

COMPILATION OF
CROSS RIVER STATE LAWS
ON
REVENUE GENERATION



CROSS RIVER STATE OF NIGERIA

LAW NO. 9 (2011)

A Law to make provision for the Administration and Collection of Revenue in the State and for purposes connected therewith. Long Title.

Commencement.

THE CROSS RIVER STATE HOUSE OF ASSEMBLY enacts as follows -

Enactment.

PART 1

Establishment of the Cross River State Board of Internal Revenue and the Internal Revenue Service

1. (1) There is established for the State a body known as the Cross River State Board of Internal Revenue (in this Law referred to as "the Board").

Establishment of the Board of Internal Revenue and the Service.

(2) The Board -

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

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

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

(3) The Board shall have such powers and duties as are conferred on it by this Law or by any other enactment on such matters which the State House of Assembly has power to make law.

2. The object of the Board shall be to control and administer the different taxes and revenue laws made or to be made, by the State House of Assembly or other regulations made under such Laws and to account for all taxes collected.

Objects of the Board.

3. (1) The Board shall consist of -

Appointment and composition of the Board.

(a) the Chairman, who shall be the Executive Head of the Service, appointed from within the State Service, and a person knowledgeable and experienced in taxation;

(b) not more than five *ex officio* Directors nominated by the Governor from the Ministries of Finance, Local Government Affairs and three other relevant Ministries, Departments and Agencies of the State Government;

(c) the Legal Adviser to the Service, who shall be the Secretary to the Board, and appointed from within the State Service;

(d) Executive Directors and Heads of Departments of the Internal Revenue Service;

- (e) the Attorney-General or his representative who shall be a Law Officer not below the rank of a Director; and
- (f) three other persons who shall be members of relevant professional bodies and knowledgeable in tax matters, to be recommended to the Governor by the Commissioner for Finance.

(2) The members of the Board shall be appointed by the Governor subject to the approval of the State House of Assembly.

(3) The Board shall meet at least once every quarter in a year, and one-half of the total membership of the Board shall constitute the quorum; Provided that three ex-officio members are present.

Tenure of
Office/Cessation of
membership.

4. (1) The members of the Board, other than the Executive Chairman, the Secretary and Legal Adviser and Executive Directors of the Service, shall be part-time members.

(2) The Chairman and other members of the Board, other than ex-officio members, shall each hold office -

- (a) for a term of four years, and may be renewable for another term of four years and no more; and
- (b) on such terms and conditions as may be specified in the letter of appointment pursuant to the provisions of this Law;

(3) Notwithstanding the provisions of subsection (2) of this Section, a member of the Board shall cease to hold office if -

- (a) he retires from the Civil Service or resigns his appointment by notice, under his hand, addressed to the Governor;
- (b) he is certified to be of unsound mind and is removed by the Governor for that reason;
- (c) he is adjudged bankrupt or makes a compromise with his creditors;
- (d) he is convicted of felony or of any offence involving dishonesty or corruption;
- (e) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body and is removed by the Governor for that reason;
- (f) the Governor upon a recommendation of a Panel set up for that purpose, is satisfied that it is not in the interest of the Board or Service or in the interest of the public for the person to continue in office;
- (g) he has been found guilty of contravening the Code of Conduct Bureau and Tribunal Act or gross misconduct in relation to his duties;

- (h) in the case of a person possessing a professional qualification, he is disqualified by a competent authority from the practice of his profession; and
- (i) in the case of an ex-officio member, if he ceases to hold the qualifying office.

5. The Chairman and members of the Board shall be paid such emoluments, allowances and benefits as is applicable in Public Service of the State.

Emoluments, etc of members.

PART II

Powers and Functions of the Board and the Service, etc.

6. (1) The Board shall -

Powers of the Board.

- (a) provide the general policy guidelines relating to the functions of the Service;
- (b) manage and superintend the policies of the Service on matters relating to the administration of revenue assessment, collection and accounting system under this Law or any other enactment;
- (c) review and approve the strategic plans of the Service;
- (d) ensure the effective and optimum collection of all revenue, including levies and penalties due to the State Government under the relevant Federal and State Laws;
- (e) make recommendations, where appropriate and upon the prior approval of the Governor, to the Joint Tax Board on tax policy, tax reform, tax registration, tax treaties and exemptions;
- (f) employ staff of the Service and determine the terms and conditions of service of such staff including discipline of such staff; Provided that senior staff recruitment shall be by recommendation to the State Civil Service Commission;
- (g) carry out oversight functions over all taxes and levies accruable to the State Government and as may be appropriate, query, subpoena, sanction or reward activities pertaining to the assessment, collection of and accounting for revenues accruable to the State;
- (h) specify the form of returns, claims statements and notices necessary for the due administration of the powers conferred on it by this Law;
- (i) do such other things which in its opinion are necessary to ensure the efficient performance of the functions of the Service under this Law.

7. (1) There is established for the Board an operational arm, known as the Cross River State Internal Revenue Service (in this Law referred to as "the Service") which shall be under the overall supervision of the Board as specified under this Law.

Establishment of the operational arm of the Board.

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Functions of the
Service.

