FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT, 2007

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FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) ACT, 2007

2007 ACT No. 13

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL INLAND REVENUE SERVICE CHARGED WITH POWERS OF ASSESSMENT, COLLECTION OF, AND ACCOUNTING FOR REVENUES ACCRUABLE TO THE GOVERNMENT OF THE FEDERATION; AND FOR RELATED MATTERS

[16th *Day of April*, 2007] Commencement.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—ESTABLISHMENT OF THE FEDERAL INLAND REVENUE SERVICE AND ITS MANAGEMENT BOARD, ETC.

Establishment of the Federal Inland Revenue Service.

1.—(1) There is established a body to be known as the Federal Inland Revenue Service (in this Act referred to as "*the Service*").

(2) The Service—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) may sue or be sued in its corporate name; and

(*c*) may acquire, hold or dispose of any property, movable or immovable, for the purpose of carrying out any of its functions under this Act.

(3) The Service shall have such powers and duties as are conferred on it by this Act or by any other enactment or law on such matters on which the National Assembly has power to make law.

Objects of the Service. First Schedule.

2. The object of the Service shall be to control and administer the different taxes and laws specified in the First Schedule or other laws made or to be made, from time to time, by the National Assembly or other regulations made thereunder by the Government of the Federation and to account for all taxes collected.

Establishment and Composition of the Management Board.

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

(2) The Board shall consist of—

(*a*) the Executive Chairman of the Service who shall be experienced in taxation as Chairman of the Service to be appointed by the President and subject to the confirmation of the Senate;

(*b*) six members with relevant qualifications and expertise who shall be appointed by the President to represent each of the six geo-political zones;

(*c*) a representative of the Attorney-General of the Federation;

(*d*) the Governor of the Central Bank of Nigeria or his representative;

(*e*) a representative of the Minister of Finance not below the rank of a Director;

(*f*) the Chairman of the Revenue Mobilization, Allocation and Fiscal Commission or his representative who shall be any of the Commissioners representing the 36 States of the Federation;

(*g*) the Group Managing Director of the Nigerian National Petroleum Corporation or his representative who shall not be below the rank of a Group Executive Director of the Corporation or its equivalent;

(*h*) the Comptroller-General of the Nigeria Custom Service or his representative not below the rank of Deputy Comptroller-General;

(*i*) the Registrar-General of the Corporate Affairs Commission or his representative not below the rank of a Director; and

(*j*) the Chief Executive Officer of the National Planning Commission or his representative not below the rank of a Director.

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

Second Schedule.

(4) The supplementary provisions set out in the Second Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

Tenure of Office.

4. The Chairman and other members of the Board, other than ex-officio members, shall each hold office—

(*a*) for a term of four years renewable once only;

(*b*) on such terms and conditions as may be specified in the letter of appointment.

Cessation of Membership.

5. Notwithstanding the provisions of section 4 of this Act, a member of the Board shall cease to hold office as a member of the Board if—

(*a*) he resigns his appointment as a member of the Board by notice, under his hand, addressed to the President;

(*b*) he becomes of unsound mind;

(*c*) he becomes bankrupt or makes a compromise with his creditors;

(*d*) he is convicted of a felony or of any offence involving dishonesty or corruption;

(*e*) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body;

(*f*) the President is satisfied that it is not in the interest of the Service or in the interest of the public for the person to continue in office and the President removes him from office;

Cap. C 15 LFN 2004.

(*g*) he has been found guilty of contravening the Code of Conduct Bureau and Tribunal Act; or gross misconduct in relation to his duties;

(*h*) in the case of a person possessing a professional qualification, he is disqualified by a competent authority; or

(*i*) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold such office.

Emoluments, etc. of members.

6. The Chairman and members of the Board shall be paid such emoluments, allowances and benefits as may be approved by the National Wages, Incomes and Salaries Commission.

Powers of the Board.

7. PART II—POWERS AND FUNCTIONS OF THE BOARD AND THE SERVICE

(1) The Board shall—

(*a*) provide the general policy guidelines relating to the functions of the Service ;

(*b*) manage and superintend the policies of the Service on matters relating to the administration of the revenue assessment, collection and accounting system under this Act or any enactment or law ;

(*c*) review and approve the strategic plans of the Service ;

(*d*) employ and determine the terms and conditions of service including disciplinary measures of the employees of the Service ;

(*e*) stipulate remuneration, allowances, benefits and pensions of staff and employees in consultation with the National Salaries, Income and Wages Commission ; and

(*f*) do such other things which in its opinion are necessary to ensure the efficient performance of the functions of the Service under this Act.

Functions of the Service.

8.—(1) The service shall—

(*a*) assess persons including companies, enterprises chargeable with tax ;

(*b*) assess, collect, account and enforce payment of taxes as may be due to the Government or any of its agencies ;

(*c*) collect, recover and pay to the designated account any tax under any provision of this Act or any other enactment or law;

(*d*) in collaboration with the relevant ministries and agencies, review the tax regimes and promote the application of tax revenues to stimulate economic activities and development ;

(*e*) in collaboration with the relevant law enforcement agencies, carry out the examination and investigation with a view to enforcing compliance with the provisions of this Act ;

(*f*) make, from time to-time, a determination of the extent of financial loss and such other losses by government arising from tax fraud or evasion and such other losses (or revenue forgone) arising from tax waivers and other related matters ;

(g) adopt measures to identify, trace, freeze, confiscate or seize proceeds derived from tax fraud or evasion ;

(*h*) adopt measures which include compliance and regulatory actions, introduction and maintenance of investigative and control techniques on the detection and prevention of non-compliance ;

(*i*) collaborate and facilitate rapid exchange of information with relevant national or international agencies or bodies on tax matters ;

(*j*) undertake exchange of personnel or other experts with complementary agencies for purposes of comparative experience and capacity building ;

(*k*) establish and maintain a system for monitoring international dynamics of taxation in order to identify suspicious transactions and the perpetrators and other persons involved ;

(*l*) provide and maintain access to up to date and adequate data and information on all taxable persons, individuals, corporate bodies or all agencies of government involved in the collection of revenue for the purpose of efficient, effective and correct tax administration and to prevent tax evasion or fraud ;

(*m*) maintain database, statistics, records and reports on persons, organizations, proceeds, properties, documents or other items or assets relating to tax administration including matters relating to waivers, fraud or evasion ;

(*n*) undertake and support research on similar measures with a view to stimulating economic development and determine the manifestation, extent, magnitude and effects of tax fraud, evasion and other matters that affect effective tax administration and make recommendations to the government on appropriate intervention and preventive measures ;

(*o*) collate and continually review all policies of the Federal Government relating to taxation and revenue generation and undertake a systematic and progressive implementation of such policies ;

(*p*) liaise with the office of the Attorney-General of the Federation, all government security and law enforcement agencies and such other financial supervisory institutions in the enforcement and eradication of tax related offences ;

(*q*) issue taxpayer identification number to every taxable person in Nigeria in collaboration with States Boards of Internal Revenue and Local Government Councils ;

(*r*) carry out and sustain rigorous public awareness and enlightenment campaign on the benefits of tax compliance within and outside Nigeria ;

(*s*) carry out oversight functions over all taxes and levies accruable to the Government of the federation and as it may be required, query, subpoena, sanction and reward any activities pertaining to the assessment, collection of and accounting for revenues accruable to the Federation ; and

(*t*) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions under this Act.

(2) The Service may, from time to time, specify the form of returns, claims statements and notices necessary for the due administration of the powers conferred on it by this Act.

Establishment of Technical Committee of the Board.

9.—(1) There shall be a Technical Committee of the Board (in this Act referred to as "the Technical Committee") which shall consist of—

(*a*) the Executive Chairman of the Service as Chairman ;

(*b*) all the Directors and heads of departments of the Service ;

(*c*) the Legal Adviser of the Service ; and

(*d*) the Secretary to the Board.

(2) The Technical Committee may co-opt from the Service such staff as it may deem necessary for the effective performance of its functions under this Act.

Functions of the Technical Committee.

10. The Technical Committee shall—

(*a*) consider all tax matters that require professional and technical expertise and make recommendations to the Board ;

(*b*) advise the Board on any aspect of the functions and powers of the Service under this Act ; and

(*c*) attend to such other matters as may from time to time be referred to it by the Board.

PART III—MANAGEMENT AND STAFF OF THE SERVICE

Executive Chairman of the Service.

