

## A BILL

## FOR

Long Title.

A Law to make provisions for the administration and collection of revenue due to the Government of the Akwa Ibom State and to establish the relevant administrative structures and other matters connected therewith.

Commencement.

(30th June, 2016 )

Enactment.

BE IT ENACTED BY THE AKWA IBOM STATE HOUSE OF ASSEMBLY as follows:-

Establishment of Akwa Ibom State Board of Internal Revenue.

1. (1) There is hereby established a body to be known as the Akwa Ibom State Board of Internal Revenue (hereinafter referred to as "the Board") whose operational arm shall be known as the Akwa Ibom State Internal Revenue Service (in this Law referred to as "the Internal Revenue Service").

(2) The Internal Revenue Service shall -

- (a) be a corporate body with perpetual succession and a common seal;
- (b) have power to sue or be sued in its own name; and
- (c) 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 Internal Revenue Service shall have such powers and duties as are conferred on it by this Law or by any other law.

Appointment and composition of Board.

2. (1) Members of the Board shall be appointed by the Governor and shall comprise -

- (a) the Chairman who shall be -
  - (i) a member of 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) three persons who shall be members of a relevant professional body and knowledgeable in tax matters, one each representing a Senatorial District in the State.

- (c) a Director or Head of Department on the recommendation of the Commissioner from each of the following Ministries:
  - (i) Finance;
  - (ii) Economic Development;
  - (iii) Lands and Town Planning;
  - (iv) Investment, Commerce and Industry;
  - (v) Transport; and
  - (vi) Justice
- (d) two persons from the Internal Revenue Service not below the rank of a Director;
- (e) the Secretary of the Internal Revenue Service who shall be the Secretary to the Board.

(2) The appointment of the Chairman shall be subject to confirmation of the State House of Assembly.

Tenure and remuneration of members.

3. (1) Members of the Board, other than ex-officio members, shall hold office for a period of four years only.

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

Office of Chairman.

4.

The Chairman of the Board shall be –

- (a) the Chief Executive and Accounting Officer of the Internal Revenue Service; and
- (b) responsible for the execution of the tax policies of Government and the day-to-day administration of the Internal Revenue Service.

Accountability.

5. (1) The Chairman, as the Chief Executive and Accounting Officer of the Internal Revenue Service, shall –

- (a) keep proper accounting records, in accordance with standard accounting practice and financial regulations of the State in respect of –
  - (i) all revenues and expenditure of the Internal Revenue Service;
  - (ii) all its assets, liabilities and other financial transactions; and

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

- (b) prepare annual reports, including financial statements, in accordance with generally accepted accounting principles and practice; and
- (c) ensure that available accounting records of the Internal Revenue Service is adequate, in line with financial regulations and prepared by qualified personnel, who must be a member of relevant recognized professional body.

Secretary of Internal Revenue Service.

6. (1) The Secretary of the Internal Revenue Service shall be appointed from within the State civil service and shall not be below the rank of an Assistant Director and must be knowledgeable in tax matters.

(2) The Secretary shall be responsible to the Chairman in the day-to-day administration of the Internal Revenue Service and shall in particular –

- (a) conduct matters on behalf of the Internal Revenue Service;
- (b) prepare correspondences and issue notices of meetings of the Board;
- (c) keep the record of the proceedings of the Board;
- (d) custody the seal of the Internal Revenue Service; and
- (e) carry out such other duties as the Chairman may from time to time direct.

Legal Adviser.

7. (1) There shall be a Legal Adviser to the Board who shall be appointed by the Board on the approval of the Governor.

(2) The Legal Adviser shall –

- (a) be a legal practitioner of not less than ten years post call and shall be the Head of the Legal Department of the Internal Revenue Service;
- (b) provide legal advice to the Board; and
- (c) generally perform all other duties affecting the Board as may be specifically assigned to him by the Chairman.

(3) The Attorney-General shall deploy to the Internal Revenue Service such number of lawyers as may be requested by the Board from Ministry of Justice to handle its legal issues.

Meetings of Board.

8. The meeting of the Board shall be convened by the Chairman –
- (a) at least once in every quarter of the year, or
  - (b) within 14 days after the receipt by the Chairman of written request for such meeting signed by three or more members, to transact any business specified in the notice to such meeting.

Removal of members.

9. Notwithstanding the provisions of section 3 of this Law, a member of the Board shall cease to hold office if –
- (a) he resigns his appointment as member of the Board by notice, under his hand, addressed to the Governor; or
  - (b) he becomes of unsound mind; or
  - (c) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body; or
  - (d) he is convicted of a felony or of any offence involving dishonesty or corruption; or
  - (e) he becomes bankrupt or makes a compromise with his creditors; or
  - (f) the Governor is satisfied that it is not in the interest of the Internal Revenue Service or of the public for the person to continue in office and the Governor removes him from office; or
  - (g) he has been found guilty of breach of the code of conduct or other serious misconduct in relation to his duties; or
  - (h) in the case of a person possessing a professional qualification, he is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority; or
  - (i) in the case of a person who becomes a member by virtue of the office he occupies, he ceases to hold that office; or
  - (j) if the Governor dissolves the Board at or before the expiration of the term herein created.

Functions of Board.