(2) The Service shall -

- (a) assess persons and individuals chargeable with tax or any levy as may be appropriate;
- (b) assess, collect, account and enforce payment of taxes and levies as may be due to the Government or any of its agencies;
- (c) collect, recover and pay to the designated account any tax under any provision of this Law or any other enactment;
- (d) in collaboration with the relevant ministries and agencies, review the tax regimes and promote the application of tax revenues to stimulate economic activities and development;
- (e) in collaboration with the relevant law enforcement agencies, carry out the examination and investigation with a view to enforcing compliance with the provisions of this Law;
- (f) undertake, an assessment of the extent of financial loss and such other losses by the State Government arising from tax fraud or evasion and such other losses, arising from tax waivers and other related matters, and to make appropriate recommendations;
- (g) adopt measures to identify or trace proceeds derived from tax fraud or evasion;
- (h) adopt measures including compliance and regulatory actions introduction and maintenance of investigative and control techniques, on the detection and prevention of non-compliance;
- (i) collaborate and facilitate rapid exchange of information with relevant national or international agencies and bodies on tax matters;
- (j) undertake exchange of personnel or other experts with complementary agencies for purposes of comparative experience and capacity building;
- (k) establish and maintain a system for monitoring national and international dynamics of taxation in order to identify suspicious transactions, perpetrators and other persons involved;
- (l) provide and maintain access to up to date and adequate data and information on all taxable persons, individuals, corporate bodies and all agencies of government involved in the collection of revenue for the purpose of efficient, effective and correct tax administration and to prevent tax evasion or fraud.
- (m) maintain database, statistics, records and reports on persons, organizations, proceeds, properties, documents or other items or assets relating to tax administration including matters relating to waivers, fraud or evasion;

- (n) undertake and support research on similar measures with a view to stimulating economic development and determine the manifestation, extent, magnitude and effects of tax fraud, evasion and other matters that affect effective tax administration and make recommendations to the government on appropriate intervention and remedial measures;
- (o) collate and regularly review all policies of the State Government relating to taxation and revenue generation and make appropriate recommendations to the Board;
- (p) liaise with all government security and law enforcement agencies and such other supervisory institution for tax enforcement;
- (q) (q) appoint and employ such consultants, including Tax Consultants or Accountants and Solicitors to transact any business or to do any act required to be transacted or done in the execution of its functions under this Law. Provided that such Consultants shall not carry out duties of assessing and collecting tax or undertake routine responsibilities of tax official;
- (r) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions under this Law.

8. (1) There shall be a Technical Committee of the Board (in this Law referred to as "the Technical Committee") which shall consist of -

Establishment/Composition of the Technical Committee of the Board.

- (a) the Chairman of the Service as Chairman;
- (b) all the Executive Directors and Heads of Departments of the Service; and
- (c) the Legal Adviser of the Service and Secretary to the Board.

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

9. The Technical Committee shall -

Functions of the Technical Committee.

- (a) consider all tax matters that require professional and technical expertise and make recommendations to the Board;
- (b) advise the Board on any aspect of the functions and powers of the Service under this Law; and
- (c) attend to such other matters as may be referred to it by the Board

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

(2) The Revenue Committee shall comprise -

(a) Supervisor for Finance as Chairman;

(b) ~~three Local Government Supervisors as members; Provided one of them shall be the Council Legal Adviser; and~~

(c) two other persons experienced in revenue matters to be nominated by the Chairman of the Local Government on their personal merit. Provided one of them shall be the Revenue Officer of the Council.

Functions of the Revenue Committee.

11. (1) The Revenue Committee shall be responsible for revenue 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 Law, financial regulations and guidelines on local government administration.

(2) The Revenue Committee shall be autonomous of the Local Government Treasury and shall be responsible for the day-to-day administration activities of the Committee.

(3) The Committee shall report, on a monthly basis, to the Chairman of Council.

Establishment of the Joint State Revenue Committee.

12. There is established for Cross River State a Joint State Revenue Committee which shall comprise -

~~(a) the Chairman of the Service who shall be the Chairman;~~

(b) the Chairman of each Local Government Revenue Committee in the State;

(c) a representative of the State Ministry responsible for Local Government affairs, not below the level of a Director;

(d) the Legal Adviser of the Service and Secretary to the Board; and

(e) Secretary of the Committee, who shall be a staff of the Service not below the rank of a Director.

Functions of the Joint State Revenue Committee.

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

(a) harmonise tax administration in the State;

(b) deal with revenue matters of common concern to the State and Local Government Councils;

(c) enlighten members of the public 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, the State and Local Governments on revenue matters.

PART III
Management and Staff of the Service

14. (1) The Executive Chairman shall be -

- (a) appointed by the Governor subject to the confirmation of the State House of Assembly;
- (b) the Chief Executive and Accounting Officer of the Service; and
- (c) responsible for the execution of the policy of the Board and the day-to-day administration of the Service;

Appointment/
Function of the
Executive Chairman of
the Service.

(2) The Chief Executive shall -

- (a) ensure that proper accounting records are kept in accordance with standard accounting practice and financial regulations of the State in respect of-
 - (i) all revenues and expenditure of the Service;
 - (ii) all its assets, liabilities and other financial transactions; and
 - (iii) all other revenues collected by the State 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 the available accounting records of the State Service are adequate, in line with financial regulations and prepared by qualified personnel, who must be members of recognized and relevant professional bodies;

(3) The Chief Executive, the Legal Adviser, and the Executive Directors shall constitute the Management Team of the Service.

15. (1) The Legal Adviser to the Service shall -

- (a) be appointed by the Governor from within the Service;
- (b) render legal advice to the Service and the Board on routine legal issues affecting the interest of the Service and the Board;
- (c) represent the Service and the Board in any Court or other judicial proceedings;

Appointment/Functions
of the Secretary to the
Board and Legal
Adviser to the Service.

- (d) issue notices of meetings of the Board on the directives of the Board Chairman or by requisition of 1/3 of members of the Board if a Board meeting is not summoned as may be expedient;
- (e) keep records of the proceedings of Board meetings; and
- (f) carry out such other duties as the Chairman or the Board may, from direct.

(2) The Legal Adviser may appear for, and represent the Board or the Service in his professional capacity in any judicial proceedings in which the Board or the Service is a party.

