



EDO STATE

**EDO STATE REVENUE
ADMINISTRATION
LAW 2012**



EDO STATE

A LAW TO MAKE PROVISIONS FOR THE ADMINISTRATION AND COLLECTION OF REVENUE DUE TO THE GOVERNMENT OF EDO STATE AND FOR PURPOSES CONNECTED THEREWITH.

- Enactment:** It is hereby enacted by the Edo State House of Assembly and by the Authority of same as follows:
- Citation/ Commencement** This Law may be cited as the **Edo State Revenue Administration Law, 2012** and shall come into force on the 2 day of JANUARY
- Establishment of the Edo State Board of Internal Revenue:**
1. (1) There is established a Board to be known as the Edo State Board of Internal Revenue (referred to in this Law as 'The Board') whose operational arm shall be known as the Edo State Internal Revenue Service (referred to in this Law as 'The Internal Revenue Service')
 - (2) The Board:-
 - (a) Shall be a body corporate with perpetual succession and a common seal;
 - (b) May sue or be sued in its own name; and
 - (c) May acquire, hold and dispose of any property or interest in property; movable or immovable for the purpose of carrying out its functions under this Law.
 - (3) The Board shall have such powers and duties as are conferred on it by this Law or by any other law.
- Appointment and Composition of Members of the Board.**
2. Members of the Board shall be appointed by the Governor, subject to the confirmation by the Edo State House of Assembly and shall comprise:-
 - (a) The Chairman who shall be:
 - (i) A person of proven integrity and belongs to a relevant and recognized professional body of

Accountant or Taxation or hold a minimum of a Master's of Science Degree (M.sc) in Accounting or relevant field.

- (ii) A person knowledgeable and experienced in tax matters;
 - (iii) The Executive Head of the Internal Revenue Service;
 - (iv) A minimum of 10 years post graduate experience in Accounting or Taxation;
 - (v) Confirmed by the State House of Assembly.
- (b) Three other persons who shall be members of a relevant and recognized professional body and knowledgeable in tax matters, to be appointed by the Governor on their personal merit and shall be full time Executive Directors of the Board representing the three Senatorial Districts of the State;
- (c) A Director to be appointed from each of the following Ministries on the recommendation of the Commissioner and such directors shall be part time (non-executive) members of the Board; which shall include:
- (i) Finance;
 - (ii) Budget and Planning;
 - (iii) Lands;
 - (iv) Environment and Public Utilities; and
 - (v) Transport.
- (d) Two persons from the Internal Revenue Service not below the level of a Director;
- (e) The Legal Adviser;
- (f) The Honourable Attorney-General or his representative who shall be an officer not below the level of a Director;
- (g) The Secretary to the Internal Revenue Service who shall also be the Secretary and an ex-officio member of the Board.

3. (1) Members of the Board shall hold office for a period of four (4) years in the first instance and renewable for a further term of four (4) years.
- (2) The Chairman and Members of the Board shall be paid such emoluments, allowances and benefits as the Governor may, from time to time determine.

4. The Chairman of the Board shall;
 - (a) Be the Chief Executive and Accounting Officer of the Internal Revenue Service;
 - (b) Be responsible for the execution of the tax policies of government and the day-to-day administration of the Internal Revenue Service; and
 - (c) Hold office on such terms and conditions as may be specified in this Law and in his letter of appointment.

5. The Chairman, as the Chief Executive and Accounting officer of the Internal Revenue Service, shall:
 - (a) Keep proper accounting records, in accordance with standard accounting practice and financial regulations of the State in respect of:-
 - (i) All revenues and expenditure of the Internal Revenue Service;
 - (ii) All its assets, liabilities and other financial transactions; and
 - (iii) All other revenues collected by the Internal Revenue Service, including income on investments.
 - (b) Prepare an annual report, including financial statements, in accordance with generally accepted accounting principles and practice; and
 - (c) Ensure that the available accounting records of the Internal Revenue Service are adequate, in line with financial regulations and prepared by qualified personnel, who must be a member of a recognized professional body.

6. The Secretary to the Board shall:-
- (a) Issue notices of meetings of the Board;
 - (b) Keep the records of the proceedings of the Board; and
 - (c) Carry out such duties as the Chairman or the Board may from time to time direct.

7. (1) The Secretary shall summon a meeting of the Board whenever business requiring its attention warrants same, or on the request of the Chairman or any three members.
- (2) Any five members on the Board; one of whom shall be the Chairman, an Executive Director and a Director appointed from the Service shall constitute a quorum.
- (3) A majority decision of the members on any matter obtained by the Secretary in written correspondence shall be treated in all respects as though it were a decision of the Board in an actual meeting, unless any member has requested the submission on the matter to such meeting.

8. Notwithstanding the provisions of Section 3 of this Law, the Chairman or a member of the Board shall cease to hold office if:-
- (a) he resigns his appointment as member of the Board by notice, under his hand, addressed to the Governor; or
 - (b) he becomes of unsound mind; or
 - (c) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body; or
 - (d) he is convicted of a felony or any offence involving dishonesty or corruption; or
 - (e) he becomes bankrupt or makes a compromise with his creditors; or

- (f) the Governor is satisfied that it is not in the interest of the service or of the public for the person to continue in office, the Governor shall remove him from office; or
- (g) he has been found guilty of a breach of the Code of Conduct or other serious misconduct in relation to his duties; or
- (h) in the case of a person possessing a professional qualification, he is disqualified or suspended from practicing his profession in any part of the world by an order of 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 that office.

9. The Board shall be responsible for:-

- (a) providing general policy guidelines regarding the functions of the Internal Revenue Service and supervising the implementation of such policies;
- (b) ensuring the effective and optimum collection of all revenue, including levies and penalties due to the State Government under the relevant Federal and State Laws;
- (c) doing all such things that may be deemed necessary and expedient for the assessment and collection of revenue;
- (d) accounting for all amounts so collected in a manner to be prescribed by the Governor;
- (e) making recommendation, where appropriate, to the Joint Tax Board on tax policies, tax reform, tax registration, tax treaties and exemptions as may be required from time to time;
- (f) appointing, promotion, transferring and imposing discipline on employees of the Internal Revenue Service;
- (g) making recommendations to the Governor, regarding the terms and conditions of employment and the remuneration of staff of the Internal Revenue Service;

- (h) controlling the management of the Internal Revenue Service on matter of policy, subject to the provisions of any regulations setting up the Internal Revenue Service; and
- (i) doing such other things as are in the opinion of the Board necessary to ensure the efficient performance of the functions of the Internal Revenue Service under this Law.

