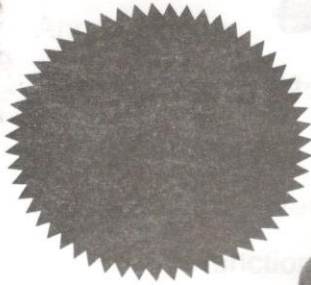


ASSENTED to by me this 27th day of July 2012



[Signature]
Governor

No. 12



2012

STATE OF OSUN, NIGERIA

**STATE OF OSUN REVENUE ADMINISTRATION
LAW, 2012**

A LAW TO MAKE PROVISION FOR THE ADMINISTRATION AND COLLECTION OF REVENUE DUE TO THE GOVERNMENT OF THE STATE OF OSUN AND LOCAL GOVERNMENT COUNCILS IN THE STATE, TO ESTABLISH THE RELEVANT ADMINISTRATIVE STRUCTURES AND FOR OTHER MATTERS CONNECTED THERETO.

BE IT ENACTED by the State of Osun House of Assembly *Enactment*
in this Legislative Session convened as follows:-

STATE OF OSUN REVENUE ADMINISTRATION LAW, 2012



ARRANGEMENT OF SECTIONS

SECTION:

1. Citation.
2. Establishment of the Board
3. Appointment and Composition of Members
4. Tenure and Remuneration of Members.
5. Office of the Chairman.
6. Accountability.
7. Secretary to the Board.
8. Meetings of the Board.
9. Removal of Members.
10. Functions of the Board.
11. Powers of the Board.
12. Staff Regulations.
13. Establishment of Technical Committee of the Board.
14. Fund of the Board.

15. Expenditure of the Board.
16. Estimates.
17. Accounts and audits.
18. Annual reports.
19. Power to accept gifts.
20. Power to borrow.
21. Refunds to Taxpayers.
22. Powers and functions of the Internal Revenue Service.
23. Establishment of Local Government Revenue Committee.
24. Functions of Revenue Committee.
25. Establishment and Composition of Joint State Revenue Committee.
26. Functions of Joint State Revenue Committee.
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28. Definition and Identification of Revenue Collector.
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32. Administration of tax laws.
33. Call for Returns, Books, Documents and information.
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41. Power to Distrain.
42. Recovery of tax.
43. Tax Investigations.
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51. Appeal S.7(13) P.I.T.A. Cap P8 LFN 2004.
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1. This Law may be cited as the State of Osun Revenue Administration Law, 2012. *Citation.*

2. (1) There is established a Board to be known as the State of Osun Board of Internal Revenue whose operational arm shall be known as the State of Osun Internal Revenue Service. *Establishment of the Board*

(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.

3.(1) Members of the Board shall be appointed by the Governor and shall comprise:

*Appointment
and
Composition
of
Members.*

(a) The Chairman who shall be

(i) appointed from a relevant and recognized professional body;

(ii) a person knowledgeable and experienced in tax matters; and

(iii) the executive head of the internal Revenue Service.

- (b) Six Directors or Heads of Departments who shall be appointed from the following Ministries on the recommendation of their respective Commissioners
- (i) Finance, Economic Planning and Budget;
 - (ii) Lands, Physical Planning and Urban Development;
 - (iii) Commerce, Cooperatives and Empowerment;
 - (iv) Works and Transport;
 - (v) Environment and Sanitation;
and
 - (vi) Agriculture and Food Security.
- (c) Two persons from the Internal Revenue Service not below the level of a Director. e Service.

- (d) The Attorney-General or his representative who shall be an officer not below the level of a Director.
 - (e) Three other persons who shall be members of a relevant professional body and knowledgeable in tax matters to be nominated by the Governor on their personal merit.
 - (f) The Secretary to the internal Revenue Service who shall also be the Secretary and an ex-officio member of the Board.
- (2) The appointment of the Chairman of the Board shall be subject to the approval of the House of Assembly.

4. (1) Members of the Board shall hold office for a term of 4 years and may be eligible for another term only.

*Tenure and
Remuneration
of
Members.*

(2) The Chairman and members of the Board excluding ex-officio members shall be paid such emoluments, allowances and benefits as the Governor may, from time to time determine.

5. The Chairman of the Board shall:

(a) be the chief executive and accounting officer of the Internal Revenue Service;

*Office of
the
Chairman.*

(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.

- 6. (1) The Chairman, as the Chief Executive and Accounting Officer of the Internal Revenue Service, shall:

Accountability

- (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 investment
- (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 regulation and prepared by qualified personnel, who must be a member of a recognized professional body.

7. (1) The Secretary to the Board shall:

*Secretary
to the
Board*

(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.