(3) The Legal Adviser in discharging his functions under subsection 1(b) and (c) of this Section, may, engage the services of External Solicitors, subject to the approval of the Attorney General.

Other Staff of the Service.

16. (1) Subject to the provisions of this Section, the Board may appoint such other persons to be employees of the Service and on such terms and conditions, including salaries, allowances and other benefits, as may be prescribed by the Board, subject to the approval of the House of Assembly.

(2) Employment in the Service shall be subject to the provisions of the pension legislation for the time being in force in Cross River State, and officers and employees of the State Service shall be entitled to pension and other retirement benefits as are prescribed under the relevant law, and as may be appropriate to the terms of their employment.

Staff Regulations.

17. Until separate regulations are made for employees of the Service, matters of discipline of staff shall be regulated by the rules and regulations applicable in the Civil Service of the State.

PART IV **Financial Provisions**

Funds of the Board.

18. The Board shall establish and maintain a fund which shall consist of --

- (a) an amount as approved by the Governor which shall not be less than 5% and not more than 10% of all revenue collected by the Service in the preceding year and subject to the appropriation by the State House of Assembly as administrative charge or cost of collection;
- (b) money which may, from time to time, accrue to the Board from other services including the disposal, lease or hire of or any other dealing with, any property vested in or acquired by the Board;
- (c) money accruing to the Board or the Service by way of grants, gifts, testamentary dispositions and endowments and contributions from any source whatsoever; and

- (d) money 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.

19.(1) The Board shall defray from the fund established pursuant to Section 18 of this Law, all the amounts payable under or in pursuance of this Law being sums representing - Expenditure.

- (a) any allowance or other payments due to the Chairman and other members of the Board;
- (b) reimbursements to members of the Board or any Committees set up by the Board for such expenses as may be expressly authorized by the Board or the Service;
- (c) all remunerations, allowances or other costs of employment of the staff of the Service;
- (d) pension contributions and other retirement benefits payable under or pursuant to this Law or any other enactment;
- (e) cost of acquisition and upkeep of premises belonging to or occupied by the Service and any other capital expenditure of the Service;
- (f) investments, maintenance of utilities, training, research and similar activities;
- (g) all other costs that may be necessary for the day to day operations of the Service; and
- (h) any other payment for anything incidental to the foregoing provisions or in connection with or incidental to any other function of the Service.

(2) At the end of every financial year, the balance of the money in the fund established under subsection 18(a) shall revert to the State Treasury.

20. The Service shall prepare, not later than the 30th day of September of each year, an estimate of its income and expenditure for the succeeding year. Budget/Estimates.

21. The Service shall keep proper accounts, financial statement and records of its activities, and such accounts shall, not later than sixty days after the end of each year, be audited by auditors appointed by the Auditor-General of the State. Accounts and Audit.

22. (1) The Service shall, not later than the 31st January 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 accounts of the Service. Annual report, etc.

2) The Auditor-General shall within 30 days of receipt of the report -

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

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Power to accept gifts.

23. The Service may accept gifts on such terms and conditions, if any, that are not inconsistent with its functions.

Power to borrow.

24. The Board may, with the consent of the Governor, borrow by way of loan, overdraft or otherwise such sums as it may require for the performance of its functions and meeting its obligations under this Law; Provided such is approved by the House of Assembly.

Refund of excess tax.

25. (1) Upon proper auditing, the Service may refund to tax payers such overpayment of tax as is due.

(2) The refund shall be made within ninety (90) days of the decision of the Service with the option of setting off the amount due against future tax.

PART V

Tax Administration and Enforcement

Administration of Tax and Revenue Laws.

26. (1) The Service shall have power to administer all laws on taxation and revenue matters in respect of which the State House of Assembly or the National Assembly may confer power on it.

(2) The Service may, with the approval of the Governor by notice published in the State Gazette, appoint any department or agency to collect revenue pursuant to the powers of the Service under subsection (1) of this Section.

Designation of Revenue Courts.

27. The Chief Judge of the State shall designate Courts that shall adjudicate over revenue matters for the purpose of the speedy disposal of such matter; Provided Courts of competent jurisdiction are not deprived of their right of adjudication over such matters.

Revenue Collector.

28. The production by a revenue collector of an identity card and certificate or warrant issued by and having printed thereon the office of the relevant revenue authority to exercise the functions of a revenue collector, shall be sufficient evidence that the revenue collector is duly authorized for the purpose of this Law.

Mode of payment of tax.

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

Revision of Assessment.

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

(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, records or other information as the Board may deem necessary, and may summon any person who may be able to give information material to the determination of the objection, to attend for examination by an officer of the Service on oath or otherwise.

(3) In the event of the Board being satisfied 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 upon consideration of an application for review under the provisions of this Section, the Board declines a revision of the assessment of the tax chargeable, the Board shall give notice of its refusal to revise the assessment as desired by such person.

(4) The Board shall give notice to the applicant of the revised assessment and of the tax payable or notice of refusal to revise the assessment where applicable and, the applicant shall be required to pay the tax based on the revised assessment within 14 days of notification.

(5) Wherever applicable, 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 Section.

31. ~~No assessment, warrant, notice or other proceeding made in accordance with the provisions of this Law or any other revenue Law in force in the State shall be invalidated for 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 therein.~~ Error and defects in Amendment.

32. (1) For the purpose of obtaining full information in respect of the profits or income of any person, body corporate or organization, the Service may give notice requesting such person within the time specified by the notice to – Call for returns, books, documents and Information.