11. The Executive Chairman shall—

(*a*) be appointed by the President subject to the confirmation of the Senate ;

(*b*) be the chief executive and accounting officer of the Service ;

(*c*) be responsible for the execution of the policy and the day-to-day administration of the affairs of the Service ; and

(*d*) have cognate experience and skills in accountancy, economics, taxation, law and related fields.

Appointment of Secretary to the Board and other Staff of the Service.

12.—(1) There shall be a Secretary for the Board who shall—

(*a*) be appointed by the Board from within the Service ;

(*b*) issue notices of meetings of the Board ;

(*c*) keep records of the proceedings of the Board ; and

(*d*) carry out such duties as the Executive Chairman or the Board may, from time to time, direct.

(2) Subject to the provisions of this section, the Board may appoint such other persons to be employees of the Service and on such terms and conditions as may be prescribed by the Board.

(3) If the Board thinks it expedient that any vacancy in the Service should be filled by a person holding office in the Civil Service of the Federation or of a State it shall notify the appropriate Civil Service to that effect and thereafter the Board may by arrangement with the Civil Service Commission concerned, cause such vacancy to be filled by way of secondment or transfer.

(4) The Service may appoint and employ such consultants, including Tax consultants or accountants and agents to transact any business or to do any act required to be transacted or done in the execution of its functions under this Act :

Provided that such consultants shall not carry out duties of assessing and collecting tax or routine responsibilities of tax officials.

Pensions Cap. P4 LFN 2004.

13. Employment in the Service shall be subject to the provisions of the Pension Reform Act and officers and employees of the Service shall be entitled to pensions and other retirement benefits as prescribed under the Pension Reform Act.

Staff Regulations.

14.—(1) Subject to the provisions of this Act, the Board may make regulations relating generally to the conditions of service of the staff and, in particular, such regulations may provide for—

(*a*) the appointment, promotion, termination, dismissal and discipline of staff or employees of the Service ; and

(*b*) appeals by staff or employees against dismissal or other disciplinary measures, and until such regulations are made, any instrument relating to conditions of service in the public service of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Service.

(2) The staff regulations made under subsection (1) of this section shall be published by the Board and issued to its staff in such manner as the Service may from time to time determine pending the publication in the Federal *Gazette*.

PART IV—FINANCIAL PROVISIONS

Funds of the Service.

15. The Service shall establish and maintain a fund which shall consist of and to which shall be credited—

(*a*) a percentage as determined by the National Assembly of all non-oil and gas revenue collected by the Service which may be appropriated by the National Assembly for the capital and recurrent expenditures of the Service ;

(*b*) all sums of money accruing to the Service by way of grants-in-aid and gifts, testamentary dispositions, endowments and contributions from any source ;

(*c*) such monies as may from time to time be granted to the Service by the Federal, State or Local Governments or other donor agencies provided such grants are not intended for purposes contrary to the objects and functions of the Service; and

(*d*) all other monies which may, from time to time, accrue to the Service for other services including the disposal, lease or hire of, or any other dealing with, any property vested in or acquired by the Service.

Expenditure of the Service.

16. The Service shall defray from the Fund established pursuant to section 15 of this Act all the amounts payable under or in pursuance of this Act being sums representing—

(*a*) emoluments and allowances payable to the Executive Chairman and other members of the Board ;

(*b*) reimbursements to members of the Board or any committee set up by the Board for such expenses as may be expressly authorized by the Service ;

(*c*) remunerations and other costs of employment of the staff of the Service ;

(*d*) amounts payable as pensions and other retirement benefits under or pursuant to this Act or any other enactment ;

(*e*) costs of acquisition and upkeep of premises belonging to the Service and any other capital expenditure of the Service ;

(*f*) investments, maintenance of utilities, staff promotion, training, research and similar activities ;

(g) costs necessary for the day-to-day operations of the Service ;

(*h*) all sums of money accruing to the Service by way of grants-in-aids, gifts, testamentary dispositions, endowments and contributions from any other source ; and

(*i*) any other payment for anything incidental to the foregoing provisions or in connection with or incidental to any other function of the Service under or pursuant to this Act.

Estimates.

17. The Service shall cause to be prepared, not later than the 30th day of September in each year, an estimate of its income and expenditure for the succeeding year for the purpose of appropriation by the National Assembly.

Accounts and Audit.

18. The Service shall keep proper accounts and records, and such account shall not later than six months after the end of each year, be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the Auditor-General for the federation.

Annual Report, etc.

19.—(1) The Service shall not later than 30th September in each year, submit to the Minister, a report of its activities during the immediately preceding year and shall include in such report the audited accounts of the Service.

(2) The Minister shall within 30 days of receipt of the report—

(*a*) present a copy of the report to the Federal Executive Council ; and,

(*b*) present a copy of the report to the National Assembly.

Power to accept gifts.

20.—(1) The Service may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.

(2) The Service shall not accept any gift if the conditions attached thereto are inconsistent with any law for the time being in force.

Power to Borrow.

21. The Service may with the approval of the Minister, borrow by way of loan, overdraft or otherwise from any source such sums as it may require for the performance of its function and meeting of its obligations under this Act.

Accountability.

22.—(1) The Executive Chairman of the Service, shall—

(*a*) keep proper accounting records, in a manner as may be determined, from time to time, by the Board in respect of—

(*i*) all revenues and expenditure of the Service ;

(*ii*) all its assets, liabilities and other financial transactions ; and

(*iii*) all other revenues collected by the Service, including income on investments.

(*b*) prepare an annual report, including financial statements, in accordance with generally accepted accounting principles and practices ; and

(*c*) ensure that the available accounting resources of the Service are adequate and used economically in the most effective and efficient manner, and the accounting and other financial records are properly safeguarded.

Refund to Tax Payers.

23.—(1) There shall be refunded to taxpayers, after proper auditing by the Service, such over-payment of tax as is due.

(2) The Service shall decide on who is eligible for the refund mentioned in subsection (1) of this section subject to such rules and conditions as may be approved by the Board.

(3) Any tax refund shall be made within 90 days of the decision of the Service made pursuant to subsection (2) of this section, with the option of setting off against future tax by the tax payer.

(4) For the purpose of tax refund, the Accountant-General of the Federation shall open a dedicated account into which shall be paid monies for settling such refunds.

(5) The Service shall administer the dedicated account as created by virtue of section 23 (4).

(6) For the purpose of the dedicated account, the Service shall prepare an annual budget for tax refund to be funded from the Federation Account as may be approved by the National Assembly.

Power of Accountant-General to deduct from source.

24. The Accountant-General of the Federation shall have power to deduct at source, from the budgetary allocation, un-remitted taxes due from any ministry or government agency and shall not later than 30 days thereafter transfer such deductions to the Service.

PART V—TAX ADMINISTRATION AND ENFORCEMENT

Administration of Tax Laws. First Schedule.

25.—(1) The Service shall have power to administer all the enactments listed in the First Schedule to this Act and any other enactment or law on taxation in respect of which the National Assembly may confer power on the Service.

(2) The Service may, with the approval of the Minister by Instrument published in the Federal *Gazette*, appoint any government agency to collect revenue pursuant to the powers of the Service under subsection (1) of this section.

Call for returns, books, documents and information.

26.—(1) For the purpose of obtaining full information in respect of the profits or income of any person, body corporate or organization, the Service may give notice to that person, body corporate or organization requiring him or it within the time specified by the notice to—

(*a*) complete and deliver to the Service any return specified in such notice ;

(*b*) appear personally before an officer of the Service for examination with respect to any matter relating to such profits or income ;

(*c*) produce or cause to be produced for examination books, documents and any other information at the place and time stated in the notice, which time may be from day-to-day, for such period as the Service may deem necessary ; or

(*d*) give orally or in writing any other information including a name and address specified in such notice.

(2) for the purpose of paragraph (*a*) to (*d*) of subsection (1) of this section, the time specified by such notice shall not be less than 7 days from the date of service of such notice except that an officer of the Service, not below the rank of a Chief Inspector

of Taxes or its equivalent, may act in any of the cases stipulated in paragraphs (*a*) to (*d*) of subsection (1), without giving any of the required notices set out in this section.

(3) A person who contravenes the provisions of this section is, in respect of each offence, liable on conviction to a fine equivalent to 100 per cent of the amount of the tax liability.

