00

Total Current Liabilities	5,250,000.00
TOTAL LIABILITIES	11,250,000.00
TOTAL EQUITIES & LIABILITIES	22,000,000.00

STATEMENT OF COMPREHENSIVE INCOME

Year of Assessment	2014
Year of Account	2015
	₦
Turnover	25,000,000
Cost of Sales	25,000,000
Gross Profit	50,000,000
Administrative Expenses	
Audit Fes	283,333
Advert and Publicity	24,167
Consultancy and Professional Fees	266,667
Internet and DSTV Subscription	66,667
Printing and Stationery	55,000
Repairs and Maintenance	23,333
Salaries and Wages	1,833,333
Technical Services	133,333
Telephone and Postages	6,667
Tenement Rate	4,333
Utility	25,000
Total Administrative Expenses	3,055,167
Distribution Expenses	
Transport and Travelling	329,791
Total Distribution Expenses	329,791
Finance Costs	
Bank Charges	81,709
Total Finance Costs	81,709
Notional Items	
Depreciation	700,000
Total Notional Items	700,000
Profit/Loss Before Tax	833,333
Taxation	416,667
Profit/Loss After Tax	416,667
Retained Profit Brought Forward	
RETAINED PROFIT CARRIED FORWARD	416,667

Required: Compute the Minimum Tax for the relevant year

7.0 REFERENCES/FURTHER READING

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Unit 4 Small Company Tax (Definitions, Computations and Exemption)

CONTENTS

1.0 INTRODUCTION

Relief is deemed to encourage full participation of small companies, business or trade so as to promote economic prosperity. As regards small companies, students are expected to understand when a question on small companies is asked. The easiest way of understand this is that information on turnover would be added in the provided information. Consequently, this unit dealt with the relief for small companies in Nigeria by exploring the computations connected with small companies as well as exemptions from minimum tax.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- define small companies
- compute the tax relief for small companies
- know the minimum tax for small companies
- ascertain the exemptions from minimum tax for small companies

3.0 MAIN CONTENT

3.1 Definition of Small Companies

A small company is an organization whose turnover does not exceed ₦1,000,000 (one million naira) per annum. A company is regarded as small if it fulfills the

above criterion. The tax rate applied to small companies is 20% on the taxable profit instead of the 30% of a normal trade or business.
The tax relief for a small company is applied for the first five (5) years of the business. It is also applicable to companies engaged wholly in export. Note that relief for small companies are not applied to companies formed to acquire the whole or part of an existing business or trade.

SELF-ASSESSMENT EXERCISE 1

Attempt a definition of small company?

3.2 Computations of Relief for Small Companies

In order for students to compute reliefs for small companies, they need to carefully look at the provided information. Once the provided information encompasses information on turnover, it implies that it is a case of relief for small companies.

Illustration 1

Emile Nigeria Limited has been in business for over some years. The following information relates to the company from which the tax payable is to be computed:

Year	**Turnover**	**Adjusted Profit**	**Capital Allowance**
	₦	**₦**	**₦**
2011	38250	38,837	25,500
2012	55,250	48,365	29,750
2013	80,750	66,300	46,750

Required: Compute the tax liability for the relevant tax years for Emile Nigeria Limited

Suggested Solution

Emile Nigeria Limited
Computation of Tax Liability for the Relevant Tax Years

	₦	**₦**
2012 Tax Year		
Assessable Profit		38,837
Capital Allowance	25,500	
Relieved (2/3 of 38,837)	(25,500)	(25,500)
Capital Allowance c/f	NIL	
Taxable Profit		13,337
Tax at 20%		**2,667**

	₦	₦
2013 Tax Year		
Assessable Profit		48,365
Capital Allowance	29,750	
Relieved (2/3 of 38,837)	(29,750)	(29,750)
Capital Allowance c/f	NIL	
Taxable Profit		18,615
Tax at 20%		**3,723**

	₦	₦
2014 Tax Year		
Assessable Profit		66,300
Capital Allowance	46,750	
Relieved (2/3 of 38,837)	(44,200)	(44,200)
Capital Allowance c/f	NIL	
Taxable Profit		22,100
Tax at 20%		**4,420**

Comments:
The most important thing to note is the turnover for each of the years which is not more than ₦1million. Thus, Emile Nigeria Limited can be categorized as a small company.

On the basis of the above, the tax rate applied is 20%. In addition, note that the turnover values are not needed in the computation of the tax liabilities for small companies.

SELF-ASSESSMENT EXERCISE 2

Favour Nigeria Limited has been in business for some time now. The information provided relates to the company from which the tax payable is to be computed:

Year	**Turnover**	**Adjusted Profit**	**Capital Allowance**
	₦	₦	₦
2014	59,840	55,760	42,585
2015	76,840	65,280	46,784
2016	93,670	83,385	46,818

Required: Compute the tax liability for the relevant tax years for Favour Nigeria Limited

3.3 Minimum Tax for Small Companies

The minimum tax for small companies is payable either where there is no chargeable profit or the chargeable profit results in no tax payable or the tax payable is less than the minimum tax. Minimum tax is computed as follows:

(a) Where the turnover does not exceed ₦500,000, the minimum tax is the highest of:
   - (i) 0.5% of Gross Profit
   - (ii) 0.5% of Net Assets
   - (iii) 0.25% of Paid Up Share Capital
   - (iv) 0.25% of Turnover not exceeding ₦500,000

(b) Where the Turnover exceeds ₦500,000, the minimum tax is the sum of:
   - (i) the highest in (a) above plus
   - (ii) 0.125% of Turnover in excess of ₦500,000

First, compute the minimum tax in order ascertain the turnover of the company. For example, if the turnover of the company is ₦40,800, the computation of the minimum tax would be based on step (a) above.

In addition, where the turnover is above ₦1million, then step(a) is computed using a maximum and step (b) is computed using the difference between (a) and (b).

SELF-ASSESSMENT EXERCISE 3

What is the basis for computing minimum tax for small companies?

3.4 Exemption from Minimum Tax

Minimum tax computation is not applicable to the following companies:

(a) a company carrying on agricultural trade or business;

(b) a company with at least 25% imported equity capital; and

(c) a company within its first four calendar years of commencement of trade.

Illustration 1

Gabriel Jesus Limited has provided the following information from which you are required to compute the tax payable:

	₦
Adjusted Profit	312,452
Capital allowance for the year	151,300
Capital allowance brought forward	29,325
Paid up share capital	8,500,000
Net Assets employed	6,375,000
Turnover for the year	7,140,000
Gross Profit for the year	3,247,000

Suggested Solution

Gabriel Jesus Limited
Computation of Tax Payable for the Relevant Tax Year

	₦	₦
Adjusted Profit		312,452
Capital Allowance for the year	151,300	
Capital Allowance brought forward	29,325	
	180,625	
Relieved	(180,625)	(180,625)
Capital Allowance carried forward	**NIL**	
Taxable Profit		**131,827**
Tax Payable at 30%		39,548

		₦	₦
Minimum Tax Payable			
The highest of:			
(i)	0.5% of Gross Profit (3,247,000 x 0.5%)	16,235	
(ii)	0.5% of Net Asset (6,375,000 x 0.5%)	31,875	31,875
(iii)	0.25% of Turnover (7,140,000 x 0.25%)	106	
(iv)	0.25% of Paid Up Capital (8,500,000 x 0.25%)	21,250	
Add:			
0.125% of (7,140 – 43)			8,872
Minimum Tax Payable			40,747

Since the minimum tax payable of ₦40,747 is higher than the computed tax per account of ₦39,548, the amount to be paid shall be the minimum tax for Gabriel Jesus Limited

SELF-ASSESSMENT EXERCISE 4

1. List the applicable minimum tax to small companies?

2. Chelsea Limited has provided the following information from which you are expected to compute the tax payable:

	₦
Adjusted Profit	156,226
Capital allowance for the year	75,650
Capital allowance brought forward	14,663
Paid up share capital	4,250,000
Net Assets employed	3,187,500
Turnover for the year	3,570,000
Gross Profit for the year	1,623,500

4.0 CONCLUSION

In this unit, the deliberation was anchored on the definition, computation and minimum tax for small companies in Nigeria. Thus, the knowledge gained from this unit will help the student in knowing the minimum tax and the exemption from minimum tax for small companies.