- (a) complete and deliver to the Service any return specified in such notice;
- (b) appear personally, or, if a corporate body or organization through a management level officer, before an officer of the Service for examination with respect to any matter relating to such profits or income;
- (c) produce or cause to be produced for examination books, documents and any other information at the place and time stated in the notice, which time may be from day to day, for such period as the Service may deem necessary; or give orally or in writing any other information as may be specifically required by such notice. —

(2) For the purpose of paragraph (a) to (d) of subsection (1) of this Section, the time specified by such notice shall not be less than 7 days from the date of service of such notice.

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

(4) Nothing in the foregoing provision of this Section or in any other provision of this Law shall be construed as precluding the Service from verifying by, tax audit or investigation into any matter relating to any return or entry in any book, document, accounts or records kept by any person including information kept in digital, magnetic, optical or electronic medium as may, from time to time, be specified in any guideline by the Service.

(5) A person may apply in writing to the Board for an extension of time within which to comply with the provisions of this Section; provided that the person:

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

(b) shows good cause, to the satisfaction of the Board, for his inability to comply with this provision.

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

Call for further returns and payment of tax due.

33. (1) Every person liable to pay tax under this Law shall, before the first day in April of each year, file tax returns at the appropriate office of the Service in prescribed form, providing full information relevant for the assessment of the tax liability of such person.

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

(3) In the case of failure by a person to comply with the requirement of a notice given by the relevant tax authority under the provision of subsection (2) of this Section for the purposes of the income tax for a year of assessment to be charged on that person with respect to income from any source other than from employment, the relevant tax authority may, in lieu of the institution of proceedings against the person under this provision-

(a) a sum equal to 100 per cent of the amount of the tax payable shall be added to the outstanding tax sum as penalty, and the provisions of the law relating to the collection and recovery of tax shall apply to the collection and recovery of such penalty, subject to the power of the Board to grant such waiver of part of the penalty as it may deem fit in the circumstances;

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

(c) any penalty imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Law.

Cross River State Revenue Administration law, 2011 Amendment, 2015

(4) Any person who without lawful justification or excuse fails to pay a tax within the period of one month prescribed in subsection (3) (b) of this Section, commits an offence under this Law.

34. (1) The Board may issue tax clearance certificate to any person within two weeks of receipt of any application if: Issuance of Tax Clearance Certificate.

(a) the Board is of the opinion that -

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

(ii) the person is not liable to tax for any of those 3 years;

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

(3) Where a person who has applied for a tax clearance certificate has discharged his own tax liability but has failed to remit withholding tax or any other tax deductions or levy collected by him on behalf of the State or Local Government, no tax clearance certificate shall be issued to that person until all such outstanding tax deductions or levies are remitted.

(4) Where the Board declines to issue tax clearance certificate under the provisions of this Law, it shall within two weeks of receipt of the application give reason for such refusal.

(5)(a) A Ministry, Department, Agency or official of the Cross River State Government or any Local Government Council official or any corporate body, statutory authority or person empowered in that regard by this or any other Law shall demand evidence of tax payment or exemption for the three years immediately preceding the current year of assessment as precondition for accessing certain government services or transacting any business, including but not limited to the following-

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

(ii) application for certificate of occupancy;

(iii) application for registration as a contractor;

(iv) application for award of contracts by government, its agencies and registered companies;

- (v) application for approval of building plans,
- (vi) application for any government license or permit;
- (vii) any application relating to the establishment or conduct of business;
- (viii) application for Cross River State Government loan for housing, business or any other purposes;
- (ix) registration for distributorship;
- (x) application for registration of a partnership;
- ~~(xi) application for allocation of market stalls;~~
- (xii) appointment or election into public office;
- (xiii) any other application or process for which tax clearance certificate is required under the provisions of this Law or Section 84 of the Personal Income Tax Act.

(b) without prejudice to the provisions of the Stamp Duties Act and the Registration of Titles 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.

(6) A Tax Clearance Certificate must contain the following information relating to each of the 3 years immediately preceding the current year of assessment -

- (a) relevant details of tax payer;
- (b) tax payable;
- (c) tax paid; and
- (d) tax outstanding;

and 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 Board shall request from the taxpayer all details that are necessary to keep the data accurate and up to date;

- (a) the Board shall make available to the taxpayer, at no cost, a smart card with taxpayer identity number, names, signature and photograph embossed on the front side;
 - (b) the card shall hold data in respect of a particular taxpayer in a secure format that can be accessed for authentication;
 - (c) 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;
 - (d) the Board shall provide terminals free of charge to all persons or authorities empowered by this or any other legislation to authenticate tax clearance certificates from any person;
 - (e) the Board shall ensure that the taxpayer's data on the card are kept confidential to the same extent as their ordinary tax records; and
 - (f) 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 on tax payers as secret and confidential; and
 - (g) the Board shall not be liable for damages or any loss incurred by the cardholder as a result of inaccuracies in data supplied by the tax payer.
- (8) The cardholder shall upon application, be advised as to—
- (a) confidentiality of the information supplied;
 - (b) fees or charges for replacing a lost or destroyed card;
 - (c) complaints handling procedure; and
 - (d) procedure for review of personal data.

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

35 (1) Notwithstanding anything to the contrary in any other enactment or law, an authorized officer of the Service shall at all reasonable times have free access to all lands, buildings, places, books, records and documents, in the custody or under the control of any person, a public officer or institution, for the purpose of inspecting the property books or documents including those stored or maintained in electronic medium, for the purpose of resolving any issue in relation to taxation, and the officer may, without fee or reward, make extract from, or copies of, such books records or documents.

Power to access lands, buildings, books and documents.

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

(3) The Service may, in place of taking physical possession of books, records or such equipment, computer or storage media under subsection (2) of this Section, obtain photographs or copies of such documents, records or other information and use same in evidence as may be required.