(4) Nothing in the foregoing provision of this section or in any other provision of this Act shall be construed as precluding the Service from verifying by tax audit or investigation into any matter relating to any return or entry in any book, document, accounts including those stored on a computer, in digital, magnetic, optical or electronic media as may, from time to time, be specified in any guideline by the Service.

(5) A person may apply in writing to the Board for an extension of time within which to comply with the provisions of this section and section 27 of this Act, provided that the person—

(*a*) makes the application before the expiration of the time stipulated in this section for making the returns ; and

(*b*) shows good cause for his inability to comply with this provision.

(6) If the Board is satisfied with the cause shown in the application under paragraph (*b*) of subsection (5), it may in writing grant the extension of the time or limit the time as it may consider appropriate.

Call for further returns and payment of tax due.

27.—(1) The Service may give notice in writing to any person it considers necessary requiring such person to deliver within a reasonable time specified in such notice, fuller or further returns in respect of any matter relating to the functions of the Service under this Act.

(2) Where a tax is not paid, when it falls due under any enactment, by any person from whom it is due, whether or not the payment of that tax has been secured by a bond or otherwise, it shall be paid on demand made by the Service either on that person personally or by delivering the demand in writing to his place of abode or business, and if it is not paid on demand, the person in default shall, in addition to the 100 per cent of tax due and payable, also be liable to a penalty equal to the amount of tax due and payable.

Information to be delivered by bankers.

28.—(1) Without prejudice to section 26 of this Act, every bank shall prepare upon demand by the Service, quarterly returns specifying —

(*a*) in the case of an individual, all transactions involving the sum of ₦5,000,000.00 and above ; or

(*b*) in the case of a body corporate, all transactions involving the sum of ₦10,000,000.00 and above, the names and addresses of all customers of the bank connected with the transaction and deliver the returns to the Service ;

(*c*) the names and addresses of new customers of the bank and shall not later than the seventh day of the succeeding month deliver the returns to the Service.

(2) Subject to subsection (1) of this section, for the purpose of obtaining information relative to taxation, the Service may give notice to any person including

a person engaged in banking business in Nigeria to provide within the time stipulated in the notice, information including the name and address of any person specified in the notice :

Provided that a person engaged in banking business in Nigeria, shall not be required to disclose any additional information about his customer or his bank under this section unless such additional disclosure is required by a notice signed by the Executive Chairman of the Service on the advice of the Technical Committee of the Board.

(3) Any bank that contravenes the provisions of this section commits an offence and shall, on conviction be liable to a fine not exceeding ₦500,000.00 on corporate customers and not exceeding ₦50,000.00 in the case of individual customer.

Power to access lands, buildings, books and documents.

29.—(1) Notwithstanding anything to the contrary in any other enactment or law, an authorized officer of the Service shall at all reasonable times have free access to all lands, buildings, places, books and documents, in the custody or under the control of a public officer, institution or any other person, for the purpose of inspecting the books or documents including those stored or maintained in computers or on digital, magnetic, optical or electronic media, and any property, process or matter which the officer considers necessary or relevant for the purpose of collecting any tax under any of the relevant enactment or law or for the purpose of carrying out any other function lawfully conferred on the Service or considered likely to provide any information required for the purposes of any of those enactments or any of those functions and may, without fee or reward, make extract from, or copies of, such books or documents.

(2) Where the hard copies of any of the books or documents mentioned in subsection (1) of this section are not immediately available because they are stored in a computer or on digital, magnetic, optical or electronic media, the Service shall take immediate possession of such removable media and the related removable equipment or computer used to access the store documents on the media in order to prevent the accidental or intentional destruction, removal or alteration of records and documents, especially where such could be needed as potential evidence in the investigation or criminal proceedings.

(3) Where the Service is able to obtain in place of taking physical possession of such equipment, computer or storage media under subsection of this section, and the Service possesses the ability equipment and computer software to make exact duplicate copies of all information stored on the computer hard drive and preserve all the information exactly as it is on the original computer, the Service shall make such copy and use it as digital evidence during the investigation or criminal proceedings.

(4) The occupier of a land, building or place that is entered or proposed to be entered by an authorized officer, shall—

(*a*) provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section ; and

(*b*) answer questions relating to the effective exercise of the powers under this section, orally, or if required by the officer, in writing, or by statutory declaration.

(5) Notwithstanding subsection (1) of this section, the authorized officer shall not enter any private dwelling except with the consent of an occupier or pursuant to an authorization issued under subsection (7) of this section.

(6) A judicial officer upon an application by an officer of the Service may authorize the officer by warrant to enter into any premises.

(7) Every authorization issued under subsection (7) of this section shall—

(*a*) be in the form prescribed in the Third Schedule this Act ;

(*b*) be directed to a named officer of the Service ;

(*c*) be valid for a period of 3 months from the date of its issue or such lesser period as the judicial officer considers appropriate ;

(*d*) state its period of validity, or the date on which it expires ; and

(*e*) notwithstanding paragraphs (*c*) and (*d*) of this subsection, be renewable by the judicial officer on application.

(8) An officer exercising the power of entry conferred by an authorization issued under subsection (6) of this section shall produce the written authorization and evidence of identity—

(*a*) on first entering the private dwelling ; and

(*b*) whenever subsequently reasonably required to do so.

Power to remove books and documents.

30.—(1) An officer of the Service authorized by the Executive Chairman, may remove books or documents accessed under section 29 of this Act to make copies.

(2) Any copy of the books or documents removed shall be made and the books or documents returned as soon as practicable.

(3) A copy of a book or document or digital evidence certified by or on behalf of the Executive Chairman is admissible in evidence in court as if it were the original.

(4) The owner of a book or document that is removed under this section is entitled to inspect and obtain a copy of the book or document, at the owner's own expense, at the premises to which the book or document is moved to—

(*a*) at the time the book or document is moved to the premises ; and

(*b*) at reasonable times subsequently.

Power of substitution.

31.—(1) The Service may by notice in writing appoint any person to be the agent of a taxable person if the circumstances provided in sub-section (2) of this section makes it expedient to do so.

(2) The agent appointed under sub-section (1) of this section may be required to pay any tax payable by the taxable person from any money which may be held by the agent of the taxable person.

(3) Where the agent referred to in subsection (2) of this section defaults, the tax shall be recoverable from him.

(4) For the purposes of this section, the Service may require any person to give information as to any money, fund or other assets which may be held by him for, or of any money due from him to, any person.

(5) The provisions of this Act with respect to objections and appeals shall apply to any notice given under this section as if such notice were an assessment.

Addition for non-payment of tax and enforcement of payment.

32.—(1) Subject to subsection (3) of this section, if any tax is not paid within the periods prescribed—

(*a*) a sum equal to 10 per cent of the amount of the tax payable shall be added thereto, and the provisions of the Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum ;

(*b*) in the case of Naira remittances, the tax due shall carry interest at the prevailing minimum rediscount rate of the Central Bank of Nigeria plus spread to be determined by the Minister from the date when the tax becomes payable until it is paid, and the provisions of the Act relating to collection and recovery of tax shall apply to the collection and recovery of the interest ;

(*c*) in the case of foreign currency remittance, the tax due shall incure interest at the prevailing London Inter Bank Offered Rate or the prevailing minimum rediscount rate of the Central Bank of Nigeria whichever is higher, plus spread to be determined by the Minister from the date when the tax becomes payable until it is paid, and the provisions of the Act relating to collection and recovery of tax shall apply to the collection and recovery of the interest ;

(*d*) the Service shall serve a demand notice upon the company or person in whose name a tax is chargeable and if payment is not made within one month from the date of the service of such demand notice, the Service may proceed to enforce payment under this Act ; and

(*e*) an addition imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Act.

(2) Any person who without lawful justification or excuse fails to pay a tax within the period of one month prescribed in subsection (1) (*d*) of this section, commits an offence under this Act.

(3) The Board may, for any good cause shown, remit the whole or any part of the addition due under subsection (l) of this section.

Power to distrain. First Schedule.

33.—(1) Without prejudice to any other power conferred on the Board for the enforcement of payment of tax due from a company, where an assessment has become final and conclusive and a demand notice has, in accordance with the provisions of the relevant tax laws tax in the First Schedule to this Act, been served upon the taxable person or upon the person in whose name the taxable person is chargeable, then, if payment of the tax is not made within the time limited by the demand notice, the Board may in the prescribed form, for the purpose of enforcing payment of the tax due—

(*a*) distrain the taxpayer by his goods or other chattels, bonds or other securities ;

(*b*) distrain upon any land, premises, or place in respect of which the taxpayer is the owner and, subject to the following provisions of this section, recover the amount of tax due by sale of anything so distrained.