Powers of the Board

- 10.**
- (1) The Board shall be autonomous in the day-to-day running of the technical professional, and administrative affairs of the Internal Revenue Service.
 - (2) The Board shall have overriding powers with respect to all internally generated revenue matters in all ministries, departments and agencies of the State.
 - (3) The Board may appoint such other persons to be employees of the Service in positions created by the Board and on such terms and conditions as shall be laid down by the Board subject to the provisions of this Law or any other enactment.
 - (4) The Board may, by notice in the gazette of the State Government or in writing authorize any person within or outside Nigeria to:-
 - (a) Perform or exercise on behalf of the Board, any function, duty or power conferred on the Board; and
 - (b) Receive any notice or other document to be given or delivered to or in consequence of this Law or any subsidiary legislation made under it.
 - (5) Whenever the Board shall consider it necessary with respect to any revenue due to the State, the Board may acquire, hold and dispose of any property taken as security for or in satisfaction of the sum due or of any judgment debt due in respect of any revenue and shall account for any property and the proceeds of sale thereof in a manner to be prescribed by the Governor.
 - (6) The Board may subject to such conditions as it may determine appoint and employ practicing Tax

Practitioners or Chartered Accountants as monitoring agents to collect information through tax audit and to monitor compliance with relevant tax laws except as it relates to Income Tax Assessment, to do any act required to be done by it in the execution of its functions under this Law with the aim of achieving the Internally Generated Revenue target of the State Government.

- (7) The Board may, subject to prevailing conditions, appoint and employ 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 or for carrying into effect the purpose of this Law.

Staff Regulations

- 11.** (1) Subject to the provisions of this Law, the Board may make staff 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 disciplinary control of staff or employees of the Internal Revenue 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 State 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 not have effect until approved by the Governor, and when so approved they must be published in the State gazette but the Internal Revenue Service shall cause a notice of the staff regulations to be issued to all affected staff in such manner as the Internal Revenue Service may from time to time determine.
- (3) If the Board thinks it expedient that any vacancy in the Internal Revenue Service should be filled by a person holding office in the Civil Service of the State, it shall notify the Civil Service Commission to that effect and the Board may, by arrangement with the Commission, cause such vacancy to be filled by way of secondment or transfer.

- (4) Employment in the Internal Revenue Service shall be subject to the provisions of the Contributory Pension Scheme being in force in Edo State and accordingly, officers and employees of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the relevant Contributory Pension Law.
- (5) The terms and conditions of Service including remuneration, allowances, benefits and pensions of the employee of the Internal Revenue Service shall be determined by the Board subject to the approval of the Governor.

- 12.** (1) There shall be a Technical Committee of the Board (referred to, in this Law as 'The Technical Committee') which shall comprise of:
- (a) Chairman;
 - (b) Executive Directors of the Board;
 - (c) Two Officers appointed by the Board from within the Internal Revenue Service;
 - (d) The Honourable Attorney-General or his representative not below the level of a Director; and
 - (e) The Secretary of the Internal Revenue Service who is also the Secretary to the Board.
- (2) The Technical Committee shall:-
- (a) Have power to co-opt additional staff from within the Internal Revenue Service and persons from the private sector who are experienced in revenue matter for the effective discharge of its duties.
 - (b) Consider all matters that require professional and technical expertise and make recommendations to the Board;
 - (c) Advise the Board on all its powers and duties specifically mentioned in Section 9 and 10 of this Law; and
 - (d) Attend to such other matter as may, from time to time, be referred to it by the Board.
- 13.** The Board shall establish and maintain a fund which shall consist of and to which shall be credited:-

- (a) An amount of which shall be approved by the State Executive Council upon any revenue collection by the Internal Revenue Service in the preceding year as it may be appropriated by the State House of Assembly as cost of collection and administration;
 - (b) All other money which may, from time to time, accrue to the Board for other services including the disposal, lease or hire of or any other dealings with any property vested in or acquired by the Board;
 - (c) All sum of money accruing to the Board or the Internal Revenue Service by way of grants – aid, gift testamentary dispositions, endowments and contributions from any source whatsoever; and
 - (d) Such monies, as may from time to time be granted to the Board by the State Government or donor agencies provided such grants are not intended for purposes contrary to the objects and functions of the Board.
- 14.** The Board shall defray from the fund established pursuant to Section 13 of the Law all the amounts payable under or in pursuance of the Law being sums representing:-
- (a) any allowance or other payments due to the 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 Board or the Internal Revenue Service;
 - (c) all remunerations, allowances or other costs of employment of the staff of the Internal Revenue Service;
 - (d) pensions and other retirement benefits payable under or pursuant to this Law or other enactment;
 - (e) cost of acquisition and upkeep of premises belonging to or occupied by the Internal Revenue Service and any other capital expenditure of the Internal Revenue Service;

- (f) investments, maintenance of utilities, staff promotion, training, research and similar activities;
- (g) all other costs that may be necessary for the day to day operations of the Internal Revenue Service; and
- (h) any other payment for anything incidental to the foregoing provisions or in connection with or incidental to any other function of the Internal Revenue Service.

Estimates

- 15.** The Internal Revenue Service shall cause to be prepared, not later than the 30th day of September of each year, an estimate of its income and expenditure for the succeeding year.

Accounts AND Audit

- 16.** The Internal Revenue Service shall cause proper accounts and records to be kept and such accounts 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 of Edo State.

Annual Reports etc

- 17.** (1) The Internal Revenue Service shall, not later than the 30th day of June in each year, submit to the auditor-General of the State, a report of its activities during the immediate preceding year and shall include in such report the audited accounts of the Internal Revenue Service.
- (2) The Auditor-General shall within 30 days of receipt of the report:-
- (a) present a copy of the report to the State Executive Council; and
 - (b) present a copy of the report to the State House of Assembly.

Power to accept Gifts

- 18.** (1) The Internal Revenue 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 Internal Revenue Service shall not accept any gift if the conditions attached to it are inconsistent with its functions.

- 19.** The Internal Revenue Service may, with the approval of the Governor, borrow by way of loan, overdraft or otherwise from any source, such sums as it may require for the performance of its functions and meeting its obligation under this Law.
- 20.** (1) After proper auditing, the Internal Revenue Service shall refund to tax payers such overpayment of tax as is due.
- (2) The Internal Revenue Service shall decide who is eligible for refund, subject to such rules and conditions as may be approved by the Board.
- (3) The refund shall be made within ninety (90) days of the decision of the Internal Revenue Service made pursuant to subsection (2) of this section with the option of setting off the amount due against future tax.
- 21.** The Internal Revenue Service shall have powers to:
- (a) assess all persons chargeable with tax in Edo State;
- (b) collect, recover and pay to the designated account any tax or levy due to the State Government under this or any other enactment;
- (c) enforce payment of due taxes;
- (d) in collaboration with the relevant ministries and agencies, review the tax regime and promote the application of tax revenue to stimulate economic activities and development;
- (e) in collaboration with the relevant law enforcement agencies, carry out the examination and investigation of all cases of tax fraud or evasion with a view to determining compliance with the provisions of this or any other relevant enactment;
- (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 (or revenue foregone) arising from tax waivers and other related matters;

- (g) adopt measures to indentify, trace, freeze, confiscate or seize the proceeds of tax fraud or evasion;
- (h) adopt measures which include compliance, enforcement and regulatory actions as well as introduction and maintenance of investigation and control techniques for the detection and prevention of non-compliance;
- (i) collaborate and facilitate rapid exchange of scientific and technical 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 persons involved;
- (l) provide, access and maintain an up-to-date adequate data and information on all taxable persons, individuals or corporations, for the purpose of efficient, effective and correct tax administration to prevent tax evasion or fraud;
- (m) maintain database, statistics, records and reports on persons, organizations, proceeds, properties, documents or other items of assets relating to tax waivers, fraud or evasion;
- (n) collate and keep under review all policies of the State Government relating to taxation and revenue generation and undertake a systematic and progressive implementation of such policies;
- (o) maintain a liaison with the Office of the Attorney-General of the State, all government, security and law enforcement agencies and such other financial supervisory institutions in the enforcement and eradication of tax related offence;
- (p) issue taxpayer identification number to every person taxable in Edo State;
- (q) from time to time specify the form of return, claim, statement and notices necessary for the due

administration of the powers conferred on it by this Law or any other enactment;

- (r) carry out and sustain public awareness and enlightenment campaigns on the benefits of tax compliance within the State; and
- (s) carry out such other activities as are necessary/ expedient for the full discharge of all or any of the functions prescribed under this law.

