

COMPANIES INCOME TAX (AMENDMENT) ACT, 2007



ARRANGEMENT OF SECTIONS

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COMPANIES INCOME TAX (AMENDMENT) ACT, 2007

2007 ACT No. 11

AN ACT TO AMEND THE COMPANIES INCOME TAX ACT, CAP. 60 LFN, 1990 ;
AND FOR RELATED MATTERS

[16th Day of April, 2007]

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

1. The Companies Income Tax Act (in this Act referred to as “the principal Act”) is amended as set out in this Act. Commencement
of Cap. 60
LFN, 1990.

2.—(1) Part 1 of the principal Act is repealed. Repeal of
Part 1.

(2) The Federal Board of Inland Revenue established under the Principal Act is dissolved.

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Act specified in subsection (1) of this section shall not affect anything done or purported to have been done under the repealed Part.

3. Section 9 of the principal Act is amended—

(a) by deleting subsections “(1)” to “(5)” and renumbering the existing subsections “(6)” to “(10)” as subsections “(1)” to “(5)” ; Amendment
of section 9.

(b) in subsection (7) by substituting for the existing paragraph (c) the following new paragraph “(c)” —

“(c) providing working capital for any cottage industry established by the company” ; and

(c) by inserting immediately after the existing interpretation of the words “base lending rate” the following interpretation—

“cottage industry means an industry where the creation of products and services is home-based, rather than factory-based” ;

4. Section 14 of the Principal Act is amended by substituting for the following new section “14”— Amendment
of section
14.

“Insurance Companies 14.—(1) Notwithstanding anything to the contrary contained in this Act, insurance business shall be taxed as—

(a) an insurance company, whether proprietary or mutual, other than a life insurance company ; or

(b) a Nigerian company whose profit accrued in part outside Nigeria, the profit on which tax may be imposed, shall be ascertained by taking the gross premium interest and other income receivable in Nigeria less reinsurance and deducting from the balance so arrived at, a reserve for unexpired risks at the percentage consistently adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, subject to the limitation imposed in subsection (8) (a) of this section.

(2) The profits on which tax may be imposed in an insurance company which is a life insurance company, whether proprietary or mutual, other than a Nigerian company which carries on business through a permanent establishment in Nigeria shall—

(a) be the investment income less the management expenses, including commission, subject to the limitation imposed in subsection (8) (b) of this section ; and

(b) where the profits of the company accrue in part outside Nigeria, be that proportion of the total investment income of the company as the premium earned whether received or receivable, less the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company but where the insurance company has its head office outside Nigeria the Board may substitute some basis other than that prescribed in this paragraph for ascertaining the required proportion or the total investment income.

(3) Any amount distributed in any form as dividend from an actuarial revaluation of unexpired risks or from any other revaluation shall be deemed to be part of the total profits of the company for tax purposes.

(4) Not more than three months after an actuarial revaluation of the unexpired risks or any other revaluation has taken place, the company shall provide the Board with full particulars of the revaluation carried out, including a copy of the actuary's revaluation certificate.

(5) The profits on which tax may be imposed—

(a) in a general Nigerian insurance company, shall be ascertained in accordance with the provisions of subsection (1) of this section as though the whole premium and investment incomes of the company were derived from Nigeria ; and

(b) in a Nigerian life insurance company shall be ascertained in accordance with the provisions of subsections (2), (3) and (4) of this section as though the whole investment and other incomes were received in Nigeria and all the expenses and other outgoings of the company were incurred in Nigeria.

(6) Where an insurance company carries on a life class and a general class insurance business, the funds and books of accounts of one class shall be kept separate from the other as though one class does not relate to the other class, and the annual tax returns of the two classes of insurance businesses shall be made separately.

(7) Each class of insurance shall be assessed separately as "life insurance assessment "and" non-life (other) insurance assessment" and in respect of each class of insurance business where there are more than one type of insurance in the same class, they form one type of business and shall not be allowed against the income from another type of insurance business but the loss shall be available to be carried forward against profits from the same class of insurance business and, in all cases, the period of carrying forward of a loss shall be limited to four years of assessment.

(8) An insurance company, other than a life insurance company, shall be allowed as deductions from its premium the following reserves for tax purposes—

(a) for unexpired risks, 45 per cent of the total premium, in case of general insurance business other than marine insurance business and 25 per cent of the total premium in the case of marine cargo insurance ;

(b) for other reserves, claims and outgoings of the company an amount equal to 25 per cent of the total premium, so that, after allowance under the Second Schedule to this Act as may be restricted, has been allowed for in any year of assessment, not less than an amount equal to 15 per cent of the total profit of the company for tax purposes.

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

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

(b) an amount which is equal to 1 per cent of gross premium or 10 per cent of profits (whichever is greater) to a special reserve fund and accommodation until it becomes the amount of the statutory minimum paid-up capital ;

(c) all normal allowable business outgoing, except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than all amount equal to 20 per cent of the gross incomes shall be available as 'total profit' of the company for tax purposes.

