

SENATE COMMITTEE ON FINANCE

REPORT ON THE

NIGERIAN TAX AND FISCAL LAW (AMENDMENT) BILL
(FINANCE BILL 2019)

SUBMITTED TO THE SENATE

NOVEMBER, 2019

REPORT OF THE SENATE COMMITTEE ON FINANCE ON THE NIGERIA TAX AND FISCAL LAW (AMENDMENT) BILL, 2019 (FINANCE BILL, 2019)

1.0 INTRODUCTION:

The Finance Bill 2019 was presented together with the 2020 Appropriation Bill to the National Assembly by the President of the Federal Republic of Nigeria, President Muhammadu Buhari, on Monday 14th October, 2019.

The Senate at its sitting on Wednesday 6th November, 2019, read the **Nigeria Tax and Fiscal Law (Amendment) Bill, 2019 (Finance Bill 2019)** the second time and referred same to the Committee on Finance for further legislative action within the legislative standing order. The Bill seeks to amend six (6) tax provisions and make them more responsive to tax reform policies and also one (1) Customs and Excise Tariff Act to encourage local manufacturers. The will subject certain imported goods to excise duties in a similar manner as their locally manufactured counterpart. The seven (7) Acts to be amended under the Finance Bill 2019 contains fifty six (56) Clauses. The Committee immediately swung into action, held several meetings with Members and critical stakeholders and is expected to report to the Chamber within two (2) weeks.

2.0 MEMBERSHIP:

- | | | | |
|----|-----------------------------------|---|---------------|
| 1. | Senator Solomon O. Adeola | - | Chairman |
| 2. | Senator Isah Jibrin | - | Vice Chairman |
| 3. | Senator Lawal Yahaya Gumau | - | Member |
| 4. | Senator Danladi Sankara Abdullahi | - | Member |
| 5. | Senator Ahmed Babba Kaita | - | Member |
| 6. | Senator Kashim Shettima | - | Member |
| 7. | Senator Yusuf A. Yusuf | - | Member |
| 8. | Senator James Manager | - | Member |
| 9. | Senator Matthew Urhoghide | - | Member |

10.	Senator Teslim Folarin	-	Member
11.	Senator Patrick Ayo Akinyelure	-	Member
12.	Senator Uche Lilian Ekwunife	-	Member
13.	Senator Ike Ekweremadu	-	Member
14.	Senator Ibrahim Gaidam	-	Member
15.	Senator Abdulfatai Buhari	-	Member
16.	Senator Olubunmi Ayodeji Adetunmbi	-	Member
17.	Senator Akwashiki Godiya	-	Member

3.0 LIST OF ACTS TO BE AMENDED IN THE FINANCE BILL

The Bill specifically seeks to, among other things, amend the following tax provisions and make them more responsive to the tax policies of the Federal Government and enhance its implementation and effectiveness. The initiative to reform the tax system and the proposed modifications to the fiscal rules around taxation are clearly aimed at creating an enabling business environment and minimizing the tax burden for Micro, Small and Medium Enterprises (MSMEs).

The Acts to be amended in the Finance Bill are as follows:

1. Companies Income Tax Act, Cap C21 2004 (as amended to date);
 - i. Charge of tax
 - ii. Identification of a company
 - iii. Nigerian Companies
 - iv. Insurance Companies
 - v. Payment of dividend by Nigerian companies
 - vi. Nigerian dividends received by companies other than Nigerian companies
 - vii. Profits exempted
 - viii. Deductions allowed
 - ix. Deductions not allowed
 - x. Basis for computing assessable profits

- xi. Total profits from all sources
 - xii. Payment of minimum tax
 - xiii. Gas utilization (downstream operations)
 - xiv. Rates of tax
 - xv. Replacement of obsolete plant and machinery
 - xvi. Dividend and tax interim dividends paid by Nigerian companies
 - xvii. Self-assessment of tax payable
 - xviii. Returns and provision account
 - xix. Time within which tax (including provisional tax) is to paid
 - xx. Deduction of tax from interest etc.
 - xxi. Deduction of tax from dividend
 - xxii. Deduction of tax at source
 - xxiii. Interpretation (CIT)
 - xxiv. Third Schedule
 - xxv. Seventh Schedule-Deductible Interest
2. Value Added Tax Act, Cap VI, LHN 2007 (as amended);
- i. Taxable goods and services
 - ii. Rates of tax
 - iii. Registration and deregistration requirements
 - iv. Registration by non-resident companies
 - v. Taxable person to render returns
 - vi. Remission of tax
 - vii. Effect of non-remittance
 - viii. Value Added Tax Technical Committee
 - ix. Failure to notify change of address
 - x. Failure to register
 - xi. Failure to submit returns
 - xii. Business sold or transferred

- xiii. Interpretation
 - xiv. First Schedule (VAT)
 - 3. Customs and Excise Tariff etc (Consolidation) Act, Cap C49, 2004;
 - i. Goods liable to Excise Duty
 - 4. Personal Income Tax Cap P8, LFN 2007 (as amended);
 - i. Persons on whom tax is to be imposed
 - ii. Deductions allowed
 - iii. Personal relief and relief for children and dependents
 - iv. Information to be provided by bankers
 - v. Revision in case of objection
 - vi. Penalty for failure to deduct tax
 - vii. Third Schedule
 - viii. Interpretation (PIT)
 - 5. Capital Gains Tax Act Cap C1, LFN 2007;
 - i. Exemption of tax on gains arising from take-overs
 - ii. Personal injury
 - iii. Interpretation (CGT)
 - 6. Stamp Duties Act Cap S8, LFN 2004 and
 - i. Interpretation
 - ii. Provisions as to duty upon receipts
 - iii. Certain forms of receipts not dutiable
 - iv. Schedule (Stamp Duties)
 - 7. Petroleum Profit Tax Act (PPTA) 2004
 - i. Restriction of effect of the Personal Income Tax Act and other Acts.

4.0 OBJECTIVES OF THE BILL:

The objectives of the Bill is to strategically amend the following:

1. Promote fiscal equity by mitigating instances of regressive taxation;
2. Reform domestic tax laws to align with global best practices;
3. Introduce tax incentives for investment in infrastructure and capital markets;
4. Support small businesses in line with the on-going “Ease of Doing Business Reforms”; and
5. Raise revenues for the Government.

5.0 METHODOLOGY:

The Committee held meetings and adopted the following procedures to carry out the assignment:

1. Interaction with the sponsors of the Bill, Minister of Finance Budget and National Planning and Comptroller General of Customs to shed more light on the general principles of the Bill;
2. Request for Stakeholders inputs/comments and observations on the Bill;
3. Conduct Public Hearing to enable Stakeholders and interested members of the public make oral presentations on the desirability or otherwise of the proposed amendments;
4. Review of related existing legislation to meet international best practices; and
5. Review stakeholders’ input and consideration of the draft report.

6.0 PUBLIC HEARING:

The Committee conducted a Public Hearing on Tuesday, 19th November, 2019. The Hearing attracted an impressive turnout of Committee Members, Ministries, Departments, and Agencies (MDAs), Critical Stakeholders, Civil Societies Organizations (CSOs), Non-Governmental Organization (NGOs) and Members of the Public. The Senate President, Senator Dr. Ahmed Ibrahim Lawan (CON),

represented by the Deputy Senate President, Senator Ovie Omo-Agege, declared the Public Hearing open and also witnessed the presentations by some of the Stakeholders.

The following Stakeholders made presentations/submitted memoranda on the Bill:

1. Federal Ministry of Finance, Budget and National Planning;
2. Federal Inland Revenue Service (FIRS);
3. Joint Tax Board (JTB);
4. Manufactures Association of Nigeria (MAM);
5. Chartered Institute of Taxation of Nigeria (CITN);
6. The Institute of Chartered Accountants of Nigeria (ICAN);
7. Association of National Accountants of Nigeria (ANAN);
8. KPMG Advisory Services;
9. Deloitte Nigeria;
10. Legislative Advocacy Initiative for Sustainable Development;
11. Price Waterhouse Cooper (PWC);
12. Oil Producers Trade Section (OPTS);
13. Ernst & Young Nigeria;
14. Nigeria Bar Association (Unity BAR);
15. Ijewere & Co; and
16. Andersen Tax Nigeria.

7.0 OBSERVATIONS:

Following the presentations at the Public Hearing and submissions made by the relevant stakeholders, the Committee observed that:

1. The bill seek to amend the provision of the companies income Tax Act by curbing Base Erosion and Profit Shifting (BEPS) as proposed by the Organization for Economic Cooperation and Development (OECD) and broaden

the triggers for domestic taxation of income earned by non-resident companies in Nigeria through dependent agents and via online market platforms.

2. The bill also seek to address the taxation of industries, such as insurance, start-ups and the capital markets, deemed by the Federal Government of Nigeria as critical to the growth and development of the Nigerian economy.
3. The bill proposes to improve the efficiency of the Nigerian VAT system taking into consideration recommendations from various stakeholder groups. Attached herewith is a list of selected countries with their respective VAT rates.
4. The Bill also seeks to expand VAT coverage by addressing some critical issues such as taxation of digital economy, VAT registration thresholds and intangibles.
5. The Bill wishes to subject certain imported goods to excise duties in similar manner as their local manufactured counterparts.
6. The Bill also seeks to provide clarity and efficiency in the administration of individual income taxes in Nigeria.
7. The Bill also covers the taxation of business combination and seeks to prevent abuse of provisions of the Act on group restructuring.
8. The Bill also seeks to increase revenue generation from duties on Electronic Stamps Duties.
9. The Bill seeks to improve revenue by removing the tax exemption granted for dividends or incomes received from companies charged under Petroleum Profits Tax Act.
10. The Bill was a welcome development and the consensus view was that its proposals and principles should be sustained, subject to the specific recommendations of the Committee.

8.0 RECOMMENDATIONS:

The Committee summarized the specific issues raised by the various Stakeholders on the relevant sections of the Bill. The issues were considered and the following recommendations were made:

1. The Committee noted that the initiative of the Executive in the Finance Bill, alongside the Executive Budget proposals and the Appropriation Bill was welcomed and long overdue. Going forward, the Executive should be encouraged to propose to the National Assembly, Finance Bills to support the fiscal policies of the annual Budget and should also sustain this initiative as an annual tradition.
2. The Committee hereby recommends that the underlined sections of the proposed amendments to the Finance bill be approved by the Senate.

Finance Bill Amendments to the (1) Companies Income Tax Act

**PRINCIPAL ACT THAT IS PROPOSED TO BE
AMENDED: BY THE RELEVANT SECTION OF THE
FINANCE BILL 2019**

**IMPLICATIONS OF THE PROPOSED AMENDMENT
BY THE FINANCE BILL 2019 TO THE PRINCIPAL ACT**

RECOMMENDATION

(1) COMPANIES INCOME TAX ACT

§1 §9 of CITA: Charge of Tax	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§2 §10 of CITA: Identification of a Company	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§3 §13 of CITA: Nigerian Companies	1. Reflects Base Erosion & Profit Shifting (BEPS) initiative of the OECD in Domestic Tax Law	Sustained
§4 §16 of CITA: Insurance Companies	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§5 §19 of CITA: Payment of Dividend by a Nigerian Company	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§6 §20 of CITA: Nigerian Dividends received by Non-Nigerian Companies	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§7 §23(d) of CITA: Profits Exempted	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§8 §24 of CITA: Deductions Allowed	1. Reflects Base Erosion & Profit Shifting (BEPS) initiative of the OECD in Domestic Tax Law	Sustained
§9 §27 of CITA: Deductions Not Allowed	9. Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.	Sustained
§10 §29 of CITA: Basis for Computing Assessable Profits	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§11 §31(2)(a)(ii) of CITA: Total Profits from All Sources	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§12 §33 of CITA: Payment of Minimum Tax	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§13 §39 of CITA: Gas Utilisation (Downstream Operations)	9. Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.	Sustained

Finance Bill Amendments to the (1) Companies Income Tax Act (continued)

(1) COMPANIES INCOME TAX ACT

**IMPLICATIONS OF THE PROPOSED AMENDMENT BY THE FINANCE BILL
2019 TO THE PRINCIPAL ACT**

(1) COMPANIES INCOME TAX ACT	IMPLICATIONS OF THE PROPOSED AMENDMENT BY THE FINANCE BILL 2019 TO THE PRINCIPAL ACT	RECOMMEN- DATION
§14 §40 of CITA: Rate of Tax	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§41 of CITA: Replacement of Obsolete Plant & Machinery	9. Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.	Sustained
§43 of CITA: Dividends & Tax on Interim Dividends	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§16 paid by Nigerian Companies	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§17 §53(1) of CITA: Self-Assessment of Tax Payable	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§18 §55 of CITA: Returns and Provisional Accounts	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§77 of CITA: Tax Within Which Tax (including	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§19 Provisional Tax) is to be paid	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
§20 §78 of CITA: Deduction of Tax from Interest, Etc.	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§21 §80 of CITA: Deduction of Tax from Dividend	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§22 §81 of CITA: Deduction of Tax at Source	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§23 §105(1) of CITA: Interpretation	6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency	Sustained
Third Schedule to CITA: Tax Exemption on Certain	9. Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.	Sustained
§24 Interests	9. Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.	Sustained
Introducing new Seventh Schedule to CITA:	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained
§25 Deductible Interest	2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth	Sustained

Finance Bill Amendments to the (2) Petroleum Profits Tax Act & (3) Personal Income Tax Act

<u>(2) PETROLEUM PROFITS TAX ACT</u>	<u>IMPLICATIONS</u>	<u>RECOMMENDATION</u>
<p>\$60 of PPTA: Restrictions on Effect of the \$26 Personal Income Tax Act & other Acts</p>	<p>9.Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.</p>	<p>Sustained</p>
<p><u>(3) PERSONAL INCOME TAX ACT</u></p>	<p><u>IMPLICATIONS</u></p>	<p><u>RECOMMENDATION</u></p>
<p>\$\$2(2), 49(1), 86(2)(a)&(b), 102(1), & 108(f) of PITA: \$27 Persons to Whom Taxes to be Imposed</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$28 \$20(1) of PITA: Deduction Allowed</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$33 of PITA: Personal Relier for Children, \$29 Dependents, [etc.]</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$49 of PITA: Information to be Delivered by \$30 Bankers</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$32 \$58 of PITA: Revision in case of Objection</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$32 \$74 of PITA: Penalty for Failure to Deduct Tax</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$33 Third Schedule to the PITA: Income Exempted</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>
<p>\$34 \$108 of PITA: Interpretation</p>	<p>6.Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency</p>	<p>Sustained</p>

Finance Bill Amendments to the (4) Value Added Tax Act

<u>(4) VALUE ADDED TAX ACT</u>	<u>IMPLICATIONS</u>	<u>RECOMMENDATION</u>
<p>§2 of VATA: Taxable Goods & §35 Services</p>	<p>4. Proposes expansion of VAT coverage to address critical areas (Digital Economy, VAT Registration Thresholds, Intangibles, Etc.)</p>	<p>Sustained</p>
<p>§36 §4 of VATA: Rate of Tax</p>	<p>9. Improves Revenues by raising the VAT rate</p>	<p>Sustained</p>
<p>§37 §8 of VATA: Registration</p>	<p>2. Addresses the Taxation of Industries (Insurance, Start-Ups, Capital Markets, etc) critical to economic growth</p>	<p>Sustained</p>
<p>§10 of VATA: Registration by Non-Resident Companies §38 Resident Companies</p>	<p>4. Proposes expansion of VAT coverage to address critical areas (Digital Economy, VAT Registration Thresholds, Intangibles, Etc.)</p>	<p>Sustained</p>
<p>§15(1) of VATA: Taxable Person to Render Returns</p>	<p>4. Proposes expansion of VAT coverage to address critical areas (Digital Economy, VAT Registration Thresholds, Intangibles, Etc.)</p>	<p>Sustained</p>
<p>§40 §16 of VATA: Remission of Tax</p>	<p>3. Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>

Finance Bill Amendments to the (4) Value Added Tax Act (continued)

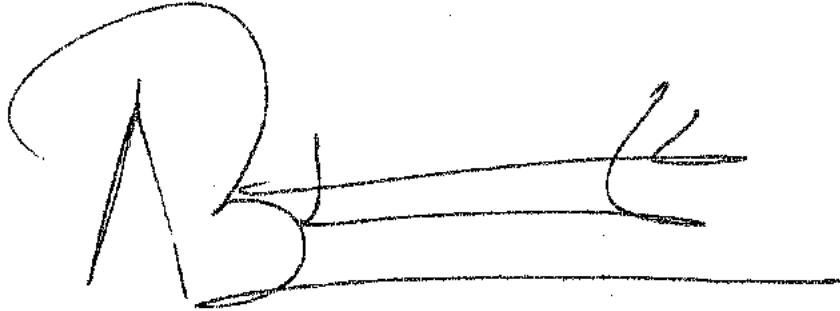
(4) VALUE ADDED TAX ACT	IMPLICATIONS	RECOMMENDATION
<p>§19 of VAT/A. Effect of Non-remittance of §41 Tax</p>	<p>9.Improves Revenues by removing tax exemptions & opportunities for tax arbitrage, tax evasion, etc.</p>	<p>Sustained</p>
<p>§§21 - 24 (Part IV) of VAT/A: Value Added §42 Tax Technical Committee</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>
<p>§28 of VAT/A. Failure to Notify of Change of §43 Address</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>
<p>§44 §32 of VAT/A. Failure to Register</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>
<p>§45 §35 of VAT/A. Failure to Submit Returns</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>
<p>Insertion of new Section 42 of VAT/A: §46 Business Sold or Transferred</p>	<p>7.Addresses the taxation of business combination to prevent abuse of tax rules on Corporate Group restructuring</p>	<p>Sustained</p>
<p>§47 §46 of VAT/A. Interpretation</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>
<p>First Schedule to VAT Act, Part I: Goods §48 Exempt & Part II of VAT/A. Services Exempt</p>	<p>3.Improves efficiency of Nigerian VAT system taking into account input from stakeholder groups, other jurisdictions, etc.</p>	<p>Sustained</p>

Finance Bill Amendments to the (5) CET (Consolidation, Etc.) Act; (6) Capital Gains Tax Act; & (7) Stamp Duties Act

<u>(5) CUSTOMS AND EXCISE TARIFF ETC. (CONSOLIDATION, ETC.) ACT</u>	<u>IMPLICATIONS</u>	<u>RECOMMENDATION</u>
<p>Part III, §21 of CET (Consolidation, Etc.) Act: Goods</p> <p>§49 Liable to Excise Duty</p>	<p>5. Subjects certain imported goods to excise duties in similar manner as their locally manufactured counterparts.</p>	<p>Sustained</p>
<u>(6) CAPITAL GAINS TAX ACT</u>	<u>IMPLICATIONS</u>	<u>RECOMMENDATION</u>
<p>§32 of CGTA: Exemption of Tax on Gains Arising</p> <p>§50 From Take-Overs, Etc.</p>	<p>7. Addresses the taxation of business combination to prevent abuse of tax rules on Corporate Group restructuring.</p>	<p>Sustained</p>
<p>§51 §36(2) of CGTA: Personal Injury</p>	<p>6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency.</p>	<p>Sustained</p>
<p>§52 of CGTA: Interpretation & Other Supplementary</p> <p>§52 Provisions</p>	<p>6. Provides Clarity & Efficiency in Tax Administration to encourage Fiscal Efficiency.</p>	<p>Sustained</p>
<u>(7) STAMP DUTIES ACT</u>	<u>IMPLICATIONS</u>	<u>RECOMMENDATION</u>
<p>§53 §2 of SDA: Interpretation</p>	<p>8. Increases revenue generation from stamp duties on Electronic Transactions.</p>	<p>Sustained</p>
<p>§54 §89 of SDA: Provisions as to Duty Upon Receipts</p>	<p>8. Increases revenue generation from stamp duties on Electronic Transactions.</p>	<p>Sustained</p>
<p>§55 §90 of SDA: Certain Forms of Receipts not Dutiable</p>	<p>8. Increases revenue generation from stamp duties on Electronic Transactions.</p>	<p>Sustained</p>
<p>§56 §56 of SDA: Schedule (Stamp Duties)</p>	<p>8. Increases revenue generation from stamp duties on Electronic Transactions.</p>	<p>Sustained</p>

9.0 CONCLUSION:

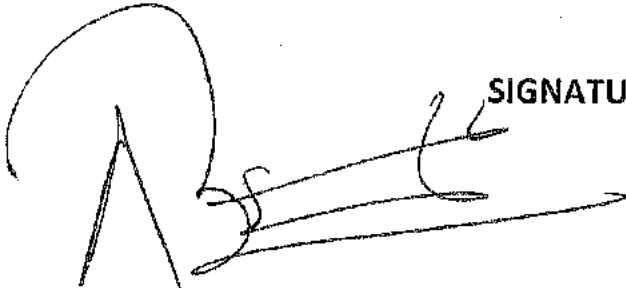
The Committee expresses appreciation to the Leadership of the Senate and also thank the entire Members of the Committee and Staff of the Secretariat who work assiduously to ensure timely completion of the report.

A handwritten signature in black ink, appearing to be 'S. O. Adeola', written over a horizontal line. The signature is stylized with a large initial 'S' and a long horizontal stroke.