8. (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.

*Meetings of
the Board.*

(2) Any five members of the Board,
one of whom shall be the
Chairman or a Director, shall
constitute a quorum.

(3) A majority decision of the members on any matter obtained by the Secretary in written correspondences 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 of the matter to such meeting.

9. Notwithstanding the provisions of section 4 of this Law, the Chairman or a member of the Board shall cease to hold office if:

*Removal of
Members.*

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

(b) he becomes of unsound mind;

- (c) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body;
- (d) he is convicted of a felony or of any offence involving dishonesty or corruption;
- (e) he becomes bankrupt or makes a compromise with his creditors;
- (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 and the Governor removes him from office;
- (g) he has been found guilty of a breach of the code of conduct or other serious misconduct;

- 'h) in the case of a person possessing a professional qualification, he is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority;
- (i) he absents himself from three consecutive meetings without genuine reasons, despite being served notice of such meetings; and
- (j) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold that office.

10. 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;

*Functions
of the
Board.*

- (b) ensuring assessment, the effective and optimum collection of all revenue, including taxes, levies and penalties due to the Government of the State 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 recommendations, where appropriate, to the Joint Tax Board on tax policy, tax reform, tax legislation, tax treaties and exemptions as may be required from time to time;

- (f) appointing, promoting, 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 matters of policy, subject to the provisions of any regulations setting up the Internal Revenue Service; and
- (l) 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.*

11. (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 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.

- (3) 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.
- (4) 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 sales thereof in a manner to be prescribed by the Governor.

(5) The Board may subject to such conditions as it may determine, appoint and employ practising 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.

(6) The Board may, subject to prevailing conditions, appoint or 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.

12. (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:
- Staff Regulations.*
- (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 such shall 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 pension legislation for the time being in force in the State of Osun and accordingly, officers and employees of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the relevant law.

(5) The terms and conditions of service including remuneration, allowances, benefits and pensions of the employees of the Internal Revenue Service shall be determined by the Board, subject to the approval of the Governor,

13 (1) There shall be a Technical Committee of the Board (referred to in this Law as "the Technical Committee") which shall comprise:

- (a) the Chairman of the Board;
- (b) two Directors appointed to the Board from within the Internal; Revenue Service;

*Establishment
of
Technical
Committee
of the
Board*

(c) the Honourable Commissioner for Regional Integration and Special Duties or his representative not below the Level of a Director;

(d) the Honourable Commissioner for Finance, Economic Planning and Budget or his representative not below the rank of a Director; and

(e) the Legal Adviser in the State Internal Revenue Service.

(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 matters as the Committee may consider necessary in the 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 10 and 11 of this Law; and
- (d) attend to such other matters a may, from time to time, be referred to it by the Board.

14. The Board shall establish and maintain a fund which shall consist of and to which shall be credited:

Fund of the Board

- (a) an amount not less than five percent and not more than ten percent of all revenue collected by the Internal Revenue Service in the preceding year as may be appropriated by the State House of Assembly as administrative charge or cost of collection;

- (b) all other monies which may, from time to time, accrue to the Board for other services including the disposal, lease or hire of or any other dealing with, any property vested in or acquired by the Board;
- © all sums of money accruing to the Board or the Internal Revenue Service by way of grants-in-aid, gifts, testamentary dispositions and 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.

15. The Board shall defray from the fund established pursuant to section 14 of this Law all the amounts payable under or in pursuance of this 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 committees 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 Services;

- (d) pensions and other retirement benefits payable under or pursuant to this Law or any 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;
- (h) incentives (in cash and kind) for the staff, when revenue targets are met or surpassed; and

- (i) 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.

16. The Internal Revenue Service shall cause to be prepared not later than the thirtieth day of September of each year, an estimate of its income and expenditure for the succeeding year, and submit same to the State of Osun House of Assembly for approval.

Estimates.

17. 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

*Accounts
and audits.*

list and in accordance with the guidelines supplied by the Auditor-General of the State of Osun.

- 18 (1) The Internal Revenue Service shall, not later than the thirtieth 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. *Annual reports.*
- (2) The Auditor-General shall within thirty days of receipt of the report submit a copy of the report to the State House of Assembly.

19.(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.

Power to accept gifts.

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

20. The Internal Revenue Service may, with the approval of the State House of Assembly, borrow by way of loan, overdraft or otherwise from any source, such sums as it may require for the performance of its function and meeting its obligations under this Law subject to notification to the Ministry of Finance and clearance by the Governor.

Power to borrow

21.(1) After proper auditing, the Internal Revenue Service shall refund to tax payers such overpayment of tax as is due.

Refunds to Taxpayers.