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;
  - (b) ensuring the effective and optimum collection of all revenue, including levies and penalties due to the State Government under the relevant Federal and State laws;

- (c) doing all such things that may be deemed necessary and expedient for the assessment and collection of revenue;
- (d) accounting for all amounts so collected in a manner to be prescribed by the Governor;
- (e) making recommendations, where appropriate, to the Joint Tax Board on tax policy, tax reform, tax registration, 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 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
- (i) doing such other things as are in the opinion of the Board necessary to ensure the efficient performance of the functions of the Internal Revenue Service under this Law.

Powers of 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 Internal Revenue 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, with reference to the Governor and 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 sale 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 practicing tax practitioners or chartered accountants as monitoring agents to collect information through tax audit and to monitor compliance with relevant tax laws, except as it relates to income tax assessment, and to do any act required to be done by it in execution of its functions under this Law with the aim of achieving the internally generated revenue target of the State Government.

Staff Regulations.

12. (1) Subject to the provisions of this Law, the Board may make staff regulations relating generally to the conditions of services of the staff and in particular such regulations may provide for –

- (a) the appointment, promotion, termination, dismissal and disciplinary control of staff or employees of the Internal Revenue Service; and
- (b) appeals by staff or employees against dismissal and disciplinary measures,

but 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 Internal Revenue Service.

(2) The staff regulations made under subsection (1) of this section shall not have effect until approved by the Governor and when so approved, they must be published in the State Gazette but the Internal Revenue Service shall cause a notice of the staff regulations to be issued to all affected staff in such manner as the Internal Revenue Service may, from time to time, determine.

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

(4) Employment in the Internal Revenue Service shall be subject to the provisions of the pensions legislation for the time being in force in the State and accordingly officers and employees of the Internal Revenue 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.

Establishment of  
Technical  
Committee of  
Board.

13. (1) There shall be a Technical Committee of the Board (hereinafter 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;
- (c) the Honourable Attorney-General or his representative not below the rank of a Deputy Director; and
- (d) the Secretary of the Internal Revenue Service who shall be the Secretary to the Technical Committee.

(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 for the effective discharge of its duties;
- (b) consider all matters that requires professional and technical expertise and make recommendations to the Board;
- (c) advise the Board on all its powers and duties specifically mentioned in sections 9 and 10 of this Law; and
- (d) attend to such other matters as may, from time to time, be referred to it by the Board.

Funds of Boards

14. (1) The Board shall establish and maintain a fund which shall consist of and to which shall be credited -

- (a) amount not less than 2.5% and not more than 5% of all revenues collected by the Internal Revenue Service in the preceding year as may be appropriated by the House of Assembly as administrative charge.
- (b) all other moneys 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;

- (c) 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.

(2) All revenue generated by the Internal Revenue Service under this Law shall be remitted into a designated account as approved by the Accountant General.

Expenditure of Board.

15. (1) 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) reimbursement to members of the Board or any committee set up by the Board for such expenses as may be expressly authorized by the Board or the Internal Revenue Service;
- (c) all remunerations, allowances or other costs of employment of the staff of the Internal Revenue Service;
- (d) pensions and other retirement benefits payable under or pursuant to this Law or other enactment;
- (e) cost of acquisition and upkeep of premises belonging to or occupied by the Internal Revenue Service and any capital expenditure of the Internal Revenue Service;
- (f) investment, maintenance of utility, staff promotion, training, research and similar activities;
- (g) all other costs that may be necessary for the day to day operation of the Internal Revenue Service; and
- (h) any other payment for anything incidental to the foregoing function of the Internal Revenue Service.

Estimate.

16. The Internal Revenue Service shall cause to be prepared, not later than the 30<sup>th</sup> day of September of each year, an estimate of its income and expenditure for the succeeding year.



Accounts and  
audit.

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

Annual reports, etc.

18. (1) The Internal Revenue Service shall, not later than 30<sup>th</sup> day of June in each year, submit to the Auditor-General of the State, a report of its activities during the immediate preceding year and shall include in such report the audited accounts of the Internal Revenue Service

(2) The Auditor-General shall within thirty days of receipt of the report --

- (a) present a copy of the report to the Executive Council; and
- (b) present a copy of the report to the House of Assembly.

Power to accept gift.

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 organisation making the gift as may be approved by the Governor.

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

Power to borrow

20. The Internal Revenue Service may, with the approval of the Governor, borrow by way of loan, overdraft or otherwise from any source such sums as it may require for the performance of its functions and meeting its obligations under this Law.

Refund to tax  
payers.

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

(2) The Internal Revenue Service shall decide who is eligible for refund, subject to such rules and conditions as may be approved by the Board.

(3) The refund shall be made within ninety 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.

Powers and  
functions of  
Internal Revenue  
service.

22. The Internal Revenue Service shall have power to --

- (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 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, carry out the examination and investigation of all cases of tax fraud or evasion with a view to determining compliance with the provisions of this Law or any other enactment;
- (f) make, from time to time a determination of the extent of financial loss and such other losses (or revenue foregone) arising from tax waivers and other related matters;
- (g) adopt measures to identify, trace, freeze, confiscate or seize the proceeds of tax fraud or evasions;
- (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 monitoring international dynamics of taxation in order to identify suspicious transactions and the persons involved;
- (l) provide and maintain access to an up-to-date adequate data and information on all taxable persons, individuals or corporations, for the purpose of efficient, effective and correct tax administration 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 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, all Governments, 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;
- (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.

Establishment of  
Local government  
Revenue  
Committee.