Senator Solomon Olamilekan Adeola
Chairman, Senate Committee on Finance

REPORT OF THE SENATE COMMITTEE ON FINANCE ON THE NIGERIA TAX AND FISCAL
LAW (AMENDMENT) BILL, 2019 (FINANCE BILL 2019)

SIGNATURE PAGE



Senator Solomon O. Adeola
Chairman




Senator Isah Jibrin
Deputy Chairman


Senator Ike Ekweremadu
Member

Senator James Manager
Member

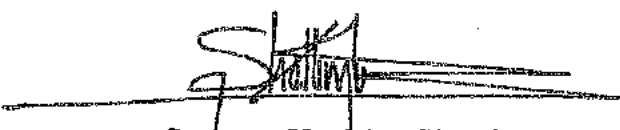
Senator Yusuf A. Yusuf
Member



Senator Matthew Urhoghide
Member



Senator Patrick A. Akinyelure
Member



Senator Kashim Shettima
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Senator Ibrahim Gaidam
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Senator Abdulfatai Buhari
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Senator Adamu M. Aliero
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Senator Ahmed Babba Kaita
Member

~~_____~~
Senator Uche Lilian Ekwunife
Member

Senator Akwashiki Godiya
Member ~~_____~~

Senator Olubunmi A. Adetunmbi
Member

Senator Lawal Y. Gumau
Member

Lilian Banigo-Gbeinzi
Clerk to the Committee


Senator Teslim Folarin
Member

Senator Abdulfatai Buhari
Member

Senator Adamu M. Aliero
Member

Senator Ahmed Babba Kaita
Member

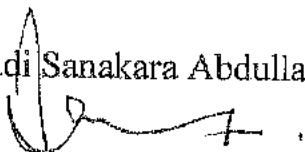
Senator Uche Lilian Ekwunife
Member

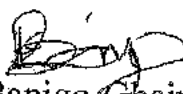
Senator Akwashiki Godiya
Member 

Senator Olubunmi A. Adetunmbi
Member

Senator Lawal Y. Gumau
Member

Senator Danladi Sanakara Abdullahi
Member




Lilian Banigo Gbeinzi
Clerk to the Committee

Source -- United States Council for International Business
Applicable VAT Rates in different jurisdiction of the world

S/N	COUNTRY	VAT RATE
1.	ALBANIA	24%
2.	ANDORRA	4.5%
3.	ARUBA	2%
4.	AUSTRALIA	10%
5.	AUSTRIA	20%
6.	AZORES	18%
7.	BELARUS	20%
8.	BELGIUM	12, 21%
9.	BOSNIA & HERZEGOVINA	17%
10.	BRAZIL	7 - 18% (per-state)
11.	BULGARIA	20%
12.	CANADA	5%
13.	CHILE	19%
14.	CHINA	17%
15.	CORSICA	20%
16.	COTE D'IVOIRE	18, 20%
17.	CROATIA	5-25%
18.	CURACAO	6-9%
19.	CYPRUS	19%
20.	CZECH REPUBLIC	10, 15, 21%
21.	DENMARK	25%
22.	ESTONIA	20%
23.	FAROE ISLANDS (Denmark)	25%
24.	FINLAND	24%
25.	FRANCE	20%
26.	GERMANY	19%

27.	GIBRALTAR	19%
28.	GREECE	24%
29.	GUADELOUPE (France)	2, 1, 8.5%
30.	HUNGARY	27%
31.	ICELAND	24
32.	INDIAN	1-5%, 15%
33.	INDONESIA	10%
34.	IRELAND	23%
35.	ISLE OF MAN (United Kingdom)	20%
36.	ISRAEL	17%
37.	ITALY	22%
38.	JAPAN	8%
39.	JERSEY (United Kingdom)	5%
40.	KAZAKHSTAN	12%
41.	LATVIA	21%
42.	LEBANON	11%
43.	LIECHTENSTEIN (Admin by Switz)	7.7%
44.	LITHUANIA	21%
45.	LUXEMBOURG	0-17%
46.	MACAU, CHINA	0%
47.	MACEDONIA	18%
48.	MADEIRA (Portugal)	22%
49.	MALAYSIA	5-10%
50.	MALTA	18%
51.	MARTINIQUE	2.1, 8.5%
52.	MAURITIUS	15%
53.	MEXICO	16%
54.	MOLDOVA	20%
55.	MONACO (Admin by France)	20%
56.	MONGOLIA	10%

57.	MONTENEGRO	19%
58.	NETHERLANDS	21%
59.	NEW CALEDONIA (France)	3-22%
60.	NEW ZEALAND	15%
61.	NORWAY	25%
62.	PAKISTAN	13-17%
63.	POLAND	5-23%
64.	PORTUGAL	23%
65.	PUERTO RICO (USA)	11.5%
66.	REUNION ISLAND (France)	2. 1-8.5%
67.	ROMANIA	19%
68.	RUSSIA	18%
69.	SENEGAL	18%
70.	SERBIA	20%
71.	SINGAPORE	7%
72.	SLOVAKIA	20%
73.	SLOVENIA	9.5-22%
74.	SOUTH KOREA	10%
75.	SPAIN	21%
76.	SRI LANKA	15%
77.	ST. BARTHELEMY (France)	2.1-8.5%
78.	ST. MARTIN (French side)	5%
79.	SWAZILAND (SACU)	15%
80.	SWEDEN	25%
81.	SWITZERLAND	8%
82.	TAHITI (France)	16%
83.	TAIWAN (France)	16%
84.	TAIWAN, PROVINCE	5%
85.	TASMANIA (Australia)	10%
86.	THAILAND	7%

87.	TUNISIA	19%
88.	TURKEY	18%
89.	TURKS & CAICOS	0-45%
90.	United Arab Emirates	5%
91.	UKRAINE	20%
92.	UNITED KINGDOM	20%
93.	WALLIS & FUTUNA (France)	2-6%
94.	ALGERIA	14-19%
95.	BOTSWANA	12%
96.	LESOTHO (SACU)	15%
97.	MADAGASCAR	20%
98.	MOROCCO	20%
99.	NAMIBIA (SACU)	15%
100.	SOUTH AFRICA	15%
101.	NIGERIA	5%
102.	GHANA	12.5%
103.	GABON	18%
104.	KENYA	16%
105.	CAMEROUN	19.25%
106.	ETHIOPIA	15%

A BILL FOR AN ACT TO AMEND THE COMPANIES INCOME TAX ACT, CAP C21 LAWS OF THE FEDERATION OF NIGERIA, 2004 (AS AMENDED) AND FOR OTHER MATTERS CONNECTED THEREWITH, 2019

PRINCIPAL ACT	PROPOSED BILL	COMMITTEE RECOMMENDATION	REMARKS
<p align="center">PART II</p> <p align="center"><i>Imposition of Tax and profits chargeable</i></p> <p>9. Charge of tax (1) Subject to the Provisions of this Act, the tax shall, for each year assessment, be payable at the rate specified in section 40 (1) of this Act, upon the profits of any company accruing in, derived from, brought into, or received in, Nigeria in respect of - (a) any trade or business for whatever period of time such trade or business may have been carried on; (b) rent or any premium arising from a right granted to any other person for the use or occupation of any property; and where any payment on account of such a rent as is mentioned in this paragraph is made before the expiration of the period to which it relates and is included for the purposes of this paragraph in the profits of a company, then, so much of the payment as relates to any period beginning with the date on which the payment is made shall be treated for these purposes as accruing to the company proportionately from day-to-day over the last-mentioned period or over the five years beginning with that date, whichever is the shorter;</p>	<p align="center">PART I - DIRECT TAXES</p> <p align="center">COMPANIES INCOME TAX</p> <p>Charge of Tax 1. Section 9 of the Companies Income Tax Act (CIT Act) is amended as follows: a) In subsection (1), by deleting "in respect" and inserting immediately after 'Nigeria' the words "that are not subject to tax under the Capital Gains Tax Act, Petroleum Profits Tax Act and Personal Income Tax Act. Such profits shall include, but shall not be limited to-" b) By inserting an expanded definition of interest and dividend in subsection 1 (c) of Section 9: "for the purposes of this Act: Interest shall include compensating payments received by a Borrower from its approved agent or a Lender in a Regulated Securities Lending Transaction provided that the underlying transaction giving rise to the compensating payment is a</p>	<p align="center">PART I - DIRECT TAXES</p> <p align="center">COMPANIES INCOME TAX</p> <p>Charge of Tax 1. Section 9 of the Companies Income Tax Act (CIT Act) is amended as follows: a) In subsection (1), by deleting "in respect" and inserting immediately after 'Nigeria' the words "that are not subject to tax under the Capital Gains Tax Act, Petroleum Profits Tax Act and Personal Income Tax Act. Such profits shall include, but shall not be limited to-" b) By inserting an expanded definition of interest and dividend in subsection 1 (c) of Section 9: "for the purposes of this Act: Interest shall include compensating payments received by a Borrower from its approved agent or a Lender in a Regulated Securities Lending Transaction provided that the underlying transaction giving rise to the compensating payment is a</p>	<p align="center">SUSTAINED</p> <p align="center">SUSTAINED</p> <p align="center">SUSTAINED</p>

<p>(c) dividends, interests, royalties, discounts, charges or annuities;</p> <p>[No.3 of 1993.]</p> <p>(d) any source of annual profits or gains not falling within the preceding categories;</p> <p>(e) any amount deemed to be income or profit under a provision of this Act or, with respect to any benefit arising from a pension or provident fund, of the Personal Income Tax Act;</p> <p>[Cap. P8.]</p> <p>(f) fees, dues and allowances (wherever paid) for services rendered;</p> <p>(g) any amount of profits or gains arising from acquisition and disposal of short-term money instruments like Federal Government securities, treasury bills, treasury or savings certificates, debenture certificates or treasury bills, treasury or savings, certificates, debenture certificates or treasury bonds .</p> <p>[No. 63 of 1991]</p> <p>(2) For the purposes of this section. interest shall be deemed to be derived from Nigeria if-</p> <p>(a) there is a liability to payment of the interest by a Nigerian company or a company in Nigeria regardless of where or in what form the payment is made; or</p>	<p>receipt of interest by a Lender on the collateral it received from its approved agent or a Borrower in a Regulated Securities Exchange Transaction.</p> <p>dividend shall include compensating payments received by a Lender from its approved agent or Borrower in a Regulated Securities Lending Transaction if the underlying transaction giving rise to the compensating payment is a receipt of dividends by a Borrower on any shares or securities received from its approved agent or a Lender in a Regulated Securities Lending Transaction"</p> <p>c) By inserting a proviso to Section 9 (1) (g) as follows: "for the purpose of this section, securities or shares shall not be deemed to be disposed of by a Lender, Borrower or approved agent or acquired by a Borrower, approved agent or Lender if such securities or shares are transferred from a Lender and subsequently returned by a Borrower in a Regulated Securities Lending Transaction"</p>	<p>receipt of interest by a Lender on the collateral it received from its approved agent or a Borrower in a Regulated Securities Exchange Transaction.</p> <p>dividend shall include compensating payments received by a Lender from its approved agent or Borrower in a Regulated Securities Lending Transaction if the underlying transaction giving rise to the compensating payment is a receipt of dividends by a Borrower on any shares or securities received from its approved agent or a Lender in a Regulated Securities Lending Transaction"</p> <p>c) By inserting a proviso to Section 9 (1) (g) as follows: "for the purpose of this section, securities or shares shall not be deemed to be disposed of by a Lender, Borrower or approved agent or acquired by a Borrower, approved agent or Lender if such securities or shares are transferred from a Lender and subsequently returned by a Borrower in a Regulated Securities Lending Transaction"</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>(b) the interest accrues to a foreign company or person from a Nigerian company or a company in Nigeria regardless of whichever way the interest may have accrued.</p> <p>(3) In this section, "dividend" means-</p> <p>(a) in relation to a company not being in the process of being wound up or liquidated, any profits distributed, whether such profits are of a capital nature or not, including an amount equal to the nominal value of bonus shares, debentures or securities awarded to the shareholders; and</p> <p>(b) in relation to a company that is being wound up or liquidated, any profits distributed, whether in money or monies worth or otherwise, other than those of a capital nature earned before or during the winding-up or liquidation .</p>			
<p>10. Identification of a company The incorporation number of a company, to which the provisions of section 8 apply, shall serve as the identification number of the company and shall be displayed by the company on all business transactions with other companies and individuals and on every document, statement, returns, audited account and correspondence with revenue authorities, including the Federal Inland Revenue Service, Ministries and all Government agencies.</p>	<p>Identification of a Company 2. Section 10 of the CIT Act is hereby amended by introducing a new subsection (2) as follows: (2) Every person engaged in banking in Nigeria shall require all companies to provide their tax identification number as a precondition for opening a bank account or, in the case of an account already opened prior to 30th September 2019, the bank shall</p>	<p>1. Section 10 of the Principal Act is hereby repealed. 2. A new Section 10(1 and 2) is hereby created as follows: 10(1) Every company shall have a tax identification number (TIN). The TIN shall be displayed by the company on all business transactions with other companies and individuals and on every document, statement, returns, audited account and correspondence</p>	<p>To repeal the present provision of the principal Act which refers to Section 8 which was repealed in 2007 amendment and rendered the section redundant. A new 10(1) is hereby introduced to mandate</p>

<p>[No. 21 of 1991.]</p>	<p>require such tax identification numbers to be provided by all companies as a precondition for the continued operation of their bank account.</p>	<p>with revenue authorities, including the Federal Inland Revenue Service, Ministries and all Government agencies.</p> <p>10(2) Every person engaged in banking in Nigeria shall require all companies to provide their tax identification numbers as a precondition for opening a bank account or, in the case of an account already opened within three months of the passage of this bill, the bank shall require such tax identification numbers to be provided by all companies as a precondition for the continued operation of their bank accounts.</p>	<p>companies to obtain a tax identification number and display same in all business transactions and correspondences.</p> <p>Section 10(2) is amended to provide a three (3) month time threshold, for the banks to comply with new provision.</p>
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<p>13. Nigerian companies</p> <p>(1) The profits of a Nigerian company shall be deemed to accrue in Nigeria wherever they have arisen and whether or not they have been brought into or received in Nigeria.</p> <p>(2) The profits of a company other than a Nigerian company from any trade or business shall be deemed to be derived from Nigeria-</p> <p>(a) if that company has a fixed base of business in Nigeria to the extent that the profit is attributable to the fixed base;</p> <p>(b) if it does not have such a fixed base in Nigeria but habitually operates a trade or business through a person in Nigeria authorised to conduct on its behalf or on behalf of some other companies controlled by it or which have a controlling interest in it; or habitually maintains a stock of goods or merchandise in Nigeria from which deliveries are regularly made by a person on behalf of the company, to the extent that the profit is attributable to the business or trade or activities carried on through that person;</p> <p>(c) if that trade or business or activities involves a single contract for surveys, deliveries, installations</p>	<p>Nigerian Companies</p> <p>3. Section 13 of the CIT Act is hereby amended:</p> <p>a) By inserting in the opening paragraph of subsection (2), after the phrase "shall be deemed to be derived from" the words "or otherwise be taxable in, Nigeria"</p> <p>b) In subsection (2), by inserting a new paragraph (c) as follows, and renumbering the existing paragraphs (c) and (d) as paragraphs (d) and (e):</p> <p>"(c) if it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.</p>	<p>Nigerian Companies</p> <p>3. Section 13 of the CIT Act is hereby amended:</p> <p>a) By inserting in the opening paragraph of subsection (2), after the phrase "shall be deemed to be derived from" the words "or otherwise be taxable in, Nigeria"</p> <p>b) In subsection (2), by inserting a new paragraph (c) as follows, and renumbering the existing paragraphs (c) and (d) as paragraphs (d) and (e):</p> <p>"(c) if it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>or construction, the profit from that contract; and</p> <p>(d) where the trade or business or activities is between the company and another person controlled by it or which has a controlling interest in it and conditions are made or imposed</p>	<p>c) By inserting a new paragraph (f) after paragraph (e) as follows: (f) If the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.</p> <p>Provided that any withholding tax applicable under the Section 81 of this Act shall be the final tax on the income.</p> <p>d) By inserting a new subsection (4) as follows: "(4) For the purpose of subsection (2)(c) and (f) of this Section, the Minister may by Order determine what constitutes the significant economic presence of a company other than a Nigerian company.</p>	<p>c) By inserting a new paragraph (f) after paragraph (e) as follows: (f) If the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity.</p> <p>Provided that the withholding tax applicable to income under Subsection 2(f) shall be the final tax on the income of a nonresident recipient who does not otherwise fall within the scope of Subsection 2 (a-e) of this Section 13.</p> <p>d) By inserting a new subsection (4) as follows: "(4) For the purpose of subsection (2)(c) and (f) of this Section, the Minister may by Order determine what constitutes the significant economic presence of a company other than a Nigerian company.</p>	<p>The necessity to define significant economic presence is only relevant for the proposal on Subsection 2(c) dealing with digital trade.</p> <p>The Proviso was expanded to close a loophole that could extend WHT finality beyond the intended beneficiary</p> <p>Subsection (4) of the proposed bill wrongly made reference to subsection 2(f) instead of subsection 2(c).</p>

<p>16. Insurance companies</p> <p>(1) Notwithstanding anything to the contrary contained in this Act, insurance business shall be taxed as-</p> <p>(a) an insurance company, whether proprietary or mutual, other than a life insurance company; or</p> <p>(b) a Nigerian company whose profit accrued in part outside Nigeria,</p> <p>the profit on which tax may be imposed, shall be ascertained by taking the gross premium interest and other income receivable in Nigeria less reinsurance and deducting from the balance so arrived at, a reserve for unexpired risks at the percentage consistently adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, subject to the limitation imposed in subsection (8) (a) of this section.</p> <p>(2) The profits on which tax may be imposed in an insurance company which is a life insurance company, whether proprietary or mutual, other than a Nigerian company which carries on business through a permanent establishment in Nigeria shall-</p>	<p>Insurance Companies</p> <p>4. Section 16 of the CIT Act is hereby amended as follows:</p> <p>a) inserting a new subparagraph (ii) under Section 16(5)(b) as follows: "(ii.) Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds."</p> <p>b) deleting the phrase "... and, in all cases, the period of carrying forward of a loss shall be limited to four years of assessment" in Section 16(7)</p> <p>c) substituting the existing paragraph (a) of Section 16(8) with a new paragraph (a), as follows -</p> <p>"(a) reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year."</p>	<p>4. Section 16 of the CIT Act is hereby amended as follows:</p> <p>a) inserting a new subparagraph (ii) under Section 16(5)(b) as follows: "(ii.) Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds."</p> <p>b) deleting the phrase "... and, in all cases, the period of carrying forward of a loss shall be limited to four years of assessment" in Section 16(7)</p> <p>c) substituting the existing paragraph (a) of Section 16(8) with a new paragraph (a), as follows -</p> <p>"(a) reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year."</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>(a) be the investment income less the management expenses, including commission, subject to the limitation imposed in subsection (8) (b) of this section; and</p> <p>(b) where the profits of the company accrue in part outside Nigeria, be that proportion of the total investment income of the company as the premium earned whether received or receivable, less the agency expenses in Nigeria and affair proportion of expenses of the head office of the company but where the insurance company has its head office outside Nigeria the Board may substitute some basis other than that prescribed in this paragraph for ascertaining the required proportion or the total investment income.</p> <p>(3) Any amount distributed in any form as dividend from an actuarial revaluation of unexpired risks or from any other revaluation shall be deemed to be part of the total profits of the company for tax purposes.</p> <p>(4) Not more than three months after an actuarial revaluation of the unexpired risks or any other revaluation has taken place, the Company shall provide the Board with full particulars of the</p>	<p>d) substituting the existing paragraph (b) of Section 16(8) with a new paragraph (b), as follows -</p> <p>"(b) for outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, with a further amount representing 10 per cent of the estimated figure for outstanding claims in respect of claims incurred but not reported at the end of the year under review, provided that any amount not utilised towards settlement of claims and outgoings shall be added to the total profits of the following year."</p> <p>e) in subsection (9)(c), by deleting the phrase:</p> <p>"except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than an amount equal to 20 percent of the gross incomes shall be available as</p>	<p>d) substituting the existing paragraph (b) of Section 16(8) with a new paragraph (b), as follows -</p> <p>"(b) for outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, provided that any amount not utilised towards settlement of claims and outgoings shall be added to the total profits of the following year."</p> <p>e) in subsection (9)(c), by deleting the phrase:</p> <p>"except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than an amount equal to 20 percent of the gross incomes shall be available as total profit of the company for tax purposes."</p>	<p>SUSTAINED</p> <p>The further amount representing 10% is a provision and since all outgoings are now on actual, giving additional 10% will erode their profit as against the 25% of total premium in the principal Act. There are already enough incentives for the industry.</p> <p>SUSTAINED</p>
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<p>revaluation carries out, including a copy of the actuary's revaluation certificate.</p> <p>(5) The profits on which tax may be imposed-</p> <p>(a) in a general Nigerian insurance company, shall be ascertained in accordance with the provisions of subsection (1) of this section as though the whole premium and investment incomes of the company were derived from Nigeria; and</p> <p>(b) in a Nigerian life insurance company shall be ascertained in accordance with the provisions of subsections (2), (3) and (4) of this section as though the whole investment and other incomes were received in Nigeria and all the expenses and other outgoings of the company were incurred in Nigeria.</p> <p>(6) Where an insurance company carries on a life class and a general class insurance business, the funds and books of accounts of one class shall be kept separate from the other as though one class does not relate to the other class, and the annual tax returns of the two classes of insurance businesses shall be made separately.</p>	<p>total profit of the company for tax purposes."</p>		
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<p>(7) Each class of insurance shall be assessed separately as "life insurance assessment" and "non-life (other) insurance assessment" and in respect of each class of insurance business where there are more than one type of insurance in the same class, they form one type of business and shall not be allowed against the income from another type of insurance business but the loss shall be available to be carried forward against profits from the same class of insurance business and, in all cases, the period of carrying forward of a loss shall be limited to four years of assessment.</p> <p>(8) An insurance company, other than a life insurance company, shall be allowed as deductions from its premium the following reserves for tax purposes-</p> <p>(a) for unexpired risks, forty-five per cent of the total premium in case of general insurance business other than marine insurance business and twenty-five per cent of the total premium in the case of marine cargo insurance;</p> <p>(b) for other reserves, claims and outgoings of the company an amount equal to twenty-five per cent of the total premium, so that, after allowance under</p>			
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the Second Schedule to this Act as may be restricted, has been allowed for in any year of assessment, not less than an amount equal to fifteen per cent of the total profit of the company for tax purposes,

[Second Schedule.]

(9) An insurance company, in respect of its life insurance business shall be allowed the following deductions from its investment incomes and other incomes-

(a) an amount which makes a general reserve and fund equal to the net liabilities on policies in force at the time of an actuarial valuation;

(a) an amount which is equal to one per cent of gross premium or ten per cent of profits (whichever is greater) to a special reserve fund and accommodation until it becomes the amount of the statutory minimum paid-up capital;

(c) all normal allowable business outgoing, except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than an amount equal to twenty per cent of the

gross incomes shall be available as 'total profit' of the company for tax purposes.

[Second Schedule.]

(10) A reinsurance company shall be allowed the following deductions from its gross profit to be credited to a general reserve fund-

(a) an amount not more than fifty per cent of the gross profits of the reinsurer for the year where the general reserve fund is less than the initial statutory minimum authorised share capital; or

(b) an amount not more than twenty-five per cent of the gross profit of the reinsurer for the year, where the fund is equal to or exceeds the initial statutory minimum authorised share capital.

(11) An insurance company that engages the services of an insurance agent, a loss adjuster and an insurance broker shall include in its annual tax returns, a schedule showing the name and address of that agent, loss adjuster and insurance broker, the date their services were employed and terminated, as applicable, and payment made to each such agent, loss adjuster and insurance broker for the period covered by the tax returns,

[No, 11 of 2007, s. 4.]

(EDITORIAL NOTE: Please note that although section 4 of Act No, 11 of 2007 instructs section 14 to be amended, it is suggested that it is intended to amend section 16).