(2) The Internal Revenue Service shall decide on 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 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.

22. The Internal Revenue Service shall have power to:

Powers and functions of the Internal Revenue Service.

(a) assess all persons chargeable with tax in the State;

- (b) collect, recover and pay to the designated account any tax or levy due to the State Government under this Law 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 revenues to stimulate economic activities and development;
- (e) in collaboration with the relevant law enforcement Agencies, carrying 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 and such other losses (or revenue forgone) arising from tax waivers and other related matters;

- (g) adopt measures to identify, trace, freeze, confiscate or seize the proceeds of tax fraud or evasion;

- (h) adopt measures which include compliance- enforcement and regulatory actions as well as introduction and maintenance of investigative 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 and maintain access to up to date and adequate data and information on all taxable persons, individuals or Corporations, for the purpose of efficient, effective and correct tax administration and to prevent tax evasion or fraud;
- (m) maintain database, statistics, records and reports on persons, organizations, proceeds, properties, documents or other items of assets relating to tax waivers, fraud or evasion;
- (n) undertake research and similar measures with a view to stimulating economic development and determining the extent and effects of tax fraud

or evasion and make recommendations to the Government on appropriate intervention and preventive measures;

- (o) 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;
- (p) 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 offences;
- (q) issue taxpayer identification number to every person taxable in the State of Osun;

- (r) from time to time specify the form of returns, claims, statements and notices necessary for the due administration of the powers conferred on it by this Law or any other enactment:
- (s) carry out and sustain public awareness and enlightenment campaigns on the benefits of tax compliance within the State; and
- (t) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions prescribed under this Law.

23. (1) There is established for each Local Government Area of the State a Committee to be known as the Local Government Revenue Committee (referred to in this Law as the "Revenue Committee").

*Establishment
of Local
Government
Revenue
Committee.*

(2) The Revenue Committee shall comprise of the following:

(a) a person to be appointed by the Local Government Council Legislature, not being a political appointee or public officer from within the Local government Council and who shall be vast in revenue matters shall be the Chairman;

(b) three Heads of Departments of the Local Government Council namely Legal, Finance and any other Department; and

(c) a member of the public not being a member of the Council who is vast in revenue matters to be nominated by the Legislative Arm of the Council.

(3) All appointments made pursuant to this section shall be subject to the approval of the Legislative Arm of the Council.

24. (1) The Revenue Committee shall be responsible for the assessment and collection of all taxes, fines, rates, charges or other revenue under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the Chairman of the Local Government, subject to the financial memorandum and guidelines on Local Government Administration.

*Functions
of Revenue
Committee.*

(2) The Revenue Committee shall be autonomous of the Local Government Treasury and shall be responsible for the day-to-day administration of the Department or personnel which forms its operational arm.

25. There is established for the State of Osun a Joint State Revenue Committee which shall comprise:

- (a) the Chairman of the State Internal Revenue Service as the Chairman;
- (b) the Chairman of each Local Government Revenue Committee in the State;
- (c) a representative of the State Ministry responsible for Local Government affairs not below the level of a Director;

*Establishment
and
Composition
of Joint
State
Revenue
Committee.*

(d) the Legal Adviser of the State Internal Revenue Service; and

(e) the Secretary of the Committee, who shall be a staff of the State Internal Revenue Service.

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

(a) harmonise 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 the State; and

*Functions
of Joint
State
Revenue
Committee.*

(e) advise the Joint Tax Board, the State and Local Governments on revenue matters.

27. The Chief Judge shall designate in each Federal Constituency at least two Magistrates who shall give priority to matters affecting the revenue of the State and of the relevant Local Government Council.

Designation of Magistrates to adjudicate on Revenue Matters.

28. (1) For the purpose of this Law, a revenue collector means a duly authorized officer of the Internal Revenue Service or of a Local Government Revenue Committee.

Definition and Identification of Revenue Collector.

(2) The production by a revenue collector of an identity card and certificate or warrant issued by the relevant revenue authority setting out his full names, and stating the authority to exercise the functions of a Revenue Collector, shall be

sufficient evidence that the Revenue Collector is duly authorized for the purpose of this Law.

29. Except as otherwise provided in any Law, revenue due to any authority in the State of Osun shall be payable by cash, bank draft, electronic debit or credit card, or money transfer into any of the banks designated by the Board or the Chairman of the relevant Local Government Council entitled to receive such revenues.

Mode of Payment

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

Revision of Assessment.

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

(3) In the event of any person who has objected to an assessment agreeing with the Board 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 Board the amount of the tax chargeable, the Board shall give notice of refusal to amend the assessment as desired by such person and may revise the assessment to such amount as the Board may, according to the best of its judgement, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and 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.