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

(2) The Revenue Committee shall comprise -

- (a) a Chairman who shall be a person versed in revenue matters appointed by the Local Government Chairman (not being a political appointee or public officer) from within the Local Government Council;
- (b) three heads of department of the Local Government Council, viz --
  - (i) Legal;
  - (ii) Treasury; and
  - (iii) any other department.

- (c) a member of the public not being a member of the Council who is versed in revenue matters to be nominated by the Chairman of the Council.

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

Functions of Revenue Committee.

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 Council

(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.

Establishment and composition of Joint State Revenue Committee.

25. There is established for the State a State Joint Revenue Committee which shall consist of –

- (a) The Chairman of the Internal Revenue Service as the Chairman;
- (b) the Chairman of each Local Government Revenue Committee;
- (c) a representative of the State Ministry responsible for Local Government affairs not below a rank of a Director;
- (d) the Legal Adviser of the Internal Revenue Service; and
- (e) the Secretary to the Committee, who shall be a staff of the Internal Revenue Service.

Functions of Joint State Revenue Committee.

26. The State Joint Revenue Committee shall –

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

Designation of Magistrate to adjudicate on revenue matters.

27. The Chief Judge shall designate in each Local Government Area at least one Magistrate who shall give priority to matters affecting the revenue of the State and of the Local Government Council.

Definition of revenue collectors.

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.

(2) The production by a revenue collector of an identity card, certificate or warrant –

- (a) issued by and having printed thereon the office of the relevant revenue authority; and
- (b) setting out his full names, and stating that he is authorized to exercise the functions of a revenue collector;
- (c) shall be sufficient evidence that the revenue collector is duly authorized for the purpose of this Law.

Mode of payment.

29. Except as otherwise provided in any law, revenue due to any authority in the State shall be payable by cash or cheque into any of the banks designated by the Board or the Chairman of the relevant Local Government Council entitled to receive such revenue.

Revision of assessment.

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 the notice of the 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 an examination by an officer of the Internal Revenue Service on oath or otherwise.

(3) In the event of any person who has objected to an assessment agreeing with the 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 on 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 judgment, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Law to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this proviso.

Errors and defects  
in assessment and  
notice.

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

Administration of  
tax laws.

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.

(2) The Internal Revenue Service may, with the approval of the Governor by instrument published in the Gazette, appoint any ministry, department or agency to collect revenue pursuant to its powers under subsection (1) of this section.

Call for returns,  
books, documents  
and information.

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

- (a) complete and deliver to the Internal Revenue Service any return specified in such notice;
- (b) appear personally before an officer of the Internal Revenue Service for examination with respect to any matter relating to such profits or income;
- (c) produce or cause to be produced for information, 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 paragraphs (a) to (d) of subsection (1) of this section, the time specified by such notice shall not be less than seven 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 position of this section is, in respect of each offence, liable to the fine equivalent to hundred percent of his actual tax liability.

(4) The provisions of this section or any other provision of this Law shall not be construed as precluding the Internal Revenue Service from verifying by tax audit or investigating any matter relating to any returns or entries in any book, document or accounts, including those stored in a computer, or digital or magnetic or optical or electronic media as may, from time to time, be specified by the Internal Revenue Service.

(5) Any person may apply in writing to the Board for an extension of time within which to comply with the provisions of this section and section 34 of this Law provided that the person –

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

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

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

Call for further  
returns and payment  
of due tax.

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.

(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 the 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.

Information to be delivered by bankers.

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 –

- (a) in the case of an individual, all transactions involving the sum of one million Naira and above; or
- (b) in the case of partnerships, or unincorporated business names, all transaction involving the sum of three million 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 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 to a fine of five hundred thousand Naira in the case of a body corporate, and fifty thousand Naira in the case of an individual or imprisonment for a term of five years or to both such fine and imprisonment.

Issuance of tax clearance certificate.

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

- (a) the Board is of the opinion that --
  - (i) taxes or levies assessed on a person or his income or property for the three years immediately preceding the current year of the assessment and collectible by the Board



- as the revenue of the Government has been fully paid;
- (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 three 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:

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

(2) The tax clearance certificate may be issued in paper form or stored in an electronic format in 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 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 Government, no tax clearance may be issued to that person.

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

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

- (a) application for Governor's consent to real property transactions;
- (b) application for certificate of occupancy;
- (c) application for registration as a contractor;
- (d) application for award of contracts by governments, its agencies and registered companies;
- (e) application for approval of building plans;

*Cap. P8 LFN, 2004, as amended.*

- (f) application for any government license or permit;
- (g) any application relating to the establishment or conduct of business;
- (h) application for State loan for housing, business or any other purposes;
- (i) registration of motor vehicles;
- (j) registration for distributorship;
- (k) confirmation of appointment by Governor as chairman or member of any public board, institution, commission, company or to any other similar position made by the Government;
- (l) application for registration of a limited partnership;
- (m) application for allocation of market stalls;
- (n) appointment or elections into public office; and
- (o) any other application or process for which tax clearance certificate is required under the provision of this Law or section 85 of the Personal Income Tax Act.

(2) Without prejudice to the provision of the Stamp Duties Act and the Registration of Title Law, appropriate authority shall demand tax clearance when checking documents of property transactions before accepting such documents for stamping or registration as the case may be.

(3) The Chairman of the Board is empowered to prescribe by notice in the Gazette other purposes for which Tax Clearance Certificate may be required.