(2) The authority to distrain under this section shall be in the form contained in the Fourth Schedule to this Act and such authority shall be sufficient warrant and authority to levy by distraint the amount of any tax due. Fourth Schedule.

(3) For the purpose of levying any distraint under this section, any officer duly authorized by the Board may execute any warrant of distraint and if necessary break open any building or place in the day time for the purpose of levying such distraint, and he may call to his assistance any police officer and the police officer shall, when so required aid and assist in the execution of any warrant of distraint and in levying the distraint.

(4) Things distrained under this section may, at the cost of the taxpayer, be kept for 14 days and at the end of that time if the amount due in respect of the tax, cost and charges of any incidental to the distraint are not paid, they may, subject to subsection (6) of this section, be sold at any time thereafter.

(5) Out of the proceeds of such sale, there shall, in the first place, be paid the cost or charges of any incidental to the (sale and keeping of the) distraint, and disposal thereunder and in the next place the amount due in respect of the tax, and the balance (if any) shall be payable to the taxpayer upon demand being made by him or on his behalf within one year of the date of sale.

(6) Nothing in this section shall be construed so as to authorize the sale of any immovable property without an order of a High Court, made on application in such form as may be prescribed by the rules of court.

(7) In exercise of the powers of distraint conferred by this section, the person to whom the authority is granted under subsection (3) of this section may distrain upon all goods, chattels and effects belonging to the debtor wherever the same may be found in Nigeria.

34.—(1) Without prejudice to any other provision of this Act or any other law listed in the First Schedule to this Act, any amount due by way of tax shall constitute a debt due to the Service and may be recovered by a civil action brought by the Service. Recovery of tax.

(2) Where any tax has been under assessed or erroneously repaid, the person who should have paid the amount under-assessed or to whom the repayment has erroneously been made shall on demand by the proper officer, pay the amount under-assessed or erroneously repaid, as the case may be, and any such amount may be recovered as if it were tax to which a person to whom the amount was so under assessed or erroneously repaid were liable :

Provided that the appropriate officer shall not make any such demand after 5 years from the date of such under-assessment or erroneous repayment unless such under-assessment or erroneous repayment was caused by the production of a document or the making of a statement which was untrue in any material particular.

Tax Investigation.

35.—(1) The Service shall employ Special Purpose Tax Officers to assist any relevant law enforcement agency in the investigation of any offence under this Act.

(2) Notwithstanding any thing to the contrary in any other enactment or law, the Service shall have the power to investigate or cause investigation to be conducted to ascertain any violation of any tax law whether or not such violation has been reported to the Service.

(3) In conducting any investigation under subsection (2) of this section, the Service may cause investigation to be conducted into the properties of any taxable person if it appears to the Service that the lifestyle of the person and extent of the properties are not justified by his source of income.

(4) Where any investigation under this section reveals the commission of any offence or an attempt to commit any offence, the Service shall, pursuant to section 48 of this Act, undertake the prosecution of the offences.

Enforcement of powers.

36.–(1) The Service may co-opt the assistance and co-operation of any of the law enforcement agencies in the discharge of its duties under this Act.

(2) The law enforcement officers shall aid and assist an authorized officer in the execution of any warrant of distraint and the levying of distraint.

(3) Any tax officer armed with the warrant issued by a Judicial officer and accompanied by a number of law enforcement officers as may be determined by the Executive Chairman shall—

(*a*) enter any premises covered by such warrant and search for seize and take possession of any book, document or other article used or suspected to have been used in the commission of an offence ;

(*b*) inspect, make copies of, or take extracts including digital copies from any book, record, document or computer, regardless of the medium used for their storage or maintenance ;

(*c*) search any person who is in or on such premises ;

(*d*) open, examine and search any article, container or receptacle ;

(*e*) open any outer or inner door or window of any premises and enter or otherwise forcibly enter the premises and every part thereof ; or

(*f*) remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect.

(4) No person shall be bodily searched under this section except by a person who is of the same gender as the person to be bodily searched.

Power to pay reward.

37.—(1) The Service may, with the approval of the Board, pay any reward to any person, not being a person employed in the Service, in respect of any information that may be of assistance to the Service in the performance of its duties under this Act upon meeting such conditions as may be determined by the Board and the quantum of such reward shall also be at the discretion of the Board.

(2) The identity of the person who gave information to the Service shall be kept confidential and any current or former member of the Service or Board that discloses the identity of such person shall be dealt with in accordance with the provisions of section 39 of this Act with regard to confidential information.

Immunity from action, etc. Cap. p. 41 LFN 2004.

38. An officer of the Service shall be entitled to protection under the Public Officers Protection Act.

Information and documents to be confidential. First Schedule.

39.—(1) Without prejudice to the provisions of any other Act concerning official secrets, all information and documents supplied or produced in pursuance of any requirement of this Act or the laws listed in the First Schedule to this Act shall be treated as confidential.

(2) Except as otherwise provided under this Act or as otherwise authorized by the Minister, any member or former member of the Board or any employee or former employee of the Service or Ministry who commmnicates or attempts to communicate any confidential information or the content of any such document to any person, commits an offence and shall be liable on conviction to a fine not exceeding ₦200,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

PART VI—OFFENCES AND PENALTIES

Failure to deduct or remit tax. First Schedule.

40. Any person who being obliged to deduct any tax under this Act or the laws listed in the First Schedule to this Act, but fails to deduct, or having deducted, fails to pay to the Service within 30 days from the date the amount was deducted or the time the duty to deduct arose, commits an offence and shall, upon conviction, be liable to pay the tax withheld or not remitted in addition to a penalty of 10 per cent of the tax withheld or not remitted per annum and interest at the prevailing Central Bank of Nigeria minimum re-discount rate and imprisonment for period of not more than three years.

Obstruction, etc.

41. Any person who—

(*a*) obstructs, hinders, molests or assaults any person or authorized officer in the performance of any function or the exercise of any power under this Act;

(*b*) does anything which impedes or is intended to impede the carrying out of any search, seizure, removal or distraint;

(*c*) rescues, damages or destroys anything so liable to seizure, removal or distress or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is liable to seizure, removal or distraint;

(*d*) prevents the arrest of any person by a person duly engaged or acting or rescues any person so arrested, commits an offence and shall be liable on conviction to a fine not exceeding ₦200,000.00 or imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

False declaration.

42.—(1) If any person—

(*a*) makes or signs, or causes to be made or signed, delivers or causes to be delivered to the Service or any officer of the Service, any declaration, notice, certificate or other document ; or

(*b*) makes any statement in answer to any question or enquiry put to him by an officer which he is required to answer by or under this Act or any other enactment or law, being a document or statement produced or made for any purpose of tax, which is untrue in any material particular, commits an offence under this section.

(2) Where by reason of any such document or statement required to be produced under subsection (1) of this section the full amount of any tax payable is not paid or any overpayment is made in respect of any repayment of tax, the amount of tax unpaid or the overpayment shall be recoverable as a debt due to the Service.

(3) Person who commits an offence under this section shall be liable on conviction to a fine not exceeding ₦200,000.00 in addition to payment of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

Counterfeiting documents, etc. First Schedule.

43. Any person who—

(*a*) counterfeits or falsifies any document which is required by or for the transaction of any business under this Act or any law listed in the First Schedule to this Act ;

(*b*) knowingly accepts, receives or uses any document so counterfeited or falsified ;

(*c*) alters any such document after it is officially issued ;

(*d*) counterfeits any seal, signature, initial or other mark of, or used by, any officer for the verification of such a purpose relating to tax ; or

(*e*) being an employee of the Service conspires, connives or participates in the commission of any of the offences in paragraphs (*a*) to (*d*) of this section,

commits an offence and shall be liable on conviction to a fine not exceeding ₦200,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

Penalities for offences by authorised and unauthorised persons.

44. Any person who is appointed for the due administration of this Act or employed in connection with the assessment and collection of a tax who—

(*a*) demands from any company an amount in excess of the authorized assessment of the tax ;

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

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

(*d*) defrauds any person, embezzles any money or otherwise uses his position to deal wrongfully with the Service ;

(*e*) steals or misuses the documents of the Service ; or

(*f*) compromises on the assessment or collection of any tax,

commits an offence and shall be liable on conviction to a fine equivalent to 200 per cent of the sum in question or to imprisonment for a term of not exceeding 3 years or to both fine and imprisonment.