31. No assessment, warrant, notice or other proceeding 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.

Errors and Defects in Assessment and Notice.

32. (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.

Administration of tax laws.

(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.

33. (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:

Call for Returns, Books, Documents and information.

(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.

- (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 notices set out in this section.
- (3) A person who contravenes the provisions of this section is, in respect of each offence, liable on conviction to a fine equivalent to 100 per cent of 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 on 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, 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 grant in writing the extension of the time or limit the time as it may consider appropriate.

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

Call for further returns and payment of tax due.

(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 and payable, also be liable to a fine equal to the amount of tax due and payable.

35. (1) Without prejudice to section 33 of this Law, every person engaged in banking shall prepare and deliver to the Internal Revenue Service, quarterly returns specifying:

*Information
to be
delivered
by Bankers.*

- (a) in the case of an individual, all transactions involving the sum of One Hundred Thousand Naira and above; or
 - (b) in the case of partnerships or unincorporated business names, all transactions involving the sum of Five Hundred Thousand Naira 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, the 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 of 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 (N500,000.00) in the case of a body corporate, and in the case of an individual a fine of

Fifty Thousand Naira
(N50,000.00) or imprisonment
for a term of five years or to both
such fine and imprisonment.

36. (1) The Board may issue Tax
Clearance Certificate to any
person within two weeks of
receipt of an application if:

*Issuance of
Tax
Clearance
Certificate.*

(a) the Board is of the opinion
that:

(i) taxes or levies assessed
on a person or his
income or property for
the 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; and
 - (iii) the person is not liable to tax for any of those 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 falls within the period covered by the tax clearance, and that he has fully paid any balance of the tax after credit has been given for the tax so deducted; and
- (c) 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) Where 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 Certificate 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 Government of the State of Osun or any Local Government Council official or any Corporate body, statutory authority or person empowered in that regard by this Law or any other law shall demand Tax Clearance Certificate for the three years immediately preceding the current year of assessment as precondition 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) application for Government of State of Osun loan for housing, business or any other purposes;

- (ix) registration for motor vehicles;
- (x) registration for distributorship;
- (xi) 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;
- (xii) application for registration of a limited partnership;
- (xiii) application for allocation of market stalls; and
- (xiv) any other application or process for which Tax Clearance Certificate is required under the provisions of this Law or section 84 of the Personal Income Tax Act.

- (b) Without prejudice to the provisions of the Stamp Duties Act, appropriate officers shall demand Tax Clearance Certificate when checking documents of property transaction before accepting such documents for stamping or registration as the case may be.
 - (c) The Board is empowered to prescribe by Notice in the State Gazette other purposes for which Tax Clearance Certificate may be required
- (6) (1) A Tax Clearance Certificate must contain the following information relating to each of the 3 years immediately preceding the current year of assessment:
- (a) chargeable income holder;
 - (b) tax payable;

- (c) tax paid; and
 - (d) tax outstanding.
- (2) Where 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 taxpayer 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 secure 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 purposes of verifying his tax 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 Certificates 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;
- (h) every person having any official duty or being employed in the administration of this Law

shall regard and deal with all documents, returns, assessment or other information as secret and confidential; and

- (i) the Board shall not be liable for damages or any loss incurred by the cardholder 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 re-issuing a lost card;
 - (c) complaint handling procedure; and
 - (d) procedure for review of personal data.

(9) The Board shall have power, from time to time, to make such other regulations as it may consider necessary for effective implementation of Electronic Tax Clearance Certificate Scheme in the State.

37.(1) An authorized officer of the Internal Revenue Service shall between the hours of 9.00 a.m. and 4.00 p.m., have free access to all lands, buildings and places, books and documents, whether 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

*Power to
access
Lands,
Buildings,
Books and
Documents.*

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 functions 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 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 such 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 is satisfied that the exercise by an authorized officer of his or her functions under this section his or her 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;

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

(a) 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 dwelling; and

(b) subsequently when he is reasonably required to do so.

38.(1) An officer of the Internal Revenue Service authorized by the Chairman, may remove books or documents accessed under section 36 to make copies.

Power to remove books and documents.

- (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 evidence 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 or document is being moved or subsequently at a reasonable time.

39. (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.

the date of service of notice of the refusal of the Board to amend the assessment as desired.

52.(1) A notice of appeal to be given under the provisions of this Section shall be given in writing to the Board and shall set out as follows:

Notice of Appeal.