5.0 SUMMARY

This unit emphasized the computation of company tax in Nigeria. In particular, the following areas were covered:

- A definition of small company
- Computation of the tax relief for small companies
- The minimum tax for small companies
- The exemptions from minimum tax for small companies

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by small company?

2. What is the basis for computing minimum tax for small companies?

3. Manchester United Limited has been in trade for some time now. The information relates to the company from which the tax payable is to be computed:

Year	**Turnover**	**Adjusted Profit**	**Capital Allowance**
	₦	**₦**	**₦**
2009	176,000	164,000	125,250
2010	226,000	192,000	137,600
2011	275,500	245,250	137,700

Required: Compute the tax liability for the relevant tax years for Manchester United Limited

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

Fasoto, F. (2007). *Nigerian taxation.* Lagos: Hosrtosaf Limited

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Module 4

Unit 1 Basis of Assessment

CONTENTS

1.0 INTRODUCTION

In principle, corporate entities usually have diverse accounting or fiscal year where they prepare their accounts. Such entities who have prepared its accounts are deemed to pay tax on the income generated during the period to the respective tax authorities. The period for which the entity pays its tax on earned income is referred to as the "Basis Period".

Basis period is the period for which a taxpayer's earned income is assessed to tax, payable to the relevant tax authority. It is the period in any year of assessment in which income is being earned by that entity. For an individual, the basis for assessing tax is subject to the source of the income accruing to the individual. In the case of companies, the basis for assessing tax is subject to the accounting year end.

The term “Accounting Year” refers to the period for which the taxpayer or entity declared a profit or loss in its accounts. In order for an entity’s accounting year to form a basis period in a year of assessment, that accounting year must be a normal accounting year. A normal accounting year is depicted by:

- it must be absolutely 12months
- it must begin instantaneously after the end of the prior accounting year. That is, there must be no gap between the accounting years.
- it must be the only accounting year ending in the year of assessment.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- explain assessment year;
- know define basis and its application;
- understand the rules on commencement of trade;
- rights of election of taxpayers
- illustrate the rules on cessation of trade; and
- explain the rules governing change of accounting date.

3.0 Main Content

3.1 Assessment Year

Year of assessment connotes the financial year of a company during which tax is charged. It is the financial year, more often than not, a period of one (1) year, during which all income earners must pay tax to the relevant tax authority. Ever since 1983, assessment year has been 1 January to 31 December in the same year.

SELF-ASSESSMENT EXERCISE 1

In your own view, what is Assessment Year for Trade, Business or Companies?

3.2 Definition and Application of Basis Period

Basis period of a body of persons or an entity is the accounting year of the entity or body of persons. It is that period for which the taxpayer’s income is charged to tax by the relevant tax authority. However, if it is an old established trade or business, the Preceding Year Basis (for short PYB) would only be appropriate. On the other hand, if it is a new trade or change of accounting year or cessation of trade or business, the Nigerian tax laws has made certain provisions.

SELF-ASSESSMENT EXERCISE 2

What does basis period stands for in relation to body of persons or an entity?

3.3 Rules on Commencement of Trade

The following encompasses the methods through which a trade or business is assessed to tax:

a) **First Assessment Year:** The basis period of assessment is usually from the actual date the business commenced to 31 December following, that is, to the end of the first assessment year.

b) **Second Assessment Year:** The basis period for the second year is the first twelve (12) months of trading.

c) **Third Assessment Year:** The preceding year basis (PYB) of assessment commences from the third tax year. In a scenario where this cannot be attained, the second tax year basis period will be repeated for the third year.

Illustration 1

Blessed Nigeria Limited started business on the 2nd of October, 2010. The Directors of Blessed Nigeria Limited are bearing in mind to choose 31st March or 31st December as year-end. Based on the information given above, appraise the tax consequence of choosing either of the dates as year-end.

Suggested Solution

Tax Year	**Basis Period**	
	31st March	31st December
2010	2/10/10 – 31/12/10	2/10/10 – 31/12/10
2011	2/10/10 – 30/09/11	2/10/10 – 30/09/11
2012	2/10/10 – 30/09/11	1/01/10 – 31/12/11

Based on the Preceding Year Basis (PYB), the basis period under the March year-end would have been 1/4/10 – 31/3/11. However, Blessed Nigeria Limited has not commenced business as at 1st April, 2010. In this regards, the basis period for the second is repeated in the third year.

SELF-ASSESSMENT EXERCISE 3

1. What is the implication of basis period for body of persons or an entity?

2. NPL started trade on the 1st of May 2008 and the Directors are considering choosing 31st October or 31st December as year-end. What is the tax implication of choosing either of the dates as year-end?

3.4 Right of Election of Taxpayers

Section 24(d) of the Personal Income Tax Act CRP P8 LFN 2004, makes provisions for right of election by a taxpayer. Before the taxpayer can exercise this right, taxpayer must give notice in writing to the relevant tax authority within two (2) years after the end of the second tax year to allow him use actual profits for the second and third years.

SELF-ASSESSMENT EXERCISE 4

What are the provisions of the Personal Income Tax Act for provisions for right of election by a taxpayer?

3.5 Rules on Cessation of Trade

Cessation rule relates to a circumstance where a trade or business ceases to exist. If this circumstance exists, the final year which is referred to as the 'ultimate year' is first ascertained in order to determine the basis period for the body of persons or entities.

In order to determine the penultimate year for the basis of assessment, the preceding year basis approach is employed. In this regard, the tax authority could choose the actual basis if it would result in a higher tax than when using preceding year basis.

Ultimate (final year) is the first day of the year to the last day of the same year in which the organization completely ceased to trade or engage in business.

Penultimate year is the year for the basis of assessment by the tax authority that produces the higher assessable profit. The tax authority may adopt either actual or preceding year basis.

Moving from the above circumstance for cessation of trade or business, companies may entirely cease to trade but there may still be further receipts or payments after the date of cessation. When the above situation occurs, it is termed "Post-Cessation Transactions. Thus, the receipts or payments are to be adjusted for when ascertaining the last accounting or assessable profit of the organization.

SELF-ASSESSMENT EXERCISE 5

1. What do you understand by ultimate and penultimate years?
2. List the rules on cessation of trade?

3.6 Rules on Change of Accounting Date

Section 23(3) of the Personal Income Tax Act Cap P8 LFN 2004, expressly set out the rules governing change of accounting date or accounting year end. The rules governing change of accounting date include:

a) identify the year in which the business fails to make up its accounts to the prior year date. The two years that follow must also be identified.

b) compute the assessment of those first, second and third years using the old accounting date as basis period.

c) compute the assessments for the three tax years using the new accounting date.

d) The aggregate result obtained using the old accounting date is now compared with the aggregate result obtained using the new accounting date.

e) The relevant tax authority would choose the higher of the two aggregates

For a company that changes its accounting year, such company must have prepared its accounting year using the new date for a period not less than three years after the departure from the old date. Also, there is no legal provisions for temporary change of date, thus organizations that fail to prepare its accounts to its usual year end in one accounting year and immediately revert and tax authority will assume that such a departure or change never ensued.

SELF-ASSESSMENT EXERCISE 5

State the rules governing change of accounting dates or year for an entity?

4.0 CONCLUSION

In this unit, the deliberation was anchored on a background knowledge needed for the computation of basis period. This background knowledge is essential such that it gives the student or reader the foundational knowledge in many areas of taxation such as computation of capital allowances, assessable profits and so on.

5.0 SUMMARY

This unit emphasized the basis of assessment of trade or business in Nigeria. In particular, the following areas were covered:

- Definition and Application of Basis Period;
- Rules on Commencement of Trade;
- Rights of Election;
- Rules on Cessation of Trade; and
- Rules on Change of Accounting Date

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the concept “Assessment Year”.

2. What does assessment year mean for body of persons or entity?

3. Frigglo Glass Plc. commenced business on 1 July 2009 as a sole proprietor. He wants to be compliant with tax laws since he has plans to form a limited liability company in future. You are required to determine his basis periods for the years of assessment 2009, 2010, 2011, and 2012.

4. What are the provisions of the Personal Income Tax Act for provisions for right of election by a taxpayer, rules on cessation and change of accounting date?