Establishment and
Composition of
Joint Revenue Committee

22. There is established for Edo State a Joint Revenue Committee which shall comprise:-

- (a) The Chairman of the State Internal Revenue Service as the Chairman;
- (b) The Chairman or the representative of each Local Government council in the State;
- (c) A representative of the State Ministry responsible for Local Government affairs not below the level of a Director;
- (d) The legal Adviser of the State Internal Revenue Service; and such officer of the Internal Revenue Service knowledgeable in Tax Administration; and
- (e) The Secretary of the Committee, who shall be a staff of the State Internal Revenue Service.

Functions of Joint
State Revenue Committee

23. The functions of the State Joint Revenue Committee shall be to:-

- (a) harmonize tax administration in the State;
- (b) deal with revenue matters of common concern to the State and Local Government authorities;
- (c) enlighten members of the public generally on State and Local Government revenue matters;
- (d) consider relevant resolutions of the Joint Tax Board for implementation in Edo State; and
- (e) advise the Joint Tax Board, the State and Local Government on revenue matters.

24. The Chief Judge shall designate in each Local Government Area, at least one Magistrate who shall sit as a Revenue Court and shall give priority to matters affecting the revenue of the State and of the relevant Local Government Councils and hear them expeditiously.

25. For the purpose of this Law,

(1) A revenue collector means a duly authorized officer of the Internal Revenue Service; and such authorized officer shall:

(a) Produce an identity card, a certificate or warrant, issued and having printed thereon, the office of the relevant revenue authority; setting out his full names, and stating that he is authorized to exercise the functions of a Revenue Collector, and this shall be sufficient evidence that the revenue collector is duly authorized for the purpose of this Law.

26. Except as otherwise provided in any Law, revenue due to any authority in Edo State shall be payable by cash, bank draft, electronic debit or credit card, or money transfer into any of the banks designated by the Board.

27. (1) if any person disputes an assessment, he may apply to the Internal Revenue Service by notice of objection in writing, to review or to revise the assessment, and such application shall state precisely the grounds of objection to the assessment and shall be made within thirty (30) days from the date of service of the notice of the assessment.

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

- (3) In the event of any person who has objected to an assessment agreeing with the Internal Revenue Service as to the correct amount of the tax chargeable, the assessment shall be amended accordingly and notice of the tax chargeable shall be served upon such person. Provided that, if an applicant for revision under the provisions of this section fails to agree with the Internal Revenue Service on the amount of tax chargeable, the Internal Revenue Service shall give notice of refusal to amend the assessment as desired by such person and may revise the assessment to such amount as the Internal Revenue Service may, according to the best of its judgment determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Law to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this proviso.

Errors and Defects
in assessment and notice.

- 28.** No assessment, warrant, notice or other proceedings made in accordance with the provisions of this Law or any other revenue law in force in the State shall be quashed or deemed to be void or voidable by want of form, mistake, defect or omission if the same is in substance in conformity with this law or other applicable law and if the person charged or intended to be charged or affected by it is to common intent and understanding designated therefrom.

Administration of
Tax Laws

- 29.** (1) The Internal Revenue Service shall have power to administer any Law on taxation in respect of which the State House of Assembly or the National Assembly may confer power on it.
- (2) The Internal Revenue Service may, with the approval of the Governor by instrument published in the State Gazette, appoint any ministry, department or agency to collect revenue pursuant to its powers under subsection (1) of this section.

Call for returns, books,
documents and information

- 30.** (1) For the purpose of obtaining full information in respect of the profits or income of any person, body corporate or organization, the Internal Revenue 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 Internal Revenue Service any return specified in such notice;
 - (b) appear personally before an officer of the Internal Revenue 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 may be from day-to-day for such period as the Internal Revenue 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 seven (7) days from the date of service of such notice except that an officer of the Internal Revenue 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 notice 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 percent of his actual tax liability.
- (4) The provision of this section or any other provision of this Law shall not be construed as precluding the Internal Revenue Service from verifying by tax audit or investigating any matter relating to any returns or entries in any book, document or accounts, including those stored in a computer, or digital or magnetic or optical or electronic media as may, from time to time be specified by the Internal Revenue Service.

(5) Any 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 31 of this Law, provided that the person:-

(a) makes the application before the expiration of the time stipulated in the 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 the above subsection, 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 dues

31. (1) The Internal Revenue Service may give notice in writing to any person it consider 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 Internal Revenue Service under this Law.

(2) Where 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 Internal Revenue 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 amount of tax due payable, also be liable to a fine equal to the amount of tax due and payable.

Information to be
delivered by Bankers

32. (1) Without prejudice to section 31 of this Law, every person engaged in Banking shall prepare and deliver to the Internal Revenue Service quarterly returns specifying:

(a) in the case of an individual, all transactions involving the sum of Five Hundred Thousand Naira (₦500,000.00) and above; or

(b) in the case of partnerships or unincorporated business names, all transactions involving the sum of One Million Naira (₦1,000,000.00) and above; and

(c) the names and addresses of all customers of the bank connected with the transaction.

(2) Subject to subsection (1) of this section, for the purpose of obtaining information relating to taxation, Internal Revenue 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 Chairman or the Internal Revenue Service on the advice of the Technical Committee of the Board.

(3) Any person who, having been engaged in banking in Nigeria contravenes the provision of this section, commits an offence and shall, in respect of each contravention, be liable on conviction to a fine of Five Hundred Thousand Naira (₦500,000.00) in the case of a body corporate; and in the case of an individual, a fine of Fifty Thousand Naira (₦50,000.00) or imprisonment for a term not exceeding five years or to both.

Issuance of tax
clearance certificate

33. (1) The Board may issue tax clearance certificate to any person within two weeks of receipt of an application if:-

(a) the Board is of the opinion that:

(i) taxes and levies assessed on a person or his income or property for the three (3) years immediately preceding the current year of the assessment and collectible by the Board as the revenue of the State Government has been fully paid; or

(ii) no such tax or levy is due on the person or on his income or property;

(iii) the person is not liable to tax for any of those three (3) years.