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

- (a) provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this Section; and
- (b) answer questions relating to the effective exercise of the powers under this Section; orally, or if required by the officer, in writing, or by statutory declaration.

(5) Notwithstanding subsection (1) of this Section, the authorized officer shall not enter any such premises except with the consent of an occupier or pursuant to an authorization issued under subsection (6) of this Section.

(6) Upon an application made ex-parte with verifying affidavit stating the grounds for the application by an officer of the Service to an appropriate Court, the Court may authorize the officer by warrant to enter into any premises.

(7) Every authorization issued under subsection (6) of this Section shall

- (a) be duly signed by a Judge or a Magistrate authorizing it;
- (b) be directed to a named officer of the Service or generally to officers in his department;
- (c) be valid for a period of 3 months from the date of its issuance or such lesser period as the judicial officer considers appropriate;
- (d) state its period of validity, or the date on which it expires, and
- (e) notwithstanding paragraphs (c) and (d) of this subsection be renewable by the judicial officer on application.

(8) An officer exercising the power of entry conferred by an authorization issued under subsection (6) of this Section shall produce the certified true copy of the order authorizing him and evidence of identity.

(9) An officer of the Service so authorized may remove books or documents accessed to make copies.

(10) Copies of the books or documents removed shall be made and the books or documents returned as soon as practicable.

(11) A copy of a book or document or digital evidence so removed and certified by or on behalf of the Executive Chairman, shall be admissible in evidence in court as if it were the original.

(12) The owner of a book or document that is removed under this Section is entitled to inspect and obtain a copy of the book or document being held by the officer of the Service at the owner's own expense, at the premises to which the book or document is moved to at reasonable times of the day.

36. (1) The Service may by notice in writing appoint any person to be the agent of a taxable person if the circumstances provided in subsection (2) of this Section make it expedient to do so.

Power to appoint agent for tax payer.

(2) Any person in custody of the property of a taxable person may be appointed by the revenue authority to be the agent of the taxable person for the purpose of payment of tax by the taxable person, and the agent so appointed may be required to pay any tax payable by the taxable person from any money which may be held by the agent of the taxable person.

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

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

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

37. (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 note has, in accordance with the provisions of this Law been made, and payment is not made within the time limited by the demand note, the Service or other relevant revenue authority may for the purpose of enforcing payment of the amount due, distrain -

Power to 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 or use, or found on the premises or on the land occupied by 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 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 under this Section.

(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 day time for the purpose of levying such distress and he may call to his assistance any Police Officer or other law enforcement officer for the purpose of executing the warrant.

(5) Items distrained under this Section may, at the expense of the defaulter, be kept for sixty days and if at the end of this period the amount due in respect of the revenue and cost incidental to the distress are not paid, the distrained items may, subject to subsection (6) of this Section, be sold at any time.

~~(6) From the proceeds of a sale under this Section, the expenses or charges incidental to the sale and custody of the items distrained shall be paid and thereafter the amount of tax or revenue due shall be deducted and any balance shall be paid to the defaulter on demand being made by him or on his behalf, within one year of the date of the sale, or shall be forfeited.~~

(7) In 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 distain upon all goods, chattels and effects belonging to the tax debtor wherever the same may be found in Nigeria.

Recovery of tax.

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

(2) Where any tax has been short levied or erroneously repaid, the person who should have paid the amount short levied or to whom the repayment has erroneously been made shall, on demand by the proper officer, refund the amount short levies 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.

39. (1) ~~The Service shall take all necessary measures to assist any relevant law enforcement agency in the investigation of any offence or complaint under this Law.~~

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

(3) In conducting any investigation under subsection (2) of this Section, the Service may cause investigation to be conducted into the properties of any person if it appears to the 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 to the Commission of any offence or an attempt to commit any offence, the Service shall submit its findings to the relevant law enforcement agency and the Attorney-General for purposes of further investigation or prosecution.

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

Power to co-opt law enforcement agency.

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

(3) Any tax officer with the warrant issued by a judicial officer and accompanied by a number of law enforcement officers, as may be determined by the Chief Executive shall -

- (a) enter any premises covered by such warrant and search for, seize and take possession of, any item, record, book, document or other articles 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; and
- (e) open any door or window of any premises and enter or otherwise forcibly enter the premises and every part thereof, or remove by reasonable force any obstruction to such entry, search, seizure or removal as he is empowered to effect

~~41. (1) The Service may, with the approval of the Board, pay any reward to any person, not being a person employed in the Service, in respect of any information that may be of assistance to the Service in the performance of its duties under this Law upon the person meeting such conditions as may be determined by the Board and the quantum of such reward shall also be at the discretion of the Board.~~

Power to pay reward.

(2) The identity of the person who gave information to the Service shall be kept confidential, and any current or former member of the Service or Board that discloses the identity of such person shall be sanctioned in accordance with the provisions of this Law or any other enactment with regard to confidential information.

42. (1) Without prejudice to the provisions of any other Law or enactment concerning official secrets, all information and documents supplied or produced in pursuance of any requirement of this Law shall be treated as confidential.

Confidentiality of information.

Establishment of
body of Appeal
Commissioners.

(2) Except as otherwise provided under this Law or as otherwise authorized by the Governor, any member or former member of the Board or any employee or former employee of the Service or Ministry 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 not exceeding N500,000.00 or to imprisonment for a term not below 5 years or to both such fine and imprisonment.

43. (1) The Governor may, by Notice in the State 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 in the State Civil Service, and at least one of whom shall be a Lawyer of not less than ten years post qualification experience.