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

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Unit 2 Assessment of Profit for Special Cases

CONTENTS

1.0 INTRODUCTION

The repealed Personal Income Tax Act (otherwise known as the PITA as amended) now covered issues such as taxation of individual in employment, self-employed/sole trader, partnership assessment, trust, estate and settlement and non-residents individuals. PITA defined an "individual" to include a corporation, sole and a body of individuals; but does not include partnership, community, family, trustee or an executor. A "person" on the other hand is defined to include an executor, trustee, company, partnership, community, family and individual.

Assessment of profit for special cases such as taxation for trust, estate and settlement is covered by PITA in Nigeria. Thus, this unit takes a cursory look at the assessment of profit for special cases in Nigeria. Under assessment of profit for special cases, attempt will focus on assessment of profit for trust, estate and settlement in Nigeria.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- be acquainted with the meaning of trust, estate and settlement;
- know certain terminologies in taxation for trust, estate and settlement; and
- determine the income from a trust.

3.0 MAIN CONTENT

3.1 Meaning of Trust, Estate and Settlement

The term trust is used to refer to a conveyance or transfer of property to some individuals known as "trustee or executors", and to apply the property in their possession, for some specified purpose or for the benefit of some individuals known as the "beneficiaries". In reality, a trust is established either by a 'will', 'court order' or a 'deed of trust'. A deed of trust is a written document that stipulates the operations of a trust.

SELF-ASSESSMENT EXERCISE 1

1. In your own opinion, what do you understand by trust?
2. In your own opinion, briefly explain the following:
   i. Trustee or Executor
   ii. Beneficiaries

3.2 Terminologies in Taxation for Trust, Estate and Settlement

There are certain terminologies that are connected with taxation for trust, estate and settlement. These terminologies are described below:

- **An Estate:** This is the aggregate of a person's possession either in his life time or at death which will comprise of his personal chattels, goods, money and properties.
- **Executor:** This refers to an individual that is appointed in a will to administer the estate of a person or appointed by a court where executor refuses to act or the person died intestate.
- **A Legatee:** This is the beneficiary or recipient of the legacy bequest in a will. A legatee is also referred to as a devisee.
- **An Annuitant:** This refers to the recipient of a fixed amount or payment specified in the deed of trust.
- **A Settlement:** This is the transfer of a property for the future use or need of a person which will comprise of any disposition, covenant, arrangement and agreement
- **A Settler:** This is the individual that creates a trust or settlement either directly or indirectly.

SELF-ASSESSMENT EXERCISE 2

Briefly explain the following terminologies as they relate to taxation of trust, estate and settlement in Nigeria:

(i) An Estate;

(ii) An Executor;
(iii) A Legatee;
(iv) An Annuitant;
(v) A Settlement; and
(vi) A Settler

3.3 Determination of Income from a Trust

In principle, the income of a trust will comprise of any income earned in, derived from, received in or brought into Nigeria. Such income of a trust is referred to as "Computed Income". For any expenses to be deducted from the income accruing to a trust, such expense must be adjusted in connection with the provisions of the Personal Income Tax Act (PITA), CAP P8 2004 LFN. The determination of income from a trust shall comprise of the following deductions:

a) Any expenses authorized in the deed of trust; and
b) Any annuity paid in connection with the provisions of the deed of trust;

It is worthy to note that the income accruing to a trust encompass income from trade or business, the provisions of capital allowance, loss relief as well as balancing adjustment will apply.

First, capital allowance is an allowance granted to an entity or taxpayer for incurring and using qualifying capital expenditure during a year of assessment for the purpose of deriving its income. It is granted in place of depreciation charges, which are disallowed by the provisions of the Nigerian income tax law in arriving at the assessable income of the entity or taxpayer. Capital allowances are a form of normalized depreciation granted on certain specified qualifying capital expenditure under the Nigerian tax laws.

Second, loss relief is an assistance or reinforcement granted to an entity or taxpayer in order to reduce its tax burden in order to enable it recover losses incurred in a particular year of assessment from subsequent year's profits. The purpose of it is to ensure that entities or individuals do not pay taxes on their capital and to have cash available in order to operate their trade or businesses to become profitable in the subsequent year in which the losses were recovered.

Third, balancing charge is one of the elements of balancing adjustment, which is arrived when an asset is disposed of. It may occur where the sales proceeds exceed the tax written down value at the time of disposal. It is also regarded as an additional taxable income chargeable to tax.

In order for the student to understand how income from a trust is determined, they should take note of the following:

a) The trustee or executor may make discretionary payments to the beneficiaries. Note that such payments and the share of distributable income will be liable to tax in the hands of the beneficiaries;

b) The un-distributable income will be deemed to have arisen in the hands of the trustee or executor and would be assessed to tax in the name of the trustee or executor;

c) Where the beneficiary is an infant, the income received by the infant will be deemed to have been received or earned by the settler, parent or the guardian and assessed to tax accordingly;

d) In ascertaining the tax payable by the trustee, personal allowance will be granted before placing the taxable income on the graduated tax rates table;

e) The settler will be deemed to have earned income and liable to tax where the settlor or person creating the trust retains the exercise power directly or indirectly over the disposition of any income arising from the trust or settlement.

The student should ensure that they take into cognizance items in a – e above in order for them to understand how they can determine the tax liability or income from a trust. For the purpose of simplicity and ease of comprehensive, a format for the determination of tax liability or income from a trust is given.

Format for the Determination of Tax Liability or Income from a Trust

	₦	₦
Income		
Trading Income	X	
Less Capital Allowance	X	X
Rental Income (Gross)	X	
Dividend (Gross)	X	
Interest (Gross)	X	X
		X
Allowable Expenses		
Trustee's Salary	X	
Authorized Payment (Deed of Trust)	X	(X)
Computed Income		
Less Discretionary Payment		
X	X	
Y	X	(X)
Distributable of Income		
Payment to Beneficiaries (Distribution)		
Authorized Payment Ratio		
I	X	
II	X	

III	X	(X)
Undistributed income liable to tax in the name of the trustee		X

Illustration 1

Odogwu Christopher is a businessman who was able to set up a Trust. The deed of trust stipulates the procedures on how the income accruing to the trust is to be applied:

- The trust is to be called Odogwu Trust Foundation
- The trustee is Akpodiete Solicitors & Co.
- The beneficiaries are Slim Snap and his granddaughters Fidelia and Flora
- Slim Snap is a not-for-profit organization and is entitled to 3/9 of the trust distributable income per annum. The trustee could make discretionary payment to it anytime during the year
- Fidelia and Flora are to receive 1/6 each of the distributable income per year.
- Fidelia and Flora will have a fixed annuity payment of ₦500,000 each per year.
- The trustee will earn 1% fee on the gross income and fixed remuneration of N900,000 per annum.

Additional Information with respect to the year ended 31st December, 2015:

a.	Income derived from operation	₦'000
	Trading income	37,625
	Dividend income (net)	4,410
	Rental income (gross)	11,025

The trust made discretionary payment of ₦5,250,000 to Slim Snap during the year.

b. Capital allowance claimable was ₦7,350,000 and operating expense of ₦4,812,500

Required:

- Ascertain the Trust un-distributable income for 2016 tax year;
- The taxable income in the name of the trustee; and
- The taxable income of the beneficiaries

Suggested Solution

Odogwu Christopher Trust Foundation

a. Determination of Un-distributable Income for 2016 Tax Year

	₦'000	₦'000
Income		
Trading Income	37,625	

Less Capital Allowance	7,350	30,275
Dividend (₦4,410/0.9)		4,900
Rental income		11,025
		46,200
Deduct		
Operating expenses	4,813	
Trustee fee 1% x (37,625 + 4,900 + 11,025)	536	
Trust salary	1,575	6,923
		39,277
Computed Income		
Less Discretionary Payment		
Slim Snap	5,250	
Fidelia	875	
Flora	875	7,000
		34,027
Distributable of Income		
Slim Snap (3/9 x ₦32,277)	10,759	
Fidelia (1/6 x ₦32,277)	5,380	
Flora (1/6 x ₦32,277)	5,380	21,519
Undistributed Income		10,759

b. Income Taxable in the Name of the Trustee

	₦'000	**₦'000**
Un-distributable Income		10,759
Less Personal Allowance (20% x 10,759 + 350)		(2,515)
		82,444
Less Dividend		(4,900)
Taxable Income in the Name of Trustee		77,544

c. Beneficiaries Taxable Income

	Slim Snap	**Fidelia**	**Flora**
	₦'000	**₦'000**	**₦'000**
Discretionary payment	5,250	875	875
Distribution of Income	10,759	5,380	5,380
	16,009	6,255	6,255

SELF-ASSESSMENT EXERCISE 3

Explain how incomes are determined from a trust?