(b) The person is able to produce evidence that he paid withholding tax by deduction at source and that the assessment year to which the tax relates fall within the period covered by the tax clearance, and that he has fully paid any balance of the tax credit he has been given for the tax so deducted;

Provided that payment of income tax for the current year shall not be made a condition for the issuance of the certificate unless the applicant is leaving the State finally.

(2) The tax clearance certificate may be issued in paper form or stored in an electronic format on a machine-readable smart card (referred to as Electronic Tax Clearance Certificate) which holds tax information peculiar to that applicant and which shall be presented for checking by the holder whenever his tax compliance status is required.

(3) When a person who has applied for a tax clearance certificate has discharged his own tax liability but has failed to remit withholding tax or pay as you earn deductions collected by him on behalf of the State Government, no tax clearance may be issued to that person.

(4) The Board may decline to issue tax clearance certificate but it shall within two weeks of receipt of the application, give reason for the denial.

(5)(a) A Ministry, Department, Agency or official of the Edo State Government, or any Local Government Council Official, or any corporate body, statutory authority or person empowered in that regard by this or any other law, shall demand tax clearance certificate for the three years immediately preceding the current year of assessment and shall verify the genuineness by referring same to the issuing tax authority as pre-condition to transacting any business including, but not limited to the following:

(i) application for Governor's consent to real property transactions;

(ii) application for certificate of occupancy;

- (iii) application for registration as a contractor;
 - (iv) application for award of contracts by government, its agencies and registered companies;
 - (v) application for approval of building plans;
 - (vi) application for any government license or permit;
 - (vii) any application relating to the establishment or conduct of business;
 - (viii) registration for motor vehicles;
 - (ix) registration for distributorship;
 - (x) confirmation of appointment by government as Chairman or Member of any public board, institution, commission, company or to any other similar position made by the government;
 - (xi) application for registration of a limited partnership;
 - (xii) application for allocation of markets stalls;
 - (xiii) appointment or election into public office; and
 - (xiv) registration of any building plan;
 - (xv) any other application or processes for which tax clearance certificate is required under the provision of this Law, or section 85 of the Personal Income Tax Act or any other legislation for the time being in force in Edo State.
- (b) Without prejudice to the provisions of the Stamp duties Act and the Registration of Instruments Law, appropriate authority shall demand tax clearance when checking documents of property transaction before accepting such documents for stamping or registration as the case may be.

- (c) The Chairman of the Board is empowered to prescribe by notice in the State Gazette other purposes for which Tax Clearance Certificate may be required.
- (6) A Tax Clearance Certificate must contain the following information relating to each of the three (3) years immediately preceding the current year of assessment:
- (a) Chargeable income of holder;
 - (b) Tax payable;
 - (c) Tax paid;
 - (d) Tax outstanding;
 - (e) Tax payer identification number; and
 - (f) Anywhere no tax is due from the holder or on his income or property; the certificate shall contain a statement to that effect.
- (7) The Board shall be the sole authority to issue Tax Clearance Certificate under this Law, but it may exercise its powers by employing the services of any person or company, provided that:
- (a) The information which the Board requires the taxpayer to provide (the data) shall not be excessive in relation to the purposes for which the Tax Clearance Certificate is to be issued;
 - (b) The Board shall request from the taxpayer all details that are necessary to keep the data accurate and up to date;
 - (c) The Board shall make available to the taxpayer at a price to be determined at its discretion, a smart card with tax payer identity number, names, signature and photograph embossed on the front side;
 - (d) The card shall hold data in respect of a particular taxpayer in a secured format that can be accessed for authentication;

- (e) The data shall be made accessible to third parties only in a form which permits identification of the taxpayer and access to information on him for no longer than is necessary for the purpose of verifying his tax clearance status;
 - (f) The Board shall provide terminals free of charge to all persons or authorities empowered by this or any other legislation to demand tax clearance certificate from any person;
 - (g) The Board shall ensure that the taxpayer's data on the card are kept confidential to the same extent as their ordinary tax records; and
 - (h) Every person having any official duty or being employed in the administration of this Law, shall regard and deal with all documents, return assessment and other information as secret and confidential;
 - (i) The Board shall not be liable for damages or any loss incurred by the card holder as a result of inaccuracies in data supplied by him.
- (8) The cardholder shall upon application, be advised as to-
- (a) confidentiality of the information supplied;
 - (b) fees or charges for reissuing a lost card;
 - (c) complaint handling procedure; and
 - (d) procedure for review of personal data.
- (9) The Chairman of the Board shall have power, from time to time, to make such other regulations as he may consider necessary for effective implementation of the Electronic Tax Clearance Certificate Scheme in the State.

Power to access lands,
buildings, books and documents

- 34.** (1) An authorized officer of the Internal Revenue Service shall between the hours of 9.am and 4.pm, have free access to all lands, buildings and places, and to all books and documents, whether in the custody or

under the control of a public officer, institution or any other person whatsoever, for the purpose of inspecting any books, or documents including those stored or maintained on 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 laws or for the purpose of carrying out any other function lawfully conferred on the Internal Revenue Service, or considered likely to provide any information otherwise required for the purpose of any of those enactments or any of those functions and may, without fee or reward, make any extract from or copies of any 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 on a computer, or on digital, magnetic, optical or electronic media, the Internal Revenue Service may take immediate possession of such removable media and the related removable equipment or computer used to access the stored documents on the aforementioned media in order to prevent the accidental or intentional destruction, removal or alteration of the records and documents especially where such is required as potential evidence in the investigation of criminal proceedings.
- (3) Where the Internal Revenue Service is able to obtain, in the place of taking physical possession of such equipment, computer or storage media under subsection (2) of this section and the Internal Revenue 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 Internal Revenue Service shall make such a copy and use it as digital evidence during any investigation or criminal proceedings.
- (4) The occupier of a land or 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 conferred by this Law; and
 - (b) answer questions relating to the effective exercise of the powers; orally, or if required by the officer, in writing or by statutory declaration.
- (5) Notwithstanding subsection (1) of this section, the authorized officer or a person accompanying the officer shall not enter any private dwelling except with the consent of an occupier or pursuant to an authorization issued under subsection (6) of this section.
- (6) If the Chairman of the Internal Revenue Service, on written application by an authorized officer is satisfied that the exercise by the authorized officer of his functions under this section requires physical access to a private dwelling, he may issue to the officer a written authorization to enter that private dwelling.
- (7) Every authorization issued under subsection (6) of this section shall-
 - (a) be in the form prescribed by the Chairman; and
 - (b) be directed to a named officer of the Internal Revenue Service, and
 - (c) be valid for a period of 3 months from the date of its issue or such lesser period as the Chairman considers appropriate; and
 - (d) notwithstanding (b) and (c) above, be renewable by the Chairman on application.
- (8) Every 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 dwellings; and
 - (b) subsequently when he is reasonably required to do so.

Power to remove
books and document

- 35.** (1) Any officer of the Internal Revenue Service authorized by the Chairman, may remove books or documents accessed under section 34 to make copies.
- (2) After copies have been made, the books and documents so removed must be returned as soon as practicable.
- (3) A copy of a book or document or digital evidence certified by or on behalf of the Chairman is admissible in court as if it were the original.
- (4) The owner of a book or document that is removed under this section may at his expense inspect and obtain a copy of the book or document at the time the book is being moved or at a reasonable time thereafter.