	<p>Inserting a new sub-section 12 after sub-section 11 as follows:</p> <p>For the purpose of this section, the tax payable by any insurance company for any year of assessment shall not be less than: 0.5% of the Gross Premium for non-Life Insurance Businesses; or 0.5% of Gross Income for Life Assurance Businesses.</p>		
<p>19. Payment of dividend by a Nigerian company Where a dividend is paid out as profit on which no tax is payable due to-</p> <p>[No. 30 of 1996.1</p> <p>(a) no total profits; or</p> <p>(b) total profits which are less than the amount of dividend which is paid, whether or not the recipient of the dividend is a Nigerian company, is paid by a Nigerian company, the company paying the dividend shall be charged to</p>	<p>Payment of Dividend by a Nigerian Company 5. Section 19 of the CIT Act is hereby amended by inserting a new subsection (2) as follows:</p> <p>"The provisions of subsection (1) of this section shall not apply to -</p> <p>(a) Dividends paid out of the retained earnings of a company. Provided that the dividends are paid out of profits that have been subjected to tax under this Act, the</p>	<p>Payment of Dividend by a Nigerian Company 5. Section 19 of the CIT Act is hereby amended by inserting a new subsection (2) as follows:</p> <p>"The provisions of subsection (1) of this section shall not apply to -</p> <p>(a) Dividends paid out of the retained earnings of a company. Provided that the dividends are paid out of profits that have been subjected to tax under this Act,</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>

<p>tax at the rate prescribed in section 40 (1) of this Act as if the dividend is the total profits of the company for the year of assessment to which the accounts, out of which the dividend is declared, relates.</p>	<p>Petroleum Profits Tax Act, or the Capital Gains Tax Act;</p>	<p>the Petroleum Profits Tax Act, or the Capital Gains Tax Act;</p>	
	<p>(b) Dividends paid out of profits that are exempted from income tax by any provision of this Act, the Industrial Development (Income Tax Relief) Act, the Petroleum Profits Tax Act, or the Capital Gains Tax Act or any other legislation;</p>	<p>(b) Dividends paid out of profits that are exempted from income tax by any provision of this Act, the Industrial Development (Income Tax Relief) Act, the Petroleum Profits Tax Act, or the Capital Gains Tax Act or any other legislation;</p>	
	<p>(c) profits or income of a company that are regarded as franked investment income under this Act; and</p>	<p>(c) profits or income of a company that are regarded as franked investment income under this Act; and</p>	
	<p>(d) distributions made by a Real Estate Investment Company to its shareholders from rental income and dividend income received on behalf of those shareholders;</p>	<p>(d) distributions made by a Real Estate Investment Company to its shareholders from rental income and dividend income received on behalf of those shareholders;</p>	
	<p>whether such dividends are paid out of profits of the year in which the dividend is declared or out of profits of previous reporting periods."</p>	<p>whether such dividends are paid out of profits of the year in which the dividend is declared or out of profits of previous reporting periods."</p>	

<p>20. Nigerian dividends received by companies other than Nigerian companies In the case of a company which is neither a Nigerian company nor engaged in a trade or business in Nigeria at any time during a year of assessment-</p> <p>(a) no tax shall be charged on it for that year in respect of any dividend received by it from a Nigerian company apart from tax withheld under section 80 of this Act;</p> <p>(b) where any dividend is paid out of profits on which no tax is payable due to no total profits or total profits which are less than the amount of dividend which is paid, whether the recipient of the dividend is a Nigerian company or not, the company paying the dividend shall be charged to tax at the rate prescribed in section 40 (I) (If this Act as if such dividend is the total profits of the company for (The year of assessment which relates' to accounts out of which the dividend is declared;</p> <p>(c) nothing' in this Act shall confer on such company or on the company paying the dividend, a right to repayment of tax paid by reason of the provisions of this section.</p>	<p>Nigerian Dividends Received by Companies Other than Nigerian Companies 6. Section 20 of the CIT Act is hereby amended by deleting the existing paragraphs (b) and (c).</p>	<p>Nigerian Dividends Received by Companies Other than Nigerian Companies 6. Section 20 of the CIT Act is hereby amended by deleting the existing paragraphs (b) and (c).</p>	<p>SUSTAINED</p>
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<p>23. Profits exempted (1) There shall be exempt from the tax-</p> <p>(a) the profits of any company being a statutory or registered friendly society, in so far as such profits are not derived from a trade or business carried on by such society;</p> <p>(b) the profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies, not being profits from any trade or business carried on by that company other than co-operative activities solely carried out with its members or from any share or other interest possessed by that company in a trade or business in Nigeria carried on by some other persons or authority;</p> <p>(c) the profits of any company engaged in ecclesiastical, charitable or educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company;</p> <p>(d) the profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to.</p>	<p>Profits Exempted 7. Section 23(1) of the CIT Act is hereby amended by:</p> <p>(a) Repealing subsection (n) and replacing it with the following new subsection (n) as follows:</p>	<p>Profits Exempted 7. Section 23(1) of the CIT Act is hereby amended by:</p> <p>(a) Repealing subsection (n) and replacing it with the following new subsection (n) as follows:</p>	<p>SUSTAINED</p>
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<p>such conditions as the Board may prescribe;</p> <p>(e) the profits of any company being a trade union registered under the Trade Unions Act in so far as such profits are not derived from a trade or business carried on by such trade union;</p> <p>[Cap. TI4.]</p> <p>(f) dividend distributed by Unit Trust;</p> <p>[No. 32 of 1996.]</p> <p>(g) the profits of any company being a body corporate established by or under any Local Government Law or Edict in force in any State in Nigeria;</p> <p>(h) the profits of anybody corporate being a purchasing authority established by an enactment and empowered to acquire any commodity for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity;</p> <p>(i) the profits of any company or any corporation established by the law of a State for the purpose of fostering the economic development of that State, not being profits derived from any trade or business carried on by that corporation or</p>			
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<p>from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority;</p> <p>(j) any profits of a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria;</p> <p>(k) dividend, interest, rent, or royalty derived by a company from a country outside Nigeria and brought into Nigeria through Government approved channels. For the purpose of this subsection,</p> <p>"Government approved channels", means the Central Bank of Nigeria, any bank or other corporate body appointed by the Minister as authorised dealer under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act or any enactment replacing that Act;</p> <p>[Cap. F34.]</p> <p>(i) the interest on deposit accounts of a foreign non-resident company:</p> <p>Provided that the deposits into the account are transfers wholly of foreign currencies</p>			
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<p>to Nigeria on or after 1 January, 1990 through Government approved channels; [No. 21 of 1991.]</p>			
<p>(m) the interest on foreign currency domiciliary in Nigeria accruing on or after 1 January, 1990</p>			
<p>(n) nothing in this section shall be construed to exempt from deduction at source, the tax which a company making payments is to deduct under sections 78, 79 or 80 of this Act, such that the provisions of sections 78, 79 and 80 of this Act, shall apply to a dividend, interest, rent or royalty which is a part of the profits or income referred to in subsection (l) (a) to (f) and (h) to (f) of this section;</p>	<p>(n) "Nothing in this section shall be construed to exempt from deduction at source, the tax which a company making payments is to deduct under sections 78, 79 or 80 of this Act, such that the provisions of sections 78, 79 and 80 of this Act shall apply to a dividend, interest, rent or royalty paid by a company exempted from tax under subsection 1(a) to (e), (h) to (l), (o), (q), (r) and (t) of this section</p>	<p>(n) "Nothing in this section shall be construed to exempt from deduction at source, the tax which a company making payments is to deduct under sections 78, 79 or 80 of this Act, such that the provisions of sections 78, 79 and 80 of this Act shall apply to a dividend, interest, rent or royalty paid by a company exempted from tax under subsection 1(a) to (e), (h) to (l), (o), (q), (r) and (t) of this section</p>	<p>SUSTAINED</p>
<p>(o) dividend received from small companies in the manufacturing sector in the first five years of their operation;</p>	<p>(b) Repealing subsection (o) and replacing it with the following new subsection (o) as follows:</p>	<p>(b) Repealing subsection (o) and replacing it with the following new subsection (o) as follows:</p>	<p>TO BE SUSTAINED</p>
<p>[No. 31 of 1996.]</p>	<p>(i) "the profits of a small company in a relevant year of assessment."</p>	<p>(i) "the profits of a small company in a relevant year of assessment."</p>	<p>TO BE SUSTAINED</p>
	<p>Provided that such company shall, without prejudice to this exemption, comply with the tax</p>	<p>Provided that such company shall, without prejudice to this exemption, comply with the tax</p>	<p>TO BE SUSTAINED</p>

<p>(p) dividend received from investments in wholly export-oriented businesses;</p> <p>[No. 31 of 1996.]</p> <p>(q) the profits of any Nigerian company in respect of goods exported from Nigeria, provided that the proceeds from such export are repatriated to Nigeria and are used exclusively for the purchase of raw materials, plant, equipment and spare parts;</p> <p>[No. 32 of 1996.]</p> <p>(r) the profits of a company whose supplies are exclusively inputs to the manufacturing of products for export, provided that the exporter shall give a</p>	<p>registration and tax return filing stipulations of this Act and be subject to the provisions as regards time of filing, penalties for breach of statutory duties and all other provisions of this Act in all respects during the period during which its profits are below the tax paying threshold.</p> <p>(ii) Dividends received from small companies in the manufacturing sector in the first five years of their operations.</p>	<p>registration and tax return filing stipulations of this Act and be subject to the provisions as regards time of filing, penalties for breach of statutory duties and all other provisions of this Act in all respects during the period during which its profits are below the tax paying threshold.</p> <p>(ii) Dividends received from small companies in the manufacturing sector in the first five years of their operations.</p>	<p>SUSTAINED</p>
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<p>certificate of purchase of the inputs of the exportable goods to the seller of the supplies;</p> <p>(s) the profit of a company established within an export processing zone or free trade zone:</p> <p>Provided that one hundred per cent production of such company is for export otherwise tax shall accrue proportionately on the profits of the company.</p> <p>[No. II of 2007. s. 5.]</p> <p>(EDITORIAL NOTE: Please note that although section 5 of Act No. I I of 2007 instructs section 19 to be amended, it is suggested that it is intended to amend section 23.)</p>	<p>(c) Introduction of a new subsection (t) as follows:</p> <p>"the dividend and rental income received by a Real Estate Investment Company on behalf of its shareholders provided that:</p> <p>(i) A minimum of 75% of dividend and rental income is distributed; and</p>	<p>(c) Introduction of a new subsection (t) as follows:</p> <p>"the dividend and rental income received by a Real Estate Investment Company on behalf of its shareholders provided that:</p> <p>(i) A minimum of 75% of dividend and rental income is distributed; and</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
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	<p>(ii) Such distribution is made within 12 months of the end of the financial year in which the dividend or rental income was earned.</p> <p>Nothing in this section shall be construed to exempt:</p> <p>(i) Shareholders from tax on the dividend or rental income received from a Real Estate Investment Company;</p> <p>(ii) a Real Estate Investment Company from tax on management fee, profits or any other income earned for and on its own account; and</p> <p>(iii) a Real Estate Investment Company from tax on dividend and rental income that is not distributed after 12 months from the financial year end in which the dividend or rental income was earned.</p> <p>(d) Substituting the existing paragraph (q) under subsection (1) with the following new paragraph (q), as follows:</p>	<p>(ii) Such distribution is made within 12 months of the end of the financial year in which the dividend or rental income was earned.</p> <p>Nothing in this section shall be construed to exempt:</p> <p>(i) Shareholders from tax on the dividend or rental income received from a Real Estate Investment Company;</p> <p>(ii) a Real Estate Investment Company from tax on management fee, profits or any other income earned for and on its own account; and</p> <p>(iii) a Real Estate Investment Company from tax on dividend and rental income that is not distributed after 12 months from the financial year end in which the dividend or rental income was earned.</p> <p>(d) Substituting the existing paragraph (q) under subsection (1) with the following new paragraph (q), as follows:</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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	<p>"the profits of any Nigerian company in respect of goods exported from Nigeria, provided that the proceeds of such exports are used for the purchase of raw materials, plant, equipment and spare parts</p> <p>Provided that tax shall accrue proportionately on the portion of such proceeds which are not utilized in the manner prescribed above."</p> <p>(e) Introducing new paragraphs (u), (v) and (w) as follows: (u) "the compensating payments, which qualify as dividends under section 9(1)(c) of this Act, received by a Lender from its approved agent or a Borrower in a Regulated Securities Lending Transaction. Such payments shall be deemed to be Franked Investment Income and shall not be subjected to further tax in the hands of the Lender.</p> <p>(v) "the compensating payments, which qualify as dividends or interest under Section 9(1)(c) of this Act, received by an approved agent from a Borrower or Lender</p>	<p>"the profits of any Nigerian company in respect of goods exported from Nigeria, provided that the proceeds of such exports are used for the purchase of raw materials, plant, equipment and spare parts</p> <p>Provided that tax shall accrue proportionately on the portion of such proceeds which are not utilized in the manner prescribed above."</p> <p>(e) Introducing new paragraphs (u), (v) and (w) as follows: (u) "the compensating payments, which qualify as dividends under section 9(1)(c) of this Act, received by a Lender from its approved agent or a Borrower in a Regulated Securities Lending Transaction. Such payments shall be deemed to be Franked Investment Income and shall not be subjected to further tax in the hands of the Lender.</p> <p>(v) "the compensating payments, which qualify as dividends or interest under Section 9(1)(c) of this Act, received by an approved agent from a Borrower or Lender</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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	on behalf of a Lender or Borrower in a Regulated Securities Lending Transaction"	on behalf of a Lender or Borrower in a Regulated Securities Lending Transaction"	
<p>24. Deductions allowed Save where the provisions of section 14 (2) or (3) or 16 of this Act apply, for the purpose of ascertaining the profits or loss of any company of any period from any source chargeable with tax under this Act, there shall be deducted all expenses for that period by that company wholly, exclusively, necessarily and reasonably incurred in the production of those profits including, but without otherwise expanding or limiting the generality of the foregoing-</p> <p>(a) any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profits;</p> <p>(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</p>	<p>Deductions Allowed 8. Section 24 of the CIT Act is hereby amended a) Introducing in the opening paragraph of Section 24 after the word "in the production of those profits" the words "chargeable to tax"</p> <p>b) By re-enacting the existing paragraph (a) as (a) Subject to the provisions of the Seventh Schedule of this Act, any sum payable by way of interest on debt borrowed and employed as capital in acquiring the profits of a company;"</p>	<p>Deductions Allowed 8. Section 24 of the CIT Act is hereby amended a) Introducing in the opening paragraph of Section 24 after the word "in the production of those profits" the words "chargeable to tax"</p> <p>b) By re-enacting the existing paragraph (a) as (a) Subject to the provisions of the Seventh Schedule of this Act, any sum payable by way of interest on debt borrowed and employed as capital in acquiring the profits of a company;"</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>

profits, subject, in the case of residential accommodation occupied by employees of the company, to a maximum of hundred per cent of the basic salary of employees;

[No. 30 of 1996 and No. 32 of 1996.]

(c) (deleted by No. II 012007, s. 6 (a));

(d) any outlay or expenses incurred during the year in respect of-

(i) salary, 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 responsible for Labour matters, as the case may be;

[No. 21 of 1991 and No. 11 of 2007: s. 6 (P).]

(e) 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 articles so employed;

(f) 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) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any previous period been allowed either under the Companies Income Tax Act, 1961 or this Act in respect of the same debt, the appropriate reduction shall be made in the deduction to be made for the period in question;

[No. 22 of 1961.]

(ii) all sums recovered during the said period on account of amounts previously written off or allowed either under the Companies Income Tax Act 1961 or this Act 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;

(iii) it is proved to the satisfaction of the Board that the debts in respect of which a deduction is claimed either were included as a receipt of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of section 23 (I) (e) of this Act made in the course of normal trading or business operations;

(g) 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 it by section 85 (g) of the Personal Income Tax Act, subject to the provisions of the Fourth Schedule to the Act and to any conditions imposed by that Board; 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;

<p>[Cap. P8and Fourth Schedule.]'</p> <p>(h) in the case of the Nigerian Railway Corporation such deductions as are allowed under the provisions of the Authorised Deductions (Nigerian Railway Corporation) Rules, which Rules shall continue in force for all purposes of this Act;</p> <p>[L.N.1950ff959.]</p> <p>(i) in the case of profits from a trade or business, any expenses or part thereof-</p> <p>(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</p> <p>(ii) the liability (or 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</p> <p>(iii) the expenses proved to the satisfaction of the Board to have been</p>			
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<p>incurred by the company on research and development for the period including the amount of levy paid by it to the National Science and Technology Fund which is not deductible under any other provision of this section;</p> <p>[No.3 of 1993.J</p> <p>(j) such other deduction as may be prescribed by the Minister by any rule.</p> <p>(EDITORIAL NOTE: Please note that although section 6 of Act No. 11 of 2007 instructs section 20 to be amended, it is suggested that it is intended to amend section 24.)</p>	<p>c) by inserting as subsection (k) and (l) the following new provisions:</p> <p>"(k) dividends or mandatory distributions made by a Real Estate Investment Company duly approved by the Securities and Exchange Commission, to its shareholders"</p> <p>"(l)compensating payments, which qualify as interest under section 9(1)(c) of this Act, made by a Lender to its approved agent or a</p>	<p>c) by inserting as subsection (k) and (l) the following new provisions:</p> <p>"(k) dividends or mandatory distributions made by a Real Estate Investment Company duly approved by the Securities and Exchange Commission, to its shareholders"</p> <p>"(l)compensating payments, which qualify as interest under section 9(1)(c) of this Act, made by a Lender to its approved agent</p>	<p>SUSTAINED</p>
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	Borrower in a Regulated Securities Lending Transaction"	or a Borrower in a Regulated Securities Lending Transaction"	
<p>27. Deductions not allowed 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-</p> <ul style="list-style-type: none"> (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 this Act; (d) any payment to a savings, widows and orphans, pension, provident or other retirement benefit fund, society or scheme except as permitted by section 24 (g) of this Act; (e) the depreciation of any asset; (f) any sum reserved out of profits, except as permitted by section 24 (f) or 25 of this Act or as may be estimated to the satisfaction of the Board, pending the determination of the amount, to represent the amount of any expense deductible under the provisions of that section, the 			

<p>liability for which was irrevocably incurred during the period for which the income is being ascertained;</p> <p>(g) any expense of any description incurred within or 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;</p> <p>(h) any expense whatsoever incurred within or outside Nigeria as management fee under any agreement entered into after the commencement of this section except to the extent as the Minister may allow;</p> <p>(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.</p>	<p>Deductions not Allowed</p> <p>9. Section 27(1) of the CIT Act is hereby amended by:</p> <p>(a) deleting subsections (g), (h) and (i) and inserting a new subsection (g) as follows:</p> <p>"(g) any expense whatsoever incurred within or outside Nigeria involving related parties as defined under the Transfer Pricing Regulations, except to the extent that it is consistent with the Transfer Pricing Regulations".</p> <p>(b) Introducing new subsections (h), (i) (j) and (k) as follows:</p> <p>"(h) any expense incurred in deriving tax- exempt income, losses of a capital nature and any expense allowable as a deduction under the Capital Gains Tax Act for the purpose of determining chargeable gains"</p> <p>"(i) any compensating payment made by a Borrower, which qualifies as dividends under section 9(1)(c) of this Act, to its approved</p>	<p>Deductions not Allowed</p> <p>9. Section 27(1) of the CIT Act is hereby amended by:</p> <p>(a) deleting subsections (g), (h) and (i) and inserting a new subsection (g) as follows:</p> <p>"(g) any expense whatsoever incurred within or outside Nigeria involving related parties as defined under the Transfer Pricing Regulations, except to the extent that it is consistent with the Transfer Pricing Regulations".</p> <p>(b) Introducing new subsections (h), (i) (j) and (k) as follows:</p> <p>"(h) any expense incurred in deriving tax- exempt income, losses of a capital nature and any expense allowable as a deduction under the Capital Gains Tax Act for the purpose of determining chargeable gains"</p> <p>"(i) any compensating payment made by a Borrower, which qualifies as dividends under section 9(1)(c) of this Act, to its</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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	<p>agent or to a Lender in a Regulated Securities Exchange Transaction"</p> <p>"(j) any compensating payment made by an approved agent, which qualifies as interest or dividends under section 9(1)(c) of this Act, to a Borrower or Lender in a Regulated Securities Exchange Transaction".</p> <p>(k) any penalty prescribed by any Act of the National Assembly for violation of any statute.</p> <p>(l) any taxes or penalties borne by a company on behalf of another person.</p>	<p>approved agent or to a Lender in a Regulated Securities Exchange Transaction"</p> <p>"(j) any compensating payment made by an approved agent, which qualifies as interest or dividends under section 9(1)(c) of this Act, to a Borrower or Lender in a Regulated Securities Exchange Transaction".</p> <p>(k) any penalty prescribed by any Act of the National Assembly for violation of any statute.</p> <p>(l) any taxes or penalties borne by a company on behalf of another person.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
<p>PART IV <i>Ascertainment of assessable profits</i></p> <p>29. Basis for computing assessable profits (1) Save as provided in this section, the profits of any company for each year of assessment from such source of its profits (hereinafter referred to as "the assessable profits") shall be the profits of the year immediately preceding the year of assessment from each such source:</p>	<p>PART IV <i>Ascertainment of assessable profits</i></p> <p>Basis for Computing Assessable Profits 10. Section 29 of the CIT Act is hereby amended as follows: (a) The existing subsection (1) is deleted and replaced with a new subsection (1) as follows: (1) Save as provided in this section, the profits of any company for each</p>	<p>PART IV <i>Ascertainment of assessable profits</i></p> <p>Basis for Computing Assessable Profits 10. Section 29 of the CIT Act is hereby amended as follows: (a) The existing subsection (1) is deleted and replaced with a new subsection (1) as follows: (1) Save as provided in this section, the profits of any</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>

<p>Provided that in respect of any company which makes up its accounts to any date between 1 January and 31 March, 1980, the profits to be assessed to tax-</p> <p>(a) in 1980 year of assessment, shall be the profits of the period from the beginning of the accounting year to 31 December, 1979; and</p> <p>(b) in 1981 year of assessment, shall be the profits for 1 January to the end of the company's accounting year in 1980.</p> <p>(2) When the Board is satisfied that it company has made or intends to make up accounts of its trade or business to someday other than 31 December, it may direct that the assembled profits of that company shall be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment:</p> <p>Provided that where the assessable profits of a company have been computed by reference to accounts made up to a certain day, and such company fails to make up an account to the corresponding day in the year following the assessable profits of that company for the year of assessment in which such failure occurs and for two years of assessment next following shall be computed on such basis as the Board in its discretion may decide.</p>	<p>year of assessment from such source of its profits (hereinafter referred to as - the assessable profits) shall be the profits of the accounting period immediately preceding the year of assessment from each such source.</p>	<p>company for each year of assessment from such source of its profits (hereinafter referred to as - the assessable profits) shall be the profits of the accounting period immediately preceding the year of assessment from each such source.</p>	
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<p>New trade or business</p> <p>(3) The assessable profits of any company from any trade or business for the year of assessment in which it commenced to carry on such trade, or business (or in the case of a company other than a Nigerian company, for the year of assessment in which it commenced to carry on such trade or business in Nigeria) and for the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year", and "the third year") shall be ascertained in accordance with the following provisions-</p> <p>(a) for the first year the assessable profits shall be the profits of that year;</p> <p>(b) for the second year the assessable profits shall, unless such notice as hereinafter mentioned is given, be the amount of the profits of one year from the date of the commencement of the trade or business as determined for the purposes of paragraph (a) of this subsection;</p> <p>(c) for the third year the assessable profits shall, unless such notice as hereinafter mentioned is given, be computed in accordance with subsection (1) of this section;</p>	<p>New trade or business</p> <p>(b) Section 29(3) of the CIT Act is hereby deleted and replaced with a new subsection (3) as follows:</p> <p>(3)The assessable profits of any company from any trade or business (or in the case of a company other than a Nigerian company) for its first year of assessment and the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year" and "the third year") shall be ascertained in accordance with the following provisions -</p> <p>(a) for the first year, the assessable profits shall be the profits from the date in which it commenced to carry on such trade or business in Nigeria to the end of its first accounting period;</p> <p>(b) for the second year, the assessable profits shall be the</p>	<p>New trade or business</p> <p>(b) Section 29(3) of the CIT Act is hereby deleted and replaced with a new subsection (3) as follows:</p> <p>(3)The assessable profits of any company from any trade or business (or in the case of a company other than a Nigerian company) for its first year of assessment and the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year" and "the third year") shall be ascertained in accordance with the following provisions -</p> <p>(a) for the first year, the assessable profits shall be the profits from the date in which it commenced to carry on such trade or business in Nigeria to the end of its first accounting period;</p> <p>(b) for the second year, the assessable profits shall be the</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>(d) a company shall be entitled, on giving notice in writing to the Board within two years after the end of the second year, to require that the assessable profits both for the second year and the third year (but not for one or other only of those years) shall be the profits' of the respective years of assessment:</p> <p>Provided that the company may, by notice in writing given to the Board within twelve months after the end of the third year, revoke the notice, and in such case, the assessable profits both for the second year and the third year shall be computed as if the first notice had never been given:</p> <p>Provided that if the basis period for the second or third year is the period of nine months from 1 April to 31 December; 1980, the profits of that basis period shall be grossed up as if they were the profits of twelve months;</p> <p>(e) where such notice as aforesaid has been given or revoked, such additional assessments or such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to paragraph (d) of this subsection:</p>	<p>profits from the first day after its first accounting period to the end of its second accounting period; and</p> <p>(c) for the third year and for each subsequent year thereafter, the assessable profits shall be the profits from the day after the accounting period just ended.</p>	<p>profits from the first day after its second accounting period; and</p> <p>(c) for the third year and for each subsequent year thereafter, the assessable profits shall be the profits from the day after the accounting period just ended.</p>	<p>SUSTAINED</p>
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<p>Provided that if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the, Board shall give notice to the company of refusal to admit such reduction or repayment and the provisions of Part XI of this Act shall apply accordingly with any necessary modifications as though such notice were an assessment.</p>			
<p>Cessation of trade or business (4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria) its assessable profits therefrom shall be-</p> <p>(a) as regard the year of assessment in which the cessation occurs, the amount of the profits of that year;</p> <p>(b) as regards the year of assessment preceding that in which the cessation occurs, the amount of the profits as computed in accordance with the foregoing subsections, or the amount of the profits of such year, whichever is the greater;</p> <p>(c) Provided that where the profits-of such year is for a period of nine months from I April to 31 December, 1980, the profits</p>	<p>Cessation of trade or business (c) Section 29(4) is deleted and replaced with a new subsection (4) as follows:</p> <p>(4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria) in an accounting period, its assessable profits therefrom shall be the amount of the profits from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within six months from the date of cessation.</p>	<p>Cessation of trade or business (c) Section 29(4) is deleted and replaced with a new subsection (4) as follows:</p> <p>(4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria) in an accounting period, its assessable profits therefrom shall be the amount of the profits from the beginning of the accounting period to the date of cessation and the tax thereof shall be payable within six months from the date of cessation.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>

shall be grossed up as if they were the profits of twelve months; and
(d) the company shall not be deemed to derive assessable p of its from such trade or business for the year of assessment following that in which the cessation occurs.

(5) Where the provisions of subsection (1) of this section apply, such additional assessment or, on a claim being made by the company for this purpose in writing, such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to these provisions:

Provided that, if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the Board shall give notice to the company of refusal to admit the claim to such reduction or repayment and the provisions of Part XI of this Act shall apply accordingly with any necessary modifications as though such notice were an assessment.

Apportionment of profits

(6) Where in the case of any trade or business it is necessary, in order to arrive at the profits of any year of assessment or other period, to allocate or apportion to

specific periods the profits or loss of any period for which accounts have been made up, or to aggregate any such profits or loss or apportioned parts thereof, it shall be lawful to make such allocation, apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods, unless the Board, having regard to any special circumstances, otherwise directs.