(3) An Appeal Commissioner may -

(a) be appointed by the Governor, by Notice in the State Gazette, from among persons appearing to him to have had experience and shown capacity in administration or the management of a 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, addressed to the Governor, except that on the requests of the Governor he may continue to act as an Appeal Commissioner after the date of his resignation and sit 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, upon a recommendation by a panel set up for that purpose, determines that his office has become vacant and Notice of the determination being published in the State Gazette, or on his acceptance of a political appointment.

(4) The Governor shall designate a public officer, not below the rank of an Assistant Director, to be the Secretary to the body of Appeal Commissioners (referred to in this Law as the Secretary to the body of Appeal Commissioners) and the official address of the Secretary shall be published in the Gazette.

(5) Notwithstanding the provisions of this Section, the Body of Appeal Commissioners shall, with the Governor's approval, remain in office until a new body is sworn in.

(6) A taxable person being aggrieved by an assessment of income tax or any other tax liability made upon him, having failed to agree with the State Board in the manner provided in this Law and in Section 57(3) of the Personal Income Tax Act, may appeal to the Body of Appeal Commissioners against the assessment upon giving notice as provided in this Law within thirty days after the date of service of notice of the refusal of the State Board to amend the assessment as desired.

44. (1) A Notice of Appeal to be given, under the provisions of this Law shall be given in writing to the Body of Appeal Commissioners and shall set out as follows -

- (a) the name and address and tax identification number of the Appellant;
- (b) the official number and the date of the relevant notice of assessment;
- (c) the amount of the assessable, total or chargeable income and of the tax charged as shown by that notice and the year of assessment concerned;
- (d) the precise grounds of appeal against the assessment;
- (e) the address for service of any notice or other documents to be given to the appellant; and
- (f) the date on which the appellant was served with notice of refusal by the Board to amend the assessment as desired.

(2) As soon as may be practicable, after receipt of notice of Appeal, the Secretary of the Body of Appeal Commissioners shall, having regard to the grounds of appeal therein disclosed and to any relevant provisions of this Law, deliver a copy to the Board and the appeal shall be listed by the Secretary for hearing accordingly.

(3) A notice or other documents to be given to the Appeal Commissioners shall be addressed to the Secretary of the Body of Appeal Commissioners and be delivered at or sent by registered post to his official address.

(4) A taxpayer may discontinue an appeal under this Section, upon giving notice to the Secretary of the Body of Appeal Commissioners in writing at any time before hearing decision is made with respect to the Appeal.

(5) Notwithstanding that notice of appeal against an assessment has been given by a taxpayer under this Section, the Board may revise the assessment in agreement with the taxpayer, and on notice of the agreement being given in writing by the Board to the Secretary of 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 be deemed to have been agreed between the tax authority and the taxpayer in accordance with this Law and under the provisions of subsection (3) of Section 57 of the Personal Income Tax Act.

45. (1) The Appeal Commissioners shall, as often as may be necessary, meet to hear appeals in any location where an office of the Body of Appeal Commissioners is situate, and, subject to the provisions of subsection (2), of this Section, and in any such meeting

Meetings and decision of Appeal Commissioners.

- (a) any three or more Appeal Commissioners may hear and decide an appeal; and

(a) the Appeal Commissioners present shall elect one of their members, in the absence of the Chairman, to be the Chairman for the meeting.

(2) An Appeal Commissioner who had a direct or indirect financial interest in a taxpayer or being a relative of a person having such an interest, and having knowledge thereof, shall, when any appeal by such taxpayer is pending before the Body of Appeal Commissioners, declare such interest to the other Appeal Commissioners and give notice to the Board in writing, of such interest or relationship, and he shall not sit at any meeting for the hearing of that Appeal.

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

(4) The Secretary of the Body of Appeal Commissioners shall give seven day's 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 previous session.

(5) All notices, excepts and documents, other than decisions of the Appeal Commissioners may be signed under the hand of the Secretary.

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

(7) A taxpayer who appeals against an assessment shall be entitled to be represented at the hearing of the appeal by a legal practitioner or tax practitioner; Provided that if the person intended by the taxpayer to be his representative in an appeal is unable for good cause to attend the hearing, the Appeal Commissioners may adjourn the hearing for such reasonable time as they think fit, or admit the appeal to be made by some other person or by way of written statement.

(8) The onus of proving that the assessment complained of is excessive or wrong shall be on the tax payer presenting the appeal.

(9) The Body of Appeal Commissioners may if it deems it expedient require the appellant to pay an amount to the Board as security prior to the determination of the appeal.

10) The Appeal Commissioners may adjourn the hearing of the appeal to any subsequent day and order the appellant to deposit with the Body of Appeal Commissioners before the day of the adjourned hearing an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged on the appellant for the preceding year of assessment under appeal, whichever is the lesser.

(11) The Appeal Commissioners may confirm, reduce, increase or annul the assessment or make such orders thereon as they see fit.

(12) The decision of the Appeal Commissioners shall be recorded in writing by the Chairman and a certified copy of the decision shall be supplied to the appellant and the Board by the Secretary, within one month of the decision.

(13) Where on the hearing of an appeal -

- (a) no accounts, books or records relating to profits were produced by or on behalf of the appellant;
- (b) those accounts, books or records were so produced but the Appeal Commissioners rejected the same on the ground that the documents have been shown to be incomplete or unsatisfactory;
- (c) the appellant or his representative, at the hearing of the appeal has neglected or refused to comply with a request delivered or sent to him by the Secretary excuse; or
- (d) the appellant or a person employed, whether confidentially or otherwise, by the applicant or his agent has refused to answer any question put to him by the Appeal Commissioners, without showing any reasonable cause, the Chairman of the body of Appeal Commissioners shall record particulars of the same in his written decision.

46.(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 tax is chargeable.

Appeal against assessment.