(6) A tax clearance certificate must contain the following information relating to each of the three years immediately preceding the current year of assessment:

- (a) Chargeable income of holder;
- (b) Tax payable;
- (c) Tax paid;
- (d) Tax outstanding; and
- (e) 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 data which the Board requires the taxpayer to provide shall not be excessive in relation to the purposes to 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, name, 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 clearance status;
  - (f) the Board shall provide terminals free of charge to all persons or authorities empowered by this or any other legislation to demand tax clearance 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.

Powers to access  
lands, buildings,  
books and  
documents.

(9) The Chairman of the Board shall have power, to make such other regulations as he may consider necessary for effective implementation of the electronic tax clearance certificate scheme in the State.

37. (1) An authorized officer of the Internal Revenue Service shall between the hours of 9 a.m. and 4 p.m. have free access to all lands, buildings and places, and to all books and documents, whether in the custody or under the control of a public officer, institution or any other person whatsoever, for the purpose of inspecting any books or document including those stored or maintained on computers or on digital, magnetic, optical or electronic media and any property, process or matter which the officer considers necessary or relevant for the purpose of collecting any tax under any of the relevant legislation or for the purpose of carrying out any other function lawfully conferred on the Internal Revenue Service or considered likely to provide any information otherwise required for the purpose of any of those legislations 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 <sup>intentional</sup> 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 such information stored on the computer hard drive and preserve all the information exactly as it is on the original computer, the Internal Revenue Service shall make such a copy and use it as digital evidence during any investigation or criminal proceedings.

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

(a) provide the officer with all reasonable facilities and assistance for the effective exercise of powers conferred by this Law; and

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

(5) Notwithstanding subsection (1) of this section, the authorized officer or 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 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;
- (c) be valid for a period of three 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 entering 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.

Power to remove books and documents.

38. (1) An officer of the Internal Revenue Service authorized by the Chairman, may remove books or documents assessed under section 37 to make copies.

(2) After copies have been made, the books and documents so removed must be returned as soon as practicable.

(3) A copy of a book or document or digital evidence certified by or on behalf of the Chairman is admissible in 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 is being moved or at a reasonable time thereafter.

Power to appoint agent.

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 payable by the person from any money which may be held by him for or due by him to the person whose agent he has been declared to be, and in default of that payment, the tax shall be recoverable from him.

(2) For the purpose of this Law, the Internal Revenue Service may require any person to give information as to any money, fund or other asset which may be held by him for or any money due from him to any person.

(3) The provisions of this Law with respect to objections and appeals shall apply to any notice given under this section as though that notice were an assessment.

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

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

(2) The tax due shall bear interest at the prevailing commercial rate of Central Bank of Nigeria from the date when the tax becomes payable until it is paid and the provisions of this law relating to collection and recovery of tax shall apply to the collection and recovery of the interest.

(3) The Internal Revenue Service shall serve a demand note upon the company or person in whose name a tax is chargeable and if payment is not made within one month from the date of the service of such demand note, the Internal Revenue Service may proceed to enforce payment under this Law.

(4) An addition imposed under this section shall not be deemed to be part of the tax paid for the purpose of claiming relieve under any of the provisions of this Law.

(5) The Board shall have power to remit any part or the whole of the addition due under subsection (1) of this section.

(6) Any person who without lawful justification or excuse, the proof of which shall lie on that person, fails to pay any tax imposed within the prescribed periods commits an offence under this Law.

Power to distrain.

41. (1) Notwithstanding the power conferred on the relevant revenue authority for the enforcement of payment of revenue, if payment has become due and a demand notice has in accordance with the provisions of the relevant law been served on the chargeable person or his agent and payment is not made within the time as approved for in the demand note, the Internal Revenue Service or other relevant revenue authority may for the purpose of enforcing payment of the amount due, distrain –

- (a) upon the goods, chattels or other properties movable or immovable of the person liable to pay the tax outstanding; and
- (b) upon all machinery, plant, tools, vehicles, animals and effects in the possession, use or found on the premises or on the land of the person.

(2) The authority to distrain under this section shall be in such form as the relevant revenue authority may direct and that authority shall be sufficient warrant and authority to levy by distress the amount of revenue due.

(3) For the purpose of levying any distress under this section, an officer duly authorized by the Chairman may apply to a Judge of the State High Court sitting in Chambers under oath for the issue of a warrant.

(4) A Judge of the High Court sitting in Chambers may authorize such officer, referred to in subsection (3) of this section in writing to execute any warrant of distress and if necessary, break open any building or place in the daytime for the purpose of levying such distress and he may call to his assistance any police officer and it shall be the duty of such police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(5) Things distrained under this section may, at the expense of the defaulter, be kept for fourteen days and if at the end of this period the amount due in respect of the revenue, cost and charges of any incidental to the distress are not paid, they may subject to subsection (7) of this section, be sold at any time.

(6) Out of the proceeds of a sale under this section, the cost and charges of the incidental to the sale and keeping of the distress and disposal thereunder shall be paid and thereafter the amount of revenue due, and the balance (if any) shall be payable to the defaulter on demand being made by him or on his behalf within one year of the sale or shall be forfeited.

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

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

Recovery of tax.

42. (1) Notwithstanding the provision of this Law or any other relevant law, any amount due by way of tax shall constitute a debt due to the State and may be recovered by a civil action brought by the Board.

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

Tax investigation.

43. (1) The Internal Revenue Service shall take all necessary measures to assist any relevant law enforcement agency in the investigation of any offence under this Law.