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

(a) an amount not more than 50 per cent of the gross profits of the reinsurer for the year where the general reserve fund is less than the initial statutory minimum authorised share capital ; or

(b) an amount not more than 25 per cent of the gross profit of the reinsurer for the year, where the fund is equal to or exceeds the initial statutory minimum authorised share capital.

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

5. Section 19 of the principal Act is amended in subsection (1) by inserting immediately after the existing paragraph "(r)" the following new paragraph "(s)"—

Amendment
of section
19.

"(s)" the profit of a company established within an export processing zone or free trade zone :

Provided that 100 per cent production of such company is for export otherwise tax shall accrue proportionately on the profits of the company",

Amendment
of section
20.

6. Section 20 of the principal Act is amended by—

(a) deleting paragraph (c); and

(b) in paragraph (d) substituting for the phrase “of Employment, Labour and Productivity, and the Productivity, Prices and Income Board” the phrase, “responsible for labour matters.”

Insertion of
section 21 A.

7. Insert immediately after section 21 of the principal Act, the following new section “21 A”—

“21A—(1) Notwithstanding the provisions of section 20 of this Act, for the purpose of ascertaining the profit or loss of any company for the period from any source chargeable with tax under this Act, there shall be deducted the amount of donation to a university and other tertiary or research institutions for research or any developmental purpose or as an endowment out of the profits of the period by the company.

(2) Without prejudice to section 21 (2) and (3) of this Act, any donation made by a company pursuant to subsection 1 of this section shall be allowed as deductible by the company out of the profits of that period notwithstanding that the donation is of a revenue or capital nature.

(3) Except as the Minister with the approval of the Federal Executive Council may, by order in the Federal *Gazette* otherwise direct, any deduction to be allowed to any company under subsection (1) of this section shall not exceed an amount which is equal to 15 per cent of the total profits or 25 per cent of the tax payable in the year of the donation which ever is higher.”

Amendment
of section
27.

8. Section 27 of the principal Act is amended by deleting subsection (2) (a)(iii).

Amendment
of section
28B.

9. Section 28B of the principal Act is amended—

(a) in subsection (1), by substituting for the words “as electricity, water, tarred road or telephone” the words “as electricity, water or tarred road”; and

(b) in subsection (2), by deleting paragraph (e).

Deletion of
section 28F.

10. Section 28F of the principal Act is deleted.

Amendment
of section
29.

11. Section 29 of the principal Act is amended—

(a) in subsection (4)(a), by substituting for the amount “N500” the amount “N20,000”;

(b) in subsection (4)(b), by substituting for the amount “N400” the amount “N25,000”; and

(c) by deleting subsection (5) and re-numbering the existing subsections “(6)” — “(12)” as subsections “(5)” — “(11)”.

Deletion of
section 30.

12. Section 30 of the principal Act is deleted.

13. Section 41 of the principal Act is amended by substituting for the following new section "41"—

Substitution
for section
41.

"41. (1) Every company including a company granted exemption from incorporation shall, whether or not a company is liable to pay tax under this Act for a year of assessment, with or without notice from the Service, file a self assessment return with the Service in the prescribed form at least once a year and such return shall contain—

(a) the audited accounts, tax and capital allowances computation for the year of assessment and a true and correct statement in writing containing the amount of profit from each and every source computed ;

(b) a duly completed self-assessment form as may be prescribed by the Service, from time to time, attested to by a director or secretary of the company and such attestation shall contain a declaration that it contains a true and correct statement of the amount of its profits computed in respect of all sources in accordance with this Act and any rule made and that the particulars given in such return are true and complete ; and

(c) evidence of payment of the whole or part of the tax due into a bank designated for the collection of the tax.

(2) Subject to this Act or any regulation made, the time of filing returns shall be—

(a) in the case of a company that has been in business for more than 18 months, not more than 6 months after the end of the accounting year ; and

(b) in the case of a newly incorporated company within 18 months from the date of its incorporation or not later than 6 months after the end of its accounting period, whichever is earlier, in addition, the form of returns shall be signed by a director who must be the chairman or the managing director of the company and the secretary respectively.

(3) Any company which fails to comply with the provision of subsection (2) shall be liable to pay as penalty for late filing—

(a) ₦25,000 in the first month in which the failure occurs ; and

(b) ₦5,000 for each subsequent month in which the failure continues.

(4) Notwithstanding anything to the contrary in any law, an income tax assessment shall be made in the currency in which the transaction took place.

(5) Where an offence under this section by a company is proved to have been committed with the consent or connivance of, or to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the company (or the person purporting to act in any such capacity) he as well as the company shall be deemed to have committed the offence and shall on conviction be liable to a fine not exceeding ₦100,000 or imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

(6) For the purposes of this section—

(a) every company shall designate a representative who shall answer every query relating to the tax matters of the company ; and

(b) a person designated by a company pursuant to paragraph (a) of this subsection shall be a person knowledgeable in the field of taxation as may be approved from time to time by the Service.”