4.0 CONCLUSION

In this unit, the deliberation was centered on a background knowledge needed for the assessment of special cases for assessment of profit in Nigeria. This background knowledge is essential such that it gives the student or reader the foundational knowledge in knowing the meaning of trust, estate and settlement, certain terminologies in taxation for trust, estate and settlement as well as the determination of income from a trust in Nigeria.

5.0 SUMMARY

This unit emphasized the assessment of partnership trade or business in Nigeria. In particular, the following areas were covered:

- The meaning of trust, estate and settlement
- Certain terminologies in taxation for trust, estate and settlement; and
- The determination of income from a trust.

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by the following?
   a. Trust
   b. Trustee or Executor
   c. Beneficiaries
   d. An Estate
   e. An Executor
   f. A Legatee
   g. An Annuitant
   h. A Settlement and Settler

2. Explain how incomes are determined from a trust?

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

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Unit 3 Partnership Assessments

CONTENTS

1.0 INTRODUCTION

The term "Partnership" is used to describe the relation that subsists between two or more persons carrying on a business or trade with a view to making profit. In the contextual framework of the Nigerian tax laws, partnership as an entity is not liable to tax; rather it is the persons (i.e. individual partners) that are regarded as sole traders in the business or trade and are subjected to tax distinctly under the Personal Income Tax Act (PITA) 2004 (as amended).

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the meaning of partnership
- understand the taxation of income of partnership
- ascertain the treatment of losses and profits
- determine partner's divisible and assessable income
- illustrate merger or amalgamation of partnership
- know the conversion of partnership into a limited liability company
- understand the treatment of capital allowance under partnership

- know the commencement and cessation of partnership

3.0 MAIN CONTENT

3.1 Taxation of Incomes from Partnership

As earlier on stated, partnership is subjected under the Personal Income Tax Act (PITA) Cap P8 2004, LFN. Arising from the partnership dealings, the following are the incomes from partnership:

- Share of profit;
- Interest on capital received by a partner; the interest on capital received by a partner is liable to 10 per cent tax per year if there is no agreement;
- Passage cost or expenses incurred on a partner to and from Nigeria for the purpose of leave or recreation; and
- Partner’s salary or remuneration

Partnership income is calculated like the income of a sole proprietor. Thus, partner’s salary or remuneration, interest on capital received and cost or expenses incurred on a partners to and from Nigeria for the purpose of leave or recreation are allowed in the partnership account and taxed in the hands of the individual partners in view of that. Partnership income arrived at after allowable deductions, is apportioned to each of the partners in accordance with the agreed ratio.

Also, interest on loan received by a partner is regarded as unearned income and any other benefits enjoyed by the partners is regarded as appropriation of profit and is not tax exempt. Thus, such benefits should be allowed in the computation of divisible income and assed to tax in the hands of each partners accordingly.

SELF-ASSESSMENT EXERCISE 1

State the sources of incomes from partnership known to you?

3.2 Treatment of Losses and Profits

In a scenario where a partner sustains a loss due to the loss sustained by the partnership, such a loss is available for relief. Nevertheless, where a partner sustains a loss, where the partnership has not sustained a loss, such a loss is not available for relief. The determination of the income or loss from a partnership of a partner is made by the relevant tax authority (PITA). The relevant tax authority for a year of assessment is the tax authority of the territory in which there is the principal office or place of business of the partnership on the first day of that year. It is essential to note that commencement rules apply to a scenario where a new partner is admitted into a partnership and cessation rule apply to a scenario where a partner resigns or retires or in a case of death of a partner.

SELF-ASSESSMENT EXERCISE 2

Briefly explain how losses and profits are treated under partnership trade or business?

3.3 Determination of Divisible and Assessable Incomes

The determination of divisible income under partnership is premised on twofold; first, as an ongoing partnership trade or business; second when there is a change in composition of partnership.

3.3.1 Ongoing Partnership Trade or Business

In the case of ongoing partnership trade or business, the accounts of the partnership will be prepared based on accounting rules and principles and the accounts will be adjusted for the purpose of tax using the "determination of divisible income". Also, for an ongoing partnership trade or business, capital allowance is to be deducted before arriving at the divisible income.

Format for Deriving Divisible Income for Ongoing Partnership

	₦	₦
Net profits per accounts		X
Add Back		
Expenses not allowed for tax purpose	X	
Taxable income omitted	X	X
		XX
Deduct:		
Non-business income	X	
Allowable expenses omitted	X	(X)
		XX
Less Capital Allowance		(X)
Divisible Income		**XX**

3.3.2 Change in Composition of Partnership

A change in the composition of partnership may arise as a result of admission of a new partners or retirement of a partners. When there is a change in the composition of partnership, the adjusted profit would be the divisible income. Thus, capital allowance will be apportioned among the partners based on the period of being engaged in the partnership trade or business using their agreed profit sharing ratio.

In principle, it is assumed that when there is a change in the composition of partnership, the trade or business is deemed to have been dissolved and a new partnership trade or business is created. In this regard, the new partnership will be assessed using the commencement rule, the retiring partner will be assessed to tax using cessation rule while the continuing partners (newly admitted) will be assessed on preceding year basis.

Format for Deriving Divisible Income for Change in Partnership Composition

	₦	₦
Net profits per accounts		X
Add Back		
Expenses not allowed for tax purpose	X	
Taxable income omitted	X	X
		XX
Deduct:		
Non-business income	X	
Allowable expenses omitted	X	(X)
Divisible Income		**XX**

3.3.3 Determination of Partner's Assessable Income

The determination of a partner's assessable income can be done using the below format(s):

Format 1: Determination of Partner's Assessable Income

	₦ **X**	₦ **Y**	₦ **Z**	₦ **Total**
Divisible Income				XX
Share of Profit	X	X	X	(XX)
Partner's Salaries	X	X	X	Nil
Interest on Capital	X	X	X	
Passage Allowance	X	X	X	
Income from Partnership	X	X	X	

Format 2: Determination of Partner's Assessable Income

	₦ **X**	₦ **Y**	₦ **Z**	₦ **Total**
Divisible Income				XX
Partner's Salaries	X	X	X	(X)
Interest on Capital	X	X	X	(X)

Passage Allowance	X	X	X	(X)
Share of Profit	X	X	X	(X)
Income from Partnership	X	X	X	Nil

Illustration 1

Partners X and Y are in partnership trade selling household properties. The following information have been extracted from their accounting records for the year ended 31st December 2015.

	₦'000
Revenue	57,085
Operating Cost	32,323
Capital Allowance	5,688
Net Profit	24,763

Additional Information:

(a) Revenue for the period includes dividend income of ₦5,600,000 and interest on deposit of ₦1,610,000. These have been reported at Gross in the accounts. Also, a total interest on drawing of ₦945,000 charged against partner's current account is yet to be accounted for:

(b) The breakdown of operating expenses is as follows:

	₦'000
Depreciation	4,550
General provision for doubtful debt	1,575
Donation to Sickle Cell Research Centre	1,750
Staff wages/salaries	16,188
Office rent	5,163
Legal expenses for drafting partnership agreement	700
Other office running expenses	2,398
	32,324

(c) Partner Z was admitted into the partnership on 1st July 2015. Before partner Z was admitted into the partnership, Partners X and Y shared profit in ratio 3:2. On the admission of partner Z, the profit sharing ratio change to 2:2:1.

(d) The partners are to earn the following per year:

	X	Y	Z
	₦'000	**₦'000**	**₦'000**
Salary	3,500	3,150	2,625
Interest on capital	1,575	1,313	1,313
Passage cost	1,750	1,750	1,750

(e) Partner X retired from the partnership on 30th September, 2015. Profits were shared equally between Partners Y and Z after the retirement of partner X.