(2) 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.

47. (1) Subject to the provisions of subsection (2) of Section 46 of this Law, a taxpayer who, having appealed against an assessment made on him to the Appeal Commissioners under the provisions of this Law and is aggrieved by the decision of the Appeal Commissioners may appeal against the assessment and the decision to the High Court of the State upon giving notice in writing to the Board within thirty days after the date on which the decision was given.

Appeal against decision of the Appeal Commissioners.

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

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

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

(5) All appeals shall be heard in open court, unless the Judge shall, on the application of the taxpayer, otherwise direct.

(6) Notwithstanding the provisions of 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.

(7) The cost of the appeal shall be at the discretion of the Judge hearing the appeal and shall be a sum fixed by the Judge.

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

(9) An Appeal against the decision of a Judge shall lie to the Court of Appeal and thereafter to the Supreme Court -

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

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

assessment to be final and conclusive.

48. (1) Where no valid objection or appeal has been lodged against an assessment within the time stipulated by this Law or where due conclusive 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 this Law, and subsection (3) of Section 56 of the Personal Income Tax Act shall be final and conclusive for all purposes of this Law.

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

(a) where an assessment has become final and conclusive, any tax overpaid, including any amount deposited with the Board on account of the tax charged by the assessment, shall be refunded;

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

PART VI
Offences and Penalties

49. ~~Any person who, being obliged to deduct any tax under this Law or other laws~~ Failure to deduct or remit tax.
related to taxation or revenue due to the Government, but fails to deduct, or having deducted, fails to pay to the Service within 48 hours from the date the amount was deducted or from the time the duty to deduct arose, commits an offence and shall, upon conviction, be liable to pay the tax withheld or not remitted in addition to a penalty of 10 per cent of the tax withheld or not remitted per annum and interest at the prevailing Central Bank of Nigeria minimum re-discount rate, or imprisonment for a period of not more than three years.

50. Any person who -

Obstruction, etc.

- (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;
- (b) does anything which impedes or is intended to impede the conduct of any search, seizure, removal or distraint;
- (c) rescues, damages or destroys anything so liable to seizure, removal or distress, or does anything intended to prevent the procuring or giving of evidence as to whether or not anything is liable to seizure, removal or distraint; and
- (d) prevents the arrest of any person by a person duly engaged or acting or rescues any person so arrested;
- (e) commits an offence and shall be liable on conviction to a fine not exceeding N200,000.00 or imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

51. (1) Any person who -

False declaration.

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

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

(3) Any person who commits an offence under this Section shall be liable on conviction to a fine not exceeding N200,000.00 in addition to payment of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

Counterfeiting documents, etc.

52.(1) Any person who -

- (a) counterfeits or falsifies any document which is required by or for the traction of any business under this Law or any law dealing with revenue or taxation in the State;
- (b) accepts, receives or uses any document so counterfeited or falsified;
- (c) alters any such document after it is officially issued;
- (d) counterfeits any seal, signature, initial or other mark of, or used by, any officer for the verification of such a purpose relating to tax; or
- (e) being an employee of the Service conspires, connives or participates in the Commission of any of the offences in paragraph (a) to (d) , of this Section, commits an offence and shall liable on conviction to a fine not exceeding N200,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

(2) A corporate body found liable under the provisions of Sections 53 and 54 of this Law, shall on conviction, be liable to a fine not exceeding five million naira.

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

(b) withholds, for his own use or otherwise, any part of the amount of tax

(c) steals or misuses the documents or property of the Service; or

(f) compromises on the assessment or collection of any tax, commits an offence and shall be liable on conviction to a fine equivalent to 200 percent of the

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Penalties for offences by officer / persons.

sum in question or to imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

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

Penalty where offenders are armed.

55. If, for the purpose of gaining entry into any building or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person who, not being an authorized officer, assumes the name, designation or impersonates the character of an authorized officer, commits an offence and shall be liable on conviction to a fine not exceeding N200,000.00 or to imprisonment for a term not exceeding 3 years.

Impersonation of authorized officer/person.

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

Power to compound offences.

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

57.(1) Any person who contravenes any provision of this Law for which no specific penalty was provided, commits an offence and shall be liable on conviction to a fine not exceeding N200,000.00 or imprisonment for a term not exceeding three years or to both fine and imprisonment.

General penalty.

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

- (a) every Director, Manager, Secretary of the Board or other similar officer of the body corporate;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association, or
- (d) every person who was purporting to act in any management capacity; commits an offence and shall be liable to the same punishment as principal offender.

PART VII General Provisions

58.(1) Every person in an 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 company, as secret and confidential.

Official secrecy and confidentiality.

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

- (a) other than a person to whom he is authorized by the Service to communicate it;
- (b) otherwise than for the purpose of this Law or of any enactment in Nigeria imposing tax or levies eligible persons, commits an offence under this Law.

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

Delegation of powers
of the Board.

59.(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 any decision of an officer affecting any tax or taxable income, and the reversal or modification of the decision by the Board shall have effect as if it were the original decision made in respect of the matter concerned.

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

Signification.

60. Anything done or required to be done by the Service in pursuance of any of its powers or duties under this Law or other revenue or taxation laws relating to the State may be endorsed under the hand of the Executive Chairman or of an officer who has been authorized by the Chairman with prior approval of the Board.

61.(1) If the Service is satisfied that a person who is or was in its employment -

- (a) is or was responsible for any improper payment of moneys from the fund of the Service or for any payment of such money which is not duly documented;
- (b) is or, was responsible for any deficiency in, or for the destruction of, any money, security, store or other property of the Service;
- (c) being or having been an officer, fails or has failed to keep proper accounts or record; or
- (d) has failed to make any payment, or is responsible for any delay in the payment of moneys for the Service to any person to whom such payment is due under any contract, agreement or transaction entered into between that person and the Service and if a satisfactory explanation is not

sum in question or to imprisonment for a term not exceeding 3 years or to both fine and imprisonment.