Power to appoint
agent

- 36.** (1) The Internal Revenue Service may by notice in writing appoint a person to be the agent of another person and the person so declared as agent shall be the agent of that person for the purpose of this Law, and may be required to pay tax which is or will be payable by the person from any money which may be held by him for, or due by or to become due by him to the person whose agent he has been declared to be, and in default of that payment the tax shall be recoverable from him.
- (2) For the purpose of this Law, the Internal Revenue Service may require any person to give information as to any money, fund or other asset which may be held by him for or any money due from him to any person.
- (3) The provisions of this Law with respect to objections and appeals shall apply to any notice given under this section as though that notice were an assessment.

Addition for non-payment
of tax and enforcement
of payment

- 37.** (1) Subject to the provisions of this Law, if any tax is not paid within the period prescribed a sum equal to 10% of the amount of the tax payable shall be added and the provisions of this Law relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

- (a) The tax due shall carry interest at the prevailing commercial rate of the Central Bank of Nigeria from the date when the tax becomes payable until it is paid, and the provisions of the law relating to collection and recovery of tax shall apply to the collection and recovery of the interest.
 - (b) The Internal Revenue Service shall serve a demand notice upon the company or person in whose name tax is chargeable and if payment is not made within twenty one (21) days from the date of the service of such demand notice, the Internal Revenue Service may proceed to enforce payment under this Law; and
 - (c) An addition imposed under this section shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Law.
- (2) Any person who without lawful justification or excuse, (the proof of which shall lie on the person), fails to pay any imposed tax within the prescribed period, commits an offence under this Law.
 - (3) The Board shall have the power to remit any part or the whole of the addition due under subsection (1) of this section.

Power to distraint

- 38.**
- (1) Notwithstanding the power conferred on the relevant revenue authority for the enforcement of payment of revenue, if payment has become due and a demand notice has, in accordance with the provisions of the relevant Law, been served on the chargeable person or his agent, and payment is not made within the time limited by the demand notice, the Internal Revenue Service or other relevant revenue authority may for the purpose of enforcing payment of the amount due, distraint:
 - (a) upon the goods, chattels or other properties movable or immovable, of the person liable to pay tax outstanding; and
 - (b) upon all machinery, plant, tools, vehicles, animals and effects in the possession, use or

found on the premises or on the land of the person.

- (2) The authority to distrain under this section shall be in such form as the relevant revenue authority may direct and that authority shall be sufficient warrant and authority to levy by distrain the amount of revenue due.
- (3) For the purpose of levying and distrain, under this section, an officer duly authorized by the Chairman may apply to a judge of the State High Court in Chambers under oath for the issue of a warrant under the section.
- (4) A judge of the High Court in Chambers may authorize such officer, referred to in subsection (3) of this section, in writing to execute any warrant of distrain and, if necessary, break open any building or place in the daytime for the purpose of levying such distrain and he may call to his assistance any police officer and it shall be the duty of any police officer, when so required to aid and assist in the execution of any warrant of distrain and in levying the distrain.
- (5) Things distrained under this Section may, at the expense of the defaulter, be kept for fourteen days and if at the end of this period, the amount due in respect of the revenue, cost and charges of, and incident to the distrain are not paid, they may, subject to subsection (6) of this Section, be sold at any time.
- (6) Out of the proceeds of a sale under this Section, the cost or charges of and incidental to the sale and keeping of the distrain and disposal there under, shall be paid hereafter the amount of revenue due, and the balance (if any) shall be payable to the defaulter on demand being made by him or on his behalf within one year of the date of the sale or shall be forfeited.
- (7) Nothing in this Section shall be construed as to authorize the sale of an immovable property without an order of a High Court, made upon application in such form as may be prescribed by the rules of court.

Recovery of tax

(8) In exercise of the powers of distraint conferred by this Section, the person to whom the authority is granted under subsection (4) of this Section, may distraint upon all goods, chattels and effects belonging to the debtor wherever the same may be found in Nigeria.

- 39.** (1) Notwithstanding the provisions of this Law or any other relevant law, any amount due by way of tax shall constitute a debt due to the State and may be recovered by a civil action brought by the Board.
- (2) Where any tax has been short-levied or erroneously repaid, the person who should have paid the amount short-levied or to whom the repayment has erroneously been made, shall on demand by the proper officer, pay the amount short-levied 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 short-levied or erroneously repaid were liable.
- (3) Following a grant of an order of Court pursuant to a motion ex parte, the Board may seal up the premises of any defaulting tax payer or any part thereof until the tax owed is paid.

Tax Investigations

- 40.** (1) The Internal Revenue Service shall take all necessary Measures, to assist any relevant law enforcement agency, in the investigation of any offence under this Law.
- (2) The Internal Revenue Service shall have the power to investigate or cause investigation to be conducted to ascertain the violation of any tax law, whether or not such violation has been reported to the Internal Revenue Service.
- (3) In conducting any investigation under subsection (2) of this Section, the Internal Revenue Service may cause investigation to be conducted into the properties of any person if it appears to the Internal Revenue Service that the lifestyle of the person and extent of his properties are not justified by his declared source of income.
- (4) Where any investigation under this Section reveals the commission of any offence or an attempt to commit any offence, the Internal Revenue Service

shall submit its findings to the relevant law enforcement agency and the Attorney-General for purposes of further investigation or prosecution.

Power to Co-Opt
Power

- 41.** (1) The Internal Revenue Service may co-opt the assistance and co-operation of law enforcement agency, in the discharge of its duties under this Law.
- (2) The law enforcement officers shall aid and assist an authorized officer in the execution of any warrant of distrain and the levying of distrain or power to seal up a building or premises.

Power to enter,
Inspect and seize

- 42.** (1) Any tax officer armed with the warrant issued by a Judge of the State High Court and accompanied by number of law enforcement officers as shall be determined by the Chairman may:
- (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 same or otherwise forcibly enter the premises; and
- (f) remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect.
- (2) No person shall be bodily searched under this Section except by a person of the same gender.

Power to pay reward

- 43.** (1) The Internal Revenue Service may, with the approval of the Board, reward any person, not employed in the Internal Revenue Service, in respect of any information that may be of assistance to the Internal

Revenue Service in the performance of its duties under this Law upon meeting such conditions as may be determined by the Board and the amount of such reward shall also be at the discretion of the Board.

- (2) The identity of the person who gave information to the Internal Revenue Service shall be kept confidential and any current or former member of the Internal Revenue Service or Board that discloses the identity of such person shall be dealt with in accordance with the provisions of Section 45 of this Law with regard to confidential information.

Immunity from action

- 44.** An officer of the Internal Revenue Service or of any other tax authority in the State shall not be personally liable in any civil action or proceeding for any act or omission done by him in the performance of his duties or exercise of the powers conferred upon him under this or any other Law.