(2) The Internal Revenue Service shall have the power to cause investigation to be conducted to ascertain the violation of any tax law, whether or not such violation has been reported to the Internal Revenue Service.

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

(4) Where any investigation under this section reveals the commission of any offence or an attempt to commit any offence, the Internal Revenue Service shall submit its findings to the relevant law enforcement agency and the Attorney-General for purpose of further investigation or prosecution.

Power to co-opt.

44. (1) The Internal Revenue Service may co-opt the assistance and cooperation of law enforcement agency in the discharge of its duties under this Law.



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

Power to enter,  
inspect and seize.

45. (1) Any tax officer armed with the warrant issued by a Judge of the State High Court and accompanied by a number of law enforcement officers as shall be determined by the Chairman may –

- (a) enter any premises covered by such warrant and search for, seize and take possession of any book, document or any other article used or suspected to have been used in the commission of an offence;
- (b) inspect, make copies of or take extracts including digital copies from any book, record, document or computer regardless of the medium used for their storage or maintenance;
- (c) search any person who is in or on such premises;
- (d) open, examine and search any article, container or receptacle;
- (e) open any outer or inner door or window of any premises and enter same or otherwise forcibly enter the premises; and
- (f) remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect.

(2) No person shall be bodily searched under this section except by a person of the same gender.

Power to pay  
reward.

46. (1) The Internal Revenue Service may, with the approval of the Board, reward any person not employed in the Internal Revenue Service in respect of any information that may be of assistance to the Internal Revenue Service in the performance of its duties under this Law, upon meeting such conditions as may be determined by the Board and the amount of such reward shall also be at the discretion of the Board.

(2) The identity of the person who gave information to the Internal Revenue Service shall be kept confidential and any current or former member of the Internal Revenue Service or Board that discloses the identity of such person shall be dealt with in accordance with the provisions of section 48 of this Law with regard to confidential information.

Immunity from action.

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

Information and documents to be confidential.

48. (1) All information and documents supplied or produced in pursuance of any requirement of this Law or any other legislation being implemented by the Internal Revenue Service shall be treated as confidential.

(2) Except as otherwise provided under this Law or as otherwise authorized by the Governor or Chairman, any member or former member of the Board or any employee or former employee of the Internal Revenue Service of the State who communicates or attempts to communicate any confidential information or the content of any such document to any person, commits an offence and shall be liable on conviction to a fine of two hundred thousand Naira or to imprisonment for three years or both.

Establishment, appointment and composition of the Body of Appeal Commissioners.

49. (1) The Governor may, by notice in the Gazette, establish a Body of Appeal Commissioners.

(2) The Body of Appeal Commissioners shall consist of a Chairman and five other members none of whom shall be a public officer.

(3) An Appeal Commissioner shall –

- (a) by notice in the Gazette be appointed by the Governor from among person appearing to him to have experience and shown capacity in the management of substantial trade or business or the exercise of a profession of law, accountancy or taxation;
- (b) subject to the provisions of this section, hold office for a period of three years from the date of his appointment;
- (c) at any time resign his appointment by notice in writing address to the Governor, except that on the request of the Governor he may continue to act as an Appeal Commissioner after the date of his resignation and sit at any further hearing in a case in which he has already sat before the date to hear an appeal, until a final decision has been given with respect to that appeal, and;

- (d) cease to be an Appeal Commissioner if the Governor determines that his office be vacant and notice of the determination is published in the Gazette or on his acceptance of a political appointment.

(4) The Governor shall designate a public officer to be Secretary/Legal Adviser to the Body of Appeal Commissioners and the official address of the Secretary shall be published in the Gazette.

(5) Subject to the provisions of this section, the Body of Appeal Commissioners shall remain in office until a new body is sworn in.

Time limit for appeal.

Cap. P 8 I FN, 2004, as amended

50. A taxable person being aggrieved by an assignment to income tax made upon him, having failed to agree with the Board in the manner provided in subsection (3) of section 58 of the Personal Income Tax Act, may appeal against the assessment upon grieving notice as provided in section 51 of this Law within thirty days after the date of service of notice of the refusal of the Board to amend the assessment as desired.

Notice of appeal.

51. (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 –

- (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 directed.

(2) As soon as may be after receipt of notice of appeal, the Secretary/Legal Adviser to the Body of Appeal Commissioners shall, having regards 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/Legal Adviser for hearing accordingly.

(3) A notice or other documents to be given to the Appeal Commissioners shall be addressed to the Secretary/Legal Adviser to the

Body of Appeal Commissioners and be delivered at or sent by registered post to his official address.

(4) A tax payer may discontinue an appeal by him under this section upon giving notice to the Secretary/Legal Adviser to the Body of Appeal Commissioners in writing at any time before the hearing of the Appeal.

(5) Notwithstanding that notice of appeal against an assessment has been given by a tax payer under this section, the Board may revise the assessment in agreement with the tax payer and, on notice of the agreement being given in writing by the Board to the Secretary/Legal Adviser to the Body of Appeal Commissioners 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 deemed to have been agreed upon between the tax authority and the taxpayer under the provisions of subsection (3) of section 58 of the Personal Income Tax Act.

*Cap P8 LFN, 2004, as amended*

Meetings and decisions of the Appeal Commissioners.

52. (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 –

- (a) any three or more Appeal Commissioners may hear and decide an appeal; and
- (b) the Appeal Commissioners present shall elect one of their numbers 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 an appeal of 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 relationship and he shall not sit at any meeting for the hearing of that Appeal.