Required: Compute Partner's Divisible and Assessable Incomes for the year

Suggested Solution

X, Y & Z Partnership
Determination of Divisible Income

	₦'000	₦'000
Net Profits		24,763
Add Back		
Interest on drawings	945	
Depreciation	4,550	
General provision	1,575	
Legal expenses	700	7,770
		32,533
Deduct:		
Dividend	5,600	
Interest	1,610	(7,210)
Divisible Income		**25,323**

X, Y & Z Partnership
Determination of Partner's Assessable Income

	₦ X	₦ Y	₦ Z	₦ Total
Divisible Income				25,323
Partner's Salaries	2,625	3,150	1,313	(7,088)
Interest on Capital	1,181	1,313	656	(3,150)
Passage Allowance	1,313	1,750	1,050	(4,113)
Share of Profit				
Period 1 ₦10,973 x 6/12	3,292	2,195	Nil	(5,487)
Period 2 ₦10,973 x 3/12	1,097	1097	550	(2,744)
Period 3 ₦10,973 x 3/12	Nil	1,371	1,372	(2,743)
Share of Capital Allowance	Nil	Nil	Nil	(5,688)
Period 1 ₦5,688 x 6/12	(1,707)	(1,138)	Nil	2,844
Period 2 ₦5,688 x 3/12	(569)	(569)	(286)	1,423
Period 3 ₦5,688 x 3/12	Nil	(711)	(711)	1,422
Income from Partnership	7,233	8,458	3,945	Nil

SELF-ASSESSMENT EXERCISE 3

1. On which basis are divisible incomes determined under partnership trade or business?

2. Briefly explain the following:
   i. Ongoing partnership trade or business?
   ii. Change in composition of partnership?

3.4 Merger or Amalgamation of Partnerships

There are situations where a partnership can be engaged in merger or amalgamation. Where there is a merger or amalgamation, the older partnership will not be deemed to have ceased business or trade and the new partnership will not be deemed to have commenced a new trade or business. Therefore, the procedure for determining the divisible income as a result or merger or amalgamation will apply.

In this case, the qualifying capital expenditure will be transferred to the new partnership and will be deemed to have been transferred at its tax written down value, hence there would be no computation of balancing adjustment; only annual allowance is claimable. Where the balancing adjustment results to a balancing allowance, the balancing allowance will be apportioned among the partners using the agreed profit sharing ratios and deducted from assessable income.

SELF-ASSESSMENT EXERCISE 4

Briefly explain the application of tax under merger or amalgamation of partnership?

3.5 Conversion of Partnership into a Limited Liability Company

In the case of conversion of partnership into a limited liability company, the cessation rules should be applied. In principle, it is believed that the old partnership is deemed to have ceased business or trade. In the same vein, the commencement rules apply to the new company such that all the qualifying capital expenditure will be transferred and are deemed transferred at the agreed values. Also, there would be computation of balancing adjustment. Thus, in determining the capital allowances on the assets transferred, initial allowance is not allowed and the capital allowance claimable would take into account, the duration of time the asset has been with the previous partners or partnership.

Illustration 2

Jane and Janet (otherwise referred to as J&J) have been in partnership for many years. The principal office of J&J is situated at Warri in Delta State of Nigeria. Jane normally resides in Ughelli whereas Janet resides in Benin. Accounts are made up to 31 August every year.

Required: Determine the relevant tax authority in relation to the partnership stating the duties of the relevant tax authority in accordance with the relevant Nigerian tax law.

Suggested Solution

The relevant tax authority in relation to the partnership is the Delta State Board of Internal Revenue since the principal place of the partnership business is in Warri, Delta State. It is the duty of the Delta State Board of Internal Revenue to request for a certified copy of the partnership deed or agreement. It is also the duty of the Board to determine the partnership income or loss and its apportionment between the partners in any year of assessment. The Board, having determined the partnership income or loss, supplies the other tax authority, the Edo State Board of Internal Revenue with the information regarding the income of the partner who is resident in Edo State.

SELF-ASSESSMENT EXERCISE 5

Briefly explain how partnership can be converted into a limited liability company in Nigeria as well as the tax provisions?

3.6 Treatment of Capital Allowance under Partnership

In the case of a partnership, capital allowances are computed and granted against the income of the partnership just in the same way as any taxpayer, i.e. company or individual. It is not allocated to partners as in the form of a tax credit.

SELF-ASSESSMENT EXERCISE 6

Under partnership, how is capital allowance treated?

3.7 Commencement and Cessation of Partnership

Remember that that since a member of a partnership is treated as an individual taxpayer, all the rules regarding commencement and cessation of individual taxpayers do apply to members of the partnership wherever necessary.

SELF-ASSESSMENT EXERCISE 7

What are the conditions for commencement and cessation of trade or business under partnership?

4.0 CONCLUSION

In this unit, the deliberation was premised on a background knowledge needed for the assessment of partnership trade or business in Nigeria. This background knowledge is essential such that it gives the student or reader the foundational knowledge in knowing how incomes are generated from partnership, treatment of losses and profits of partnership, treatment of capital allowance under partnership and a host of others

5.0 SUMMARY

This unit emphasized the assessment of partnership trade or business in Nigeria. In particular, the following areas were covered:

- The meaning of partnership
- The taxation of income of partnership
- The treatment of losses and profits
- The determination of partner's divisible income
- The determination of partner's assessable income
- Merger or amalgamation of partnership
- The conversion of partnership into a limited liability company
- The treatment of capital allowance under partnership
- The commencement and cessation of partnership

6.0 TUTOR-MARKED ASSIGNMENT

Airtel and MTN met at the Hilton Hotel in 2000 and decided to form a partnership. They have been in partnership since then and shared profits and losses equally. The adjusted profit of the partnership for the year ended 31/12/2010 was ₦35,000,000. Capital Allowance was also ₦8,750,000. What will be the chargeable income of each partner?

7.0 REFERENCES/FURTHER READING

Association of Accountancy Bodies in West Africa (ABWA) (2009). *Study pack for preparing tax computations and returns*. Abuja: ABWA Publishers Limited

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Unit 4 Treatments of Losses and Computation of Assessable Income

CONTENTS

1.0 INTRODUCTION

In arriving at the chargeable income, reliefs are granted against the statutory total income which is the addition of earned and unearned incomes of an individual or corporate entities. These reliefs are meant to reduce the tax burden on the taxpayers so as to enable them recover losses incurred in a particular year of assessment from subsequent year's profits. In this unit therefore, the meaning of loss relief, current year loss relief and limitations, computation of assessable profit and priority of relief shall be explored.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the meaning of loss relief;
- understand current year loss relief (e.g. effective, current and carry forward loss reliefs);
- computation of assessable profit; and
- explain limitations and priority of relief

3.0 MAIN CONTENT

3.1 Loss Relief

In the Nigerian income tax law, loss relief is a provision that allow taxpayers to recover or get back losses incurred in a particular year of assessment from subsequent year's profit. The purpose of this is to ensure that corporate entities and individuals do not pay taxes on their capital and to have cash available in order to operate their businesses to become profitable in the subsequent year in which the losses were recouped. The Nigerian income tax Act provides for losses incurred by companies. Basically, these include:

(i) The amount of the loss to be allowed should be that which the Revenue Service is satisfied as having been incurred by the company in a trade or business during a preceding year of assessment. It is worthy to note that current year relief is not available for losses incurred by companies;

(ii) In no circumstance shall the amount to be relieved exceed the total amount of the loss;

(iii) Relief can only be against profits from the same trade or business in which the loss was incurred;

(iv) Losses can be carried forward for a maximum of four (4) years following that in which they were incurred. Losses incurred by any company engaged in agricultural trade or business can be carried forward with no time limit; and

(v) The loss available for relief should be computed on the same basis as that of assessable profit for a year of assessment.

In accordance with the Nigerian income tax laws, the following are the underlying principles for relieving losses incurred by a business or trade: Effective loss relief, Current year loss relief and Carry forward loss relief. There are loss relief for individuals and that of companies.

First, individuals are permissible by the Nigerian tax law to use both current year and carry forward loss relief methods based on the following fundamental conventions:

- Losses are relieved on current year or actual year basis. The implication is that a loss incurred in a year let's say 30th November 2015 would be relieved in 2015 tax year. In principle, the loss incurred in 2015 is being relieved against the profit of the financial year ending in 2014 which is assessed to tax in 2015 tax year on preceding year basis;

- Losses incurred by an individual can be relieved from income from all other sources accruing to the individual in that year of assessment;

- Where a loss is not completely relieved on current year, the unrelieved portion becomes a carry forward and can only be relieved subsequently from the same source the loss was incurred;

- Loss incurred from property letting business or trade is not allowed to be relieved on current year basis; and

- Individuals other than those engaged in agriculture business can carry forward loss up to four (4) years of assessment. Any unrelieved portion after the fourth year becomes lapsed.