- (a) the name and address of the appellant;
- (b) the official number and the date of the relevant notice of assessment;
- (c) the amount of the assessable, total or chargeable income and of the tax charged as shown by that notice and the year of assessment concerned;

- (d) the precise grounds of appeal against the assessment;
 - (e) the address for service of any notice or other documents to be given to the appellant; and
 - (f) the date on which the appellant was served with notice of refusal by the Board to amend the assessment as desired.
- (2) As soon as may be, after receipt of notice of appeal, the Secretary shall, having regard to the grounds of appeal therein disclosed and to any relevant provisions of this Law deliver a copy to the Board and the appeal shall be listed by the Secretary for hearing accordingly.

- (3) A notice or other documents to be given to the Appeal shall be addressed to the Secretary and be delivered at or sent by registered post to his official address.
- (4) A taxpayer may discontinue an appeal by him under this Section upon giving notice to the Secretary in writing any time before the hearing of the appeal.
- (5) Notwithstanding that notice of appeal against an assessment has been given by a taxpayer under this Section the Board may revise the assessment in agreement with the taxpayer, and on notice of the agreement being given in writing by the Board to the Secretary at any time before the hearing, the appeal shall be treated as being discontinued.

- (6) On the discontinuance of an appeal under the provisions of this Section, the amount or revised amount of the assessment, as the case may be, shall be deemed to have been agreed between the tax authority and the taxpayer under the provisions of subsection (3) of Section 57 of the Personal Income Tax Act.

53. (1) The Appeal Commissioners shall, as often as may be necessary, meet to hear appeals in any town where an office of the Board is situated and, subject to the provisions of subsection (2), of this Section at any such meeting:
- Meeting
and
Decision of
Appeal
Commissions*
- (a) Any three or more Appeal Commissioners may hear and decide an appeal; and
- (b) the Appeal Commissioners present shall elect one of their members to be the chairman for the meeting.

- (2) An Appeal Commissioner who had a direct or indirect financial interest in a taxpayer or being a relative of a person having such an interest, and having knowledge thereof, shall, when any appeal by such taxpayer is pending before the Body of Appeal Commissioners, declare such interest to the other Appeal Commissioners and give notice to the Board in writing of such interest or relation-hrp, and he shall not sit at any meeting for the hearing of that Appeal.
- (3) The provisions of subsection (2) of this Section shall also apply where an Appeal Commissioner is a legal practitioner or an accountant, and the taxpayer is or has been a client of that Appeal Commissioner

- (4) The Secretary shall give seven clear working days notice to the Board and to the applicant of the date and place fixed for the hearing of an appeal except in respect of an adjourned hearing for which the Appeal Commissioners have fixed a date at their hearing.
- (5) All notices, precepts and documents, other than decisions of the Appeal Commissioners may be signed under the hand of the Secretary.
- (6) All appeals before the Appeal Commissioners shall be held in camera.
- (7) A taxpayer who appeals against an assessment shall be entitled to be represented at the hearing of the appeal.

If the person intended by the taxpayer to be his representative in an appeal is unable for good cause to attend the hearing, the Appeal Commissioners may adjourn the hearing for such reasonable time as they think fit, or admit the appeal to be made by some other person or by way of written statement.

- (8) The onus of proving that the assessment complained of is excessive shall be on the appellant.
- (9) At the hearing of an appeal, if the representative of the Board proves to the satisfaction of the Appeal Commissioners or the court hearing the appeal in the first instance that:

(a) the appellant has, contrary to subsection (1) of Section 44 of the Personal Income Tax Act, for the year of assessment concerned, failed to prepare and deliver to the Board the statement mentioned in that subsection; or

*S. 41 (f)
P.I.T.A.
Cap. P8
LFN 2004*

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

(c) it is expedient to require the appellant to pay an amount as security for processing the appeal, the Appeal Commissioners or, as the case may be, the court, may adjourn the hearing of the

appeal to any subsequent day and order the appellant to deposit with the Board before the day of the adjourned hearing an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged on the appellant for the preceding year of assessment under appeal, whichever is the lesser.

- (10) If the appellant fails to comply with an order under subsection (9) of this section, the assessment against which he appealed shall be confirmed and the appellant shall have no further right of appeal to the Appeal Commissioners or the particular court whatsoever with respect to that assessment.

- (11) The Appeal Commissioners may confirm, reduce, increase or annul the assessment or make such order thereon as they see fit.
- (12) the decision of the Appeal Commissioners shall be recorded in writing by the Chairman and a certified copy of the decision shall be supplied to the appellant and the Board by the Secretary, on a request made within three months of the decision.
- (13) Where on the hearing of an appeal:
- (a) no accounts, books or records relating to profits were produced by or on behalf of the appellant;
 - or

- (b) those accounts, books or records were so produced but the Appeal Commissioners rejected the same on the ground that it has been shown to their satisfaction that they were incomplete or unsatisfactory; or
- (c) the appellant or his representative, at the hearing of the appeal has neglected or refused, to comply with a precept delivered or sent to him by the Secretary to the Appeal Commissioners without showing reasonable excuse; or
- (d) the appellant or a person employed, whether confidentially or otherwise, by the applicant or his agent has

refused to answer any question put to him by the Appeal Commissioners, without showing any reasonable cause, the Chairman of the body of Appeal Commissioners shall record particulars of the same in his written decision.