Penalty where offenders are armed.

45.—(1) Any person who, in the commission of an offence under this Act, is armed with any offensive weapon commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years.

(2) A person who, while armed with an offensive weapon, causes injury to any officer or authorized officer of the Service in the performance of any function or duty under this Act, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 10 years.

Unlawful assumption of character of an authorised officer.

46. If, for the purpose of obtaining admission to any building or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person, not being an authorized officer, assumes the name, designation or impersonates the character of an authorized officer, commits an offence and shall be liable on conviction to a fine not exceeding ₦200,000.00 or to imprisonment for a term not exceeding 3 years.

Prosecution.

47. The Service shall have powers to employ its own legal officers who shall have powers to prosecute any of the offences under this Act subject to the powers of the Attorney-General of the Federation.

Power to compound offences.

48.—(1) The Service may compound any offence under this Act by accepting a sum of money not exceeding the maximum fine specified for the offence.

(2) The Service shall issue an official receipt for any money received under subsection (1) of this section.

General penalty.

49.—(1) Any person who contravenes any provisions of this Act for which no specific penalty was provided, commits an offence and shall be liable on conviction to a fine not exceeding ₦50,000.00 or imprisonment for a term of imprisonment not exceeding six months or to both fine and imprisonment.

(2) Where an offence under this Act is committed by a body corporate or firm or other association of individuals—

(*a*) every director, manager, secretary or other similar officer of the body corporate ;

(*b*) every partner or officer of the firm ;

(*c*) every person concerned in the management of the affairs of the association ; or

(*d*) every person who was purporting to act in any capacity, commits an offence and shall be liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

PART VII—GENERAL PROVISIONS

Official secrecy and confidentiality.

50.—(1) Every person in an official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment list and copies of such list relating to the profits or items of profits of any company, as secret and confidential.

(2) A person in possession of or control, of any document, information, return of assessment list or copy of such list relating to the income or profits or losses of any person, who at any time communicates or attempts to communicate such information or anything contained in such document, return, list or copy to any person—

(*a*) other than a person to whom he is authorized by the Service to communicate it;

(*b*) otherwise than for the purpose of this Act or of any enactment in Nigeria imposing tax on the income of persons, commits an offence under this Act.

(3) A person appointed or employed under this Act shall not be required to produce any return, document or assessment or to divulge or communicate any information that comes into his possession in the performance of his duties except as may be necessary in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to any tax in Nigeria.

(4) Where under any law in force in respect of any double taxation treaty with any country, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorized officers of the Government in that country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from the tax in Nigeria or from income tax in that country.

(5) Where any agreement or arrangement with any other country with respect to relief for double taxation of income or profits includes provisions for the exchange of information with that country for the purpose of implementing that relief or preventing avoidance of tax, the obligation as to secrecy imposed by this section shall not prevent the disclosure of such information to the authorized officers of the Government of such country.

Board to be subject to general direction of the Minister.

51.—(1) In the exercise of the powers and duties conferred upon the Board by this Act, the Board shall be subject to the general direction of the Minister and any written direction, order or instruction given by him after consultation with the Executive Chairman shall be carried out by the Board:

Provided that the Minister shall not give any directive, order or instruction in respect of any particular person which would have the effect of requiring the Board to increase or decrease any assessment of tax made or to be made or any relief given or to be given or to defer the collection of any tax or judgment debt due, or which would have the effect of initiating, forbidding the initiation of withdrawing or altering the normal course of any proceeding whether civil or criminal, relating either to the recovery of any tax or to any offence under any of the laws listed in the First Schedule.

First Schedule.

(2) In any proceeding whether civil or criminal under this Act or any of the laws listed in the First Schedule, any act, matter or thing done by the Service or the Board in pursuance of the said laws shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any directive, order or instruction given by the Minister. First Schedule.

52.—(1) Any power conferred and any duty imposed upon the Board may be exercised or performed by the Board or by an officer authorized generally or specifically in that behalf by the Board. Delegation of power of the Board.

(2) Notwithstanding the provisions of subsection (1) of this section, the Board may, at any time and at its discretion, reverse or otherwise modify any decision of any officer affecting any tax or taxable income, whether or not the discretion to make the decision was conferred on the officer by any law specified in the First Schedule or whether or not the officer was authorized by the Service to make the decision, and the reversal or modification of the decision by the Board shall have effect as if it were the original decision made in respect of the matter concerned. First Schedule.

(3) An order, ruling or directive made or given by an approved committee of the Board pursuant to this section shall not be treated as an order, ruling or directive of the Board, until the order ruling or directive has been ratified by the Board pursuant to the powers vested on the Board under this Act.

53. Anything done or required to be done by the Service in pursuance of any of its powers or duties under this Act or the laws listed the First Schedule may be signified under the hand of the Executive Chairman or of an officer who has been authorized by the Board for the purpose of this section. Signification. First Schedule.

54.—(1) If the Service is satisfied that a person who is or was in its employment,— Imposition of surcharge.

(*a*) is or was responsible for any improper payment of moneys from the fund of the Service or for any payment of such money which is not duly documented ;

(*b*) is or was responsible for any deficiency in, or for the destruction of, any money, security, store or other property of the Service ;

(*c*) being or having been an officer, fails or has failed to keep proper accounts or record ; or

(*d*) has failed to make any payment, or is responsible for any delay in the payment of moneys for the Service to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Service,

and if a satisfactory explanation is not furnished to the Service within a period specified by the Board with regard to the failure to collect, improper payment, payment not duly documented, deficiency or destruction, failure to keep proper accounts or records, failure to make payment or delay in making payment, the Service may surcharge the said person such sum as it may think fit.

(2) Any action taken under subsection (1) of this section shall be subject to the approval of the Board and when such approval is obtained the Executive Chairman shall notify the person surcharged under this section.

(3) The Board may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received from the person concerned or if it otherwise appears that no surcharge should have been made, the Board shall at once inform the Executive Chairman of such withdrawal.

(4) The amount of any surcharge imposed under subsection (1) of this section and not withdrawn under subsection (3) of this section shall be a debt due to the Service from the person against whom the surcharge is imposed and may be sued for and recovered in any court in any suit initiated by the Service for its recovery and may also be recovered by deduction from the salary of the person surcharged if the Board so directs.

Limitation of suits against the Service, etc. Cap. p. 41 LFN 2004.

55.—(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer or employee of the Service.

(2) Notwithstanding anything contained in any other law or enactment, no suit against the Executive Chairman, a member of the Board, or any other officer or employee of the Service for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duty or authority, shall lie or be instituted in any court unless it is commenced—

(*a*) within three months next after the act, neglect or default complained of ; or

(*b*) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

(3) No suit shall be commenced against the Executive Chairman, a member of the Board, or any other officer or employee of the Service before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Service by the intending plaintiff or his agent.

(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the—

(*a*) cause of action ;

(*b*) particulars of claim ;

(*c*) name and place of abode of the intending plaintiff ; and

(*d*) relief which he claims.

Service of documents.

56. A notice, summons or other document required or authorized to be served on Service of documents the Service under the provisions of this Act or any other law or enactment may be served by delivering it to the Executive Chairman or by sending it by registered post addressed to the Executive Chairman at the principal office of the Service.

Restriction on execution against property of the Service.

57.—(1) In any action or suit against the Service, no execution or attachment of process in the nature thereof shall be issued against the Service unless not less than three months notice of the intention to execute or attach has been given to the Service.

(2) Any sum of money which by the judgment of any court has been awarded against the Service shall, subject to any direction given by the court, where no notice of appeal against the judgment has been given, be paid from the fund of the Service.

Indemnity.

58. The Executive Chairman, a member of the Board or any officer or employee of the Service shall be indemnified out of the assets of the Service against any liability incurred by him in defending any proceeding, whether civil or criminal if the proceeding is brought against him in his capacity as Executive Chairman, a member of the Board, officer or other employee of the Service.

Establishment of a Tax Appeal Tribunal. Fifth Schedule.

59.—(1) A Tax Appeal Tribunal is established as provided for in the fifth Schedule to this Act.

(2) The Tribunal shall have power to settle disputes arising from the operations of this Act and under the First Schedule.

PART VIII—MISCELLANEOUS PROVISIONS

Directive by the Minister.