For personal income tax, there are personal allowance, disabled person allowance, wife allowance, children allowance dependent relative allowance, life assurance allowance, donations to research and development companies, equity participation in research and development company and general charges.

(a) Personal Allowance

This is granted to every taxpayer who earns income irrespective of his/her age. The allowance is calculated on earned income and is granted to both residents and non-residents. Between 1985 and 1986 tax years, the following stands out:

(i) where earned income is less than 6,000, the allowance was 1,200 plus ….% of earned income in excess of 6,000

(ii) between 1987 and 1989, personal allowance was 1,000 plus … % of earned income.

(iii) between 1990 and 1997, the allowance was 2,000 plus 15% of earned income.

(iv) between 1992 and 1997, the allowance increased to 3,000 plus 15% of earned income.

(v) with effect from 1998 to date, the allowance is 5,000 plus 20% of earned income.

(b) Disable Person Allowance

Disabled person allowance is an allowance granted to a taxpayer who is incapacitated with special equipment and services of an attendant in the course of his paid occupation. Such allowance is in addition to his/her personal allowance. Prior to 1998 tax year, disabled allowance was the lower of 2,000 or 10% of income earned but with effect from 1998, it was further increased to higher of 3,000 and 20% of income earned.

(c) Wife Allowance

This is an allowance given to every married man up to 1991 assessment year. However, with effect from 1992, it was abolished as a result of discrimination amongst women.

(d) Children Allowance

Children allowance is granted to any taxpayer who on the first day of the preceding year maintained a natural offspring or an adopted child. There are several conditions for claiming children allowances and they include:

(i) the number of children shall not exceed four (4);

(ii) the child shall be maintained by the individual in the preceding year of assessment;

(iii) the child shall be less than 16years of age on the first day of the preceding year;

(iv) if the child is more than 16years of age, the allowance can still be granted, if the child is still receiving full time instruction in a recognized educational institution or was under indenture (i.e. bond or contract) in a trade or profession;

(v) no deduction shall be granted in respect of a married child whatever his/her age may be;

(vi) no extra allowance shall be granted to a husband and his wife in respect of the same set of children;

(vii) where the cost of maintaining a child is shared between two or more persons, the tax authority reserves the right to apportion the allowance between those persons; and

(viii) a widow who re-marries, can still claim the full allowance in respect of the children of the deceased husband, up to a maximum of four.

With respect to the above, the permissible allowances are as follows:

- Before 1987 tax year, it was ₦250 per child per a year;
- Between 1987 and 1991, it was ₦400 per a child per a year;
- Between 1992 and 1994 tax year, it increased to ₦500 per a child per a year;
- In 1995, it was ₦1,000 per a child per a year;
- Between 1996 and 1997, it increased to ₦1,500 per a child per a year; and
- With effect from 1998 to date, it increased to ₦2,500 per a child per a year.

(e) Dependent Relative Allowance

For dependent relative allowance, it shall be granted under the following condition(s):

(i) the relative must be the widowed mother of the individual’s spouse or he must be a close relative of the individual or his spouse who is incapacitated by old age or infirmity and thus incapable of self-maintenance;

(ii) the income of the dependant in the preceding tax year must not be more than the amount of the allowance;

(iii) where two or more persons maintain a relative, the amount of allowance shall be apportioned between them in promotion to the sum incurred; and

(iv) a husband and his wife can claim dependant relative allowance where each maintains separate relatives.

It is worthy to mention that the amount of allowance claimable for dependant relative is equal to:

- Before 1987 tax year - ₦400 per a year;
- Between 1987 and 1994 tax year - ₦600 per a year;
- Between 1995 and 1997 – ₦1,000 per a year; and
- From 1998 to date – ₦2,000 per dependant for maximum of two dependants.

(f) Life Assurance Allowance

Life assurance allowance is granted in respect of life assurance premium paid by an individual during the preceding year of assessment for himself or for his spouse. The amount that can be claimed is subject to the following:

(i) Up to 1991 tax year, it is the lower of premium paid, 205% of net statutory total income, 10% of capital sum assured and overriding limit of ₦2,000;

(ii) Between 1992 and 1995, it was the lower of 10% of total income, premium paid and overriding limit of ₦5,000; and

(iii) With effect from 1996, the allowance is the actual amount of premium paid.

Note that the above allowances includes any contribution made to an approved pension, provident or other retirement benefit schemes or funds.

(g) Donations to Research and Development Companies

Donations to research and development companies with effect from January 1st 1987 are allowed relief. The amount claimable is the lower of:

(i) Actual amount of donation; and

(ii) 10% of the taxpayer's chargeable income.

(h) Equity Participation in Research and Development Company

Equity participation in research and development with effect from 1987 is allowed to claim as a relief, the amount of his equity holding in a company floated exclusively for research purposes or 25% of his total income whichever is lower. Where such amount cannot be fully relieved in a year, the unrelieved amount can be carried over to subsequent years until such amount is fully relieved.

There are several conditions before granting relief to taxpayer in respect of equity participation in research and development. They include:

- The company must be a Nigerian company incorporated on or after January 1st 1987;
- The main objective of the company must be to carry out the business of research and development; and
- Research projects must commence within two months after incorporation of the company.

(i) General Charges

General charges are charges that do not relate to any income but allowed as deductions in arriving at the chargeable income of an individual taxpayer. The charges comprise of the following:

(i) Professional subscription (e.g. ICAN, ANAN);

(ii) Mortgage loan interest i.e. annual interest on loan for an owner-occupier residential house; and

(iii) Alimony payment made by a husband to his divorced wife. The amount is ₦300 and is unaffected by the abolition of wife allowance.

Second, the Nigerian tax law permit companies to only use carry forward loss relief method based on the following fundamental conventions:

- Losses are relieved on preceding year basis. For instance, loss incurred in the financial year ended 30th November 2015 would be relieved in 2016 tax year;
- Losses can only be relieved from the same source which the loss was incurred; and
- Companies other than insurance companies can carry forward losses indefinitely. That is to say, insurance companies can only carry forward losses up to four (4) years of assessment after the year the loss was incurred and any unrelieved portion becomes elapsed.

3.1.1 Effective Loss Relief

As stated earlier on, there are certain underlying principles for relieving losses in accordance with the Nigerian tax law. They include effective loss relief, current year loss relief and carry forward loss relief. The other two are discussed in subsequent part of this unit. The effective loss relief principles holds that where a loss is taken into cognizance in the determination of assessable profit in any year of assessment, such loss is deemed to be effectively relieved to the extent of the profit available.

Illustration I: Effective Loss Relief

XYZ commenced business on May 1st 2009 and prepares it accounts for September every year. During the year ended 30/9/2009, there was a loss of ₦400,000 and for the year ended 30/9/2010, a profit of ₦500,000. Compute the loss relief.

Suggested Solution

XYZ
Computation of Loss Relief (using the Effective Loss Relief)

2009 tax year:	1/5/09 to 31/12/09 (₦400,000) + 3/12*₦500,000	
	Profit available	₦125,000
	Loss	(₦400,000)
	Loss c/f	(₦275,000)
2010 tax year:	1/5/09 to 30/4/10 (₦275,000) + 4/12*₦500,000	
	Profit available	₦166,667
	Loss b/f	(₦257,000)
2011 tax year:	1/10/09 to 30/09	
	Profit	(₦108,333)
		₦500,000
		(₦108,333)
		₦391,667

It is worthy to mention that there is restriction to actual loss and available profit as well. For restriction to actual loss, it implies that the aggregate deduction from assessable profit with respect to any loss shall not be more than the actual loss incurred.

Illustration 1: Restriction to Actual Loss

XYZ commenced business on May 1st 2009 and the result of its operations were for the year ended 30/04/2010, a loss of ₦400,000 and for the year ended 30/04/2011, a profit of ₦300,000. Compute the restriction to actual loss.