Receipts and payments after cessation of a trade or business

(7) Where, after the date on which a company has permanently ceased to carry on a trade or business (as determined for the purposes of subsection (4) of this section), the company, its receivers or liquidators, receive or pay any sum which would have been included in or deducted from the profits of that trade or business if it had been received or paid prior to that date, such sum shall be deemed for all purposes of this Act to have been received or paid by the company on the last day before such cessation occurred,

Certain partnership

(8) Where a company is engaged in a trade or business in partnership with any other person in Nigeria, that trade or business shall be deemed to constitute a separate

<p>source of profits, and the assessable profits of the company from that source shall be determined under the provisions of the Personal Income Tax Act in like manner as would be the assessable income of any individual partner in that partnership:</p>			
<p>[Cap, pg.]</p>			
<p>Provided that, with respect to any assets of such partnership, where any annual, initial or balancing allowance or charge would fall to be given to or made upon the company for any year under the provisions of the Fifth Schedule to that Act, if the company were an individual partner in that partnership, such allowance or charge shall be given or made as though due under the provisions of the Second Schedule and in place of any other allowance or charge arising thereunder with respect to the same asset.</p>			
<p>[Fifth Schedule and Second Schedule.]</p>			
<p>Trades or businesses sold or transferred</p>	<p>Trades or businesses sold or transferred</p>	<p>Trades or businesses sold or transferred</p>	
<p>(9) Where a trade or business carried on by a company is sold or transferred to a Nigerian company</p>	<p>(d) By amending the opening provisions of the existing subsection (9) as follows:</p>	<p>(d) By amending the opening provisions of the existing subsection (9) as follows:</p>	<p>SUSTAINED</p>
<p>for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria and any asset employed in such trade or business is sold</p>	<p>"Where a trade or business carried on by a company is sold or transferred to a Nigerian company</p>	<p>"Where a trade or business carried on by a company is sold or transferred to a Nigerian</p>	<p>SUSTAINED</p>

<p>or transferred, if the Board is satisfied that one company has control over the other or that both are controlled by some other person or are members of a recognised group of companies, the Board may in its discretion direct that-</p> <p>(a) the provisions of subsections (3) and (4) of this section shall not apply to such trade or business;</p> <p>(b) for the purposes of the Second Schedule to this Act, each such asset shall be deemed to have been sold for an amount equal to the residue of the qualifying expenditure thereon on the day following such sale or transfer; and</p> <p>[Second Schedule.]</p> <p>(c) the company acquiring each such asset shall not be entitled to any initial allowance with respect to that asset under the said Schedule and any allowances deemed to have been received by the vendor company under the provisions of this paragraph:</p> <p>Provided that the Board in its discretion-</p> <p>(i) may require either company directly affected by any such direction which is under consideration by the Board to guarantee or give security, to the satisfaction of the Board, for payment in</p>	<p>for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, if the Board is satisfied that one company has control over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of reorganization, the board may in its discretion direct that -</p>	<p>company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, if the Board is satisfied that one company has control over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of reorganization, the board may in its discretion direct that -</p>	
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<p>full of all tax due or to become due by the company selling or transferring such trade or business; and</p> <p>(ii) may impose such conditions as it sees fit on either or both the companies directly affected, and in the event of failure by either company to carry out or fulfil such guarantee or conditions, the Board may revoke the direction and make all such additional assessments or repayments of tax as may be necessary so as to give effect to such revocation; and for the purposes of this subsection, reference to a trade or business shall include references to any part thereof.</p>	<p>(e) By including a new proviso under after the concluding paragraph of subsection (9) as follows:</p> <p>Provided also that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial reorganization."</p>	<p>(e) By including a new proviso under after the concluding paragraph of subsection (9) as follows:</p> <p>Provided also that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>Trade or business transferred under Part II of the Companies and Allied Matters Act</p> <p>(10) Where, in pursuance of Chapter 3 of Part II of the Companies and Allied Matters Act, a company (in this subsection referred to as "the re-constituted company") is incorporated under that Act to carry on any trade or business previously carried on in Nigeria by a foreign company and the assets employed in Nigeria by the foreign company in that trade or business vest in the re-constituted company, then, if the Board is satisfied that the trade or business carried on by the re-constituted company immediately after the incorporation of that company under the Act is not substantially different in nature from the trade or business previously carried on in Nigeria by the foreign company, the following provisions of this subsection shall have effect, that is-</p> <p>[Cap. C20.]</p> <p>(a) the provisions of subsections (3) and (4) of this section shall not apply to the</p>		<p>subsection as at the date of initial reorganization."</p>	
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trade or business carried on by the re-constituted company;

(b) for the purposes of the Second Schedule to this Act, the assets so vested in the re-constituted company shall be deemed to have been sold to it, on the day of the incorporation of that company, for an amount equal to the residue of the qualifying expenditure thereon on the day following the day on which the trade or business previously carried on in Nigeria by the foreign company ceased;

[Second Schedule.]

(c) the re-constituted company shall not be entitled to any initial allowances as respects those assets and shall be deemed to have received all allowances given to the foreign company in respect of those assets under the Second Schedule to this Act and any allowances deemed to have been received by the foreign company under the provisions of this paragraph or subsection (9) of this section;

[Second Schedule.]

(d) subject to subsection (1) of this section, the amount of any loss incurred during any year of assessment by the foreign company in the said trade or

business previously carried on by it in Nigeria, being a loss which has not been allowed against any assessable profits or income of that company for any such year, under the provisions of this Act or the corresponding provisions of the Companies Income Tax Act 1961 or the Income Tax Act, shall be deemed to be a loss incurred by the re-constituted company in its trade or business during the year of assessment in which its trade or business commenced; and the amount of that loss shall, in accordance with section 31 of this Act, be deducted from the assessable profits of the reconstituted company;

[No. 22 of 1961 and Cap. 85 1958 Edition.)

(e) no deduction shall be made under paragraph (d) of this subsection in respect of any loss to which that paragraph relates-

(i) except to the extent, (if any) to which it is proved by the re-constituted company to the satisfaction of the most senior officer in the Industrial Inspectorate Division of the Federal Ministry of Industry (hereinafter in this subsection referred to as "the director") that the loss was not the result of any damage or destruction caused by any military or

other operations connected with the civil war in which Nigeria was engaged and which ended on 15 January, 1970:

Provided that the President may by order direct that, to the extent specified in the order, a deduction under paragraph (d) of this subsection shall be made in respect of a loss which was the result of any damage or destruction caused by any military or other operations. connected with the said civil war;

(ii) unless within three years after the incorporation of the re-constituted company a claim for the deduction is lodged by that company with the director and a copy of the claim is forwarded by that company to the Board; and

(f) any deduction to which paragraph (d) of this subsection applies, shall be made as far as possible from the amount, if any, of the assessable profits of the re-constituted company for the year of assessment in which its trade or business commenced and, so far as it cannot be so made, then from the amount of the assessable profits of the next year of assessment, and so on, but such deductions shall not be made against the profits of the company after the fourth year from the commencement of such business,

and in this subsection "foreign company" means a company incorporated outside Nigeria before 18 November, 1968, and having on that date an established place of business in Nigeria.

Board may call for returns and information relating to certain assets, etc.

(II) For the purposes of subsections (9) and (10) of this section, the Board may by notice require any person (including a company to which any assets have vested in pursuance of Chapter 3 of Part 11 of the Companies and Allied Matters Act) to prepare and deliver to the Board any returns specified in the notice or any such information as the Board may require about the assets; and it shall be the duty of that person to comply with the requirements of any such notice within the period specified in the notice, not being a period of less than twenty one days from the service thereof.

[Cap, C20,]

(12) No merger, take-over, transfer or restructuring of the trade or business carried on by a company shall take place without having obtained the Board's direction under subsection (9) of this

<p>section and clearance with respect to any tax that may be due and payable under the Capital Gains Tax Act.</p> <p>[Cap, C1]</p>			
<p style="text-align: center;">PART V <i>Ascertainment of total profits</i></p> <p>31. Total profits from all sources (1) The total profits of any company for any year of assessment, shall be the amount of its total assessable profits from all sources for that year together with any additions thereto to be made in accordance with the provisions of the Second Schedule to this Act, less any deductions to be made or allowed in accordance with the provisions of this section, section 32 and of the said Schedule.</p> <p>[Second Schedule.]</p> <p>(2) Subject to the provisions of subsection (4) of this section, there shall be deducted -</p> <p>(a) the amount of a loss which the Board is satisfied has been incurred by the company in any trade or business during any preceding year of assessment:</p>	<p style="text-align: center;">PART V <i>Ascertainment of total profits</i></p> <p>Total Profits from All Sources 11. Section 31(2)(a)(ii) of the CIT Act is hereby amended by deleting the phrase "but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business"</p>	<p style="text-align: center;">PART V <i>Ascertainment of total profits</i></p> <p>Total Profits from All Sources 11. Section 31(2)(a)(ii) of the CIT Act is hereby amended by deleting the phrase "but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business"</p>	<p>SUSTAINED</p>

<p>Provided that-</p> <p>(i) in no circumstances shall the aggregate deduction from assessable profits or income in respect of any such loss exceed the amount of such loss; and</p> <p>(ii) a deduction under this section for any particular year of assessment shall not exceed the amount, if any, of the assessable profits, included in the total profits for that year of assessment, from the trade or business in which the loss was incurred and shall be made as far as possible from the amount of such assessable profits of the first year of assessment after that in which the loss was incurred and, so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on; but such deductions shall not be made against the profit of the company after the fourth year from the year of commencement of such business;</p> <p>(iii) (deleted by No. II 0/2007. s. 8);</p> <p>(b) the amount of any loss which, under section 29 (10) (d) is deemed to be a loss incurred by the company during the year of assessment in which its trade or business commenced, so however that any deduction in respect of that loss shall be</p>			
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made as provided under paragraph (f) of that subsection.

(EDITORIAL NOTE: Please note that although section 8 of Act No.11) of 2007 instructs section 27 to be amended, it is suggested that it is intended to amend section 31.)

(3) The amount of any loss incurred by a company engaged in an agricultural trade or business for the year of assessment in which it commenced to carry on such trade or business, shall be deducted as far as possible from the assessable profits of the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on (without limit as to time) until the loss has been completely set-off against the company's subsequent assessable profits.

[Second Schedule.]

(4) For the purposes of subsection (2) of this section, the loss incurred during any year of assessment shall be computed, where the Board so decides, by reference to the year ending on a day in such year of assessment which would have been adopted under section 29 (2) of this Act for the computation of assessable profits

<p>for the following year of assessment if such profits had arisen.</p> <p>(5) Where under the provisions of section 29 (6) of this Act for the purpose of computing the profits of a period from a source chargeable with tax under this Act, being a period the profits of which are assessable profits from that source for any year, it has been necessary to allocate or apportion to specific periods which fall within that whole period both profits and losses, then no deduction shall be made under the provisions of subsection (2) of this section in respect of the loss or apportioned part thereof referable to any such specific period, except to the extent that such loss or part thereof exceeds the aggregate profits apportioned to the remaining specific period or periods within that whole period .</p>			
<p>33. Payment of Minimum Tax</p> <p>(1) Notwithstanding any other provisions in this Act where in any year of assessment the ascertainment of total assessable profits from all sources of a company results in a loss, or where a company's ascertained total profits results in no tax payable or tax payable which is less than the minimum tax, there shall be levied and paid by the company the</p>	<p>Payment of Minimum Tax</p> <p>12. Section 33 of the CIT Act is hereby amended by:</p> <p>(a) Replacing the existing subsection (2) with the following new subsection (2):</p> <p>"(2) For the purposes of subsection (1) of this section, the minimum tax to be levied and paid shall be 0.5% of turnover of the company.</p>	<p>Payment of Minimum Tax</p> <p>12. Section 33 of the CIT Act is hereby amended by:</p> <p>(a) Replacing the existing subsection (2) with the following new subsection (2):</p> <p>"(2) For the purposes of subsection (1) of this section, the minimum tax to be levied and paid shall be 0.5% of turnover of the company.</p>	<p>SUSTAINED</p>

<p>minimum tax as prescribed by subsection (2) of this section.</p> <p>[No. 21 of 1991]</p> <p>(2) For the purposes of subsection (1) of this section the minimum tax to be levied and paid shall-</p> <p>(a) if the turnover of the company is N500,000 or below and the company has been in business for at least four calendar years be-</p> <p>(i) half a per cent of gross profit; or (ii) half a per cent of net assets; or (iii) one quarter percent of paid-up capital; or (iv) one quarter per cent of turnover of the company for the year, whichever is higher; or</p> <p>(b) if the turnover is higher than N500,000, be whatever is payable in paragraph (a) of this subsection plus such additional tax on the amount by which the turn-over is in excess of N500,000 at a rate which shall be fifty per cent of the rate used in paragraph (a) (iv) of this subsection.</p> <p>[No.21 of 1991.]</p>	<p>(b) Deleting under subsection (3), the existing paragraph (b) and replacing with a new paragraph (b) as follows:</p> <p>(b) a company that earns gross turnover of less than twenty-five million naira in the relevant year of assessment.</p>	<p>(b) Deleting under subsection (3), the existing paragraph (b) and replacing with a new paragraph (b) as follows:</p> <p>(b) a company that earns gross turnover of less than twenty-five million naira in the relevant year of assessment.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
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(3) The provisions of this section shall not apply to -

(a) a company carrying on agricultural trade or business as defined in subsection (9) of section II, of this Act;

(b) a company with at least twenty-five per cent imported equity capital; and

(c) any company for the first four calendar years of its commencement of business.

[No. 21 of 1991.]

(4) (a) Nothing in this section shall exempt any company from payment of any' levy or tax imposed on the total profits of the company under section 40 of this Act so however that the tax payable under subsection (1) of this section, shall be the amount by which the amount computed under subsection (2) thereof exceeds the amount that is levied and payable under section 40 of this Act.

(b) For the purposes of this section and the Second Schedule to this Act, the capital allowance for any assessment year in which a minimum tax is payable, shall be computed and the amount so computed, together with any unabsorbed allowances brought forward from previous years, shall be deducted as far as possible from

<p>the assessable profits of the assessment year and, so far as it cannot be completely deducted, the amount by which the total amount of the capital allowance exceeds the amount of the assessable profit of the assessment year, shall be carried forward to the next assessment year.</p> <p>[Second Schedule and No.3 of 1993.]</p>			
<p style="text-align: center;">PART VI <i>Incentives to the gas industry</i></p> <p>39. Gas utilisation (downstream operations) (1) A company engaged in gas utilisation (downstream operations) shall be granted the following incentives, that is-</p> <p>(a) an initial tax-free period of three years which may, subject to the satisfactory performance of the business, be renewed for an additional period of two years;</p> <p>[No, 18 of 1998.]</p> <p>(b) as an alternative to the initial tax free period granted under paragraph (a) of this subsection, an additional investment allowance of thirty-five per cent which shall not reduce the value of the asset, so however that a company which claims the incentive provided under this paragraph</p>	<p style="text-align: center;">PART VI <i>Incentives to the gas industry</i></p> <p>Gas Utilisation (Downstream Operations) 13. Section 39 of the CIT Act is hereby amended by:</p> <p>(a) Replacing existing paragraph (c) in subsection (1) with the following new paragraph (c)</p> <p>"Capital allowances on qualifying expenditure incurred during the pioneer period, shall be made in each of the years during which the company, which is engaged in gas utilization (downstream operations), is in pioneer period, such that only tax written down value of the Qualifying Capital Expenditure shall be carried forward to the post pioneer period, as follows, that is -</p>	<p style="text-align: center;">PART VI <i>Incentives to the gas industry</i></p> <p>Gas Utilisation (Downstream Operations) 13. Section 39 of the CIT Act is hereby amended by:</p> <p>(a) Replacing existing paragraph (c) in subsection (1) with the following new paragraph (c)</p> <p>"Capital allowances on qualifying expenditure incurred during the relevant tax free period, shall be made in each of the years during which the company, which is engaged in gas utilization (downstream operations), is in pioneer period, such that only tax written down value of the Qualifying Capital Expenditure shall be carried</p>	<p>To replace "pioneer status" with "tax free period" since pioneer status is not stated in the CITA.</p>

<p>shall not also claim the incentive provided under paragraph (c) (ii) of this subsection;</p> <p>[No. 30 of 1999.]</p> <p>(c) accelerated capital allowances after the tax-free period, as follows, that is-</p> <p>(i) an annual allowance of ninety per cent with ten per cent retention, for investment in plant and machinery;</p> <p>(ii) an additional investment allowance of fifteen per cent which shall not reduce the value of the asset;</p>	<p>(i) an annual allowance of 90 percent with 10 percent retention, for investment in plant and machinery; "</p> <p>(b) Deleting the existing paragraph (e) in subsection (1)</p> <p>(c) By inserting a new subsection (3) after the existing subsection (2) and renaming the existing subsection (3) as subsection (4). The new subsection (3) to read as follows:</p>	<p>forward to the post tax free period, as follows, that is -</p> <p>(i) an annual allowance of 90 percent with 10 percent retention, for investment in plant and machinery; "</p> <p>(b) Deleting the existing paragraph (e) in subsection (1)</p> <p>(c) By inserting a new subsection (3) after the existing subsection (2) and renaming the existing subsection (3) as subsection (4). The new subsection (3) to read as follows:</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
<p>[No, 18 of 1998.]</p> <p>(d) tax free dividends during the tax free period, where-</p> <p>(i) the investment for the business was in foreign currency; or</p> <p>[No. 18 of 1998.]</p> <p>(ii) the introduction of imported plant and machinery during the period was not less than thirty per cent of the equity share capital of the company;</p>	<p>"(3) This Section shall not apply with respect to -</p> <p>(i) any company that has claimed or wishes to claim the incentives under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure."</p>	<p>"(3) This Section shall not apply with respect to -</p> <p>(i) any company that has claimed or wishes to claim the incentives under the Industrial Development (Income Tax Relief) Act in respect of the same qualifying capital expenditure."</p>	<p>SUSTAINED</p>
<p>[No. 30 of 1999.]</p>			

(e) interest payable on any loan obtained with the prior approval of the Minister for a gas project, shall be tax deductible.
[No. 19 of 1998.]

(2) The tax-free period of a company shall start on the day the company commences production as certified by the Ministry of Petroleum Resources.

[No. 18 of 1998.]

(3) In this section-

"gas utilisation" means the marketing and distribution of natural gas for commercial purposes and includes power plant, liquefied natural gas, gas to liquid plant, fertilizer plant, gas transmission and distribution pipelines;

[No. 19 of 1998.]

"tax-free period" means the tax-free period referred to in subsection (l) (a) of this section.

[No. 18 of 1998.]

PART VII	PART VII	PART VII	
<p><i>Rate of tax. deduction of tax from dividends and relief for double taxation</i></p> <p>40. Rates of tax (1) There shall be levied and paid for each year of assessment in respect of the total profits of every company, tax at the rate of thirty kobo for every naira.</p> <p>[No. 32 of 1996.]</p> <p>(2) In addition to any levy made pursuant to subsection (1) of this section, there shall, as from the assessment year commencing on 1 January, 1989 be levied and paid a special levy of fifteen per cent on excess profits of every company including banks and for the purpose of this subsection, "excess profits" means the difference between total profits as computed in accordance with section 31 of this Act and standard profits as calculated in accordance with the provisions of subsection (3) of this section.</p> <p>(3) For the purposes of subsection (2) Of this section, "standard profits" means-</p>	<p><i>Rate of tax. deduction of tax from dividends and relief for double taxation</i></p> <p>Rates of Tax 14. Section 40 of the CIT Act is hereby repealed and replaced with a new Section 40 as follows:</p> <p>"There shall be levied and paid for each year of assessment in respect of total profits of every company, tax as follows. In the case of a - (a) small company, tax as provided under Section 23(1)(o) of this Act; (b) medium-sized company, tax at the rate of twenty kobo for every naira; and (c) large company, tax at the rate of thirty kobo for every naira. "</p>	<p><i>Rate of tax. deduction of tax from dividends and relief for double taxation</i></p> <p>Rates of Tax 14. Section 40 of the CIT Act is hereby repealed and replaced with a new Section 40 as follows:</p> <p>"There shall be levied and paid for each year of assessment in respect of total profits of every company, tax as follows. In the case of a - (a) small company, tax as provided under Section 23(1)(o) of this Act; (b) medium-sized company, tax at the rate of twenty kobo for every naira; and (c) large company, tax at the rate of thirty kobo for every naira. "</p>	<p>SUSTAINED</p>

<p>(a) in the case of every Nigerian company-</p> <p>(i) the addition of the amounts arrived at after applying the percentages specified in this sub-paragraph to the amount of capital employed at the end of the accounting period, that is to say-</p> <table border="0"> <tr> <td>Paid-up capital</td> <td>40%</td> </tr> <tr> <td>Capital or statutory reserve</td> <td>20%</td> </tr> <tr> <td>General reserve</td> <td>20%</td> </tr> <tr> <td>Long term loan</td> <td>20%</td> </tr> </table> <p>(ii) the amount of six million naira, whichever is greater;</p> <p>(b) in the case of every company other than a Nigerian company and as respects any year of assessment commencing on 1 January, 1989-</p> <p>(i) the amount of fifteen per cent of the turnover of the company for that year being turnover attributable to any part of the operations of the company carried out in Nigeria; or</p> <p>(ii) the amount of six million naira, whichever is greater.'</p> <p>(4) A company which is yet to commence business after at least six months of incorporation shall for each year it obtains a tax clearance certificate pay a levy of- (a) N20,000 for the first year; and</p>	Paid-up capital	40%	Capital or statutory reserve	20%	General reserve	20%	Long term loan	20%			
Paid-up capital	40%										
Capital or statutory reserve	20%										
General reserve	20%										
Long term loan	20%										

[No.11 of 2007, s.11(a).]

(b) N25,000 for every subsequent year,

[No. II of 2007, s. 11 (b).]

before a tax clearance certificate is issued.

[No . 21 of 1991]

(5) For the purposes of subsection (4) (a) of this section, any unabsorbed capital allowance brought forward shall be suspended until normal assessment is made; but a notional allowance shall be deemed to have been granted for the assessment year in which a turnover tax is payable.

[Subsection (5), previously subsection (6), renumbered by No. 11 of 2007, s. 11 (c).]

(6) Where in any of the basis period for the year of assessment in which a company commenced business and the next following four years of assessment as determined under the provisions of section 29 of this Act, a Nigerian company engaged in manufacturing or agricultural production, mining of solid minerals or wholly export trade, earns a total gross sales (turnover) of below one million naira, there shall be levied and paid by the company, tax at the rate of twenty kobo on

<p>every naira of the total profits. [No. 31 of 1996 and subsection (6), previously subsection (7), renumbered by No. 11 of 2007, s. 11(c).] (7) Notwithstanding the provisions of subsection (7) of this section, where a Nigerian company engaged in the trade and business specified in that subsection commenced business before 1 January, 1988 and makes a gross sales (turnover) of below five hundred thousand naira, there shall be levied and paid by such company for each of the assessment years 1988, 1989 and 1990 tax at the rate of twenty kobo on every naira of the total profits. [Subsection (7), previously subsection (8), renumbered by No. 11 of 2007, s. 11 (c).]</p> <p>(8) The provisions of subsections (7) and (8) of this section shall not apply to a company formed to acquire the whole or any part of the trade or business previously carried on by another company. [Subsection (8), previously subsection (9), renumbered by No.11 of 2007, s. II (c).]</p> <p>(9) The provisions of subsection (7) of this section may be extended for additional two years where the company shows evidence of good records and management and remained in the preferred sector of the economy as</p>			
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specified in that subsection. [No.3 of 1993 and subsection (9), previously subsection (10), renumbered by No. 11 of 2007, s. 11 (c).]

(10) Where a company has incurred an expenditure on electricity, water, tarred road or telephone

for the purpose of a trade or business carried on by the company which is located at least 20 kilometres away from electricity, water, tarred road or telephone facilities which are provided by the Government, the company shall be allowed a relief called "investment tax relief" for each year expenditure is incurred on each such facility at the following rate of the expenditure-

- (a) no facilities at all100 %
- (b) no electricity50 %
- (c) no water.....30%
- (d) no tarred road15%
- (e) no telephone 5%

[No.3 of 1993, Subsection (10), previously subsection (11), renumbered by No. 11 of 2007, s.11 (c).]