(3) The provisions of subsection (2) of this subsection shall also apply where an Appeal Commissioner is a legal practitioner or an accountant and the taxpayer is or has been a client of the Appeal Commissioner.

(4) The Secretary/Legal Adviser to the Body of Appeal Commissioners shall give seven 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 the hearing.

(5) All notices, precepts and documents, other than decisions of the Appeal Commissioners may be signed under the hand of the Secretary/Legal Adviser to the Body of Appeal Commissioners.

(6) All appeals before the Appeal Commissioners shall be held in camera.

(7) A taxpayer who appeals an assessment shall be entitled to be represented at the hearing of the appeal but if the person intended by the tax payer to be his representative in an appeal is unable for good cause to attend the hearing, the Appeal Commissioners may adjourn the hearing to 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 41 of the Personal Income Tax, for the year of assessment concerned, failed to prepare and deliver to the Board the statement mentioned in the subsection; or
- (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 the court, as the case may be, 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 or one half of the tax charged by the assessment under appeal, whichever is the lesser, plus a sum equal to ten percent of the deposit.

(10) If the appellant fails to comply with an order under subsection (9) of this section, the assessment against which he appeals

*Cap P8 IEN, 2004, as amended*

shall be confirmed and the appellant shall have no further right of appeal 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 deem 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/Legal Adviser to the body of Appeal Commissioners, on a request made within three months of such decision.

(13) Where, on the hearing of an appeal –

- (a) no accounts, books or records relating to profit were produced by or on behalf of the appellant; or
- (b) those accounts, books or records were so produced but the Appeal Commissioners rejected 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/Legal Adviser to the Body of the Appeal Commissioners without showing reasonable excuse; or
- (d) the appellant or a person employed, whether confidentially or otherwise by the appellant 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 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.

Appeal against  
assessment.

53. (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 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, no further appeal by the taxpayer shall lie from that decision except with the consent of the Board.

(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.

Appeal against  
decision.

54. (1) Subject to the provisions of subsection (2) of section 53 of this Law, a taxpayer who, having appealed against an assessment made on him to the Appeal Commissioners under the provisions of subsection (1) of section 51 of this Law is aggrieved by the decision of Appeal Commissioners, may appeal against the assessment and the decision to the High Court upon giving notice in writing to the Board within thirty days after the date on which the decision was given.

*Cap. PS LFN, 2004, as  
applicable*

(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 matter provided in subsection (3) of section 30 of this Law and subsection (3) of section 58 of the Personal Income Tax Act, may appeal against the assessment to the High Court 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.

(3) If the Board is dissatisfied with a decision of the Appeal Commissioners, it may appeal against that decision to the High Court 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 to all parties thereto.

(5) The provisions of subsections (7), (8) and (9) of section 52 and that of subsection (1) of section 51 of this Law shall apply to an appeal under this section with necessary modifications.

(6) All appeals shall be heard in chambers 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 52 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 52 of this Law, the High Court shall dismiss the appeal; or
- (b) paragraph (b) of subsection (13) of section 52 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 to the Court may seem sufficient; or
- (c) paragraph (c) or (d) of subsection (13) of section 52 of this Law, the High Court shall dismiss the appeal unless it considers that the cause of the neglect or refusal was reasonable.

*Cap. P8 LFN, 2004, as amended*

(8) Notwithstanding the provisions of section 68 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 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 there shall be a sum fixed by the Judge.

(10) The Chief Judge may make rules providing for the method of tendering evidence before a Judge on appeal, the conduct of the appeal and the procedure to be followed by a Judge.

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

- (a) at the instant 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



Assessment to be final and conclusive.

*Cap. P8 LFN, 2004, as amended*

55. (1) Where no valid objection or appeal has been lodged within the time limited by section 51 of this Law or where due notice has not been given of a further appeal against a decision of the Appeal Commissioner or a Judge, as the case may be, an assessment made or agreed to under the provisions of subsection (3) of section 30 of this Law and subsection (3) of section 58 of the Personal Income Tax 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.

(2) If the full amount of the tax charged by a final and conclusive assessment is not paid 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 40 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 accounts of the tax charged by the assessment, shall be repaid;
- (b) nothing in section 58 of the Personal Income Tax Act shall prevent the Board from making an assessment or additional assessment for any year which does not involve re-opening any issue on the same facts which has been determined for that year of assessment under subsection (3) of that section or on appeal.

Failure to deduct or remit tax.

56. If any person obliged to deduct any tax under this Law or in any other applicable law, fails to deduct or having deducted fails to pay to the Internal Revenue Service within thirty days from the date the amount was deducted or the time the duty to deduct arose, such person commits an offence and shall be liable to pay the tax withheld or not remitted in addition to a penalty of ten per cent of the tax withheld or not remitted per annum and interest at the prevailing commercial rate.

Failure to pay due tax, levy or rate.

57. Unless otherwise provided in this Law or in any other revenue law applicable in the State, any person who fails to pay in full any tax, levy,

rate, charge or other revenue due to the State or a Local Government authority commits an offence and shall be liable to –

- (a) a fine of one per cent of the total amount of revenue which was due and payable for each day of default; and or
- (b) imprisonment for twelve months.

Obstruction.

58. Any person who –

- (a) obstructs, hinders, molests or assaults any person or authorized officer in the performance of any function or the exercise of any power under this Law; or
- (b) does anything which impedes or is intended to impede the carrying out of any search, seizure, removal or 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 to a fine not exceeding two hundred thousand naira or imprisonment for a term not exceeding three years or both.