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

Penalty where offenders are armed.

55. If, for the purpose of gaining entry into any building or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person who, not being an authorized officer, assumes the name, designation or impersonates the character of an authorized officer, commits an offence and shall be liable on conviction to a fine not exceeding N200,000.00 or to imprisonment for a term not exceeding 3 years.

Impersonation of authorized officer/person.

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

Power to compound offences.

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

57.(1) Any person who contravenes any provision of this Law for which no specific penalty was provided, commits an offence and shall be liable on conviction to a fine not exceeding N200,000.00 or imprisonment for a term not exceeding three years or to both fine and imprisonment.

General penalty.

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

- (a) every Director, Manager, Secretary of the Board or other similar officer of the body corporate;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association; or
- (d) every person who was purporting to act in any management capacity; commits an offence and shall be liable to the same punishment as principal offender.

PART VII General Provisions

58.(1) Every person in an 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 company, as secret and confidential.

Official secrecy and confidentiality.

furnished to the Service within a period specified by the Board with regard to such misconduct, the Service may surcharge the said person such sum as it may think fit.

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

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

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

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

Limitation of suits against the Board and Service, etc.

(2) The notice referred to in subsection (1) of this Section shall clearly and explicitly state -

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

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

Service of documents.

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

Restriction on execution against property of the Board/Service.

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

PART VIII
Miscellaneous Provisions

Directives by the Governor.

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

Power to make regulations;

66. The Board may with the approval of the Governor, make rules and regulations in its opinion are necessary or expedient for giving full effect to the provisions of this Law and for the due administration of its provisions and may in particular, make regulations prescribing the -

- (a) forms for returns and other information required under this Act or any other enactment or Law;
- (b) procedure for obtaining any information required under this Act or any other enactment or Law.

Repeal /dissolution of the former Board.

67. (1) The Cross River State Board of Internal Revenue Law Cap. B2 is repealed.

(2) The Cross River State Board of Internal Revenue established pursuant to the repealed enactment is dissolved.

(3) The repeal of the enactment specified, in subsection (1) of this Section shall affect anything done or purported to have been done under the repealed enactment.

Savings and transitional provisions relating to staff.

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

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

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

69.(1) There shall be vested in the Service established under this Law and without further assurance, 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, interest, obligations and liabilities of the former Board existing immediately before the commencement of this Law under any contract or instrument, or in law or in equity, shall by virtue of this Law be assigned to and vested in the Service established under this Law.

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

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

(5) Any proceeding or cause of action pending or existing immediately before the commencement of this Law by or against the former Board shall be deemed to be pending against the Service. Actions in respect of any right, interest, obligation or liability of the former Board may be continued, or as the case may require, be commenced and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Service to the same extent that such cause of action or determination might have been continued, or enforced by or against the former Board as if this Law had not been made.

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

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

Continuation and completion of disciplinary proceedings.

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

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Transfer of rights and obligations.

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

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

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

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

(5) Every affidavit sworn or document duly certified by an officer in the name of the former Board before the coming into force of this Law has the same legal value as it were sworn or certified by an employee of the Service on or after the coming into force of this Law.

Relevance of other laws.

72. (1) Notwithstanding the provisions of this Law, the relevant provisions of other laws and revenue enactments of the State shall be read with such modifications as may be necessary to bring them into conformity with the provisions of this Law.

(2) If the provisions of any other Law relating to revenue and taxation in the State 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 the inconsistency be void.

Interpretation.

73. In this Law -

"Authorized Officer" means any person employed in the Service or, for the purpose of this Law, being, performing duties in relation to tax who has been specifically authorized by the Board or the Executive Chairman to perform or carry out specific functions under this Law;

"Board" means the management Board of the Service established under this Law;

"Book" includes any register, document or other record of information in any form or 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 and Executive Chairman of the Service appointed under this Law;

"Consultants" includes accountants, legal practitioners or any other recognized professionals that have been certified by their relevant professional bodies in Nigeria, provided tax consultant means a professional being certified by the Chartered Institute of Taxation of Nigeria;

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

"Government" means the Government of Cross River State;

"Gross misconduct" refers to the meaning ascribed to it in the State Public Service Rules;

"Officer" means any person employed in the Service;

"Other Staff" means such technical, professional or employees so designated in their letters of employment;

"Jurisdiction" as used in Section 11 subsection (1): for the State means all levies, fees and fines as stated in the Constitution and other relevant enactments; and for Local Governments means all levies, fees and fines as contained in the fourth Schedule of the Constitution and other relevant enactments;

"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);

"Revenue Collector" means a duly authorized officer of the Service or of a Local Government Revenue Committee;

"Service" means the Cross River State Internal Revenue Service;

"Secretary" means Secretary to the Body of Appeal Commissioners"

"Tax" includes income tax or levy imposed in conformity with the provisions of this Law;

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


75. This Law may be cited as the Cross River State Revenue Administration Law, 2011 and shall come into force on the ...27th...day of ...May.....2011.

Short
Title/Commencement.

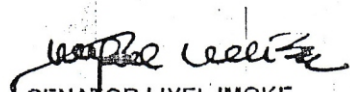
Cross River State Revenue Administration law, 2011 Amendment, 2015

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


ELDER (NTUFAM) JOHN A. OKON
CLERK OF THE HOUSE

I assent


SENATOR LIYEL IMOKE
GOVERNOR
CROSS RIVER STATE

MADE AT Calabar this 27th day of May, 2011