(II) For the purposes of subsection II of this section, a company shall not be allowed to claim the investment tax relief for more than three years and the relief shall not be available to a company already

<p>granted the pioneer status. [No.3 of 1993, Subsection (II), previously subsection (12), renumbered by No. II of 2007, s. II (c).]</p> <p>(EDITORIAL NOTE: Please note that although section II of Act No. II of 2007 instructs section 29 to be amended, it is suggested that it is intended to amend section 40.)</p>			
<p>41. Replacement of obsolete plant and machinery</p> <p>Where a company has incurred an expenditure for the replacement of an obsolete plant and machinery, there shall be allowed to that company, fifteen per cent investment tax credit.</p> <p>[No. 32 of 1996.]</p>	<p>Replacement of Obsolete Plant and Machinery 15. Section 41 of the CIT Act is hereby repealed by this Act.</p>	<p>Replacement of Obsolete Plant and Machinery 15. Section 41 of the CIT Act is hereby repealed by this Act.</p>	<p>SUSTAINED</p>
<p>42. (Deleted by No. 11 of 2007. s. 12.) (EDITORIAL NOTE: Please note that although section 12 of Act No. 11 of 2007 instructs section 30 to be deleted, it is suggested that it is intended to delete section 42.)</p>			

<p>43. Dividends and tax on interim dividends paid by Nigerian companies (1) In respect of every dividend paid by a Nigerian company, being a dividend to which the proviso to section 18 applies, the company shall issue to each of its shareholders a certificate setting out the amount thereof to which such shareholder is entitled and describing the profits out of which the dividend is paid, and the company shall not be entitled to deduct tax from any such dividend on payment thereof.</p> <p>(2) For the purposes of this section, the net Nigerian rate of tax applicable to a dividend shall be the rate computed or agreed by the Board in the following manner-</p> <p>(a) where the accounting period of a company out of the profits of which a dividend is declared to be wholly payable coincides with any single basis period of that company for a year of assessment (as determined under the provisions of Part IV of this Act) the net Nigerian rate of tax applicable to that dividend shall be computed by dividing the tax payable by the company for that year of assessment after deduction of any relief given under the provisions of section 44 or 46 by the distributable profits, as shown by the</p>	<p>Dividends and tax on interim dividends paid by Nigerian companies 16. Section 43 of the CIT Act is hereby repealed by this Act</p>	<p>Dividends and tax on interim dividends paid by Nigerian companies 16. Section 43 of the CIT Act is hereby repealed by this Act</p>	<p>SUSTAINED</p>
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accounts of the company, arising during that period, before deduction of any tax but after deduction of any profits specified in subsection (1) of this section;

(b) in any other case, the net Nigerian rate of tax applicable to the dividend shall be determined by the Board as may appear to it to be just and equitable:

Provided that in no case shall the net Nigerian rate of tax applicable to a dividend exceed the rate specified by section 40 of this Act for the year of assessment in which payment of the dividend becomes due.

(3) Within fourteen days thereof every Nigerian company shall supply full particulars to the Board of each dividend declared, and on request of the Board shall supply a list of the shareholders to whom the dividend is payable showing their respective shares therein,

(4) In the event that the net Nigerian rate of tax applicable to a dividend has not agreed or computed by the Board before the date on which payment of that dividend becomes, due, the certificate to be given for the purposes of subsection (2) of this section shall so specify, and no repayment out of tax deducted from that

<p>dividend shall be made to any shareholder until that rate has been finally determined.</p> <p>(5) Nothing in this section shall be construed as requiring a company to deduct tax from a dividend that is not paid in money.</p> <p>(6) Notwithstanding the foregoing provisions of this section, every company paying dividend to its shareholders shall pay tax at the prescribed rate in section 40 (1) of this Act to the Board prior to the payment of the dividend. The tax so paid shall be a deposit against the tax due from the company on the profits out of which the dividend is paid:</p> <p>Provided that the provisional tax paid under section 77 (1) of this Act shall be taken into account in determining the amount of tax due under this subsection.</p>			
<p>53. Self-assessment of tax payable Every company filing a return under section 58 of this Act or requested by notice of the Board to file a return under section 59 of this Act shall-</p> <p>(a) in the return, compute the tax payable by the company for the year of assessment; and</p> <p>[No. 30 of 1996.]</p>	<p>Self-assessment of Tax Payable 17. Section 53(1) of the CIT Act is hereby amended as follows: (1) Every company filing a return under section 55 of this Act or requested by notice of the Board to file a return under section 58 of this Act shall-</p> <p>(a) in the return, compute the tax payable by the company for the year of assessment; and</p>	<p>Self-assessment of Tax Payable 17. Section 53(1) of the CIT Act is hereby amended as follows: (1) Every company filing a return under section 55 of this Act or requested by notice of the Board to file a return under section 58 of this Act shall-</p> <p>(a) in the return, compute the tax payable by the company for the year of assessment; and</p>	<p>SUSTAINED</p>

<p>(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.</p>	<p>(b) forward with the tax return, evidence of payment of the whole or, in the case of a company making instalment payments, part of the tax due.</p>	<p>(b) forward with the tax return, evidence of payment of the whole or, in the case of a company making instalment payments, part of the tax due.</p>	<p>SUSTAINED</p>
<p style="text-align: center;">PART IX. <i>Returns</i></p> <p>55. Returns and provisional accounts</p> <p>(1) Every company including a company granted exemption from incorporation shall, whether or not a company is liable to pay tax under this Act for a year of assessment, with or without notice from the Service, file a self-assessment return with the Service in the prescribed form at least once a year and such return shall contain-</p> <p>(a) the audited accounts, tax and capital allowances computation for the year of assessment and a true and correct statement in writing containing the amount of profit from each and every source computed;</p> <p>(b) a duly completed self-assessment form as may be prescribed by the Service, from time to time, attested to by a director or secretary of the company and such</p>	<p style="text-align: center;">PART IX. <i>Returns</i></p> <p>Returns and Provisional Accounts</p> <p>18. Section 55 of the CIT Act is hereby amended as follows:</p> <p>(a) By amending paragraph (c) under subsection 1 as follows:</p> <p>"(c) evidence of payment of the whole or, in the case of a company making instalment payments, part of the tax due."</p> <p>(b) By amending subsection 3 as follows:</p> <p>"(3) Any company which fails to comply with the provisions of subsection (2) shall be liable to pay a penalty for late filing -</p> <p>(a) ₦50,000 for the first month in which the failure occurs; and</p>	<p style="text-align: center;">PART IX. <i>Returns</i></p> <p>Returns and Provisional Accounts</p> <p>18. Section 55 of the CIT Act is hereby amended as follows:</p> <p>(a) By amending paragraph (c) under subsection 1 as follows:</p> <p>"(c) evidence of payment of the whole or, in the case of a company making instalment payments, part of the tax due."</p> <p>(b) By amending subsection 3 as follows:</p> <p>"(3) Any company which fails to comply with the provisions of subsection (2) shall be liable to pay a penalty for late filing -</p> <p>(a) ₦50,000 for the first month in which the failure occurs; and</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

<p>attestation shall contain a declaration that it contains a true and correct statement of the amount of its profits computed in respect of all sources in accordance with this Act and any rule made and that the particulars given in such return are true and complete; and</p> <p>(c) evidence of payment of the whole or part of the tax due into a bank designated for the collection of the tax.</p> <p>(2) Subject to this Act or any regulation made, the time of filing returns shall be-</p> <p>(a) in the case of a company that has been, in business for more than eighteen months, not more than six months after the end of its 'accounting year; and</p> <p>(b) in the case of a newly incorporated company within eighteen months from the date of its incorporation or not later than six months after the end of its first accounting period, whichever is earlier; in addition, the form of returns shall be signed by a director who must be the chairman or the managing director of the company and the secretary respectively.</p>	<p>(b) ₦25,000 for each subsequent month in which the failure continues.</p>	<p>(b) ₦25,000 for each subsequent month in which the failure continues.</p>	<p>SUSTAINED</p>
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<p>(3) Any company which fails to comply with the provisions of subsection (2) shall be liable to pay as penalty for late filing-</p> <p>(a) N25,000 in the first month in which the failure occurs; and</p> <p>(b) N5,000 for each subsequent month in which the failure continues.</p> <p>(4) Notwithstanding anything to the contrary in any law, an income tax assessment shall be made in the currency in which the transaction took place.</p> <p>(5) Where an offence under this section by a company is proved to have been committed with the consent or connivance of, or to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the company (or the person purporting to act in any such capacity) he as well as the company shall be deemed to have committed the offence and shall on conviction be liable to a fine not exceeding N100,000 or imprisonment for a term not exceeding two years or to both such fine and imprisonment.</p> <p>(6) For the purposes of this section-</p>			
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<p>(a) every company shall designate a representative who shall answer every query relating to the tax matters of the company; and</p> <p>(b) a person designated by a company pursuant to paragraph (a) of this subsection shall be a person knowledgeable in the field of taxation as may be approved, from time to time, by the Service.</p> <p>[No. 11 of 2007, s.13.]</p> <p>(EDITORIAL NOTE: Please note that although section 13 of Act No. II of 2007 instructs section 41 to be amended, it is suggested that it is intended to amend section 55.)</p>			
<p style="text-align: center;">PART XII</p> <p style="text-align: center;"><i>Collection, recovery and repayment of tax</i></p> <p>77. Time within which tax (including provisional tax) is to be paid</p> <p>(1) Notwithstanding any other provision of this section, every company shall, not later than three months from the commencement of each year of assessment, pay provisional tax of an</p>	<p style="text-align: center;">PART XII</p> <p>Time Within Which Tax Is to Be Paid</p> <p>19. Section 77 of the CIT Act is hereby amended as follows:</p> <p>(a) By repealing the existing subsection (1) and renumbering subsections (2) to (8) as subsections (1) to (7).</p>	<p style="text-align: center;">PART XII</p> <p>Time Within Which Tax Is to Be Paid</p> <p>19. Section 77 of the CIT Act is hereby amended as follows:</p> <p>(a) By repealing the existing subsection (1) and renumbering subsections (2) to (8) as subsections (1) to (7).</p>	<p style="text-align: center;">SUSTAINED</p>

amount equal to the tax paid by such company in the immediately preceding year of assessment in one lump sum.

[No; 30 of 1996.]

(2) Tax charged by any assessment which is not or has not been the subject of an objection or appeal by the company shall be payable (after the deduction of any amount to be set-off for the purposes of collection under any provision of this Act) at the place stated in the notice of assessment within two months after service of such notice upon the company:

[No. 30 of 1996.]

Provided that-

(a) if such period of two months expires after 14 December within the year of assessment for which the tax has been charged and the aggregate tax to be set-off, and of any tax paid for that year within such period, then payment of any balance of such tax may be made not later than that day;

[No.3 of 1993 and No. 30 of 1996.]

(b) where the assessment notice is served on the company within the approved period of payment of provisional tax, the tax shall be paid within two months after the end of the approved period, but if such

period of two months expires after 14 December within the year of assessment for which the tax has been charged, then the payment of any balance of such tax may be made not later than that day; [No.3 of 1993 and No. 30 of 1996.)

(c) the Board in its discretion may extend the time within which payment is to be made.

(3) Subject to the provisions of section 74 (3) of this Act, collection of tax in any case where notice of an objection or appeal has been given by the company shall remain in abeyance until such objection or appeal is determined, save that the company shall have paid the provisional tax as provided in subsection (1) of this section or the tax, not in dispute, whichever is higher.

(4) Upon the determination of an objection or appeal, the Board shall serve upon the company a notice of the tax payable as so determined, and that tax shall be payable within one month of the date of service of such notice upon the company:
Provided that if such period of one month expires after 14 December within the year of assessment for which the tax has been charged and the condition specified in

<p>subsection (2) (a) of this section are satisfied with respect to the amount of the tax charged as so determined, then any balance of the tax payable may be paid not later than that day. [No.3 of 1993 and No. 30 of 1996.),</p>			
<p>(5) A company filing self-assessment shall pay the tax due within two months from the due date of filing the assessment in one lump sum or such number of monthly instalments (not being more than six) as may be approved by the Board:</p>	<p>(b) By deleting the existing provisions of Section 77(5) and replacing as follows:</p>	<p>(b) By deleting the existing provisions of Section 77(5) and replacing as follows:</p>	<p>SUSTAINED</p>
<p>Provided that where- (a) such period of monthly instalments expires after the 30th day of November within the year of assessment for which the tax has been charged, the payment of any balance of the tax may be made not later than that day; [No. 30 of 1996.)</p>	<p>(4) Every Company shall make payment of tax due on or before the due date of filing, in one lump sum or in instalments.</p> <p>Provided that, where the taxpayer pays in instalments -</p>	<p>(4) Every Company shall make payment of tax due on or before the due date of filing, in one lump sum or in instalments.</p> <p>Provided that, where the taxpayer pays in instalments -</p>	<p>SUSTAINED</p>
<p>(b) a request for instalmental payment has been made, the request shall be accompanied with proof of payment of the first instalment to the designated bank. [No.3 of 1993.)</p>	<p>a. The taxpayer shall first write, with evidence of payment of the first instalment, and obtain the approval of the Service to pay in such number of instalments as may be approved by the Service.</p>	<p>a. The taxpayer shall first write, with evidence of payment of the first instalment, and obtain the approval of the Service to pay in such number of instalments as may be approved by the Service.</p>	<p>SUSTAINED</p>
<p>(6) The provisions of subsection (I) of this section shall not apply to a company that</p>	<p>b. The final instalment must be paid on or before the due date of filing.</p>	<p>b. The final instalment must be paid on or before the due date of filing.</p>	<p>SUSTAINED</p>

<p>files self-assessment for the year of assessment. [No.3 of 1993.]</p> <p>(7) Where a company is required to file a return within the time allowed under section 52 or specified under section 55 of this Act the tax as computed or shown in the return when filed shall be payable within two months from the date of filing the return, and the provisions of section 85 of this Act shall apply to the collection of the tax. [No. 30 of 1996.]</p> <p>(8) Notwithstanding anything to the contrary in any law, income tax payable under sections 52, 53 and 55 of this Act shall be paid to the Board in the currency in which the income giving rise to the tax was derived and paid to the company making the return. [No. 30 of 1996.]</p>	<p>(c) By introducing new subsections after the existing subsection 5 (now renumbered as 4) as follows:</p> <p>"(5) Where a company pays its tax 90 days before the due date as provided under Section 55 of this Act, such company shall be entitled to a bonus of -</p> <p>(a) 2%, if such company is a medium-sized company; and</p> <p>(b) 1% for any other company;</p> <p>on the amount of tax paid, which shall be available as a credit against of its future taxes.</p> <p>(6) Any balance of taxes unpaid as at the due date shall attract interest and penalties as provided in this Act or any other relevant law for failure to pay on the due date in accordance."</p>	<p>(c) By introducing new subsections after the existing subsection 5 (now renumbered as 4) as follows:</p> <p>"(5) Where a company pays its tax 90 days before the due date as provided under Section 55 of this Act, such company shall be entitled to a bonus of -</p> <p>(a) 2%, if such company is a medium-sized company; and</p> <p>(b) 1% for any other company;</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
<p>78. Deduction of tax from interest, etc.</p> <p>(1) Where any interest other than interest on inter-bank deposits or royalty becomes due from one company to another company or to any person to whom the provisions of the Personal Income Tax</p>	<p>Deduction of Tax on Interest</p> <p>20. Section 78 of the CIT Act is hereby amended by inserting a new subsection (6) as follows:</p>	<p>Deduction of Tax on Interest</p> <p>20. Section 78 of the CIT Act is hereby amended by inserting a new subsection (6) as follows:</p>	<p>SUSTAINED</p>

Act apply, the company making such payment shall, at the date when payment is made or credited, whichever first occurs, deduct therefrom tax at the rate prescribed in subsection (2) of this section and shall forthwith pay over to the Board the amount so deducted.

(2) The rate at which tax is to be deducted in this section shall be ten per cent.
[No. 30 of 1996.]

(3) For the purposes of this section, person authorised to deduct tax includes government departments, parastatals, statutory bodies, institutions and other establishments approved for the operation of Pay-As-You-Earn system.

(4) The tax, when paid over to the Board, shall be the final tax due from a non-resident recipient of the payment.

(5) In accounting for the tax so deducted to the Board, the company shall state in writing the following particulars, that is to say-

(a) the gross amount of the interest or royalty;

(b) the name and address of the recipient; and

<p>(c) the amount of tax being accounted for.</p>	<p>"the provisions contained in subsection (1) to (5) of this Section shall not apply to a Lender when making compensating payments, which qualify as interest under section 9(1)(c) of this Act, to an approved agent that is due to a Borrower in a Regulated Securities Lending Transaction.</p> <p>Nothing in this subsection, shall be construed as exempting the approved agent from the provisions of subsection (1) to (5) when making the same payments to the Borrower or as exempting the Lender from deducting tax when making the payments directly to the Borrower"</p>	<p>"the provisions contained in subsection (1) to (5) of this Section shall not apply to a Lender when making compensating payments, which qualify as interest under section 9(1)(c) of this Act, to an approved agent that is due to a Borrower in a Regulated Securities Lending Transaction.</p> <p>Nothing in this subsection, shall be construed as exempting the approved agent from the provisions of subsection (1) to (5) when making the same payments to the Borrower or as exempting the Lender from deducting tax when making the payments directly to the Borrower"</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
<p>80. Deduction of tax from dividend</p> <p>(I) Where any dividend or such other distribution becomes due from or payable by a Nigerian company to any other company or to any person to whom the provisions of the Personal Income Tax Act apply, the company paying such dividend or making such distribution shall, at the date when the amount is paid</p>	<p>Deduction of Tax on Dividend</p> <p>21. Section 80 is hereby amended as follows:</p> <p>a) By inserting as subsection (5) the following provisions:</p>	<p>Deduction of Tax on Dividend</p> <p>21. Section 80 is hereby amended as follows:</p> <p>a) By inserting as subsection (5) the following provisions:</p>	<p>SUSTAINED</p>

or credited, whichever first occurs, deduct therefrom tax at the rate prescribed under subsection (2) of this section and shall forthwith pay over to the Board the amount so deducted.

[Cap. P8.]

(2) The rate at which tax is to be deducted under this section shall be ten per cent.

[No. 30 of 1996.]

(3) Dividend received after deduction of tax prescribed in this section shall be regarded as franked

investment income of the company receiving the dividend and shall not be charged to further tax as part of the profits of the recipient company. However, where such income is re-distributed and tax is to be accounted for on the gross amount of the distribution in accordance with subsection (1) of this section, the company may set off the withholding tax which it has itself suffered on the same income.

(4) The tax, when paid over to the Board, shall be the final tax due from a non-resident recipient of the payment.

<p>(5) In accounting for the tax so deducted to the Board, the company shall state in writing the following particulars, that is to say-</p> <p>(a) the gross amount of the dividend or such other distribution;</p> <p>(b) the name and address of the recipient;</p> <p>(c) the accounting period or periods of the company in respect of the profits out of which the dividend or distribution is declared to be payable and the date on which payment is due; and</p> <p>(d) the amount of tax so deducted.</p>	<p>"(5) The provisions contained in subsection (1) to (5) of this Section shall not apply to:</p> <p>"(a) a company or person making any distribution or dividend payment to a Real Estate Investment Company;</p> <p>(b) a Borrower making compensating payments to its approved agent or to a Lender, provided that such payments qualify as dividends under section 9(1)(c) of this Act;</p> <p>(c) an approved agent making compensating payments received from a Borrower, which qualify as dividends under section 9(1)(c) of this Act, to a Lender.</p> <p>Nothing in this section should be construed to exempt a Real Estate Investment Company from deducting tax at source from the dividend it distributes to its own shareholders"</p>	<p>"(5) The provisions contained in subsection (1) to (5) of this Section shall not apply to:</p> <p>"(a) a company or person making any distribution or dividend payment to a Real Estate Investment Company;</p> <p>(b) a Borrower making compensating payments to its approved agent or to a Lender, provided that such payments qualify as dividends under section 9(1)(c) of this Act;</p> <p>(c) an approved agent making compensating payments received from a Borrower, which qualify as dividends under section 9(1)(c) of this Act, to a Lender.</p> <p>Nothing in this section should be construed to exempt a Real Estate Investment Company from deducting tax at source from the dividend it distributes to its own shareholders"</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>81. Deduction of tax at source</p> <p>(1) Income tax assessable on any company, whether or not an assessment has been made, shall, if the Board so directs, be recoverable from any payments made by any person to such company.</p> <p>(2) Any such direction may apply to any person or class of persons specified in such direction, either with respect to all companies or a company or class of companies, liable to payment of income tax.</p> <p>(3) Any direction under subsection (1) of this section shall be in writing addressed to the person or be published in the Federal Gazette and shall specify the nature of payments and the rate at which tax is to be deducted.</p> <p>(4) In determining the rate of tax to be applied to any payments made to a company, the Board may take into account-</p> <p>(a) any assessable profits of that company for the year arising from any other source chargeable to income tax under this Act; and</p>	<p>Deduction of Tax of Source</p> <p>22. Section 81 of the CIT Act is hereby amended by introducing a new paragraph (9) as follows:</p> <p>(9) The provisions of this section shall not apply to compensating payments made under a Registered Securities Lending Transaction".</p>	<p>Deduction of Tax of Source</p> <p>22. Section 81 of the CIT Act is hereby amended by introducing a new paragraph (9) as follows:</p> <p>(9) The provisions of this section shall not apply to compensating payments made under a Registered Securities Lending Transaction".</p>	<p>SUSTAINED</p>
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<p>(b) any income tax or arrears of tax payable by that company for any of the six preceding years of assessment.</p> <p>(5) Income tax recovered under the provisions of this section by deduction from payments made to a company shall be set off for the purpose of collection against tax charged on such company by an assessment.</p> <p>[No.3 of 1993 and No.11 of 2007, s.19 (a).]</p> <p>(6) Every person required under any provisions of this Act to make any deduction from payments made to any company shall account to the Board in such manner as the Board may prescribe for the deduction so made.</p> <p>(7) Any excess payment arising from compliance with sections 60, 61, 62 and 63 of this Act over the assessment under section 25 of this Act shall be refunded by the Service within ninety days of the assessment if duly filed with the option to set off against future taxes. [No. 11 of 2007, s. 19 (b).]</p> <p>(8) The Minister of Finance on the advice of the Board may make regulations for the</p>			
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<p>carrying out of the provisions of this section. [Subsection (8), previously subsection (7), renumbered by No. 11 of 2007, s. 19 (c).]</p> <p>(EDITORIAL NOTE: Please note that although section 19 of Act No. 11 of 2007 instructs section 63 to be amended, it is suggested that it is intended to amend section 81.)</p>			
<p>105. Interpretation</p> <p>(1) In this Act, unless the context otherwise requires-</p> <p>"Board" means the Federal Board of Inland Revenue referred to in section 1 of this Act;</p> <p>"company" means any company or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere;</p> <p>"foreign company" means any company or corporation (other than a corporation sole) established by or under any law in force in any territory or country outside Nigeria;</p>	<p>Interpretation</p> <p>23. Section 105(1) of the CIT Act is hereby amended as follows:</p> <p>a. Deleting the definition of "Board" and defining the term "Service" as follows: "Service" means the Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007.</p> <p>b. Replacing all references to "the Board" in the CIT Act with "the Service"</p> <p>c. Providing a definition for the following terms: "Approved Agent" means any person approved by the Securities</p>	<p>Interpretation</p> <p>23. Section 105(1) of the CIT Act is hereby amended as follows:</p> <p>a. Deleting the definition of "Board" and defining the term "Service" as follows: "Service" means the Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007.</p> <p>b. Replacing all references to "the Board" in the CIT Act with "the Service"</p> <p>c. Providing a definition for the following terms: "Approved Agent" means any person approved by the Securities</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>

<p>"Joint Tax Board" means the Joint Tax Board established under the provisions of any enactment regulating the taxation of incomes of persons other than companies in Nigeria;</p>	<p>and Exchange Commission to function as an intermediary for the conduct of a Regulated Securities Lending Transaction</p>	<p>and Exchange Commission to function as an intermediary for the conduct of a Regulated Securities Lending Transaction</p>	
<p>"Minister" means the Minister charged with responsibility for finance;</p>	<p>"Bank" means an establishment authorized by the government to accept deposits, pay interest, clear checks, make loans, act as an intermediary in financial transactions, and provide other financial services to its customers or any other such institution as defined under the Banking and Other Financial Institutions Act.</p>	<p>"Bank" means an establishment authorized by the government to accept deposits, pay interest, clear checks, make loans, act as an intermediary in financial transactions, and provide other financial services to its customers or any other such institution as defined under the Banking and Other Financial Institutions Act.</p>	SUSTAINED
<p>"Nigerian company" means any company incorporated under the Companies and Allied Matters Act or any enactment replaced by that Act; [Cap. C20.]</p>	<p>"Banking" means business conducted or services offered by a Bank</p>	<p>"Banking" means business conducted or services offered by a Bank</p>	SUSTAINED
<p>"officers of the Board" includes any officer of the Federal Inland Revenue Service; [No.3 of 1993.]</p>	<p>"Borrower" means an approved borrower in a Regulated Securities Lending Transaction</p>	<p>"Borrower" means an approved borrower in a Regulated Securities Lending Transaction</p>	SUSTAINED
<p>"persons" includes a company or body of persons;</p>	<p>"Compensating Payments" means any payments made in lieu of interest or dividend pursuant to a Regulated Securities Lending Transaction</p>	<p>"Compensating Payments" means any payments made in lieu of interest or dividend pursuant to a Regulated Securities Lending Transaction</p>	SUSTAINED
<p>"tax" means the tax imposed by this Act;</p> <p>"year of assessment" means a period of twelve months commencing on 1 January</p>	<p>"Gross turnover" means the gross inflow of economic benefits (cash, receivables, other assets) arising</p>	<p>"Gross turnover" means the gross inflow of economic benefits (cash, receivables, other assets)</p>	To avoid limiting the provision to the technical definition of ordinary
<p>(2) Any reference in this Act to any section, Part or schedule not otherwise identified is a reference to that section, Part or Schedule of this Act.</p>			

	<p>from the ordinary operating activities of a company, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends.</p> <p>"Large company" means any company which is not a small or medium-sized company.</p> <p>"Lender" means an approved lender in a Regulated Securities Lending Transaction</p> <p>"Medium-sized company" means a company that earns gross turnover greater than ₦25,000,000 but less than ₦100,000,000;</p> <p>"Real Estate Investment Company" means for the purpose of this Act, a Company duly approved by the Securities and Exchange Commission to operate as a Real Estate Investment Scheme in Nigeria.</p> <p>"Recognised group of companies" means a group of companies as prescribed under the relevant accounting standard"</p>	<p>arising from the ordinary operating activities of a company, including sales of goods, supply of services, receipt of interest, rents, royalties or dividends.</p> <p>"Large company" means any company which is not a small or medium-sized company.</p> <p>"Lender" means an approved lender in a Regulated Securities Lending Transaction</p> <p>"Medium-sized company" means a company that earns gross turnover greater than ₦25,000,000 but less than ₦100,000,000;</p> <p>"Real Estate Investment Company" means for the purpose of this Act, a Company duly approved by the Securities and Exchange Commission to operate as a Real Estate Investment Scheme in Nigeria</p> <p>"Recognised group of companies" means a group of companies as prescribed under the relevant accounting standard"</p>	<p>operation, which will exclude one offs or intermittent transactions.</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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	"Regulated Securities Lending transaction" means any securities lending transaction conducted pursuant to rules made by the Securities and Exchange Commission from time to time"	"Regulated Securities Lending transaction" means any securities lending transaction conducted pursuant to rules made by the Securities and Exchange Commission from time to time"	SUSTAINED
	"Small company" means a company that earns gross turnover of ₦25,000,000 or less;	"Small company" means a company that earns gross turnover of ₦25,000,000 or less;	SUSTAINED

PRINCIPAL ACT

FIRST SCHEDULE

[Section 3 (4).]