(14) The Governor may make rules prescribing the procedure to be followed in the conduct of appeal before the Appeal Commissioners subject to the approval of the State of Osun House of Assembly.

54 (1) Notice of the amount of the tax chargeable under the assessment as determined by the Appeal Commissioners shall be served by the Board on the taxpayer or on the person in *Appeal against Assessment.*

whose name the taxpayer is chargeable.

- (2) Where the tax chargeable on a taxpayer for a year of assessment in accordance with a decision of the Appeal Commissioners does not exceed Twenty Thousand Naira (N20,000.00) no further appeal by the taxpayer shall lie from that decision except with the consent of the Board and such consent shall not be withheld unjustifiably.

- (3) Notwithstanding that a further appeal is pending, tax shall be paid in accordance with the decision of the Appeal Commissioners, within one month of notification of the amount of the tax payable pursuant to subsection (1) of

this section, and proceedings may be taken for its recovery in accordance with the provisions of this Law.

55 (1)

Subject to the provisions of subsection (2) of section 54 of this Law, a taxpayer who, having appealed against an assessment made on him to the Appeal Commissioners under the provisions of section 52(1) of this Law is aggrieved by the decision of the Appeal Commissioners may appeal against the assessment and the decision to the High Court of the State upon giving notice in writing to the Board within thirty days after the date on which the decision was given.

*Appeal
against
Decision*

(2) Where no body of Appeal Commissioners had been appointed with jurisdiction to hear an appeal against an assessment made on a taxpayer, the taxpayer who is aggrieved by the assessment and has failed to agree with the Board in the manner provided in subsection (3) of section 30 of this Law and section 57(3) of the Personal Income Tax Act, may appeal against the assessment to the High Court of the State upon giving notice in writing to the Board within thirty days after the date of service of notice of the refusal by the Board to amend the assessment as desired.

*S.53(3)
P.I.T.A
Cap. P8)
LFN 2004.*

(3) If the Board is dissatisfied with a decision of the Appeal Commissioners, it may appeal against that decision to the High Court of the State upon giving notice in writing to the other party to the appeal within thirty days after the date on which the decision was given.

(4) Seven clear working days notice of the date fixed for the hearing of the appeal shall, unless rules made hereunder otherwise provide, be given all parties thereto.

(5) The provisions of subsections (7), (8) and (9) of section 53 and that of subsection (1) of section 52 of this Law shall apply to an appeal under this Section with necessary modifications.

- (6) All appeals shall be heard in camera unless the Judge shall, on the application of the taxpayer, otherwise direct.

- (7) If on the hearing of an appeal from a decision of the Appeal Commissioners given under the provisions of section 53 of this Law a certified copy of that decision is produced before the High Court and the decision contains a record by reference to:
 - (a) paragraph (a) of subsection (13) of section 53 of this Law, the High Court shall dismiss the appeal; or
 - (b) paragraph (b) of subsection (13) of section 53 of this Law, the High Court may dismiss the appeal on prima

facie evidence, with respect to the accounts, books or records having been incomplete or unsatisfactory, as the Court may deem sufficient; or

(c) paragraph (c) or (d) of subsection (13) of section 53 of this Law, the High Court shall dismiss the appeal unless it considers that the cause of the neglect or refusal was reasonable.

(8) Notwithstanding the provisions of section 67 of the Personal Income Tax Act, if in a particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered, he may, on application being made by or on

8.67
P.I.T.A.
Cap. P8
LFN 2004.

facie evidence, with respect to the accounts, books or records having been incomplete or unsatisfactory, as the Court may deem sufficient; or

(c) paragraph (c) or (d) of subsection (13) of section 53 of this Law, the High Court shall dismiss the appeal unless it considers that the cause of the neglect or refusal was reasonable.

(8) Notwithstanding the provisions of section 67 of the Personal Income Tax Act, if in a particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered, he may, on application being made by or on

8.67
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behalf of the Board, require the appellant to furnish within such time as may be specified, security for payment of the tax and if the security is not given within the time specified the tax assessed shall immediately become payable and recoverable.