60. The Minister may give to the Service or the Executive Chairman such directives of a general nature or relating generally to matters of policy with regards to the exercise of its or his functions as he may consider necessary and the Service or the Executive Chairman shall comply with the directives or cause them to be complied with.

Power to make regulations.

61. The Board may with the approval of the Minister, make rules and regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions and may in particular, make regulations prescribing the—

(*a*) forms for returns and other information required under this Act or any other enactment or law; and

(*b*) procedure for obtaining any information required under this Act or any other enactment or law.

Repeal of Part I of Cap. 60 LFN 1990.

62.—(1) Part I of the Companies Income Tax Act (in this Act referred to as "the repealed enactment") is repealed.

(2) The Federal Board of Inland Revenue established pursuant to the repealed enactment is dissolved.

(3) The repeal of the enactment specified in subsection (1) of this section shall not affect anything done or purported to have been done under the repealed enactment.

Savings and Transitional provisions relating to staff or employees.

63.—(1) Notwithstanding anything to the contrary in this Act, a director, employee, staff or officer, who: immediately before the commencement of this Act held office in the Federal Board of Inland Revenue (including the Federal Inland Revenue Service hereinafter referred to as "the former Board") existing immediately before the commencement of this Act and who has been made an offer of employment by the Service, is deemed to have been transferred to the Service established under this Act on terms and conditions not less favourable than those obtaining immediately

before the commencement of this Act and service or employment in the former Board is deemed to be service or employment in the Service established under this Act for purposes of pension.

(2) Every director, employee, staff or officer transferred into the Service by virtue of subsection (1) of this section shall notify the Service established under this Act in writing within 60 days after the commencement of this Act or after he receives an offer of appointment from the Board (which ever is later) of his acceptance and any director, employee, staff or officer who fails to notify the Service is deemed to have rejected the offer.

(3) Any director, employee, staff or officer referred to in subsection (2) is deemed to be an employee of the Service established under this Act, beginning on the day that this Act comes into force and ending on the expiry of the period of grace under subsection (2) or on the day of his written refusal and the Service established under this Act is deemed to be his employer for all purposes during that period.

(4) An employee who is not transferred or who refuses the transfer or a job offer made by the Board established under this Act, as specified in subsection (1) of this section, shall be transferred to the Office of the Head of the Civil Service of the Federation for redeployment in the Civil Service of the Federation within the time specified in subsection (2) of this section.

Other savings and transitional provisions.

64.—(1) There shall be vested in the Service established under this Act and without further assurance, all assets, funds, resources and other immovable property which immediately before the commencement of this Act were vested in the former Board existing immediately before the commencement of this Act.

(2) All rights, interest, obligations and liabilities of the former Board existing immediately before the commencement of this Act under any contract or instrument, or in law or in equity apart from any contract or instrument, shall by virtue of this Act be assigned to and vested in the Service established under this Act.

(3) Any contract or instrument referred to in subsection (2) of this section shall be of the same force and effect against or in favour of the Service established under this Act and shall be enforceable as fully and effectively as if, instead of the former Board existing immediately before the commencement of this Act, the Service established under this Act had been named or had been a party.

(4) The Service established under this Act shall be subject to all obligations and liabilities to which the former Board existing immediately before the commencement of this Act was subject immediately before the commencement of this Act, and all other persons shall as from the commencement of this Act have the same rights, powers and remedies against the Service as they had against the former Board existing immediately before the commencement of this Act.

(5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the former Board existing immediately before the commencement of this Act in respect of any right, interest, obligation or liability of the former Board may be continued, or as the case may require, be

commenced and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Service to the same extent that such cause of action or determination might have been continued, or enforced by or against the former Board as if this Act had not been made.

(6) Any regulation, order, bye-law or notice made or issued or deemed to be made or issued by, or for the purposes of, the former Board existing immediately before the commencement of this Act shall be deemed to have been made or issued by or for the purposes of the Service and shall continue in force until revoked or as amended, subject to such modifications as may be applicable to the Service established under this Act.

Continuation of Board members.

65. Subject to the provisions of this Act, the Executive Chairman of the former Board is deemed to have been transferred to the Service established under this Act in the same capacity.

Continuation and completion of disciplinary proceedings.

66.—(1) As from the commencement of this Act, any disciplinary proceeding pending or existing against any employee of the government who has opted into the service of the former Board, shall be continued and completed by the Board established under this Act.

(2) An appeal or grievance already filed but which has not been finally disposed of on the coming into force of this Act shall be dealt with and disposed of in accordance with the Public Service Rules as if this Act had not come into force.

Rights and obligations transferred.

67.—(1) The administration and control of all rights obligations and liabilities that were under the administration and control of the former Board are hereby transferred to the Service established under this Act.

(2) The administration of any real property that were immediately before the coming into force of this section under the administration or administrative responsibility of the former Board or its agencies or bodies for the purposes of that former Board are transferred to the Service established under this Act.

(3) All orders, rules, regulations, decisions, directions, licences, authorizations, certificates, consents, approvals, declarations, designations, permits registration, rates or other documents that are in force before the coming into force of this Act and that are made or issued by the Minister, Chairman of the former Board or any person under their control shall continue in force as if they were made, or issued by the Minister, the Board established under this Act, the Executive Chairman or an employee of the Service as the case may be, until they expire or are repealed, replaced, rescinded or altered.

(4) Every reference to the former Board, the Minister, Chairman or any person under their control or a document issued in the name of the former Board, Minister, Chairman or employee of the former Board to be read, unless the context otherwise requires, as a reference to the Service, the Minister, Board, Executive Chairman, or an employee of the Service established under this Act, as the case may be.

(5) Every affidavit sworn or document duly certified by an officer in the Service of the Federal Board of Inland Revenue before the coming into force of this Act has the same probative value as if it were sworn or certified by an employee of the Service on or after that day.

Relevance of other laws.

68.—(1) Notwithstanding the provisions of this Act, the relevant provisions of all existing enactments including, but not limited to, the laws in the First Schedule shall be read with such modifications as to bring them into conformity with the provisions of this Act.

First Schedule.

(2) If the provisions of any other law, including the enactments in the First Schedule are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other law shall to the extent of the inconsistency be void.

Interpretation.

69. In this Act—

"*authorized officer*" means any person employed in the Service or, for the time being, performing duties in relation to tax who has been specifically authorized by the Board or the Executive Chairman to perform or carry out specific functions under this Act ;

"*Board*" means the management Board of the Service established under section 3 (1) of this Act ;

"*book*" includes any register, document or other record of information and any account or accounting record however compiled, recorded or stored, whether in written or printed form or micro-film, digital, magnetic or electronic form or otherwise ;

"*Chairman*" means the Chairman of the Board appointed pursuant to section 3 (2) (*a*) of this Act ;

"*consultants*" includes accountants, legal practitioners or any other recognized professionals that have been certified by their relevant professional bodies in Nigeria ;

"*document*" includes any record of information Supporting accounts and accounting records, including reports or correspondences or memoranda or minutes of meeting, however compiled, recorded or stored, whether in written or printed form or micro-film, digital, magnetic, electronic or optical form or othenvise and all types of information stored in computer and any other similar equipment ;

"*Executive Chairman*" means the Executive Chairman of the Service appointed under section 11 of this Act ;

"*Government*" means the Government of the Federation and shall include the Federal Capital Territory or, as the case may be, a Government of a State ;

"*Gross misconduct*" referred to in section 5 (*g*) has the meaning ascribed to it in the Public Service Rules ;

"*member*" means a member of the Board appointed under section 3 of this Act and includes the Chairman ;

"*Minister*" means the Minister charged with responsibility for matters relating to finance and "Ministry" shall be construed accordingly ;

"*non-oil revenue collected*" shall be construed to refer to all revenues collected other than revenue derivable from petroleum profit tax ;

(2) Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of them to preside at the meeting.

3. The quorum of any meeting of the Board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and four other members, except that any quorum must include at least two members outside the Service.

4. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.

5. A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.

6. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

7. Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.

Committees

8. The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine and report on any matter with which the Board is concerned.

9. A committee appointed under paragraph 8 of this Schedule shall be presided over by a member of the Board and shall consist of such number of persons (not necessarily all members of the Board) as may be determined by the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.

10. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

11. The fixing of the seal of the Service shall be authenticated by the signature of the Executive Chairman and the Secretary to the Board or the Executive Chairman and such other person authorized by the Board to act for that purpose.

12. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Service by the Executive Chairman or by any person generally or specifically authorized to act for that purpose by the Board.

13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Service shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

14. The validity of any proceeding of the Board or its committees shall not be affected by—

(*a*) any vacancy in the membership of the Board or its committees ;

(*b*) reason that a person not entitled to do so took part in the proceedings ; or

(*c*) any defect in the appointment of a member.

15. Any member of the Board or committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or any committee shall—

(*a*) disclose his interest to the Board or committee ; and

(*b*) not vote on any question relating to the contract or arrangement.

THIRD SCHEDULE *Section* 29 (7) (*a*)

FORM OF AUTHORISATION TO ACCESS LANDS, BUILDINGS, BOOKS AND DOCUMENTS

To .....

The Federal Inland Revenue Service, by virtue of the powers vested in it by section 29 of the Federal Inland Revenue Service Act 2007, hereby authorises you to enter the premises, office, place of management or residence of any person, the principal officer, agent factor or representative or any person who has been suspected by the Service of fraud, evasion, wilful default, etc., in connection with a tax due to government ; and whose premises, office, place of management or residence of the principal officer, agent factor or representative is at .....

..... and for carrying out your assignment thereof further authorise you, with the aid of any police officer (if necessary), which assistance he is hereby required to give, search and remove (if necessary) such records, books and documents wherever they may be found either in possession of any person in respect of who the tax remains unpaid. And for the purpose of this assignment you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

SIGNED and issued under the hand of the Executive Chairman

..... at .....

THIS..... day of ....., 20.....

.....

Executive Chairman

.....

Judicial Officer

FOURTH SCHEDULE *Sections* 33 (2)

FORM OF WARRANT OF DISTRAINT

To .....

Name Company .....

Amount of tax to be levied by distress (*c*).....

The Federal Inland Revenue Service, in exercise of powers vested in it by section 33 of the Federal Inland Revenue Service Act, 2007, hereby authorizes you to collect and recover the sum of .....being arrears of tax due for the years of assessment hereinafter mentioned from the above named company whose place of business is at (*d*) ; ..... and for the recovery thereof the said Service further authorizes that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary) which assistance he is by law required to give, do forthwith levy by distraint, the said sum together with the costs and charges of and incidental to the taking and keeping of such distraint, on goods, chattels, land, premises, or other distrainable things of the said company wherever the same may be found and on all goods which you may find in any premises or on any land in the use of or possession of the said company or any other person on its behalf or in trust for the company.

And for the purpose of levying such distraint you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

2. The particulars of the said arrears of tax are as follows—

Year of Assessment	*No. of Notice of Assessment*	*Amount of Tax due* ₦ k
(*i*)	.....	.....
(*ii*)	.....	.....
(*iii*)	.....	.....

SIGNED and issued under the hand of the Executive Chairman of the Federal Inland Revenue Service at..... this..... day of..... 20.....

Signature (f) .....

Executive Chairman

Federal Inland Revenue Service

SCHEDULE

FIFTH SCHEDULE *Sections* 59 (1)

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF THE TAX APPEAL TRIBUNAL

Establishment of Tax Appeal Tribunals

1.—(1) Pursuant to section 59 (1) of this Act, there shall be established a Tax Appeal Tribunal (hereinafter referred to as "the Tribunal") to exercise the jurisdiction, powers and authority conferred on it by or under this Schedule.

(2) The Minister may by notice in the Federal Gazette specify the number of zones, matters and places in relation to which the Tribunal may exercise jurisdiction.

Composition of the Tribunal

2.—(1) A Tribunal shall consist of five members (hereinafter referred to as "Tax Appeal Commissioners") to be appointed by the Minister.

(2) A Chairman for each zone shall be a legal practitioner who has been so qualified to practise for a period of not less than 15 years with cognate experience in tax legislation and tax matters.

(3) A Chairman shall preside at every sitting of the Tribunal and in his absence the members shall appoint one of them to be the Chairman.

(4) The quorum at any sitting of the Tribunal shall be three members.

Qualifications for appointment as a Tax Appeal Commissioner

3. A person shall not be qualified for appointment as a Tax Appeal Commissioner unless he is knowledgeable about the laws, regulations, norms, practices and operations of taxation in Nigeria as well as persons that have shown capacity in the Management of trade or business or a retired public servant in tax administration.

Term of Office

4. A Tax Appeal Commissioner shall hold office for a term of three years, renewable for another term of three years only and no more, from the date on which he assumes his office or until he attains the age of 70 years whichever is earlier.

Resignation and Removal

5. A Tax Appeal Commissioner may by notice in writing under his hand addressed to the Minister resign his office :

Provided that the Tax Appeal Commissioner shall, unless he is permitted by the Minister to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor assumes his office or until the expiry of his term of office, whichever is earlier.

(2) A Tax Appeal Commissioner may be removed from office by the Minister on the grounds of gross misconduct or incapacity after due inquiry has been made and

the Tax Appeal Commissioner concerned has been informed or the reasons for his removal and given an opportunity of being heard in respect of the reasons.

Salary, Allowances and Conditions of Service of Tax Appeal Commissioners

6. The salary and allowances payable to and the terms and conditions of service of the Tax Appeal Commissioners shall be determined by the Revenue mobilisation Allocation and Fiscal Commission and shall be prescribed in their Letters of Appointment :

Provided that neither the salary and allowances nor the other terms and conditions of service of a Tax Appeal Commissioner shall be varied to his disadvantage after appointment.

Filling Up of Vacancies

7. If for reason other than temporary absence, any vacancy occurs in the office of a Tax Appeal Commissioner, then the Minister shall appoint another person in accordance with the provisions of this Act to fill the vacancy.

Order Constituting a Tribunal to be Final

8. The question as to the validity of the appointment of any person as a Tax Appeal Commissioner shall not be the cause of any litigation in any court or tribunal and no act or proceedings before the Tribunal shall be called into question in any manner on the ground merely of any defect in the constitution of the Tribunal.

Secretary to the Tribunal

9. (1) The Minister shall appoint for each place or zone where the Tribunal is to exercise jurisdiction a Secretary who shall—

(*a*) subject to the general control of the Tax Appeal Commissioners, be responsible for keeping records of the proceedings of the Tribunal ;

(*b*) be the head of the secretariat and responsible for—

(*i*) the day-to-day administration ; and

(*ii*) the direction and control of all other employees of the Tribunal.

(2) The official address of the Secretary appointed for each zone shall be published in the Federal *Gazette*.

Other Staff of the Tribunal, etc.

10.—(1) The Minister shall appoint such other employees as he may deem necessary for the efficient performance of the functions of the Tribunal and the remuneration of persons so employed shall be determined by the National Salaries and Wages Commission.

(2) It is declared that employment in the Tribunal shall be subject to the provisions of the Pension Reform Act and, accordingly, officers and employees of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.

Jurisdiction of the Tribunal, etc.

11.—(1) The Tribunal shall have power to adjudicate on disputes, and controversies arising from the following tax laws (hereinafter referred to as 'the tax laws')—

(*i*) Companies Income Tax Act, CAP. 60 LFN ; 1990.
(*ii*) Personal Income Tax Act No. 104, 1993.
(*iii*) Petroleum Profits Tax Act CAP. 354 LFN ; 1990 ;
(*iv*) Value Added Tax Act No. 102 ; 1993 ;
(*v*) Capital Gains Tax Act CAP. 42 LFN ; 1990, and
(*vi*) any other law contained in or specified in the First Schedule to this Act or other laws made or to be made from time to time by the National Assembly.

(2) The Tribunal shall apply such provisions of the tax laws referred to in subparagraph (l) of this paragraph as may be applicable in the determination or resolution of any dispute or controversy before it.

Criminal Prosecution

12. Where in the course of its adjudication, the Tribunal discovers evidence of possible criminality, the Tribunal shall be obliged to pass such information to the appropriate criminal prosecuting authorities, such as the office of the Attorney-General of the Federation or the Attorney General of any state of the Federation or any relevant law enforcement agency.

Appeals from Decisions of the Service

13.—(1) A person aggrieved by an assessment or demand notice made upon him by the Service or aggrieved by any action or decision of the Service under the provisions of the tax laws referred to in paragraph 11, may appeal against such decision or assessment or demand notice within the period stipulated under this Schedule to the Tribunal.