Powers or duties which the Board may not delegate except to the Joint Tax Board with the consent of the Minister

1. In this schedule, any reference to powers and duties shall not include any part of any power or duty of the Board either to make enquiries or to carry out or give effect to any decision of the Board.
2. Subject to section 3 (4) (b) of this Act, no power or duty of the Board specified or imported in the following provisions, namely
 - (a) sections 1(3), 7, 14 (2), 21, 22, 23 (1) (d), 29 (6), 29 (9), 42 (3), 42 (5), 43 (2) (b), 87 (4), 90, 91 (2), 93 (3) and 94 (2) of this Act, and in paragraphs 6 (2) and 18 of the Second Schedule thereto;
 - (b) section 13 of the Industrial Development (Income Tax Relief) Act;
[Cap. 17.]
 - (c) the powers of the Board to decide to take proceedings under section 6 (3) or to take or sanction proceedings under section 97 of this Act;

- (d) the power of the Board to consider anything necessary under section 3 (2) of this Act;
- (e) the power of the Board to authorise under section 3 (3) and (4) of this Act, shall be delegated to any other person.

SECOND SCHEDULE
Capital allowances

TABLE I

Initial allowances

TABLE II

Annual allowances

I. Interpretation

(1) For the purposes of this Schedule-
"basis period" has the meaning assigned to it by the following provisions of this definition-

- (a) in the case of company to or on which any allowance of charge falls to be made in accordance with the provisions of this Schedule, its basis period for the year of assessment is the period by reference to the profits of which any assessable profits for that year fall to be computed under the provisions of section 29 of this Act;

Plant Expenditure (excluding Furniture and Fittings)	50
Manufacturing Industrial Plant Expenditure	50
Construction Plant Expenditure (excluding Furniture and Fittings)	50
Public Transportation Motor Vehicle	95

Ranching and Plantation Expenditure	30
Plantation Equipment Expenditure	95
Research and Development Expenditure	95
Motor Vehicle Expenditure	50
Agricultural Plant Expenditure	95
Housing Estate Expenditure	50
Furniture and Fitting Expenditure	25

TABLE II

Annual allowances
[No. 32 of 1996.]

Qualifying Expenditure in respect of-	Rate per cent
Qualifying Agricultural Production	nil
Qualifying Building Expenditure	10
Qualifying Furniture and Fittings	20
Qualifying Industrial Building Expenditure	10
Qualifying Mining Expenditure	nil
Qualifying Plant Expenditure	25
Qualifying Plantation Equipment Expenditure	nil
Qualifying Ranching and Plantation Expenditure	50
Qualifying Housing Estate Expenditure	25

Qualifying Public Transportation (Inter-City) new Mass Transit Coach Expenditure	nil
Qualifying Motor Vehicles - Others	25
Qualifying Research and Development	nil

THIRD SCHEDULE
[Section II (6).]

Tax exemption on certain interests

Table of tax exemption on interest on foreign loans

<i>Repayment period including 'Moratorium</i>	<i>Grace period</i>	<i>Tax exemption allowed</i>
Above 7 years	Not less than 2 years	100%
5-7 years	Not less than 18 months	70%
2-4 years	Not less than 12 months	40%
Below 2 years	Nil	Nil

PROPOSED AMENDMENT

Third Schedule (CIT)

24. The Third Schedule of the CIT Act on 'Tax exemption on certain interests' is hereby amended as:

a. Updating the table of tax exemption on interest on foreign loans as follows:

<i>Repayment period including 'Moratorium'</i>	<i>Grace period</i>	<i>Tax exemption allowed</i>
Above 7 years	Not less than 2 years	70%
5-7 years	Not less than 18 months	40%
2-4 years	Not less than 12 months	10%
Below 2 years	Nil	Nil

b. By introducing a new paragraph 2 an interpretation section as follows:

"For the purpose of this Schedule:

"Moratorium" means a period at the beginning of a loan term during which the borrower is not expected to make any principal or interest repayments. Provided that where any principal or interest repayments are made during the period, the tax exemptions provided under this Schedule shall be adjusted by the Service in a proportionate manner.

"Repayment Period" means the agreed tenor of the loan facility. Provided where the loan is repaid before expiration of this period, the tax exemptions provided under this Schedule shall be adjusted by the Service in a proportionate manner.

Seventh Schedule - Deductible Interest

25. Introducing a new Schedule after the Sixth Schedule as follows:

- (1) Notwithstanding any provisions of this Act, where a Nigerian company, or a fixed base of a foreign company in Nigeria, incurs any expenditure by way of interest or of similar nature in respect of debt issued by a foreign connected person, the excess interest thereon shall be a disallowable deduction for the purpose of this Act:
- (2) For the purposes of sub-section (1), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent (30%) of earnings before interest, taxes, depreciation and amortization of the Nigerian company in that accounting period.
- (3) Nothing contained in sub-section (1) shall apply to a Nigerian subsidiary of a foreign company which is engaged in the business of banking or insurance.
- (4) Where for any assessment year, the interest expenditure is not wholly deducted against income, so much of the interest expenditure as has not been deducted, shall be carried forward to the following assessment year or assessment years, and it shall be allowed as a deduction against the profits, if any, of any business carried on by it and assessable for that assessment year to the extent permitted in accordance with sub-section (2):

Provided that no interest expenditure shall be carried forward under this sub-section for more than five (5) assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

- (5) Any person who violates the provisions of this Section shall be liable to a penalty at 10% and interest at the central bank of Nigeria monetary policy rate plus a spread to be determined by the Minister on any adjustments made by the Service relating to excess interest charged in any year.
- (6) For the purposes of this section, the expressions-
 - (i) "connected persons" shall mean;
 - a) any person controlled by or under common control, ownership or management; or
 - b) any person who is not connected but receives an implicit or explicit guarantee or deposit for the provision of corresponding or matching debt; or
 - c) any related party as described under the Nigerian Transfer Pricing Regulations 2018.

- (ii) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

A BILL FOR AN ACT TO AMEND THE PERSONAL INCOME TAX CAP P8 LFN 2007 AND FOR OTHER MATTERS RELATED THEREWITH, 2019

PRINCIPAL ACT	PROPOSED AMENDMENT	COMMITTEE RECOMMENDATION	REMARKS
<p>2. Persons on whom tax is to be imposed</p> <p>(1) Tax of an amount to be determined from the Table set out in the Sixth Schedule (in this Act re-ferred to as "income tax") shall be payable for each year of assessment on the total income of-</p> <p>(a) every individual other than persons covered under paragraph (b) of this subsection or corporation sole or body of individuals deemed to be resident for that year in the relevant State under the provisions of this Act; and</p> <p>(b) the following other persons, that is-</p> <p>(i) persons employed in the Nigerian Army, the Nigerian Navy, the Nigerian Air Force, the Nigerian Police Force other than in a civilian capacity;</p> <p>(ii) officers of the Nigerian Foreign Service;</p> <p>(iii) every resident of the Federal Capital Territory, Abuja; and</p>	<p>Personal Income Tax</p> <p>Persons to Whom Tax Is to Be Imposed</p> <p>27. Sections 2 (2), 49(1),86 (2)(a) & (8), 102(1), 104 (3) (c) (ii) and 108 (f)" of the Personal Income Tax Act, Cap. P8, Laws of the Federation of Nigeria 2004 as amended. (in this Act referred to as "the PIT Act") are amended by substituting the words "the Federal Board of Inland Revenue" with "the Federal Inland Revenue Service" where they appear</p>	<p>Personal Income Tax</p> <p>Persons to Whom Tax Is to Be Imposed</p> <p>27. Sections 2 (2), 49(1),86 (2)(a) & (8), 102(1), 104 (3) (c) (ii) and 108 (f)" of the Personal Income Tax Act, Cap. P8, Laws of the Federation of Nigeria 2004 as amended (in this Act referred to as "the PIT Act") are amended by substituting the words "the Federal Board of Inland Revenue" with "the Federal Inland Revenue Service" where they appear</p>	<p>SUSTAINED</p>

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(iv) a person resident outside Nigeria who derives income or profit from Nigeria.

(Sixth Schedule.)

Individuals

(2) In the case of an individual, other than an itinerant worker and persons covered under subsection (1) (b) of this section, tax for any year of assessment may be imposed only by the State in which the individual is deemed to be resident for that year under the provisions of the First Schedule to this Act and in the case of persons referred to in subsection (1) (b) of this section, tax shall be imposed by the Federal Board of Inland Revenue.

(First Schedule.)

Itinerant workers

(3) In the case of an itinerant worker, 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 territory on an itinerant worker for a year of assessment as remains 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.

Communities

(4) In the case of a village or other indigenous communities, tax may be imposed for any year only by the law of the territory in which that community is to be found and the tax may be charged on-

(a) the estimated total income of all its members;

(b) the estimated total income of those of its members whose income it is impracticable in the opinion of the relevant tax authority to assess individually; or

(c) the amount of any communal income which, in the opinion of the relevant tax authority in relation to such community, it is impracticable to

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apportion with certainty between its members.

Families

(5) In the case of income of a family recognised under any law or custom in Nigeria as families income, in which the several interests of individual members of the family are indeterminate or uncertain, tax may be imposed only by the territory in which the member of that family who customarily receives that income in the first instance in Nigeria usually resides.

Trustees

(6) In the case of income arising to a trustee of any settlements or trusts, or estates or to an executor of any estate of a deceased person, tax may only be imposed by the territory of which the tax authority is the relevant tax authority in relation to such settlement, trust or estate and to the extent provided in the Second Schedule to this Act.

(Second Schedule.)

(7) Nothing in this section shall be construed as imposing liability to tax on the personal emoluments of any person serving as other rank and accordingly any other enactment or law imposing tax on

<p>the income of individuals shall not apply:</p> <p>Provided that where any other income accrues to a person serving as other rank (not being in-come by way of personal emoluments) that income shall be liable to tax under this Act or under any relevant enactment or law.</p> <p>(8) In this section- "other rank" has the meaning assigned thereto by the Armed Forces Pensions Act; and(Cap. A23.)</p> <p>"personal emoluments" means wages or salaries and includes allowances, gratuities, superannuation or pension schemes and any other income derived solely by reason of employment as other rank.</p>			
<p style="text-align: center;">PART II</p> <p style="text-align: center;"><i>Ascertainment of income</i></p> <p>20. Deductions allowed (1) For the purpose of ascertaining the income or loss of an individual for any period from any source chargeable with tax under this Act there shall be deducted all outgoing and expenses, or any part thereof: wholly, exclusively, necessarily and reasonably incurred during that</p>	<p>Deductions Allowed 28. Section 20(1) of the PIT Act is amended by inserting a full stop after the word "scheme" on the second line of paragraph g. and deleting the remainder of the paragraph and proviso.</p>	<p>Deductions Allowed 28. Section 20(1) of the PIT Act is amended by inserting a full stop after the word "scheme" on the second line of paragraph g. and deleting the remainder of the paragraph and proviso.</p>	<p style="text-align: center;">SUSTAINED</p>

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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;

(d) any expense incurred for repair of premises, plant, machinery or fixtures employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed:

Provided that if the premises, plant, machinery, fixtures, implement, utensil or article are used in part for domestic- or private purposes, so much of the expense as relates to such use shall not be so deducted;

(e) bad debts incurred in any trade, business, profession or vocation, proved to have become bad during the period for which the

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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:

Provided that-

(i) where in any period a 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 this Act be deemed to be income of the trade, business, profession or vocation of that period;

(iii) it is proved that the debts in respect of which a deduction is claimed either were included as a receipt of the trade, business, profession or vocation in the income of the year within which they were incurred, or were advances not falling within the provisions of section 21 (b) of this

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Act 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 the Pensions Act or under any approved scheme within the meaning of that Act, and any contribution, other than a penalty, made under the provisions of any Act establishing 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 Fourth Schedule to this Act and such conditions as the Board in its absolute discretion may prescribe; (Fourth Schedule.)

Provided that where the instruments establishing in Nigeria any such fund, society or scheme contain inter alia a general power or duty of the trustees or managers thereof to invest the monies of the fund, society or scheme, and on the first day of any year of assessment commencing after 31 March, 1962-

(i) in the case of a fund, society or scheme deemed to have been

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approved under the provisions of this Act, less than thirty-three and one third per cent of all monies which are so invested is invested in securities issued by or under the authority of any Government in Nigeria; or

(ii) in the case of a fund, society or scheme approved under the provisions of this less than fifty per cent of all monies which are so invested is invested in securities issued by or under the authority of any Government in Nigeria, the deemed approval or approval of such fund, society or scheme shall have no effect for any purpose of this Act for that year of assessment;

(h) in the case 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 previous period) wholly and exclusively for the purpose of the trade, business, profession or vocation unless those expenses are the same part thereof is deductible for that or any other period under the foregoing provision of this section, and for the purpose of this paragraph an expense incurred during a period shall be treated as having been incurred for that period to the extent that it is not specifically referable to the income of any other period;

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<p>(1) 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 levy paid by him under the National Agency for Science and Engineering Infrastructure Act. (Cap. N3.)</p> <p>(2) Where the income is chargeable Solely by reason of it being brought into or received in Nigeria, nothing in this section shall confer a right to any deduction from the amount of that income so brought into or received in Nigeria.</p>			
<p>33. Personal relief and relief for children, dependants</p> <p>(1) There shall be allowed as personal relief in the case of every individual, a deduction of N5,000 plus twenty per cent of earned income.</p> <p>(No. 19 of 1998.)</p> <p>(2) In the case of an individual (other than a person to whom section 2 (1) (b) (iv) of this Act relates) who ordinarily resides in Nigeria, or who at any time during the year of assessment-</p> <p>(a) becomes ordinarily resident in Nigeria in connection with any</p>	<p>Personal Relief and Relief for Children, Dependent</p> <p>29. Section 33 of the PIT Act is amended by deleting section 33(4), (5)&(6)</p>	<p>Personal Relief and Relief for Children, Dependent</p> <p>29. Section 33 of the PIT Act is amended by deleting section 33(4), (5)&(6)</p>	<p>SUSTAINED</p>

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trade, business, profession or vocation carried on by him; or

(b) exercises any employment, the whole gains or profits of which are deemed under the provisions of section 12 of this Act to be derived from Nigeria,

there shall also be allowed the deduction specified in subsection (3) of this section.

(3)The deduction allowed under subsection (2) of this section shall be-

(a) a deduction of the amount of any alimony not exceeding N300 paid to a former spouse under an order of a court of competent jurisdiction in the case of an individual whose marriage has been dissolved;

(b) a deduction of N2,500 in respect of each unmarried child who was maintained by the individual during the year preceding the year of assessment and who; on the first day of that preceding year, had either not attained sixteen years of age, or was receiving full-time instruction in a recognised educational establishment, or was under articles or indentures in a trade or profession:

(c) a deduction of the costs incurred by the individual during the year preceding the year of assessment in maintaining or assisting to maintain a close relative of the individual or of the individual's spouse who was either incapacitated by old age or infirmity from maintaining himself or is the widowed mother (whether so incapacitated or not) of the individual's spouse:

Provided that-

(i) no deduction shall be allowed in respect of any relative whose income of the year preceding the year of assessment exceeded N1,000;

(No. 31 of 1991)

(ii) the aggregate of all deductions to be allowed to two or more individuals for any year in respect of anyone relative subject to a maximum of two relatives, shall not exceed #2,000 and, if the total of the costs incurred by them in respect of the same relative exceeds that sum, then the amount of the deduction to be allowed to any such individual shall be that same proportion of that sum and the cost so incurred;

(No. 19 of 1998.)

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Provided that-

(i) no deduction under this paragraph shall be allowed to any individual in respect of more than four children and for the purpose of applying this restriction, a husband and his wife or wives not separated from him by deed or an order of any court shall be treated as one and the same individual;

(ii) no additional deduction shall be allowed in respect of the costs incurred in connection with the education of any child in respect of whom he is entitled to a deduction under this paragraph;

(iii) where the cost of maintaining a child is shared between two or more persons, the relevant tax authority may apportion the sum of #500 as may seem to it to be equitable between those persons, and the deduction to be allowed under this paragraph to any individual in respect of that child shall be his apportioned share of that sum;

(iv) a widow who remarries shall be allowed a deduction of #500 for every child (up to a maximum of four children) in respect of the children born by her to her deceased husband;
(No. 19 of 1999.)

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(iii) the aggregate of all deductions to be made under this paragraph in ascertaining the chargeable income of anyone individual for any year, shall not exceed N4,000;

(No. 30 of 1996.)

(d) a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for a deferred annuity on his own life or the life of his spouse;

(e) a deduction of additional N3,000 or twenty per cent of the earned income, whichever is higher, in the case of a disabled person who uses special equipment or the services of an attendant in the course of a paid employment:

Provided that the amount of deduction under this paragraph shall not exceed ten per cent of the earned income of the person for that year.

[No. 19 of 1998.]

(4) A deduction to be allowed to an individual for a year of assessment under the provisions of this section, other than subsection (3) (a) of this section, may-

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(a) be claimed by and allowed to that individual or the spouse of that individual not separated from him by deed or an order of a court on the first day of such year; or

(b) be partly claimed by and allowed to each spouse,

but in no case shall the aggregate of the deduction allowed to any husband and his wife or wives exceed the amount which would be allowed if such individuals were treated as one and the same individual

(5) Where a deduction is claimed in respect of anyone child under paragraph (b), or any OJ pendant under paragraph (c) or anyone annual premium under subsection (3) (d) of this section, of same year of assessment, by both husband and wife and the aggregate amount of the deduction claimed exceeds the amount to be allowed, then in that case the relevant tax authority shall apply the amount to be allowed as it sees fit for deduction in ascertaining the separate chargeable income of each such husband or wife.

(6) Where pursuant to a direction of the relevant tax authority a deduction is allowed under subsection to a husband or wife and the

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<p>deduction has not been claimed, it shall be allowed to the hw or wife, or to be apportioned between them as the relevant tax authority in its absolute discretion decide.</p>			
<p>49. Information to be delivered by bankers</p> <p>(1) Without prejudice to section 48 of this Act, a person engaged in banking, including a person charged with the administration of the FSB International Plc, shall prepare a return at the end of each month specifying the names and addresses of new customers of the bank and shall not later than the seventh day of the next following month deliver the return to a tax authority of the area where the bank operates, or where such customer is a company, to the Federal Board of Inland Revenue.</p> <p>(2) Subject to subsection (1) of this section, the relevant tax authority may, for the purpose of obtaining information relative to taxation, give notice to a person, including a person engaged in banking business in Nigeria and a person charged with the administration of the FSB International Plc, to provide within the time stipulated in the notice, information including the name and address of any person specified in the notice:</p>	<p>Information to Be Delivered by Bankers</p> <p>30. Section 49 of the PIT Act is hereby amended by introducing a new subsection (1) and renumbering the existing subsection (1) to (4) as (2) to (5). The new subsection 1 shall read as follows:</p> <p>(1) Every person engaged in banking shall require that a person intending to open a bank account for the purposes of its business operations must provide a tax identification number as a precondition for opening such bank account or continued operation of a bank account.</p>	<p>Information to Be Delivered by Bankers</p> <p>30. Section 49 of the PIT Act is hereby amended by introducing a new subsection (1) and renumbering the existing subsection (1) to (4) as (2) to (5). The new subsection 1 shall read as follows:</p> <p>(1) Every person engaged in banking shall require that a person intending to open a bank account for the purposes of its business operations must provide a tax identification number as a precondition for opening such bank account or continued operation of a bank account.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>

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<p>Provided that a person engaged in banking business in Nigeria, including any person charged with the administration of the FSB International Plc, shall not be required to disclose any further information under this section unless the disclosure is required by a notice signed by the chairman of the relevant tax authority.</p> <p>(3) A person engaged in banking in Nigeria who contravenes the provisions of this section is, in respect of each offence, liable on conviction to a fine of N5,000 in the case of a body corporate, and a fine of N500 in the case of an individual.</p> <p>(4) Nothing in the foregoing provisions of this section or in any other provision of this Act shall preclude the relevant tax authority from verifying by tax audit any matter relating to the profits of a company or any matter relating to entries in any book, document, account or return as the relevant tax authority may, from time to time, specify in its guidelines.</p>			
<p>58. Revision in case of objection</p> <p>(1) if a person disputes an assessment he may apply to the relevant tax authority by notice of objection in writing, to review and to revise the assessment, and the</p>	<p>Revision in the Case of an Objection</p> <p>31. Section 58 of the PIT Act is amended by inserting immediately after the words "in writing" in line 2 with the words "delivered in person, by courier service or via electronic mail"</p>	<p>Revision in the Case of an Objection</p> <p>31. Section 58 of the PIT Act is amended by inserting immediately after the words "in writing" in line 2 with the words "delivered in person, by courier service or via electronic mail"</p>	<p>SUSTAINED</p>

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application shall state precisely the grounds of objection to the assessment and shall be made within thirty days from the date of service of the notice of the assessment.