- (9) The cost of the appeal shall be at the discretion of the Judge hearing the appeal and shall be a sum fixed by the Judge.
- (10) The Chief Judge of the State may make rules providing for the method of tendering evidence before a Judge on appeal, the conduct of the appeals and the procedure to be followed by a Judge.

(11) An appeal against the decision of a Judge shall lie to the Court of Appeal and thereafter to the Supreme Court:

(a) at the instance of the taxpayer, where the decision of the Judge is to the effect that the tax chargeable on the taxpayer for the relevant year of assessment exceeds Fifty Thousand Naira; and

(b) at the instance of or with the consent of the Board, in any other case provided that no cost shall be awarded against the taxpayer in an appeal instituted by the Board under this subsection unless the decision of the Judge is to the effect mentioned in paragraph (a) of this subsection.

56. (1) Where no valid objection or appeal has been lodged within the time limited by section 53 of this Law or where due notice has not been given of a further appeal against a decision of the Appeal Commissioners or a Judge, as the Case may be, an assessment made, or agreed to under the provisions of subsection (3) of Section 53 of this Law, and subsection (3) of section 50 of the Act determined under the proviso to that subsection or on Appeal, as the case may be, shall be final and conclusive for all purposes of this Law as regards the amounts of the assessable, total or chargeable income and the tax charged thereby.

*Assessment
to be Final
and
Conclusive.*

(2) If the full amount of the tax charged by a final and conclusive assessment is not within the appropriate period prescribed by the provisions of this Law, the provisions thereof relating to the recovery of tax, and to any penalty under Section 39 of this Law, shall apply to the collection and recovery of the tax or penalty subject only to the set-off of the amount of any tax repayable under any claim made under a provision of this Law or of which has been agreed to by the Board or determined on an appeal against a refusal to admit that claim:

Provided that:

- (a) where an assessment has become final and conclusive any tax overpaid, including any amount deposited with

the Board on account of the tax charged by the assessment, shall be paid; and

(b) nothing in section 57 of the Personal income Tax Act shall prevent the Board from making an assessment or additional assessment for any year which does not involve reopening any issue, on the same facts, which has been determined for that year of assessment under subsection (3) of that section or an appeal.

57. 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

Failure to deduct or remit tax.

amount was deducted or the time the duty to deduct arose, he shall be guilty of an offence and shall 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.

58. 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 is guilty of 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; and
- (b) imprisonment for Six months.

*Failure to
pay due
taxes, levies
or rates.*

59. Any person who:

Obstruction.

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

-
- (d) prevents 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.

60. (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

*Untrue
Declarations.*

(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 over-payment is made in respect of any repayment of tax, the amount of tax unpaid or the over-payment 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 one hundred one hundred percent of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term of three (3) years or both.

61. 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

*Counterfeiting
document
etc.*

-
- (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; and
 - (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 of three (3) years or both.

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

*Penalties
for
offences by
authorized
and
unauthorized
persons.*

- (a) demands from any company an amount in excess of the authorized assessment of the tax;
- (b) withholds for his own use or otherwise any portion of the amount of tax collected;
- (c) renders a false return, whether orally or in writing of the amount of tax collected or received by him;
- (d) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongfully with the Internal Revenue Service;

(e) steals or misuses Service documents; or

(f) compromises on the assessment or collection of any taxes, commits an offence and shall be liable on conviction to a fine equivalent to two hundred percent of the sum in question or to imprisonment for a term of three years or both.

63. (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 on conviction to imprisonment for a term of five years.

*Penalty
where
offenders
are armed.*

(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 on conviction to imprisonment for a term of ten (10) years.

64. Any person who connives with one or more persons '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 of one year.

*Connivance
to
contravene
an}'
provisions
of this Law.*

65. (1) Any person who not being a Revenue Collector holds himself out as a Revenue

*Impersonating
a Revenue
Collector.*

Collector and attempts to collect or collects any revenue due to the State or 3 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 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 authorised

Collector and attempts to collect or collects any revenue due to the State or 3 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 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 authorised

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 (~~N~~100,000.00) or to imprisonment for a term of two (2) years.

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

Prosecution.

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

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

67.(1) The Internal Revenue Service may, with the approval of the Attorney-General, compound any offence under this Law by accepting a sum of money not exceeding the maximum fine specified for the offence.

Power to compound Offences.

(2) The Internal Revenue Service shall issue a treasury receipt for any money received under subsection (1) of this section.

68. (1) Any person who contravenes any provisions of this Law for which no specific penalty is provided, commits an offence

Penalty.

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 of individuals:
- (a) every director, manager, secretary or other similar officer of the body corporate;
 - (b) every partner of the firm;
 - (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.

*Official
Secrecy and
Confidentiality*

- 69.(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, commits an offence under this Law.