Information and documents to be confidential

- 45.** (1) All information and documents supplied or produced in pursuance of any requirement of this Law or any other legislation being implemented by the Internal Revenue Service shall be treated as confidential.
- (2) Except as otherwise provided under this Law or as otherwise authorized by the Governor or Chairman, any member or former member of the Board or any employee or former employee of the Internal Revenue Service of the State who communicates or attempts to communicate any confidential information or the content of any document to any person, commits an offence and shall be liable on conviction to a fine of two hundred thousand Naira (₦200, 000.00) or to imprisonment for three (3) years or both.

Establishment of Tax Assessment Review Committee (TARC)

- 46.** (1) The Governor may appoint:
 - (a) The Commissioner responsible for finance and budget;
 - (b) The Chairman and Executive Directors of the Board;
 - (c) Two other persons who are knowledgeable in tax Matters;

- (d) Directors of Income Taxes, Pay As You Earn, Legal Services and Tax Audit as members of Tax Assessment Review Committee.
- 47.** (1) The Tax Assessment Review Committee shall consider objection brought before it in the implementation of the Personal Income Tax Act and any other Law made by Edo State Government in respect of collection of taxes, levies and rates.
- (2) (1) A person may appeal to the Tax Assessment Review Committee (TARC) if he is objecting to any assessment raised by the Internal Revenue Service in writing addressed to the Chairman of TARC.
- (3) Tax Assessment Review Committee (TARC) shall thereafter convene a meeting of the committee to which the Tax payer or his representative and the Internal Revenue Service are invited and shall make such decision as it deems fit having regards to the evidence before it.
- (4) The time allowed for an appeal to the Tax Assessment Review Committee (TARC) shall be thirty (30) days after the date of delivery of the notice of refusal to amend.
- (5) The onus of proving an excessive assessment of tax shall lie on the Tax Payer.
- (6) A person giving evidence before the Tax Assessment Review Committee (TARC) shall, in respect of any evidence given by him or any document he is required to produce, be entitled to all privileges to which a witness in a trial before a court is entitled.
- (7) In respect of the compulsion of a witness, the Tax Assessment Review Committee (TARC) shall have the same power as that of a Court.
- (8) The Tax Assessment Review Committee (TARC) may confirm, reduce, increase or annul the assessed value.
- (9) The decision of Tax Assessment Review Committee (TARC) shall be communicated by the Internal Revenue Service to the Tax Payer in writing and payment of the final assessed tax liability shall be

made within seven days of receipt of notice of final assessment.

Failure to deduct or remit tax

48. If any person obliged to deduct any tax under this Law or any other applicable law, fails to deduct or having deducted, fails to pay to the Internal Revenue Service within thirty days from the date the amount was deducted or the time the duty to deduct arose, such person is guilty of an offence and shall on 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 commercial rate.

Failure to pay due taxes, levies or rates

49. Unless otherwise provided in this Law or in any other revenue Law applicable in the State, any person who fails to pay in full any tax, levy, rate, charge or other revenue due to the State or a Local Government authority, commits an offence and shall be liable upon conviction to:

- (a) a fine of 1% of the total amount of revenue which was due and payable, for each day of default;
- (b) imprisonment for twelve months; and
- (c) payment of tax, levy, rates, charge or other revenue due, which can be enforced in the same way and manners as a judgment debt.

Obstruction

50. 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 Law; or
- (b) does anything which impedes or is intended to impede the carrying out of any search, seizure, removal or distrain; or
- (c) rescues, damages or destroys anything so liable to seizure, removal or distrain or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is liable to seizure, removal or distrain; or
- (d) prevent the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested;

commits an offence and shall be liable on conviction, to a fine not exceeding two hundred thousand Naira (N200,000.00) or imprisonment for a term not exceeding three years or both.

Untrue Declarations

- 51.** (1) Any person who –
- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Internal Revenue Service or any officer of the Internal Revenue Service, any declaration, notice, certificate or other document whatsoever, or
 - (b) makes any statement in answer to any question or enquiry put to him by an officer which he is required to answer under this Law, or any other enactment, being a document or statement produced or made for any purpose of tax, which is untrue in any material particular, commits an offence.
- (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 the 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 Internal Revenue Service.
- (3) Any person who commits an offence under this Section shall be liable on conviction to a fine of two hundred thousand Naira (N200, 000.00) and 10 per cent of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term not exceeding three (3) years or both.

Counterfeiting Documents, etc

- 52.** (1) Any person who –
- (a) counterfeits or falsifies any document which is required by or for the transaction of any business under this Law or any law being administered by the Board or the Internal Revenue Service; or
 - (b) knowingly accepts, receives or uses any document so counterfeited or falsified; or

- (c) alters any such document after it is officially issued; or
- (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;
- (e) being an employee of the Internal Revenue Service, initiates, 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 of five hundred thousand Naira (N500, 000.00) or to imprisonment for a term not exceeding three (3) years or both.

53. Any person appointed for the due administration of this Law or employed in connection with assessment and collection of a tax who:

- (a) demands from any company, an amount in excess of the authorized assessment of the tax; or
- (b) withholds for his own use or otherwise, any portion of the amount of tax collected; or
- (c) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or
- (e) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongfully with the Internal Revenue Service; or
- (f) steals or misuses Internal Revenue Service documents; or
- (g) 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 not exceeding three (3) years or both.

Penalty where
offenders are armed

- 54.** (1) Any person who, in commission of any offence against this Law, is armed with any offensive weapon, commits an offence and shall be liable to a fine of Three Hundred Thousand (N300,000.00) Naira or imprisonment of five years or both.
- (2) Any person who, while armed with an offensive weapon, causes injury to any officer or authorized officer of the Internal Revenue Service in the performance of his functions under this Law, commits an offence and shall be liable to a fine of Two Hundred Thousand (N200,000.00) Naira or imprisonment of ten years or both.

Connivance to contravene
any provision of this Law

- 55.** Any person who connives with one or more person for the purpose of contravening any of the provisions of this Law commits an offence and shall be liable on conviction to imprisonment for a term not exceeding three years.

Impersonating a revenue
collector

- 56.** (1) Any person who not being a Revenue Collector holds himself out as a Revenue Collector and attempts to collect any revenue due to the State or a Local Government Council shall be guilty of an offence and be liable on conviction to a fine of two hundred and fifty thousand Naira (N250, 000.00) or imprisonment for three (3) years or both and any amount collected by him shall be forfeited to the State Government or the relevant Local Government Authority.
- (2) If for the purpose of obtaining admission to any building or other place 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 or designation or impersonates the character of an authorized officer, he shall, in addition to any other punishment to which he may be liable, be liable on conviction to a fine of one hundred thousand Naira (N100,000.00) or to imprisonment for a term of two (2) years.

Prosecution

- 57.** (1) Any criminal proceedings for an offence under this Law shall be instituted by or with the consent of the Attorney-General of Edo State.

- (2) Notwithstanding that the Honourable Attorney-General is a member of the Board, he may appear for and represent the Board or Internal Revenue Service in his professional capacity in any proceedings in which the Board or Internal Revenue Service is a party;

Provided that the Legal Adviser shall not in such circumstances, give evidence on behalf of the Board or Internal Revenue Service.