Deletion of
Section 41A.

14. Section 41A of the principal Act is deleted.

Amendment
of section
41B.

15. Section 41B of the Principal Act is amended in subsection (1) by inserting immediately after the word “exchange” the words “as a capital market operator”.

Amendment
of section
42.

16. Section 42 of the Principal Act is amended by substituting for the word “limited” the word “specified”.

Substitution
for sections
43 and 43A.

17. Substitute for sections 43 and 43A of the Principal Act the following new section “43”—

“Call for returns,
books, documents
and information.

43.—(1) For the purpose of obtaining full information in respect of the profits within the time specified by the notice to— any person the Service shall give notice to that person requiring him

(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 ;

(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 purposes of paragraphs (a)—(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)—(d) of subsection (1) of this section, without giving any of the required notices set out in this section.

(3) A person who contravenes the provisions of this section commits an offence and shall, in respect of each offence, be liable on conviction to a fine equivalent to the amount of the tax liability in addition to paying the tax due.

(4) Nothing in 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 in a computer, digital magnetic, optical or electronic media as may, from time to time, be specified in any guideline by the Service.

(5) Any person may apply in writing to the Service for an extension of time within which to comply with the provisions of this section and section 10 of this Act, in so far as 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 Service is satisfied with the cause shown in the application under of subsection (5)(b) of this section, it may in writing grant the extension of the time or limit the time as it may consider appropriate”.

18.—(1) Sections 53, 54, 55, 56, 57 of Part X of the Principal Act dealing with Appeals to the Body of Appeal Commissioners are deleted.

Repeal of sections 53, 54, 55, 56, 57 and Part X.

(2) Appeals shall be as provided in the Federal Inland Revenue Service Act.

19. Section 63 of the principal Act is amended—

Amendment of Section 63.

(a) in subsection (5), by deleting the words “but only to the extent that the total of such deductions does not exceed the amount of the assessment and provided the assessment is for the period to which such payments relate under the provisions of section 29 of this Act” ;

(b) in subsection (7), by inserting the following new subsection “(7)”—

“(7) Any excess payment arising from compliance with sections 60, 61, 62 and 63 of this Act over the assessment under section 25 of this Act shall be refunded by the Service within 90 days of the assessment if duly filed with the option to setoff against future taxes” ; and

(c) by renumbering the existing subsection “(7)” as subsection “(8)”.

20. Section 64 of the principal Act is amended by—

Amendment of section 64.

(a) substituting for the words “thirty days” the words “twenty-one days” ; and

(b) substituting for the words “liable on conviction to a fine of 200 percent” the words “liable to a penalty of 10 per cent per annum”.

21. Section 71 of the Principal Act is amended—

Amendment of section 71.

(a) in subsection (1), by substituting for the amount—

(i) “~~N~~200” the amount “~~N~~20,000.00” ;

(ii) “~~N~~40” the amount “~~N~~2,000.00” ; and

(b) in subsection (4) (d), by deleting the word “whether” and the words “or after”.

Deletion of section 72.

22. Section 72 of the principal Act is deleted.

Substitution for section 79.

23. Section 79 of the principal Act is amended by substituting for the existing section, the following new section "79"—

"79. The National Assembly may on the proposal by the President by a resolution of each of the Houses of the National Assembly impose, increase, reduce, withdraw or cancel any rate of tax, duty or fee chargeable specified in section 29 and Second Schedule to the Act in accordance with section 59 (2) of the Constitution of the Federal Republic of Nigeria, 1999."

Amendment of section 80.

24. Section 80 of the Principal Act is amended in subsection (4) by—

(a) substituting for the existing paragraph "(g)" the following new paragraph "(g)"

"(g) application for trade or business licence "; and

(b) deleting the word "buying" in paragraph (1)—

Short Title.

25. This Act may be cited as the Companies Income Tax (Amendment) Act, 2007.

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 National Assembly.

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

EXPLANATORY MEMORANDUM

This Act amends the Companies Income Act, Cap. 60 LFN, 1990 and, among other things, makes it more responsive to the tax reform policies of the Federal Government and enhances its implementation and effectiveness.

SCHEDULE TO COMPANIES INCOME TAX (AMENDMENT) BILL, 2007

| (1) <i>Short Title of the Bill</i> | (2) <i>Long Title of the Bill</i> | (3) <i>Summary of the Contents of the Bill</i> | (4) <i>Date passed by the Senate</i> | (5) <i>Date passed by the House of Representatives</i> |
|--|--|--|---|---|
| Companies Income Tax (Amendment) Bill, 2007. | An Act to amend the Companies Income Tax, and for related matters. | This Bill seeks to amend Companies Income Tax Act, Cap. 60, LFN, 1990 and, among other things make it more responsive to the tax reform policies of the Federal Government and enhance its implementation and effectiveness. | 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, Laws of the Federation of Nigeria, 1990.

I ASSENT.



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

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