Untrue declarations.

59. (1) Any person who –

- (a) makes or signs or causes to be made or signed or delivers or cause to be delivered to the Internal Revenue Service or any officer of the Internal Revenue Service any declaration, notice, certificate or other document whatsoever; or
- (b) makes any statement in answer to any question or enquiry put to him by an officer which he is required to answer under this Law or any other enactment being a document or statement produced or made for any purpose of tax, which is untrue in any material particular, commits an offence.

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

(3) Any person who commits an offence under this section shall be liable to a fine of two hundred thousand Naira and hundred percent of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term of three years or both.

Counterfeiting documents, etc.

60. 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 document so counterfeited or falsified; or
- (c) alters any such document after it is officially issued; or
- (d) counterfeits any seal, signature, initial or other mark of, or used by, any officer for the verification of any purpose relating to tax; or
- (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 to fine of five hundred thousand Naira or to imprisonment for a term of three years or both.

Penalty for offences by authorized and unauthorized persons.

61 (1) Any person appointed for the due administration of this Law or employed in connection with the assessment and collection of a tax who –

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

commits an offence and shall be liable to a fine equivalent to two hundred per cent of the sum in question or to imprisonment for a term of three years or both.

Penalty where offenders are armed.

62 (1) Any person who, in the commission of any offence against this Law, is armed with any offensive weapon, commits an offence and shall be liable to imprisonment for a term of five years.

(2) Any person who, while armed with an offensive weapon, causes injury to any officer or authorized officer of the Internal Revenue Service in the performance of his functions under this Law, commits an offence and shall be liable to imprisonment for a term of ten years.

Connivance to contravene this Law.

63 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 to imprisonment for a term of one year.

Impersonating revenue collector.

64 (1) Any person who not being a revenue collector holds himself out as a revenue collector and attempts to collect or collects any revenue due to the State or a Local Government Council commits an offence and shall be liable to a fine of two hundred and fifty thousand Naira or imprisonment for three years or both and any amount collected by him shall be forfeited to the State or the relevant Local Government Council.

(2) If for the purpose of obtaining admission to any building or other place or doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority or for any other unlawful purpose, any person not being an authorized officer, assumes the name or designation or impersonates the character of an authorized officer, he commits an offence and shall, in addition to any other punishment to which he may be liable, be liable to a fine of one hundred thousand Naira or to imprisonment for a term of two years.

Prosecution.

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

(2) The Attorney-General or a Law Officer in the Ministry of Justice may appear for and represent the Board or Internal Revenue Service in any proceedings in which the Board or Internal Revenue Service is a party.

(3) The Legal Adviser shall not, in such circumstances, appear on behalf of the Board or Internal Revenue Service but may give evidence.

Power to compound offence.

66. (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.

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

Penalty.

67. (1) Any person who contravenes any provision of this Law for which no specific penalty is provided, commits an offence and shall be liable to a fine of fifty thousand Naira or to imprisonment for a term not exceeding two 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/Legal Adviser or other similar officer of the body corporate; or
- (b) every partner of the firm; or
- (c) every person concerned in the management of the association; or
- (d) every person purporting to act in any capacity as aforesaid,

commits an offence and shall be liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

Trial of revenue offenders

68. Subject to the provision of section 27 of this Law, all offences under this Law shall be tried by the Revenue Court of the State.

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 any payment of income tax in Nigeria, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorized officers of the Government of that country of such facts as may be necessary to enable the proper relief to be given in cases where such is claimed from tax in Nigeria or from income tax in that country.

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

Board to be subject  
to general control of  
Governor.

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 provided it does not interfere with the day to day administration of the Internal Revenue Service.

(2) In any proceedings whether civil or criminal under this Law or any of the laws administered by the Board, any act, matter or thing done by the Internal Revenue Service or the Board in pursuance of the said laws shall not be subject to challenge on the ground that such act, matter or thing was not proved to be in accordance with any directive by the Governor.

Delegation of  
powers of Board.

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.

(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 directives of the Board until the order, ruling or directives has been ratified by the Board pursuant to the powers vested on the Board under this Law.

Signature of the  
Chairman.

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

Imposition of  
surcharge.

73. (1) If any officer or former officer of the Internal Revenue Service –

- (a) is or was responsible for any improper payment of money from the fund of the Internal Revenue Service or for any payment of such money which is not duly documented;
- (b) is or was responsible for any deficiency in or for the destruction of any money, securities, stores or other property of the Internal Revenue Service;
- (c) fails or has failed to keep proper accounts or records; or
- (d) has failed to make any payment or is responsible for any delay in the payment of money for the Internal Revenue Service to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Internal Revenue 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, failure to keep proper accounts or records, failure to make payment or delay in making payment, the Internal Revenue Service may surcharge the said officer such sum as it deems fit.

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

(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 by a suit initiated by the Internal Revenue Service for its recovery and may also be recovered by deduction from the salary or other emoluments of the person surcharged, if the Board so directs.

Limitation of suits  
against Internal  
Revenue Service,  
etc.

74. (1) Subject to the provisions of this Law, the provisions of the Public Officers' Protection Law shall apply in relation to any suit instituted against any member, officer or employee of the Internal Revenue Service.