(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 provisions for the exchange of information with that country for the purpose of implementing that relief or preventing avoidance of tax, the obligation as to secrecy imposed by this section shall not prevent the disclosure of such information to the authorized officers of the Government of such country.

70. (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 in so far as it does not interfere with the day to day administration of the Internal Revenue Service.

*Board to be
subject to
general
direction of
the
Governor:*

Provided that the Governor shall not give any direction, 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 proceeding, 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 direction, given by the Governor

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

*Delegation
of Powers
of the
Board*

(2) Notwithstanding the provisions of subsection (1) of this section, the

Board may, at any time and at its discretion, reverse or otherwise modify 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.

72. 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 Law 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.

*Signature
of the
Chairman.*

- 73.(1) If any officer of the Internal Revenue Service, whether still or not in its employment:

*Imposition
of
surcharge.*

- (a) is or was responsible for any improper payment of moneys

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 moneys, 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 moneys 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 Service;

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 or 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.

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- (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.
 - (4) The amount of any surcharge imposed under subsection (1) of this section and not withdrawn under subsection (3) of this section shall be a debt due

to the Internal Revenue Service from the person against whom the surcharge is imposed and may be sued for and recovered in any court in any suit initiated by the 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.

74. (1) Subject to the general provisions of this Law and section 73(4) of this Law in particular, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer or officer or employee of the Internal Revenue Service.

*Limitation
of suits
against
Internal
Revenue
Service etc.*

(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 three 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.

75. 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.

Service of Documents.

76. (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.

Restriction on Execution against property of the Internal Revenue Service.

(2) Any sum of money which by the judgement 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 judgement has been given, be paid from the fund of the Internal Revenue Service.

77. 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 proceeding, whether civil or criminal, if the proceeding 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.

Indemnity.

78. 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:

*Power to
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; and 1
- (c) for any other incidental matters.

79. (1) Notwithstanding anything to the contrary in this Law, any director, employee, staff or officer who immediately before the commencement of this Law held

*Savings
and
Transitional
Provisions
relating to
Staff or
Employees.*

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 service or employment in 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 (which ever 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.

80. (1) There shall be vested in the Board all assets, funds, resources and other immovable properties which immediately before the commencement of this Law were vested in the former Board existing immediately before the commencement of this Law.

*Existing
Properties
and Assets.*

(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 if the Board or the Internal Revenue Service 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 proceeding 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.

81. As from the commencement of this Law, the Chairman of the former Board shall be deemed to have been transferred to the Board established under this Law in the same capacity.

*Continuation
of Board
members.*

82.(1) As from the commencement of this Law, any disciplinary proceeding pending or existing against any employee of the State Government who has opted into the service of the new Board, shall be continued and completed by the Board established under this Law.

*Continuation
and
completion
of
disciplinary
proceedings.*

(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.

83. (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.

*Transfer of
Rights and
Obligations*

((2) The administration of any real property 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 were in force before the coming into force of this Law and that were 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.

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- (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.

84. (1) Notwithstanding the provisions of this Law, the 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, 2004.

*Relevance
of other
laws
PITA.
CapP8
LFN 2004.*

- (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.

85. The Osun State Internal Revenue Board Law Cap. 107 Laws of Osun State, 2002 and The Osun State Revenue Generation Law of 2007 are hereby repealed. *Repeals.*

86. In this Law, unless the context otherwise requires: *Interpretation.*

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

"Board" means the State of Osun 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" means the Commissioner charged with responsibility for matters relating to Finance;

"Compromise" is where a debtor suspends or gives notice that he is about to suspend payment of his debts to any of his creditors;

"Consultants" include tax practitioners, legal practitioners or 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 the State of Osun;

"Governor" means the Governor of the State of Osun;

"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;

"OIRS" means Osun Internal Revenue Service;


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

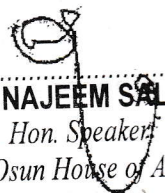
"Private dwelling" means any building or part of a building occupied as residential accommodation (including any garage, shed and other building used in connection therewith);

"Tax" includes any duty, levy or revenue accruable to the Government in full or part under this Law, or any other enactment or 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 all economic activity, a person exploiting tangible or intangible property for the purpose of obtaining income therefrom by way of trade or business or person or agency of government acting in that capacity.

This printed impression has been carefully compared with the Law which has been passed by the State of Osun House of Assembly and it is hereby certified to be a true and correctly printed copy of the Law.


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MR. MUDASIRU B. OYENIRAN
Permanent Secretary/Clerk of the House
State of Osun House of Assembly


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HON. NAJEEB SALAAM
Hon. Speaker
State of Osun House of Assembly