Power to enter into
plea bargain

- 58.** (1) The Internal Revenue Service may, with the approval of the Attorney-General, enter into a plea bargain in respect of any offence under this Law by accepting a sum of money not exceeding the maximum fine specified for the offence.
- (2) The Internal Revenue Service shall issue a treasury receipt for any money received under subsection (1) of this Section.

Penalty

- 59.** (1) Any person who contravenes any provision of this Law, for which no specific penalty is provided, commits an offence and shall be liable on conviction to a fine of fifty thousand Naira (N50, 000.00) or imprisonment for a term not exceeding two (2) years or both.
- (2) Where an offence under this Law is committed by a body corporate or firm or other association or individuals –
- (a) every director, manager, secretary or other similar officer of the body corporate; or
 - (b) every partner of the firm; or
 - (c) every person concerned in the management of the association; or
 - (d) every person purporting to act in any capacity as aforesaid, 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.

60. (1) Every person having any official duty or being employed in the administration of this Law 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 individual or company, as secret and confidential.
- (2) Every person having possession of or control over any document, information, returns of assessment list or copies 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 documents, returns, list or copies to any other person-
- (a) other than a person to whom he is authorized by the Chairman to communicate it ; or
 - (b) otherwise than for the purpose of this Law or of any other enactment.
- (3) No person appointed or employed under this Law shall 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 of that country of such facts as may be necessary to enable the proper relief to be given in cases where such is claimed from tax in Nigeria or from income tax in that country.
- (5) Where an agreement or arrangement with any other country with respect to relief for double taxation of income or profits includes provision for the exchange of information with that country for the purpose of 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 governor

61. (1) The Board shall, in the exercise of its powers and duties under this Law, be subject to the general directives of the Governor and such should be complied with, provided it does not interfere with the day to day administration of the Internal Revenue Service.

Provided that the Governor 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 proceedings whether civil or criminal relating either to the recovery of any tax or to any offence under this or any other tax legislation.

(2) In any proceedings whether civil or criminal under this Law or any of the laws administered by the Board, any act, matter or thing done by the Internal Revenue 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 given by the Governor.

(3) The Board shall report its activities to the Governor or to any officer directed by the Governor at such intervals as the Governor may direct.

Delegation of powers of the Board

62. (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.

(2) Notwithstanding the provisions of subsection (1) of this Section, the Board may, at any time and at its discretion, reverse or otherwise modify the 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 tax law or whether or not the officer was authorized by the Internal Revenue 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.

- (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 Law.

Signature of the Chairman

- 63.** Anything done or required to be done by the Internal Revenue Service or the Board in pursuance of any of its powers or duties under this or any other law, may be signed under the hand of the Chairman or an officer who has been authorized by the Board to do so.

Imposition of surcharge

- 64.** (1) If any officer or former officer of the Internal Revenue Service –
- (a) is or was responsible for any improper payment of money from the fund of the Internal Revenue 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, securities, stores or other property of the Internal Revenue Service;
 - (c) fails or has failed to keep proper accounts or records; or
 - (d) has failed to make any payment, or is responsible for any delay in the payment of money for the Internal Revenue Service to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Internal Revenue:

and if a satisfactory explanation is not furnished to the Internal Revenue Service within a period specified by the Board, with regard to the failure to collect, improper payment not duly documented,

deficiency or destruction, or failure to keep proper accounts of records, or failure to make payment, or delay in making payment, the Internal Revenue Service may surcharge the said officer such sum as it deems 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 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 Chairman of such withdrawal.
- (3) 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 Internal Revenue Service from the person against whom the surcharge is imposed and may be sued for and recovered in any court by a suit initiated by the Internal Revenue Service for its recovery and may also be recovered by deduction from the salary or other emoluments of the person surcharged if the Board so directs.

Limitation of suits
against the Internal
Revenue Service, etc

65. * (1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Act, shall apply in relation to any suit instituted against any member, officer or employee of the Internal Revenue Service.
- (2) No suit against the Chairman or a member of the Board or any employee of the Internal Revenue Service for any act done in pursuance or execution of this Law, or any other law or enactment, or of any public duties or authority or in respect of any alleged neglect or default in the execution of this Law or any other law or enactment, duties or authority, shall lie or be instituted in any court unless it is commenced:
 - (a) within three months 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 Chairman or a member of the Board or any other officer or employee of the Internal Revenue 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 Internal Revenue Service by the intending plaintiff or his agent.
- (4) The notice referred to in subsection (3) of this Section, shall clearly and explicitly state:
 - (a) the cause of action;
 - (b) the particulars of the claim;
 - (c) the name and place of abode of the intending plaintiff; and
 - (d) the relief which he claims.

Service of Documents

- 66.** A notice, summons or other document required or authorized to be served on the Internal Revenue Service under the provisions of this Law, or any other Law may be served by delivering it to the Chairman or by sending it by registered post, addressed to the Chairman at the principal office of the Internal Revenue Service.

Restriction on execution against Property of the Internal Revenue Service

- 67.** (1) In any action or suit against the Internal Revenue Service, no execution or attachment of process in the nature thereof, shall be issued against the Internal Revenue Service, unless not less than three months notice of the intention to execute or attach has been given to the Internal Revenue Service.
- (2) Any sum of money which by the judgment of any court has been awarded against the Internal Revenue 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 funds of the Internal Revenue Service.

Indemnity

- 68.** A member of the Board, the Chairman or any officer or employee of the Internal Revenue Service shall be indemnified out of the assets of the Internal Revenue

Service against any liability incurred by him in defending any proceedings, whether civil or criminal, if the proceedings is brought against him in his capacity as a Chairman or member of the Board or officer or other employee of the Internal Revenue Service.

Directives by the Governor, etc

69. The Governor may give to the Chairman such directives of a general nature or relating generally to matters of policy with regard to the exercise of his functions as he may consider necessary and it shall be the duty of the Internal Revenue Service or the Chairman to comply with the directives or cause them to be complied with.

Power to make regulations

70. The Board may, with the approval of the Governor, make regulations for carrying into effect the provisions of this Law and for the due administration of its provisions; and may in particular, make regulations:

- (a) prescribing the forms for returns and other information required under this Law or any other Law;
- (b) prescribing the procedure for obtaining any information required under this Law or any other Law;
- (c) setting out conditions of service and prescribing procedures for appointment and discipline of staff; and
- (c) for other incidental matters.

Savings and transitional provisions relating to staff or employees

71. (1) Notwithstanding anything to the contrary in this Law, any director, employee, staff or officer who immediately before the commencement of this Law, held office in the State Board of Internal Revenue (including the State Internal Revenue Service) referred to in this Law as "the former Board" existing immediately before the commencement of this Law and who has been made an offer of employment by the Internal Revenue Service shall be deemed to have been transferred to the Internal Revenue Service established under this Law, on terms and conditions not less favourable than those obtaining immediately before the commencement of this Law and service or employment in the former Board shall be deemed to be in the service or

employment of the Internal Revenue Service, established under this Law for purposes of pension.