(2) No suit against a member of the Board or any employee of the Internal Revenue Service for any act done in pursuance or execution of this Law or any other law or enactment or of any public duties or authority or in respect of any alleged neglect or default in the execution of this Law or any other law or enactment, duties or authority, shall lie or be instituted in any court unless it is commenced –

- (a) within three months after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

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

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

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims.



Service of documents.

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

Restriction on execution against property of the Internal Revenue Service.

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.

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

Indemnity.

77. A member of the Board or any officer or employee of the Internal Revenue Service shall be indemnified out of the assets of the Internal Revenue Service against any liability incurred by him in defending any proceedings, whether civil or criminal, if the proceedings is brought against him in his capacity as member of the Board or officer or other employee of the Internal Revenue Service.

Directives by the Governor, etc.

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

Power to make regulations.

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

- (a) prescribing the forms of 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
- (c) for other incidental matters.

Existing properties and assets.

80. (1) There shall be vested in the Board all assets, funds, resources and other immovable property which immediately before the

commencement of this Law were vested in the former Board existing immediately before the commencement of this Law.

(2) All rights, interests, obligations and liabilities of the former Board existing immediately before the commencement of this Law under any contract or instruments, 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 Board.

(3) Any contract or instrument referred to in subsection (2) of this section shall be of the same force and effect against or in favour of the Board or the Internal Revenue Service established under this Law and shall be enforceable as if the Board established under this Law had been named therein or had been a party thereto.

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

(5) Any proceedings or cause of action pending or existing immediately before the commencement of this Law by or against the former Board existing immediately before the commencement of this Law in respect of any right, interest, obligation and liability of the former board may be continued or be commenced and the determination of the court of law, tribunal or other authority or person may be enforced by or against the Board.

(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, subject to such modifications as may be applicable to the Board established under this Law, continue in force until revoked or amended.

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

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

Continuation and completion of disciplinary proceedings.

Transfer of rights and obligations.

82. (1) The administration and control of all rights, obligations and liabilities that were under the administration and control of the former Board are hereby transferred to the Board established under this Law.

(2) The administration of any real 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, licences, authorizations, certificates, consents, approvals, declarations, designations, permits, registrations, rates or other documents that are in force before the coming into effect of this Law and that are made or issued by the Governor, Chairman of the former Board or any person under their control shall continue in force as if they were made or issued by the Governor, the Board, the Chairman or any employee of its Internal Revenue Service as the case may be, until they expire or are repealed, replaced, reassembled or altered.

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

(5) Every affidavit sworn to or document duly certified by an officer of the former Internal Revenue Service before the day in which this section comes into force, has the same probative value as if it were sworn to or certified by an employee of the Internal Revenue Service on or after that day.

Relevance of other laws.

*Cap P8 LFN, 2004, as amended*

83. (1) Notwithstanding the provisions of this Law, the relevant provisions of all laws to be administered by the Internal Revenue Service shall be read with such modifications as to bring them into conformity with the provisions of Personal Income Tax Act.

(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.

Repeal.

84. (1) The Board of Internal Revenue Law, 2000 is hereby repealed.

Interpretation.

85. In this Law, unless the context otherwise requires –  
“Attorney General” means Attorney-General of the State;

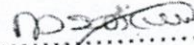
- “authorized officer” means any person employed in the Internal Revenue Service or for the time being, performing duties in relation to tax who has been specifically authorized by the Board or Chairman to perform or carry out specific functions under this Law;
- “Board” means the Akwa Ibom State Board of Internal Revenue Service 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 paragraph (a) of subsection (1) of section 2 of this Law;
- “Commissioner” includes the Commissioner charged with responsibility for matters relating to Finance and Commissioners for a particular Ministry referred to in this Law;
- “consultants” include accountants, legal practitioners or any other recognized professionals that have been certified by the Chartered Institute of Taxation of Nigeria, the Institute of Chartered Accountants of Nigeria or other relevant bodies in Nigeria;
- “documents” 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, electronic or optical form or otherwise and all types of information stored on computers and any other similar equipment.
- “Government” means the Government of Akwa Ibom State and shall include a Local Government Council;
- “Governor” means the Governor of the State;
- “member” means a member of the Board appointed under section 2 of this Law and includes the Chairman;
- “Ministry” means the Ministry charged with the responsibility for matters relating to Finance;
- “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;
- “State” means Akwa Ibom State of Nigeria;
- “tax” includes any duty, levy or revenue accruable to the Government in full or in part under this Law, or any other enactment or law; and

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

Short title and commencement.

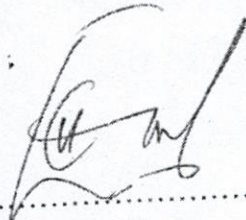
86. This Law may be cited as the Akwa Ibom State Revenue Administration Law, 2016 and shall come into force on the 30<sup>th</sup> day of June, 2016.

This printed impression has been compared by me with the Bill which has been passed by the Akwa Ibom State House of Assembly and is found to be true and correctly printed copy of the Bill.

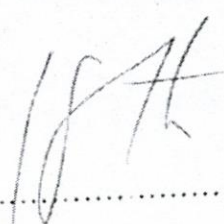
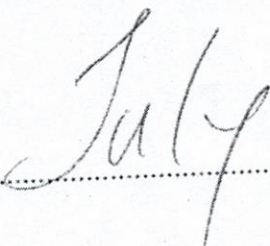


.....  
Clerk

I assent.



.....  
Governor

Dated..........day of..........2016.