Suggested Solution

XYZ
Computation of Loss Relief (Restriction to Actual Loss)

2009 tax year:	1/5/09 to 31/12/09 8/12 * (₦400,000)	
	Loss c/f	(₦266,667)
2010 tax year:	1/5/09 to 30/4/10	(₦400,000)

	Loss b/f	(₦266,667)
	Total Loss	(₦666,667)
	Restricted to actual loss c/f	(₦400,000)
2011 tax year:	1/05/10 to 30/04/11	₦300,000
	Unrelieved loss b/f	(₦400,000)
	Unrelieved loss c/f	(₦100,00)

For restriction to available profit, the principle demands that the aggregate deductions from assessable profit in a particular year of assessment with respect to any loss shall not be more than the profit available.

For instance, using the above illustration, the assessable profit available for 2011 tax year is ₦300,000 while the unrelieved loss brought forward is ₦400,000. The implication with respect to restriction to available profit is that the taxpayer can only relieve ₦300,000 in 2011 tax year and the balance of ₦100,000 carry forward to 2012 tax year.

3.1.2 Current Year Loss Relief

The current year loss relief principle allows losses to be relieved against prior year profit. The current year loss would be relieved from all sources of income accruing to the taxpayer. Note that current year loss relief is available only to individuals that apply in writing to the relevant tax authority within 12months after the year of assessment the loss was incurred.

3.1.3 Carry Forward Loss Relief

The carry forward loss relief principle allows losses to be carried forward to subsequent years and relieved only from the profit of the same source the loss was incurred. That is to say any portion of current year not fully relieved becomes carry forward. Companies and individual taxpayers are allowed to use carry forward loss relief without any writing to the relevant tax authority.

SELF-ASSESSMENT EXERCISE 1

1. State the various provisions for loss relief for individuals and companies?

2. What are the underlying principles for relieving losses incurred by a business or trade?

3. Briefly explain: personal allowance, disabled person allowance, wife allowance, children allowance dependent relative allowance, life assurance allowance, donations to research and development companies, equity participation in research and development company and general charges.

4. In your own view, what do you understand by effective loss relief and restriction to actual loss?

5. In your own view, what do you understand by current loss relief?

6. In your own view, what do you understand by carry forward loss relief?

3.2 Limitation and Priority of Relief

In the Nigerian tax law, where commencement rule applies, losses accumulated may be greater than the actual loss incurred but it must be observed that losses cannot be relieved for an amount that is greater than the actual amount of loss. Also relief in respect of an earlier loss has a priority over a current year loss. Usually, relief is given before the relief for capital allowance is taking into consideration.

Illustration 1

Emmanuella has the following financial records:
Year ended 31 December 2008 ₦1,250,000
Year ended 31 December 2009 ₦1,500,000 (loss)
Year ended 31 December 2010 ₦2,000,000

Required: Compute the assessable income stating how the loss would be relieved.

Suggested Solution

Emmanuella
Computation of Assessable Income

YOA	**Basis Period**			**Assessable Income**
2009	1/1/08-31/12/08	=	1,250,000	₦
	Less: Current loss relief		(1,500,000)	
	Unrelieved loss c/f		(250,000)	Nil
2010	1/1/09 – 31/12/09	=	1,500,000(loss)	Nil
2011	1/1/10 – 31/12/10	=	2,000,000	
	Less: Unrelieved loss b/f		(250,000)	1,750,000
				1,750,000

SELF-ASSESSMENT EXERCISE 2

What do you understand by limitation and priority of relief?

4.0 CONCLUSION

The foregoing discussion is essential to imparting the background knowledge of loss relief and the underlying principles. This background information has justified the necessity for the relief of certain loses by the provisions of the Nigerian tax law.

5.0 SUMMARY

This unit highlighted loss relief as provided for by the Nigerian income tax law. Specifically, the following areas were covered:

- The meaning of loss relief;
- Current year loss relief (e.g. effective, current and carry forward loss reliefs);
- Computation of assessable profit; and
- Limitations and priority of relief

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by loss relief?
2. State the provisions for loss relief for individuals and companies?

7.0 REFERENCES/FURTHER READING

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Unit 5 Value Added Tax in Nigeria

CONTENTS

1.0 INTRODUCTION

Value Added Tax (VAT) is an indirect tax on goods and services. It is a general consumption expenditure tailored with the sole aim of raising revenue for the government of the country. VAT is imposed on the sale of goods and services and imported goods and services. VAT is collected at each stage of the production and distribution chain, thus, the burden rest on the final consumer of the goods or services resulting from the production and distribution chain.

VAT is established by the Value Added Tax Act Cap VI, 2004 LFN. This Act replaced the Sales Tax in operation under the Federal Government legislated decree No. 7 of 1986. The following are some of the reasons for initiating VAT:

i. It is easy to administer by way of assessment, enforcement and collection by the relevant tax authorities;
ii. Impose of VAT on imported goods discourages importation;
iii. VAT has assumed international dimension as it is widely practiced by most countries of the world;
iv. It broadens the revenue base of the government at all tiers of government;

v. Only locally manufactured goods were targeted by the sales tax decree but however, VAT covers imported goods and services, thus expanding the revenue of the government;
vi. Sale tax in Nigeria was narrow but VAT covers all goods and services except those specifically exempted by the VAT Act.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- know the meaning of Value Added Tax;
- ascertain goods and services exempted from VAT;
  identify the VAT rates in Nigeria;
- attempt a classification of VAT; and
- understand the VAT administration and functions of VAT administrators

3.0 MAIN CONTENT

3.1 Exemptions from VAT

The goods and services exempted from the Value Added Tax (VAT) comprise of the following:

3.1.1 Goods Exempted from VAT

(i) All medical and pharmaceutical products
(ii) Basic food items
(iii) Books and educational materials
(iv) Baby products
(v) Fertilizers locally produced, agricultural and veterinary medicine
(vi) All exports
(vii) Plant and machinery imported for use in the Export Processing Zone
(viii) Plant, machinery and equipment purchased for utilization of gas in downstream petroleum operations.
(ix) Tractors, ploughs, agricultural equipment purchased for agricultural purposes

3.1.2 Services Exempted from VAT

(i) Medical services
(ii) Services rendered by Community Banks and Mortgage Institutions
(iii) Plays and Performances conducted by educational learning institutions
(iv) All exported services

SELF-ASSESSMENT EXERCISE 1

List the goods and services exempted from VAT based on VAT Act in Nigeria?

3.2 VAT Rates in Nigeria

The VAT rate is computed at 5% of the value of all Vatable goods and services apart from those exempted by the VAT Act. The value of Vatable goods and services is determined as follows:

(i) if the supply is for money consideration, its value is deemed to be the amount which, with addition of the VAT chargeable, is equal to the consideration; and

(ii) if the supply for a consideration not consisting of money, the value of the supply shall be deemed to be its market value.

Illustration 1

Smartphone Limited sells a Phone for ₦2,148 prior to the introduction of VAT in 1993. As from 1 December, 1993, the selling price should be ₦2,148 + 5%. That is to say ₦2,148 + N107 = ₦2,255

SELF-ASSESSMENT EXERCISE 2

How is the value of Vatable goods and serviced defined under the VAT Act?

3.3. Classification of VAT

3.3.1 Input VAT

Input VAT is a VAT made by a person or individual who shall reimburse the supplier, the VAT on vatable goods and services purchased by or supplied to him. The input VAT to be allowed as a deduction from Output VAT is limited to the VAT on goods purchased or imported directly for resale and goods which form the stock-in-trade for the direct production of any new product on which the output VAT is charged. Therefore, input VAT include:

(a) Any overhead, service and general administration of any business which otherwise can be expended through the income statement (profit or loss accounts); and

(b) Any capital item and asset which is to be capitalized along with cost of the capital item and asset. These items of assets and capital are not allowed as deductions from output VAT.

Note that the remission of VAT shall be followed with a schedule showing the name and address of the contractor, invoice number, gross amount of invoice, amount of tax and the month of return.

3.3.1 Output VAT

Output VAT refers to the amount paid to the tax authorities which reflects the difference between the total VAT collected from customers on sales.

Illustration 1

Glasosmith Company as part of its drug trade, sells gift items in order to boast its revenue. The following information pertains to the sales and purchases for December 2014:

	₦
Sales of pharmaceutical products	97,920
Sales of gift items and supply of body sprays	27,527
Total Sales for the Month	**125,447**

VAT paid on purchases for December 2014 amounted to ₦1,064

Required: Compute the VAT payable to the relevant tax authority.