(2) On receipt of a notice of objection, the relevant tax authority may require the person giving that notice to furnish such particulars and to produce such books or other documents as the relevant tax authority may deem necessary, and may summon any person who may be able to give information which is material to the determination of the objection to attend for examination by an officer of the relevant tax authority on oath or otherwise.

(3) If a person who has objected to an assessment agrees with the relevant tax authority as to the correct amount of the tax chargeable, the assessment shall be amended accordingly and notice of the tax chargeable shall be served on the person:

Provided that, if an applicant for revision under the provision of this subsection fails to agree with the relevant tax authority on the amount of the tax chargeable, the relevant tax authority shall give notice of refusal to amend the assessment as directed by that person

and may revise the assessment to such amount as the relevant tax authority may, according to the best of its judgement, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, where requisite, any reference in this Act to an assessment or to an additional assessment shall be treated as if revised under the provisions of this proviso.

(4) If an employee from whom tax is recovered by deduction from his emoluments under the provisions of section 81 of this Act claims that inadequate relief under Part III of this Act has been taken into account in determining the rate or rates at which the deduction have been or is to be made-

(a) a determination of the relevant tax authority on the claim shall be conclusive with respect to those rates for the year of assessment concerned; and

(b) if the employee is aggrieved by that determination he may apply to the relevant tax authority to be assessed to income tax as soon as may be after his assessable income for that year can be finally ascertained, and the assessment shall be subject to the provisions of this Act with respect to objections and appeals.

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<p>74. Penalty for failure to deduct tax A person who, being obliged to deduct tax under section 69, 10, 71 or on of this Act, fails to deduct or having deducted fails to pay to the relevant tax authority within thirty days from the date the amount was deducted or the time the duty to deduct arose, is guilty of an offence under this Act and is liable on conviction to a fine of N5,000 or ten per cent of the amount of the tax due, whichever is higher. in addition to the amount of tax deductible or deducted plus interest at the prevailing commercial rate,</p> <p>[No. 30 of 1996.]</p>	<p>Penalty for Failure to Deduct Tax 32. Section 74 of the PIT Act is amended by replacing the words "section 69, 70, 71 or 72" with the words "sections 69, 70, 71, 72 or 73".</p>	<p>Penalty for Failure to Deduct Tax 32. Section 74 of the PIT Act is amended by replacing the words "section 69, 70, 71 or 72" with the words "sections 69, 70, 71, 72 or 73".</p>	<p>SUSTAINED</p>
<p>THIRD SCHEDULE [Sections 19 (1) and 75.]</p> <p><i>Income exempted</i></p> <p>1. The incomes set out in this Schedule are exempted from taxation.</p> <p>2. The official emoluments of the President, and of the Governor of a State and of any person performing the functions of the President, received by such person in his capacity as such.</p> <p>3. The official emoluments of the holders for the time being of the offices of Vice-President and Deputy Governor of a State.</p>	<p>Third Schedule 33. The Third Schedule to the PIT Act is amended by:</p> <p>(a) deleting the following provisions: (i) the phrase "under the authority of the Railway Loan (International Bank) Act from paragraph 6(1)(b); (ii) the phrase "on or after 1 January 1990" from paragraph 7; (iii) Paragraph 10, 15, 19, 20, and 24; (iv) The proviso to Paragraph 18; and(v)</p>	<p>Third Schedule 33. The Third Schedule to the PIT Act is amended by:</p> <p>(a) deleting the following provisions: (i) the phrase "under the authority of the Railway Loan (International Bank) Act from paragraph 6(1)(b); (ii) the phrase "on or after 1 January 1990" from paragraph 7; (iii) Paragraph 10, 15, 19, 20, and 24; (iv) The proviso to Paragraph 18; and(v)</p>	<p>SUSTAINED</p>

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4. The emoluments payable from United Kingdom funds to members of visiting or other forces and to persons in the permanent service of the United Kingdom Government in Nigeria in respect of their offices under the United Kingdom Government and the emoluments payable to members of any civilian component, and the income of any authorised service organisations, accompanying the visiting forces:

Provided that this exemption shall not apply to any individual who is a citizen of Nigeria or who ordinarily resides in Nigeria.

5. All consular fees received on behalf of a foreign State, or by a consular officer or employee of the State of his own account, and all income of such officer or employee, other than income in respect of any trade, business, profession or vocation carried on by an officer or employee or in respect of any other employment exercised by him with Nigeria:

Provided that this exemption shall not apply where the employee is engaged on domestic duties or where the officer or employee ordinarily resides in Nigeria and is not also a national of the foreign State.

6. (1) Interest accruing to a person who is not resident in Nigeria as specified in the following subparagraphs-

(a) the interest on a loan charged on the public revenue of the Federation and raised in the United Kingdom;

(b) the interest on a bond issued by the Government of the Federation to secure repayment of a loan raised from the International Bank for Reconstruction and Development under the authority of the Railway Loan (International Bank) Act;

(c) the interest on any money borrowed by the Government of the Federation or of a State on terms which include the exemption of interest from tax in the hands of a non-resident person;

(d) where the Minister of Finance so consents, the interest on any monies borrowed outside Nigeria by a corporation established by a law in Nigeria upon terms which include the exemption of such interest from tax in the hands of any non-resident person;

(e) the interest on deposit accounts, provided the deposits into the account are transfers wholly made up of foreign currencies (funds) to Nigeria on or after 1 January 1990 through Government approved

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channels and the depositor does not become non-resident after making the transfer while in Nigeria.

(2) For the purpose of the exemption referred to in subparagraph (1) of this paragraph, a person shall only be deemed to be resident in Nigeria for a year of assessment if he is in Nigeria for a period or periods amounting to one-hundred and eighty-three days or more in any twelve-month period commencing in the calendar year and ending either in the same year or the following year.

7. Interest on any loan granted by a bank on or after 1 January, 1997, to a person-

(a) engaged in-

(i) agricultural trade or business;
(ii) the fabrication of any local plant and machinery; or

(b) as working capital for any cottage industry established by the person under the Family Economic Advancement Programme,

if the moratorium is not less than eighteen months and the rate of interest on the loan is not more than the base lending rate at the time the loan was granted. - - -

[No. 18 of 1998.]

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8. The income of a national of the United States of America from employment by the International Cooperation Administration, being an administration or agency formed and directed by the Government of that country.

9. The income of a national of the United States of America from employment by the International Development Services as agents or the International Co-operation Administration.

10. The income of an individual from employment by the Ohio University of Athens, Ohio, as agent for the International Co-operation Administration, in connection with any scheme for the training of teachers in Nigeria.

11. An income in respect of which tax is remitted or exempted under the provisions of the Diplomatic Immunities and Privileges Act or of any enactment, order or notice continued in force or effected by that Act.

[Cap. D9.]

12. The income of a local government or government institution.

13. The income of any ecclesiastical, charitable or educational institution of a public

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character in so far as such income is not derived from a trade or business carried on by such institution.

14. Wound and disability pensions granted to members of the armed forces or of any recognised national defence organisation or to persons injured as a result of enemy action.

15. Pensions granted to a person under the provisions of the Pensions Act relating to widows and orphans.

16. The income of a trade union registered under the Trade Unions Act, in so far as the income is not derived from a trade or business carried on by that trade union.

[Cap. T14.]

17. Gratuities payable to a public officer by the Government of the Federation or of a State in respect of services rendered by him under a contract of service with that Government and described as gratuities either in the contract or some other document issued by or on behalf of Government in connection with such contract.

18. Gratuities payable to an employee in the private sector in respect of services rendered by him under a contract of service with his employer and described as gratuities either in the contract or:

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some other document issued by or on behalf of the employer in connection with such contractor:

Provided that-

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

(b) where the total gratuity payable exceeds the amount of N100,000, the amount of any excess shall not be so exempt but shall be deemed to be income of the employee on the last day of his employment, including any terminal leave arising therefrom;

(c) where the period of service (or where service is not continuous, the aggregate period of service in any sixty-three consecutive months) does not amount to five years, then, if the total gratuities exceed a sum calculated at the rate of N1,000 per annum for such period or aggregate period the amount of any excess shall not be so exempt but shall be deemed to be income of the last day of the employment, including any terminal leave arising therefrom.

19. (1) Gratuities payable to a member or former member of the staff of the Nigerian College of Arts, Science and Technology by the College in respect of services rendered by him under a contract of

service with the College and described as gratuities either in the contract or in some other document issued by or on behalf of the College in connection with the contract, subject to the like provisions as those contained in the proviso to paragraph 17 of this Schedule.

(2) For the purposes of this exemption, "member of the staff" means an individual appointed to an office specified in the Second Schedule to the Nigerian College of Arts, Science and Technology Act.

20. Gratuities payable to an employee or former employee under a contract of service with a body established pursuant to the Nigerian Research Institutes Act or any Act repealed by that Act or by the West African Council for Medical Research Act, being a gratuity so described either in his contract of service with the body or in some other document issued by or on behalf of the body in connection with that contract.

[Cap. N132 and No. 32 of 1996.]

21. The income of a statutory or registered friendly society in so far as such income is not derived from a trade or business carried on by such society.

22. The income of a co-operative society registered under the

Nigerian Co-operative Societies Act, not being income from any trade or business carried on by the Society other than the co-operative activities solely carried out for and with its members or from any share or other interest possessed by that Society in a trade or business in Nigeria or elsewhere carried on by some other person or authority.

[Cap. N98.]

23. A sum received by way of death gratuities or as consolidated compensation for death or injuries.

24. A sum withdrawn or received by an employee from a pension, provident or other retirement benefits fund, society or scheme approved by the relevant tax authority under the provisions of section 20 (g) of this Act other than a sum which is deemed to be income of the employee under an express provision of this Act, and a sum withdrawn or received by an employee from a national provident fund or other retirement benefits scheme established under the provisions of any enactment for employees throughout Nigeria.

25. (1) Dividends paid to a person by a company incorporated in Nigeria:

Provided that-

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(a) the equity participation of the person in the company paying the dividends is either wholly paid for in foreign currency or by assets brought into Nigeria between 1 January 1987 and 31, December, 1992; and

(b) the person to whom the dividends are paid owns not less than ten per cent of the equity share capital of the company.

(2) For the purpose of the exemption referred to in subparagraph (1) of this paragraph, the dividend tax-free period shall commence from the year of assessment following the year in which the new capital is brought into Nigeria for the real purpose of the trade or business in Nigeria of the company paying the dividends and shall continue for five years if the company paying the dividends is engaged in agricultural production within Nigeria or processing of Nigerian agricultural products produced within Nigeria or production of petrochemicals or liquefied natural gas, and in any other case, the tax-free period shall be limited to three years.

26. Any compensation for loss of employment.

27. The income of a person, other than a citizen of Nigeria, from

employment by any government, organisation or agency between which and the Government of the Federation or of a State there exists an arrangement for technical assistance, insofar as and to the extent only that the employment is solely in pursuit of the technical assistance arrangement.

[No. 32 of 1996.]

30. Income from dividend, interest, rent, royalties, fee, commission earned from abroad and brought into Nigeria by a Nigerian resident is exempt from tax, provided that such income is brought in convertible currency and paid into a domiciliary account in a bank approved by the Government.

31. Income earned from abroad by an author, sportsman, playwright, musician, artist and brought into Nigeria is exempt from tax provided that such income is brought in foreign currencies and paid into a domiciliary account in an authorised bank in Nigeria.

32. Nothing contained in this Schedule shall exempt any dividend, interest or royalty from a deduction to be made under the provisions of section 69 or 70 of this Act.

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<p>108. Interpretation In this Act, unless the context otherwise requires-</p> <p>"assessable income" means assessable income determined under the provisions of Part III of this Act;</p> <p>"Board" means the Joint Tax Board established under section 86 of this Act;</p> <p>"company" means a company or corporation (other than a corporation sole) established by or under a law in force in Nigeria or elsewhere;</p> <p>"employment" includes any appointment or office, whether public or otherwise, for which remuneration is payable, and "employee" and "employer" shall be construed accordingly;</p> <p>"executor" includes any person administering the estate of a deceased person;</p> <p>"individual" includes a corporation sole and a body of individuals but does not include a company, partnership, community, family, trustee or executor, or any body of trustees or executors;</p> <p>"itinerant worker" means an individual who works at any time during a year of assessment (other</p>	<p>Interpretation (PIT) 34. Section 108(1) of the PIT Act is hereby amended as follows:</p> <p>(a) deleting the definition of "Board" and defining the term "Service" as follows:</p> <p>"Service" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007"</p> <p>(b) Replacing all references to "the Board" in the PIT Act with "the Service".</p>	<p>Interpretation (PIT) 34. Section 108(1) of the PIT Act is hereby amended as follows:</p> <p>(a) deleting the definition of "Board" and defining the term "Service" as follows:</p> <p>"Service" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007"</p> <p>"Board" means the Joint Tax Board established under section 86 of this Act;</p>	<p>SUSTAINED</p> <p>USTAINED</p> <p>To maintain the provision of principal Act. The principal Act refers to the Joint Tax Board and not the Federal Inland Revenue Service.</p>
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than as a member of the armed forces) for a daily wage or customarily earns his livelihood in more than one place in Nigeria and whose total income does not exceed N600;

"Minister" means the Minister charged with responsibility for matters relating to taxation;

"Nigerian company" means any company incorporated under the Companies and Allied Matters Act or any enactment replaced by that Act;

[Cap. C20.]

"person" includes an executor, trustee, company, partnership, community, family and individual;

"relevant tax authority" means, in relation to--

(a) an individual for a year of assessment, the tax authority of the territory in which the individual is deemed to be resident in that year;

(b) an executor, the tax authority of the territory in which the deceased individual was last deemed to be resident or would have been deemed to be resident if the provisions of this Act had been in force prior to the date of his death;

(c) a trustee of a trust or settlement-

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

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

(d) a partnership for a year of assessment, the tax authority of the territory in which the principal office or place of business of the partnership in Nigeria is situated on the first day of that year, or is first established during that year;

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

(f) a person to whom section 2 (1) (b) of this Act applies, the Federal Board of Inland Revenue;

"State Relevant tax authority" means the State Relevant tax authority established under section 87 of this Act;

[No. 31 of 1996.]

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"tax" means any income tax imposed in conformity with the provisions of this Act;

"Tax Authority" means the Federal Board of Inland Revenue, the State Board or the Local Government Revenue Committee;

[No.18 of 1998.]

"taxable person" means any individual or body of individuals (including a family, any corporation sole, trustee or executor) having any income which is chargeable with tax under the provisions of this Act;

"territory" means a State of the Federation and includes the Federal Capital Territory, Abuja;

"total income" means, in relation to an individual for a year of assessment his aggregate assessable income for that year after the additions and deductions specified in Part IV of this Act have been made;

"year of assessment" means the period of twelve months commencing on 1 January.

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A BILL FOR AN ACT TO AMEND THE CUSTOMS AND EXCISE TARIFF, ETC. (CONSOLIDATION) ACT, CAP C49 LFN, 2004 (AMENDMENT BILL) AND FOR OTHER MATTERS RELATED THEREWITH, 2019

PRINCIPAL ACT	PROPOSED BILL	COMMITTEE RECOMMENDATIONS	REMARKS
<p style="text-align: center;">PART III EXCISE TARIFF, ETC.</p> <p>21. Goods liable to excise duty (1) Goods manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the Duty Column in the said Schedule.</p> <p>[Fifth Schedule.]</p> <p>(2) A landing charge corresponding to the excise duty imposed on any goods manufactured in Nigeria, has been included in the customs duty in the Customs Duty Rates column of the First Schedule to this Act.</p>	<p style="text-align: center;">CUSTOMS AND EXCISE DUTIES</p> <p>Goods Liable to Excise Duty 49. Part III, Section 21 of the Customs and Excise Tariff Etc. (Consolidation) Act, Cap C49, Laws of the Federation of Nigeria 2004 (in this Bill referred to as "the CET Act") is amended by substituting the words "Goods manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the Duty Column in the said Schedule" with "Goods imported and those manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the Duty Column in the said Schedule."</p>	<p style="text-align: center;">CUSTOMS AND EXCISE DUTIES</p> <p>Goods Liable to Excise Duty 49. Part III, Section 21 of the Customs and Excise Tariff Etc. (Consolidation) Act, Cap C49, Laws of the Federation of Nigeria 2004 (in this Bill referred to as "the CET Act") is amended by substituting the words "Goods manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the Duty Column in the said Schedule" with "Goods imported and those manufactured in Nigeria and specified in the Fifth Schedule to this Act shall be charged with duties of excise at the rates specified under the Duty Column in the said Schedule."</p>	<p style="text-align: center;">SUSTAINED</p>

A BILL FOR AN ACT TO AMEND THE VALUE ADDED TAX ACT CAP V1, LFN 2007 AND OTHER MATTERS RELATED THEREWITH,
2019

PRINCIPAL ACT	PROPOSED BILL	COMMITTEE RECOMMENDATION	REMARKS
<p data-bbox="322 309 582 411">PART I <i>Imposition, etc., of Value Added Tax</i></p> <p data-bbox="219 453 680 740">2. Taxable goods and services The tax shall be charged and payable on the supply of all goods and services (in this Act referred to as "taxable goods and services") other than those goods and services listed in the First Schedule to this Act.</p> <p data-bbox="219 782 448 820">[No. 31 of 1996.]</p>	<p data-bbox="703 351 1093 389">Taxable Goods and Services</p> <p data-bbox="703 389 1209 564">35. Section 2 of the Value Added Tax Act, Cap V1, Laws of the Federation of Nigeria, 2004 (in this Bill referred to as "the VAT Act") is hereby re-enacted as follows:</p> <p data-bbox="703 606 1209 756">The tax shall be charged and payable on the supply of all goods and services in Nigeria other than those listed in the First Schedule to this Act.</p> <p data-bbox="703 756 1209 861">For the purpose of this Act, goods and services shall be deemed to be supplied in Nigeria if:</p> <p data-bbox="703 903 1003 941">(a) In respect of goods:</p> <ul data-bbox="703 973 1209 1378" style="list-style-type: none"> * the goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, assembled in Nigeria, or installed in Nigeria; or * the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right thereof is situated, registered or exercisable in Nigeria 	<p data-bbox="1232 357 1621 395">Taxable Goods and Services</p> <p data-bbox="1232 395 1751 574">35. Section 2 of the Value Added Tax Act, Cap V1, Laws of the Federation of Nigeria, 2004 (in this Bill referred to as "the VAT Act") is hereby re-enacted as follows:</p> <p data-bbox="1232 616 1751 766">The tax shall be charged and payable on the supply of all goods and services in Nigeria other than those listed in the First Schedule to this Act.</p> <p data-bbox="1232 766 1751 871">For the purpose of this Act, goods and services shall be deemed to be supplied in Nigeria if:</p> <p data-bbox="1232 912 1536 951">(a) In respect of goods:</p> <ul data-bbox="1232 983 1751 1385" style="list-style-type: none"> * the goods are physically present in Nigeria at the time of supply, imported into Nigeria for use by a person, assembled in Nigeria, or installed in Nigeria; or * the beneficial owner of the rights in or over the goods is a taxable person in Nigeria and the goods or right thereof is situated, registered or exercisable in Nigeria 	<p data-bbox="1769 331 2002 660">Proposes expansion of VAT coverage to address critical areas (Digital Economy, VAT Registration Thresholds, Intangibles, Etc.)</p>

	<p>(b) In respect of services:</p> <ul style="list-style-type: none"> * the services are rendered in Nigeria by a person physically present in Nigeria at the time of service provision; or * the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria. 	<p>(b) In respect of services:</p> <ul style="list-style-type: none"> * the services are rendered in Nigeria by a person physically present in Nigeria at the time of service provision; or * the services are provided to a person in Nigeria, regardless of whether the services are rendered within or outside Nigeria. 	
<p>4. Rate of Tax The tax shall be computed at the rate of five per cent on the value of all taxable goods and services as determined under sections 5 and 6 of this Act, except that goods and services listed under Part III of the First Schedule to this Act shall be taxed at zero rate.</p> <p>[No. 31 of 1996, No. 12 of 2007 and S.I. 38 of 2007.J</p>	<p>Rate of Tax 36. Section 4 is hereby amended by substituting "5 per cent" with "7.5 per cent".</p>	<p>Rate of Tax 36. Section 4 is hereby amended by substituting "5 per cent" with "7.5 per cent".</p>	
<p>8. Registration (1) A taxable person shall, within six months of the commencement of the Act or within six months of the commencement of business, whichever is earlier, register with the Board for the purpose of the tax.</p>	<p>Registration and Deregistration Requirements 37. Section 8 of the VAT Act is hereby amended as follows: (1) A taxable person shall upon commencement of business register</p>	<p>Registration and Deregistration Requirements 37. Section 8 of the VAT Act is hereby amended as follows: (1) A taxable person shall upon commencement of business register</p>	

<p>[No. 30 of 1996.]</p> <p>(2) Without prejudice to the provisions of section 32 of this Act, a taxable person who fails or refuses to register with the Board within the time specified in subsection (1) of this section shall be liable to pay as penalty an amount of-</p> <p>(a) N10,000 for the first month in which the failure occurs; and</p> <p>(b) N5,000 for each subsequent month in which the failure continues.</p> <p>[No. 30 of 1996.]</p>	<p>with the Service for the purpose of the tax.</p> <p>(2) A taxable person who fails or refuses to register with the Service within the time specified in subsection (1) of this section shall be liable to pay as penalty an amount of -</p> <p>(a) N50,000 for the first month in which the failure occurs; and</p> <p>(c) N25,000 for each subsequent month in which the failure continues.</p> <p>(3) Where a taxable person permanently ceases to carry on a trade or business in Nigeria, the taxable person shall notify the Service of its intention to deregister for tax purposes within 90 days of such cessation of the trade or business."</p>	<p>with the Service for the purpose of the tax.</p> <p>(2) A taxable person who fails or refuses to register with the Service within the time specified in subsection (1) of this section shall be liable to pay as penalty an amount of -</p> <p>(a) N50,000 for the first month in which the failure occurs; and</p> <p>(c) N25,000 for each subsequent month in which the failure continues.</p> <p>(3) Where a taxable person permanently ceases to carry on a trade or business in Nigeria, the taxable person shall notify the Service of its intention to deregister for tax purposes within 90 days of such cessation of the trade or business."</p>		
<p>10. Registration by non-resident companies</p> <p>(1) For the purpose of this Act, a non-resident company that carries on business in Nigeria shall register for the tax with the Board, using the address of the person with whom it has a subsisting contract, as its</p>	<p>Registration by Non-resident Companies</p> <p>38. Section 10 of the VAT Act is renamed "Non-resident companies to include the tax on its invoices" and re-enacted as follows:</p> <p>a) A non-resident company shall include the tax on its invoice for the supply of taxable services; and</p>	<p>Registration by Non-resident Companies</p> <p>38. Section 10 of the VAT Act is renamed "Non-resident companies to include the tax on its invoices" and re-enacted as follows:</p> <p>a) A non-resident company shall include the tax on its invoice for the supply of taxable services; and</p>	<p>SUSTAINED</p>	

<p>address for purposes of correspondence relating to the tax.</p> <p>[No. 31 of 1996 and No. 12 of 2007.]</p> <p>(2) A non-resident company shall include the tax in its invoice and the person to whom the goods or services are supplied in Nigeria shall remit the tax in the currency of the transaction.</p> <p>[No. 31 of 1996.]</p>	<p>b) the person to whom the services are supplied in Nigeria shall withhold and remit the tax directly to the Service in the currency of payment.</p> <p>c) Where a person to whom taxable supplies is made in Nigeria is issued an invoice on which no tax is charged, such a person shall self-account for the tax payable and remit the output tax to the Service within the timeline prescribed under Section 15 of this Act.</p>	<p>b) the person to whom the services are supplied in Nigeria shall withhold and remit the tax directly to the Service in the currency of payment.</p> <p>Delete and introduce a new Section 14(3)</p> <p>(3) Where a person to whom taxable supplies is made in Nigeria is issued an invoice on which no tax is charged, such a person shall self-account for the tax payable and remit the output tax to the Service within the timeline prescribed under Section 15 of this Act.</p>	<p>Leaving the provision in Section 10(c) restrict self-account only to Goods and services supplied by Non-residents without tax invoice. The creation of a new Section 14(3) will ensure that all taxable persons are obligated to self-account for tax not invoiced to them.</p>
<p>15. Taxable person to render returns</p> <p>(1) A taxable person shall render to the Board, on or before the 21st day of the month following that in which the purchase or supply was made, a return of all taxable goods and services purchased or supplied by him during the preceding month</p>	<p>Taxable Person to Render Returns</p> <p>39. Section 15 (1) is repealed and replaced with the following provisions: (1) "A taxable person who in the course of a business has made taxable supplies or expects to make taxable supplies, the value of which, either singularly or cumulatively in any calendar year, is twenty-five million Naira (N25,000,000) or more;</p>	<p>Taxable Person to Render Returns</p> <p>39. Section 15 (1) is repealed and replaced with the following provisions: (1) "A taxable person who in the course of a business has made taxable supplies or expects to make taxable supplies, the value of which, either singularly or cumulatively in any calendar year, is twenty-five million Naira (N25,000,000) or more;</p>	<p>SUSTAINED</p>