(2) An appeal under this schedule shall be filed within a period of 30 days from the date on which a copy of the order or decision which is being appealed against is made, or deemed to have been made by the Service and it shall be in such form and be accompanied by such fee as may be prescribed provided that the Tribunal may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.

(3) Where a notice of appeal is not given by the appellant as required under subparagraph (1) of this paragraph within the period specified, the assessment or demand notices shall become final and conclusive and the Service may charge interests and penalties in addition to recovering the outstanding tax liabilities which remain unpaid from any person through proceedings at the Tribunal.

Appeals by the Service

14. Service aggrieved by the non-compliance by a person in respect of any provision of the tax laws, it may appeal to the Tribunal where the person is resident giving notice in writing through the Secretary to the appropriate zone of the Tribunal.

Procedure before Tax Appeal Tribunal

15.—(1) As often as may be necessary, Tax Appeal Commissioners shall meet to hear appeals in the jurisdiction or zone assigned to that Tribunal.

(2) Where a Tax Appeal Commissioner has a direct or indirect financial interest in any appeal pending before the Tribunal or where the taxpayer is or was a client of that Tax Appeal Commissioner in his professional capacity, he shall declare such interest to the other Tax Appeal Commissioners and refrain from sitting in any meeting for the hearing of that appeal.

(3) The Secretary to the Tribunal shall give seven clear days notice to the Service and to the appellant of the date and place fixed for the hearing of each Appeal except in respect of any adjourned hearing for which the Tax Appeal Commissioners have fixed a date at their previous hearing.

(4) All notices, documents, other than decisions of the Tribunal, may be signified under the hand of the Secretary.

(5) All appeals before the Tax Appeal Commissioners shall be held in public.

(6) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(7) At the hearing of any appeal if the representative of the Service proves to the satisfaction of the Tribunal hearing the appeal in the first instance that—

(*a*) the appellant has for the year of assessment concerned, failed to prepare and deliver to the Service returns required to be furnished under the relevant provisions of the tax laws mentioned in paragraph 11;

(*b*) the appeal is frivolous or vexatious or is an abuse of the appeal process ; or

(*c*) it is expedient to require the appellant to pay an amount as security for prosecuting the appeal, the Tribunal may adjourn the hearing of the appeal to any subsequent day and order the appellant to deposit with the Service, before the day of the adjourned hearing, an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged upon the appellant for the preceding year of assessment or one half of the tax charged by the assessment under appeal, which ever is the lesser plus a sum equal to ten percent of the said deposit, and if the appellant fails to comply with the order, the assessment against which he has appealed shall be confirmed and the appellant shall have no further right of appeal with respect to that assessment.

(8) The Tribunal may, after giving the parties an opportunity of being heard, confirm, reduce, increase or annul the assessment or make any such order as it deems fit.

(9) Every decision of the Tribunal shall be recorded in writing by the Chairman and subject to the provisions of paragraph 16, a certified copy of such decision shall be supplied to the appellant or the Service by the Secretary, upon a request made within 30 days of such decision.

(10) Where upon the hearing of an appeal—

(*a*) no accounts, books or records relating to profits were produced by or on behalf of the appellant ;

(*b*) such accounts, books or records were so produced but rejected by the Tribunal on the ground that it had been shown to its satisfaction that they were incomplete or unsatisfactory ;

(*c*) the appellant or his representative, at the hearing of the appeal, has neglected or refused to comply with a notice delivered or sent to him by the Secretary to the Tribunal, without showing any reasonable cause ; or

(*d*) the appellant or any person employed, whether confidentially or otherwise, by the appellant or his agent (other than his legal practitioner or accountant acting for him in connection with his ability to tax) has refused to answer any question put to him by the Tribunal, without showing any reasonable cause the Chairman of the Tribunal shall record particulars of the same in his written decision.

Procedure following decision of the Tribunal

16.—(1) Notice of the amount of the tax chargeable under the assessment as determined by the Tribunal shall be served by the Service upon the taxpayer or upon the person in whose name such taxpayer is chargeable.

(2) An award or judgement of the Tribunal shall be enforced as if it were a judgement of the Federal High Court upon registration of a copy of such award or judgment with the Chief Registrar of the Federal High Court by the party seeking to enforce the award or judgment.

(3) Notwithstanding that an appeal is pending, tax shall be paid in accordance with the decision of the Tribunal within one month of notification of the amount of the tax payable in pursuance of subparagraph (1) of this paragraph.

Appeal to the Federal High Court

17.—(1) Any person dissatisfied with a decision of the Tribunal constituted under this Schedule may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within 30 days after the date on which such decision was given.

(2) A notice of appeal filed pursuant to subparagraph (1) of this paragraph shall set out all the grounds of law on which the appellant's case is based.

(3) If the Service is dissatisfied with the decision of the Tribunal, it may appeal against such decision to the Federal High Court on points of law by giving notice in writing as specified in subsection (1) of this section to the Secretary within 30 days after the date on which such decision was given.

(4) Upon receipt of a notice of appeal under subparagraph (1) or (2) of this paragraph, the Secretary to the Tribunal shall cause the notice to be given to the Chief Registrar of the Federal High Court along with all the exhibits tendered at the hearing before the Tribunal.

(5) The Chief Judge of the Federal High Court may make rules providing for the procedure in respect of appeals made under this Act and until such rules are made, the Federal High Court rules relating to hearing of appeals shall apply to the hearing of an appeal under this Act.

Right to Legal Representation

18.—(1) A complainant or appellant, as the case may be, may either appear in person or authorize one or more legal practitioners or any of its officers to represent him or its case before the Tribunal.

(2) Every individual or company in a case before the Tribunal shall be entitled to be represented at the hearing of an appeal by a solicitor or chartered accountant or adviser provided that, if the person appointed by the taxpayer to be representative in any matter before the Tribunal is unable for good cause to attend hearing thereof, the Tribunal may adjourn the hearing for such reasonable time as it deems fit, or admit the appeal to be made by some other person or by way of a written address.

Application of Statute of Limitation

19. The provisions of any statute of limitation shall not apply to any appeal brought before the Tribunal.

Powers and procedures of the Tribunal

20.—(1) The Tribunal may make rules regulating its procedures.

(2). The Tribunal shall, for the purposes of discharging its functions under this Schedule, have power to—

(*i*) summon and enforce the attendance of any person and examine him on oath ;

(*ii*) require the discovery and production of documents ;

(*iii*) receive evidence on affidavits ;

(*iv*) call for the examination of witnesses or documents ;

(*v*) review its decisions ;

(*vi*) dismiss an application for default or deciding matters exparte ;

(*vii*) set aside any order or dismissal of any application for default or any order passed by it exparte ; and

(*viii*) do anything which in the opinion of the Tribunal is incidental or ancillary to its functions under this Schedule.

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding and the Tribunal shall be deemed to be a civil court for all purposes.

Minister to make Rules and Regulations

21. The Minister may make rules prescribing the procedure to be followed in the conduct of appeals before the Tribunal.

Costs

22. Each party to an appeal shall bear its own cost.

Further Appeals

23. An appeal against the decision of the Federal High Court at the instance of either party shall lie to the Court of Appeal.

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
16th Day of April, 2007.

EXPLANATORY MEMORANDUM

This Act dissolves the Federal Board of Inland Revenue and establishes the Federal Inland Revenue Service as an autonomous parastatal charged with the functions of administering the various Federal Tax laws in Nigeria including all the functions that were initially performed by the Federal Board of Inland Revenue.

SCHEDULE TO FEDERAL INLAND REVENUE SERVICE (ESTABLISHMENT) BILL, 2007

(1) *Short title of the Bill*	(2) *Long title of the Bill*	(3) *Summary of the contents of the Bill*	(4) *Date passed by the Senate*	(5) *Date passed by the House of Representatives*
Federal Inland Revenue Service (Establishment) Bill, 2007.	An Act to provide for the establishment of the Federal Inland Revenue Service charged with powers of assessment, collection of, and accounting for, revenues, accruable to the Government of the Federation ; and for related matters.	This Bill provides for the establishment of the Federal Inland Revenue Service charged with powers of assessment, collection of, and accounting for revenues accruable to the Government of the Federation ; and for related matters.	20th February, 2007.	21st February, 2007.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, the Laws of the Federation of Nigeria, 1990.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
16*th Day of April*, 2007.

I ASSENT.

LS

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
16*th Day of April*, 2007.