Suggested Solution

Glasosmith Company
Computation of VAT Payable for December, 2014

	₦
Total Sales	125,447
Less Goods Exempted from VAT	97,920
Vatable Goods sold (including VAT @ 5%)	27,527
Sales excluding VAT (100/105 x ₦27,527)	(26,217)
Output VAT @ 5%	1,311
Input VAT	1,064
Net VAT Payable	**247**

SELF-ASSESSMENT EXERCISE 3

Differentiate between VAT Input and VAT Output

3.4 VAT Administration and Functions of VAT Administrators

3.4.1 VAT Administration in Nigeria

There is a Value Added Tax Technical Committee in Nigeria which encompasses the following:

(i) A Chairman, who shall be the Chairman of the Federal Board of Inland Revenue;
(ii) All Directors in the Federal Inland Revenue Service;
(iii) A Director in the Nigeria Customs Service, and
(iv) Three representatives of the State Governments shall be members of the Joint Tax Board.

In the administration of VAT, there is also the VAT tribunal. The following constitutes the VAT tribunal in Nigeria:

(i) The Chairman of each of the Zonal VAT Tribunals:
  - shall be a legal practitioner of not more than 15years of post call experience; and
  - shall preside over the proceedings of the Tribunal
(ii) Each Zonal VAT Tribunal shall consist of not more than eight (8) persons of which none of them shall be a serving public officer and be designated as Chairman by the Minister;
(iii) The Minister shall establish by notice in the Federal Gazette, Zonal Value Added Tax (VAT) Tribunals, spread geographically throughout the country;
(iv) Members of each of the Zonal VAT Tribunals shall:
  vii. be appointed by notice in the Federal Gazette, by the Minister, from among persons appearing to him, to have wide and adequate practical experience, professional expertise, skills and integrity in the profession of law, accountancy and taxation as well as persons that have shown capacity in the management of trade, business and retired senior public servant in tax administration;
  viii. hold office for a period of three (3) years from the date of appointment and may resign at any time by a notice in writing addressed to the Minister; and
  ix. cease to be a member upon the minister determining that his office be vacated upon notice of such determination.
(v) Where the Minister is satisfied that a member:
  - has been absent for two consecutive meetings without the written permission of the Chairman of the Revenue Service, or;
  - is incapacitated by illness, or
  - has failed to make any declaration and give notice of his direct or indirect financial interest in a case when any appeal by such case is pending before the Tribunal or

- has been convicted of any felony or of any offence under any enactment imposing tax on income or profit;

Owing to the above (v), the Minister shall make a declaration that his office as a member is vacant.

(vi) Where for some reasons there is insufficient number of members to hear an appeal, the Minister may make an ad-hoc appointment in writing for the purpose of hearing such appeal;

(vii) The Minister shall designate a serving public officer to be Secretary to a Zonal VAT Tribunal and the official address of the Secretary shall be published in the Federal Gazette;

(viii) The members of the VAT Tribunal shall remain in office until new ones are sworn in;

(ix) Any Vatable person or individual who , being a person aggrieved by an assessment or demand notice made upon him, may appeal against the assessment and notice, to the Zonal VAT Tribunal where the Vatable person is resident, giving notice in writing through the Secretary to the Zonal VAT Tribunal, within fifteen (15) days after the date of service upon such Vatable person or individual, of the assessment or demand notice and the appeal shall be heard by the Tribunal;

(i) The Service, if aggrieved by the non-compliance of a Vatable person to any provision of this Act, may appeal to the Zonal Tribunal where the Vatable persons is resident, giving notice in writing, through the Secretary to the Zonal VAT Tribunal;

(ii) Where a notice of appeal is not given within the stipulated period, the assessment or demand notices shall become final and conclusive and the Service may recover tax, interest and penalty which remain unpaid from any taxable person through the proceeding at the Zonal Tribunal;

(iii) A judgment of the Zonal VAT Tribunal shall be enforced as if it were a judgment of the Federal High Court;

(iv) Notice of appeal against assessment shall contain the following:

x. The name and address of the Vatable person or individual;

xi. The total amount of goods and services chargeable to VAT in respect of each month;

xii. An input VAT;

xiii. Net amount of VAT payable;

xiv. The copy of assessment notice;

xv. The precise grounds of appeal against the assessment; and

xvi. An address for service of any notice, process, or other documents to be given to the appellant and the Secretary to the Zonal Tribunal.

(v) The revenue service or a Vatable person may discontinue an appeal at any time before the hearing of the appeal by giving notice in writing through the Secretary to the Zonal Tribunal;

(vi) The Zonal Tribunal shall meet as often as may be necessary to hear appeals in any town and place in which the office of the Tribunal is situated;

(vii) At least five (5) members may hear and determine an appeal;

(viii) The Secretary to the Zonal Tribunal shall give seven (7) days notice to the parties to an appeal of the date and place fixed for the hearing of the appeal;

(ix) All notices and documents, other than the decisions of the Tribunal may be signed under the hand of the Secretary. All appeals before the Tribunal shall be held in camera. Every Vatable person so appealing, shall be entitled to be represented at the hearing of the appeal by a legal practitioner, a qualified Chartered Accountant or VAT consultant;

(x) The onus of proving the basis of grievance against an assessment or non-compliance with the provisions of the law shall be on the appellant;

(xi) The Zonal Tribunal may upon h earing the appeal, confirm, reduce, increase or amend the assessment or make such orders thereon as it deems fit;

(xii) The Minister may make rules regulating the practice and procedure of the VAT Tribunal and until such rules are made, the practice and procedure of the Federal High Court shall apply with any such modifications as circumstances may require;

(xiii) Any case on VAT issues which the VAT Tribunal has jurisdiction, and pending before the Federal High Court before the setting up of VAT Tribunal, shall be continued and completed by the Federal High Court;

(xiv) After the decision of the VAT Tribunal, notice on VAT payable or determined by the Tribunal, shall be served by the FIRS to the company and notwithstanding that an appeal is pending. VAT shall be paid in accordance with the decision of the VAT Tribunal within one month of the notification of the tax payable to the company;

(xv) Any party aggrieved by the decision of the VAT Tribunal may appeal to the Court of Appeal against the decisions of the Tribunal on a point of law after giving notice in writing to the Secretary to the Tribunal within 30 days after the decision of the Tribunal. The appellant shall set out the grounds of his appeal;

(xvi) The secretary of the Tribunal, on receipt of the notice of appeal to the Court of Appeal, shall compile the record of proceedings and judgment before the VAT Tribunal and forward same to the Chief Registrar of the Court of Appeal together with all exhibits tendered at the hearing before the VAT Tribunal, within 30 days after the decision to appeal was made; and

(xvii) The President of the Court of Appeal may make rules for hearing appeals on VAT appeals. However, pending such rules, the rules of the Court of Appeal shall apply.

3.4.1 Functions

The following are the functions of the Value Added Tax Technical Committee in Nigeria:

(i) To advise the FIRS on its duties in administering the VAT;

(ii) To attend to such other matters as the FIRS may from time to time refer to it; and

(iii) To consider all the tax matters that demand professional and technical expertise and make recommendations to the FIRS

SELF-ASSESSMENT EXERCISE 4

List some of the functions of VAT Administrators in Nigeria?

4.0 CONCLUSION

This unit exposes the students on issue relating to Value Added Tax in Nigeria. The knowledge gained from this unit will enable the student ascertain goods and services exempted from VAT, VAT rates, classification of VAT and VAT administration and functions

5.0 SUMMARY

This unit emphasized Value Added Tax in Nigeria. In particular, the following areas were covered:

- The meaning of Value Added Tax;
- Goods and services exempted from VAT;
  The VAT rates in Nigeria;
- A classification of VAT; and
- The VAT administration and functions of VAT administrators

6.0 TUTOR-MARKED ASSIGNMENT

1. A product moved from A Limited to B Limited at ₦10,000 then later to C Limited at ₦15,000 then to D Limited at ₦20,000 and finally to the Consumer who paid ₦25,000 for the product.
   Required: Compute VAT payable using both Output and Input Methods
2. Briefly explain Input and Output VAT

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