- (2) Every director, employee, staff or officer transferred into the Internal Revenue Service by virtue of subsection (1) of this Section shall notify the Internal Revenue Service established under this Law in writing, within sixty (60) days after the commencement of this Law or after he receives an offer of appointment from the new Board (whichever is later) of his acceptance and any director, employee, staff or officer who fails to notify the Internal Revenue Service shall be 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 Internal Revenue Service established under this Law, beginning on the day that this Law 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 Internal Revenue Service established under this Law 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 Law, as specified in subsection (1) of this Section, shall be transferred to the Office of the Head of the Civil Service of the State for redeployment in the Civil Service within the time specified in subsection (2) of this Section.

Existing properties
and assets

- 72.**
- (1) There shall be vested in the Board all assets, funds, resources and other immovable property which immediately before the commencement of this Law, were vested in the former Board existing immediately before the commencement of this Law.
 - (2) All rights, interests, obligations and liabilities of the former Board existing immediately before the commencement of this Law, under any contract or instrument, or in Law or in equity apart from any contract or instrument, shall by virtue of this Law be assigned to and vested in the new Board.
 - (3) Any contract or instrument referred to in subsection (2) of this Section shall be of the same force and effect as the Board or the Internal Revenue Service.

established under this Law and shall be enforceable as if the Board established under this Law had been named therein or had been a party thereto.

- (4) The Board shall be subject to all obligations and liabilities to which the former Board existing immediately before the commencement of this Law, and all other persons shall as from the commencement of this Law have the same rights, powers and remedies against the Board as they had against the former Board.
- (5) Any proceedings pending or existing immediately before the commencement of this Law against the former Board in respect of any rights, interests, obligations or liability of the former Board may be continued, or be commenced and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Board of Internal Revenue.
- (6) Any regulations, orders, bye-laws or notices 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 Law shall be deemed to have been made or issued by or for the purposes of the Board and shall continue in force until revoked or amended; subject to such modifications as may be applicable to the Board established under this Law.

Continuation and completion
of disciplinary proceedings

- 73.** (1) As from the commencement of this law, any disciplinary proceedings pending or existing against any employee of the State Government, who has opted into the service of the former Board, shall be continued and completed by the Board established under this Law.
- (2) An appeal or grievance already filed, but which has not been finally disposed of on the coming into force of this Law shall be dealt with and disposed of in accordance with the Civil Service Rules as if this Law had not come into force.

Transfer of rights
and obligations

- 74.** (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 Board established under this Law.

- (2) The administration of any real assets that were immediately before the coming into force of this Law under the administration or administrative responsibility of the former Board or its agencies or bodies for the purposes of that former Board, are hereby transferred to the Board established under this Law.
- (3) All orders, rules, regulations, decisions, directions, licenses, authorizations, certificates, consents, approvals, declarations, designations, permits, registrations, rates or other documents that are in force before the coming into force of this Law and that are made or issued by the Governor, Chairman of the former Board or any person under their control shall continue in force as if they were made, or issued by the Governor, the Board established under this Law, the Chairman or an employee of the Internal Revenue Service as the case may be, until they expire or are repealed, replaced, reassembled or altered.
- (4) Every reference to the Governor, former Board, Chairman or any person under their control in a document issued in the name of the Governor, former Board, Chairman or employee of the former Board is to be read, unless the context otherwise requires, as a reference to the Governor, Board, Chairman, or an employee of the Board established under this Law, as the case may be.
- (5) Every affidavit sworn to, or document duly certified by an officer of the former Internal Revenue Service before the day on which this Section comes into force has the same probative value as if it were sworn to or certified by an employee of the Internal Revenue Service on or after that day.

Relevance of other Law
P.J.T.A. LFN

- 75.**
- (1) Notwithstanding the provisions of this Law, the relevant provisions of all laws to be administered by the Internal Revenue Service shall be read with such modifications as to bring them into conformity with the provisions of Personal Income Tax Act (as amended).
 - (2) If the provisions of any other State law for the charging and collection of revenue are inconsistent with the provisions of this Law, the provisions of this

Law shall prevail and the provisions of that other law shall to the extent of its inconsistency be void.

76. In this Law, unless the context otherwise requires –

"Authorized officer" means any person employed in the Internal Revenue Service or, for the time being, performing duties in relation to tax that has been specifically authorized by the Board or the Chairman to perform or carry out specific functions under this Law;

"Board" means the Edo State Board of Internal Revenue established under Section 1 of this Law;

"Book" includes any register, document or other records 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 2(a) of this Law;

"Commissioner" includes the Commissioner charged with responsibility for matters relating to Finance and Commissioners for a particular Ministry referred to in this Law;

"Consultants" includes accountants, legal practitioners or any other recognized professionals that have been certified by the Chartered Institute of Taxation of Nigeria, the Institute of Chartered Accountants of Nigeria or other relevant professional bodies in Nigeria, as the case may be;

"Document" includes any record of information supporting accounts and accounting records, including reports or correspondence or memorandum or minutes of meetings, however compiled, recorded or stored, whether in written or printed form or micro-film, digital, magnetic, electronic or optical form or otherwise and all types of information stored on computers and any other similar equipment;

"Government" means the Government of Edo State and where applicable, includes a Local Government Council;

"Governor" means the Governor of Edo State;

"Member" means a member of the Board appointed under Section 2 of this Law and includes the Chairman;

"Ministry" means the Ministry charged with the responsibility for matters relating to Finance;

"Officer" means any person employed in the Internal Revenue Service;

"Person" includes a company or body corporate and any unincorporated body of persons;

"Private dwelling" means any building or part of a building occupied as residential accommodation (including any garage, shed and other building used in connection therewith);

"Relevant" and recognized professional body" refers to any of the bodies mentioned in the schedule to this Law;

"Taxable person" includes an individual or body of individuals, family, corporation, sole trustee or executor or a person who carries out in a place an economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income there from by way of trade or business or person or agency of government acting in that capacity.

Amendment of Cap.
71 Laws of Bendel State 1976

77. (1) Section 2 of the Personal Income Tax Law Cap. 71, Laws of Bendel State 1976 is hereby amended by repealing the definition of the word "the Board" and inserting the following new definition:

"The Board" means the Edo State Board of Internal Revenue set up under Section 1 of the Edo State Revenue Administration Law.

- (2) Sections 4, 5 and 6 of Cap. 71 Laws of Bendel State 1976 are hereby repealed.

Schedule
(Section 2)

Relevant and recognized professional bodies include-

1. The Chartered Institute of Taxation;
2. The Institute of Chartered Accountants of Nigeria (ICAN) or other body concerned with the registration of Accountants in Nigeria;
3. The Nigerian Bar Association;
4. Any other body concerned with taxation or revenue matters in Nigeria.

This printed impression has been compared by me with the Law which has been passed by Edo State House of Assembly and found by me to be true and correctly printed copy of the said Law.

f
19-12-12
Clerk of the House of Assembly

IA

Assented to by me this 2 day of..... JANUARY2013

M. Mohale
Governor of Edo State of Nigeria

Assent withheld by me this day of.....2013

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Governor of Edo State of Nigeria