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<p>in such manner as the Board may, from time to time, determine.</p> <p>[No. 31 of 1996 and No. 12 of 2007.]</p> <p>(2) A person who imports taxable goods into Nigeria shall render to the Board returns on all the taxable goods imported by him into Nigeria.</p> <p>(3) In this regard, any payment made to duly authorised Government agents shall be deemed to have been made to the Federal Inland Revenue Service.</p> <p>[No. 12 of 2007]</p>	<p>shall render to the Service, on or before the 21st day of every month in which this threshold is achieved and on or before the same day in successive months thereafter, a return of the input tax paid and output tax collected by him in the preceding month in such a manner as the Service may from time to time prescribe.</p> <p>(2) In determining whether a person meets the threshold in (1)(b) above, the value of the following taxable supplies shall be excluded-</p> <p>(a) a taxable supply of a capital asset of the person; and</p> <p>(b) a taxable supply made solely as a consequence of the person selling the whole or a part of its business or permanently ceasing to carry on business.</p> <p>Provided that any person that does not fall within the threshold in Section 15(1) above shall be exempt from the provisions of Section 8(2),13A, 29, 34 and 35 of this Act."</p>	<p>shall render to the Service, on or before the 21st day of every month in which this threshold is achieved and on or before the same day in successive months thereafter, a return of the input tax paid and output tax collected by him in the preceding month in such a manner as the Service may from time to time prescribe.</p> <p>(2) In determining whether a person meets the threshold in (1)(b) above, the value of the following taxable supplies shall be excluded-</p> <p>(a) a taxable supply of a capital asset of the person; and</p> <p>(b) a taxable supply made solely as a consequence of the person selling the whole or a part of its business or permanently ceasing to carry on business.</p> <p>Provided that any person that does not fall within the threshold in Section 15(1) above shall be exempt from the provisions of Section 8(2),13A, 29, 34 and 35 of this Act."</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>	
<p>16. Remission of tax</p> <p>(1) A taxable person shall, on rendering a return under section 15 (1) of this Act-</p>	<p>Remission of Tax</p> <p>40. Section 16 of the VAT Act is hereby amended as follows:</p>	<p>Remission of Tax</p> <p>40. Section 16 of the VAT Act is hereby amended as follows:</p>	<p>SUSTAINED</p>	

<p>(a) if the output tax exceeds the input tax, remit the excess to the Board; or</p> <p>(b) if the input tax exceeds the output tax, be entitled to a refund of the excess tax from the Board on production of such documents as the Board may, from time to time, require.</p> <p>(2) An importer of taxable goods shall, before clearing those goods, pay to the Board the tax on those goods.</p> <p>(3) (Deleted by No. 120/2007.)</p>	<p>(1) A taxable person shall, on rendering a return under subsection (1) of section 15 of this Act -</p> <p>a) If the output tax collected exceeds the input tax paid, remit the excess to the Board;</p> <p>b) if the input tax paid exceeds the output tax collected, be entitled to utilize the excess tax as a credit against subsequent months.</p> <p>Provided that the taxable person would be entitled to a refund from the Service, of excess tax not utilised as a credit, upon provision of such documents as the Service may, from time to time, require</p>	<p>(1) A taxable person shall, on rendering a return under subsection (1) of section 15 of this Act -</p> <p>a) If the output tax collected exceeds the input tax paid, remit the excess to the Board;</p> <p>b) if the input tax paid exceeds the output tax collected, be entitled to utilize the excess tax as a credit against subsequent months.</p> <p>Provided that the taxable person would be entitled to a refund from the Service, of excess tax not utilised as a credit, upon provision of such documents as the Service may, from time to time, require</p>	<p>SUSTAINED</p>
<p>19. Effect of non-remittance of tax</p> <p>(1) If a taxable person does not remit the tax within the time specified in section 15 of this Act; a sum equal to five per cent per annum (Plus interest at the commercial rate) of the amount of tax remittable shall be added to the tax and the provisions of this Act relating to collection and recovery of unremitted tax, penalty and interest shall apply.</p>	<p>Effect of Non-remittance</p> <p>41. Section 19 of the VAT Act is hereby amended as follows:</p> <p>"(1) If a taxable person does not remit the tax within the time specified in section 15 of this Act, a sum equal to 10 per cent of the tax not remitted per annum and interest at the prevailing Central Bank of Nigeria minimum re-discount rate plus a spread to be determined by the minister, shall be added to the tax not remitted and the provisions of this Act relating to</p>	<p>Effect of Non-remittance</p> <p>41. Section 19 of the VAT Act is hereby amended as follows:</p> <p>(1) If a taxable person does not remit the tax within the time specified in section 15 of this Act, a sum equal to 10 per cent of the tax not remitted and interest at the prevailing Central Bank of Nigeria minimum re-discount rate shall be added to the tax not remitted and the provisions of this Act relating to collection and recovery of unremitted tax, penalty and interest shall apply.</p>	<p>To prevent penalty from being cumulative.</p>

<p>(2) The Board should notify the taxable person or his agent of the tax due together with the penalty and interest and if payment is not made within thirty days of such notification, the Board may proceed to enforce payment as provided in section 15 of this Act.</p> <p>[No. 12 of 2007.]</p>	<p>collection and recovery of unremitted tax, penalty and interest shall apply.</p> <p>(2) The Service should notify the taxable person or his agent of the tax due together with the penalty and interest and if payment is not made within thirty days of such notification, the Board may proceed to enforce payment as provided in section 15 of this Act."</p>	<p>(2) The Service should notify the taxable person or his agent of the tax due together with the penalty and interest and if payment is not made within thirty days of such notification, the Board may proceed to enforce payment as provided in section 15 of this Act."</p>	<p>SUSTAINED</p>
<p>PART IV Value Added Tax Technical Committee</p> <p>21. Establishment and composition of the Value Added Tax Technical Committee There is hereby established a committee to be known as the Value Added Tax Technical Committee (in this Act referred to as "the Technical Committee") which shall comprise-</p> <p>(a) a chairman who shall be the chairman of the Federal Board of Inland Revenue;</p> <p>(b) all directors in the Federal Inland Revenue Service;</p> <p>(c) the legal adviser to the Federal Inland Revenue Service;</p>	<p>Value Added Tax Technical Committee 42. Part IV (Sections 21 to 24) of the VAT Act is hereby deleted.</p>	<p>Value Added Tax Technical Committee 42. Part IV (Sections 21 to 24) of the VAT Act is hereby deleted.</p>	<p>SUSTAINED</p>

<p>[No. 31 of 1996.]</p> <p>(d) a director in the Nigerian Customs Service; and</p> <p>(e) three representatives of the State Governments who shall be members of the Joint Tax Board.</p>			
<p>28. Failure to notify change of address A person who fails to notify the Board of any change of address within one month of such change, is liable to pay a penalty of ₦5,000.</p>	<p>Failure to Notify of Change of Address 43. Section 28 of the VAT Act is renamed "Failure to notify of change of address or permanent cessation of trade or business" and hereby re-enacted as follows:</p> <p>A taxable person who fails to notify the Service of any change of address within 30 days of such change, or who fails to comply with the requirement for notification of permanent cessation of trade of business under Section 8 of this Act, is liable to pay -</p> <p>(a) ₦50,000 for the first month in which the failure occurs; and</p> <p>(b) ₦25,000 for each subsequent month in which the failure continues</p>	<p>Failure to Notify of Change of Address 43. Section 28 of the VAT Act is renamed "Failure to notify of change of address or permanent cessation of trade or business" and hereby re-enacted as follows:</p> <p>A taxable person who fails to notify the Service of any change of address within 30 days of such change, or who fails to comply with the requirement for notification of permanent cessation of trade of business under Section 8 of this Act, is liable to pay -</p> <p>(a) ₦50,000 for the first month in which the failure occurs; and</p> <p>(b) ₦25,000 for each subsequent month in which the failure continues</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
<p>32. Failure to register A taxable person who fails to register under this Act, is guilty of an offence and liable on conviction</p>	<p>Failure to Register 44. Section 32 of the VAT Act is hereby repealed.</p>	<p>Failure to Register 44. Section 32 of the VAT Act is hereby repealed.</p>	<p>SUSTAINED</p>

<p>to a fine of ₦5,000 and, if after one month, the person is not registered, the premises where the business is carried on shall be liable to be sealed up.</p> <p>[No. 30 of 1996.]</p>			
<p>35. Failure to submit returns A taxable person who fails to submit returns to the Board, is liable to a fine of ₦5,000 for every month in which the failure continues.</p>	<p>Failure to Submit Returns. 45. Section 35 of the VAT Act is hereby amended as follows: "(35) A taxable person who fails to submit returns to the Service, is liable to a fine of ₦50,000 in the month of default and ₦25,000 for every month in which the default continues."</p>	<p>Failure to Submit Returns. 45. Section 35 of the VAT Act is hereby amended as follows: "(35) A taxable person who fails to submit returns to the Service, is liable to a fine of ₦50,000 in the month of default and ₦25,000 for every month in which the default continues."</p>	<p>SUSTAINED</p>
<p>NONE</p>	<p>Business Sold or Transferred 46. The VAT Act is amended by inserting the following new Section 42 immediately after the existing Section 41 of the Act. "(42) Where a trade or business carried on by a company is sold or transferred to a Nigerian company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, no tax shall apply under this Act to the sale or transfer of the aforementioned assets to the extent that one company has control</p>	<p>Business Sold or Transferred 46. The VAT Act is amended by inserting the following new Section 42 immediately after the existing Section 41 of the Act. "(42) Where a trade or business carried on by a company is sold or transferred to a Nigerian company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria, and any asset employed in such trade or business is sold or transferred, no tax shall apply under this Act to the sale or transfer of the aforementioned assets to the extent that one company has control over the</p>	<p>SUSTAINED</p>

	<p>over the other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of reorganization</p> <p>Provided also that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial reorganization."</p>	<p>other or both are controlled by some other person or are members of a recognised group of companies and have been so for a consecutive period of at least 365 days prior to the date of reorganization</p> <p>Provided also that if the acquiring company were to make a subsequent disposal of the assets thereby acquired within the succeeding 365 days after the date of transaction, any concessions enjoyed under this subsection shall be rescinded and the companies shall be treated as if they did not qualify for the concessions stipulated in this subsection as at the date of initial reorganization."</p>	
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<p>46. Interpretation In this Act, unless the context otherwise requires-</p> <p>"agency of Government" includes a Ministry, department, statutory body, public authority and an institution of the Federal, State and Local Government;</p> <p>[No. 31 of 1996 and No. 18 of 1998.]</p> <p>"authorised officer" means an officer who has been authorised by the Board to perform any function under or in pursuance of this Act;</p> <p>"Board" means the Federal Board of Inland Revenue;</p> <p>"Building" means any house, including any garage, dwelling apartment, hospital and institutional building, factory, warehouse, theatre, cinema, store, mill building and similarly roofed structure affording protection and shelter, radio and television masts, transmission line, tower, vehicle and other similar structure but excludes mobile homes, caravans and trailers;</p>	<p>Interpretation (VAT) 47. Section 46 of the VAT Act is hereby amended as follows:</p> <p>(a) deleting the definition of "Board" and defining the term "Service" as follows:</p> <p>"Service" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007"</p> <p>(b) Replacing all references to "the Board" in the VAT Act with "the Service".</p> <p>(c) including the definition of "Goods" and "Services" as follows:</p> <p>"Goods" means:</p> <p>(a) "all forms of tangible properties that are movable at the point of supply, but does not include money or securities; and</p> <p>(b) Any intangible product, asset or property over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another excluding interest in land".</p>	<p>Interpretation (VAT) 47. Section 46 of the VAT Act is hereby amended as follows:</p> <p>(a) deleting the definition of "Board" and defining the term "Service" as follows:</p> <p>"Service" means the "Federal Inland Revenue Service as defined in the Federal Inland Revenue Service (Establishment) Act, 2007"</p> <p>(b) Replacing all references to "the Board" in the VAT Act with "the Service".</p> <p>(c) including the definition of "Goods" and "Services" as follows:</p> <p>"Goods" means:</p> <p>(a) "all forms of tangible properties that are movable at the point of supply, but does not include money or securities; and</p> <p>(b) Any intangible product, asset or property over which a person has ownership or rights, or from which he derives benefits, and which can be transferred from one person to another excluding interest in land".</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>"business" includes any trade, commerce or manufacture or any concern in the nature of trade, commerce or manufacture;</p>	<p>"Services" means "anything other than goods, money or securities which is supplied excluding services provided under a contract of employment"</p>	<p>"Services" means "anything other than goods, money or securities which is supplied excluding services provided under a contract of employment"</p>	<p>SUSTAINED</p>
<p>"chairman" means the chairman of the Federal Board of Inland Revenue;</p>	<p>(d) Deleting the definition of "imported services"</p>	<p>(d) Deleting the definition of "imported services"</p>	<p>SUSTAINED</p>
<p>"company" means a company as defined under the Companies and Allied Matters Act and a corporate body that may be formed under any other written law and includes any association, whether incorporated in or outside Nigeria;</p>	<p>(e) substituting the current provision on "exported service" with the following provision:</p>	<p>(e) substituting the current provision on "exported service" with the following provision:</p>	<p>SUSTAINED</p>
<p>[Cap. C20.]</p>	<p>"Exported service" means "a service rendered within or outside Nigeria by a person resident in Nigeria to a person resident outside Nigeria.</p>	<p>"Exported service" means "a service rendered within or outside Nigeria by a person resident in Nigeria, to a non-resident outside Nigeria"</p>	<p>This is to ensure that services enjoyed by non-resident while in Nigeria are subject to VAT; such as hotel services etc. and in line with destination principle and global practices</p>
<p>"entertainment" includes any exhibition and performance in which admission of people is subject to payment by such persons but does not include the following, that is-</p>	<p>Provided, however, that a service provided to the fixed base or permanent establishment of a non-resident person shall not qualify as exported services".</p>	<p>Provided, however, that a service provided to the fixed base or permanent establishment of a non-resident person shall not qualify as exported services".</p>	<p>SUSTAINED</p>
<p>(a) play on stage and performance which are carried out by educational institutions, approved by the Minister for the time being responsible for education as part of learning;</p>	<p>(f) including the definition of "commencement of business" as follows:</p>	<p>(f) including the definition of "commencement of business" as follows:</p>	<p>SUSTAINED</p>
	<p>"Business shall be deemed to commence in Nigeria on the date that an entity carries out its first transaction which shall be the earliest of the date it begins to market or first advertises its products or services for sale, or the date it obtains an operating license</p>	<p>"Business shall be deemed to commence in Nigeria on the date that an entity carries out its first transaction which shall be the earliest of the date it begins to market or first advertises its products or services for sale, or the date it obtains an operating license from a regulatory</p>	<p>SUSTAINED</p>

<p>(b) sport, game or other cultural performance conducted under the superintendence of the Ministry charged with the responsibility for culture and social welfare;</p> <p>(c) entertainment of a charitable, educational, medical, scientific or cultural nature as may be approved in writing by the Board prior to the date of the entertainment for the benefit of the public; and</p> <p>(d) entertainment organised by a non-profit making, charitable, educational, medical, scientific or cultural society registered under the law where the entertainment is in furtherance of the objectives of the society as may be approved in writing by the Board to the date of the entertainment;</p> <p>"exported service" means service performed by a Nigerian resident or a Nigerian company to a person outside Nigeria;</p> <p>[No. 12 of 2007.]</p> <p>"import" means bringing in or carrying to be brought in goods and</p>	<p>from a regulatory authority in Nigeria, or the date of its first sale or purchase, or the date it executes its first trading contract after incorporation, or the date it issues or receives its first invoice, or the date it delivers or receives its first consignment of goods, or the date it first renders services to its customers."</p> <p>(g) Including a definition for "basic food items" as follows:</p> <p>"Basic Food Items" means agro and aqua based staple food described as:</p> <p>Additives i.e. honey whether raw or semi-processed.</p> <p>Bread (white and Brown).</p> <p>Cereals e.g. maize, rice, wheat, millet, barley, sorghum, oats, fonio, finer millet and others of the same kind, however supplied in such form as grain, flour, crop, bulk or retail. Raw or semi-processed.</p> <p>Cooking oils e.g. vegetable oil, soya oil, palm oil, groundnut oil, shea butter, beniseed oil, olive oil, coconut oil and others of the same kind. Provided that they are of a type and grade suitable for culinary purposes and do not contain</p>	<p>authority in Nigeria, or the date of its first sale or purchase, or the date it executes its first trading contract after incorporation, or the date it issues or receives its first invoice, or the date it delivers or receives its first consignment of goods, or the date it first renders services to its customers."</p> <p>(g) Including a definition for "basic food items" as follows:</p> <p>"Basic Food Items" means agro and aqua based staple food described as:</p> <p>Additives i.e. honey whether raw or semi-processed.</p> <p>Bread (white and Brown).</p> <p>Cereals e.g. maize, rice, wheat, millet, barley, sorghum, oats, fonio, finer millet and others of the same kind, however supplied in such form as grain, flour, crop, bulk or retail. Raw or semi-processed.</p> <p>Cooking oils e.g. vegetable oil, soya oil, palm oil, groundnut oil, shea butter, beniseed oil, olive oil, coconut oil and others of the same kind. Provided that they are of a type and grade suitable for culinary purposes and do not contain</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>services from another country or from an export processing zone;</p> <p>"imported service" means service rendered in Nigeria by a non-resident person to a person inside Nigeria;</p> <p>[No. 12 of 2007.]</p> <p>"importer" means any person who imports taxable goods;</p> <p>"input tax" has the meaning assigned to it in section 12 of this Act;</p> <p>"invoice" means any document issued as an evidence of demand for payment;</p> <p>"manufacturer" means any person who engages in the manufacture of goods and includes a person who has manufactured for him or on his behalf by others, goods made to his specification or design;</p> <p>"manufacturing" means the process by which a commodity is finally produced, including assembling, bottling, repacking, mixing, blending, grinding, cutting,</p>	<p>any substance such as perfume that will make them unsuitable for culinary use.</p> <p>Culinary herbs e.g. curry, thyme, onions, ginger, mint and others of the same kind, if raw and unprocessed for human consumption.</p> <p>Fish of all kinds other than ornamental whether live, fresh, frozen, smoked or dried.</p> <p>Flour and Starch e.g. corn flour, plantain flour, cassava flour, beans flour, wheat flour, rice flour, yam flour, garri and others of the same kind. Either bleached or unbleached, refined or unrefined provided that it is suitable for culinary purposes.</p> <p>Fruits e.g. pineapples, oranges, mangoes, guavas, grapes fruit, banana, pawpaw and others of the same kind, whether it is fresh or dried.</p> <p>Live or raw Meat and Poultry e.g. beef, goat, lamb, pork, chicken, and others of the same kind, whether live, butchered, complete, in parts, fresh, frozen, eggs and others of the same kind.</p> <p>Milk, whether fresh, liquid and powdered milk.</p>	<p>any substance such as perfume that will make them unsuitable for culinary use.</p> <p>Culinary herbs e.g. curry, thyme, onions, ginger, mint and others of the same kind, if raw and unprocessed for human consumption.</p> <p>Fish of all kinds other than ornamental whether live, fresh, frozen, smoked or dried.</p> <p>Flour and Starch e.g. corn flour, plantain flour, cassava flour, beans flour, wheat flour, rice flour, yam flour, garri and others of the same kind. Either bleached or unbleached, refined or unrefined provided that it is suitable for culinary purposes.</p> <p>Fruits e.g. pineapples, oranges, mangoes, guavas, grapes fruit, banana, pawpaw and others of the same kind, whether it is fresh or dried.</p> <p>Live or raw Meat and Poultry e.g. beef, goat, lamb, pork, chicken, and others of the same kind, whether live, butchered, complete, in parts, fresh, frozen, eggs and others of the same kind.</p> <p>Milk, whether fresh, liquid and powdered milk.</p>	<p>SUSTAINED</p> <p>SUSTAINED</p>
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<p>bending, twisting and joining or any other similar activity;</p> <p>"Minister" means the Minister responsible for matters relating to Finance;</p> <p>"motel" means premises on which accommodation, flats, service apartments, beach cottages, holiday cottages, game lodges are provided but excludes the following, that is-</p> <p>(a) premises run by a charitable or religious organisation registered under the relevant law for charitable or religious purposes;</p> <p>(b) premises operated by a medical institution approved by the Minister for the time being responsible for health for the use of the staff of that institution;</p> <p>"output tax" has the meaning assigned to it in section 11 of this Act;</p> <p>"owner" means in respect of any goods, aircraft, vessel, vehicle, plant or any other goods, a person, other than an officer acting officially, who holds out himself to</p>	<p>Nuts e.g. groundnut, walnut, cashew nut, hazelnut, kolanut, tigernuts, coconut and others of the same kind, if raw and unprocessed for human consumption. Also roasted, fried, boiled, salted or in their shells.</p> <p>Pulses e.g. beans, lentils, peas, chickpeas, tamarind and others of the same kind, if raw and unprocessed for human consumption. Also roasted, fried, boiled, salted or in their shells</p> <p>Roots e.g. yam, cocoyam, sweet & Irish potatoes, water-yam, cassava and others of the same kind. In raw and unprocessed form. Also, in form of flakes or flour for human consumption</p> <p>Salt for culinary use only including fine salt and in retail packs but excluding industrial salt</p> <p>Vegetables e.g. pepper, melons, lettuce, okro, cabbage, carrots and others of the same kind, whether fresh, dried or ground.</p> <p>Water i.e. natural water and table water i.e. spring water, rain water, pipe borne water, well water and all-natural water</p>	<p>Nuts e.g. groundnut, walnut, cashew nut, hazelnut, kolanut, tigernuts, coconut and others of the same kind, if raw and unprocessed for human consumption. Also roasted, fried, boiled, salted or in their shells.</p> <p>Pulses e.g. beans, lentils, peas, chickpeas, tamarind and others of the same kind, if raw and unprocessed for human consumption. Also roasted, fried, boiled, salted or in their shells</p> <p>Roots e.g. yam, cocoyam, sweet & Irish potatoes, water-yam, cassava and others of the same kind. In raw and unprocessed form. Also, in form of flakes or flour for human consumption</p> <p>Salt for culinary use only including fine salt and in retail packs but excluding industrial salt</p> <p>Vegetables e.g. pepper, melons, lettuce, okro, cabbage, carrots and others of the same kind, whether fresh, dried or ground.</p> <p>Water i.e. natural water and table water i.e. spring water, rain water, pipe borne water, well water and all-natural water</p>	
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	<p>First Schedule (VAT) 48. The First Schedule of the VAT Act is hereby amended by:</p> <p>(a) Inserting the following items under Part I of the First Schedule to the VAT Act:</p> <p>"Locally manufactured sanitary towels, pads or tampons."</p> <p>(b) Repealing 'Services rendered by Community Banks, People's Banks and Mortgage Institutions' and replacing it with 'Services rendered by Microfinance Banks, People's Banks and Mortgage Institutions'</p> <p>(c) Inserting immediately after item 4 under Part II of First Schedule to the VAT Act, a new item (5) as follows:</p> <p>(5) Tuition relating to nursery, primary, secondary and tertiary education</p>	<p>First Schedule (VAT) 48. The First Schedule of the VAT Act is hereby amended by:</p> <p>(a) Inserting the following items under Part I of the First Schedule to the VAT Act:</p> <p>"Locally manufactured sanitary towels, pads or tampons."</p> <p>(b) Repealing 'Services rendered by Community Banks, People's Banks and Mortgage Institutions' and replacing it with 'Services rendered by Microfinance Banks, People's Banks and Mortgage Institutions'</p> <p>(c) Inserting immediately after item 4 under Part II of First Schedule to the VAT Act, a new item (5) as follows:</p> <p>(5) Tuition relating to nursery, primary, secondary and tertiary education</p>	<p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p> <p>SUSTAINED</p>
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