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Companies Income Tax Act

(6) A company in respect of which any direction is made under this section shall have a right to appeal in like manner as though for the purposes of Part X of this Act, such direction were an assessment.

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Artificial
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18. (1) Where the Board is of opinion that any disposition is not in fact given effect to or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, it may disregard any such disposition or direct that such adjustments shall be made as respects liability to tax as it considers appropriate so as to counteract the reduction of liability to tax affected, or reduction which would otherwise be affected, by the transaction and any company concerned shall be assessable accordingly.

(2) For the purpose of this section-

(a) "disposition" includes any trust, grant, covenant, agreement or arrangement;

(b) transactions between persons one of whom either has control over the other or, in the case of individuals, who are related to each other or between persons, both of which are controlled by some other persons, shall be deemed to be artificial or fictitious if in the opinion of the Board those transactions have not been made on terms which might fairly have been expected to have been made by persons engaged in the same or similar activities dealing with one another at arm's length.

(3) A company in respect of which any direction is made under this section shall have a right of appeal in like manner as though for the purposes of Part X of this Act such direction were an assessment.

Profit
exempted

19. (1) There shall be exempt from the tax-

(a) the profits of any company being a statutory or registered friendly society, in so far as such profits are not derived from a trade or business carried on by such society;

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(b) the profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies, not being profits, from any trade or business carried on by that company other than co-operative activities solely carried out with its members or from any share owned or other interest possessed by that company in a trade or business in Nigeria carried on by some other persons or authority; 1989 No. 31

(c) the profits of any company engaged in ecclesiastical, charitable or educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company;

(d) the profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to such conditions as the Board may prescribe;

(e) the profits of any company being a trade union registered under the Trade Unions Act in so far as such profits are not derived from a trade or business carried on by such trade union; Cap. 437

(f) dividend distributed by Unit Trust^{32/96} company from the Federal S:

(g) dividend derived by a company from another company incorporated in Nigeria; 1987 No. 12

Provided that: the equity participation of the recipient of the dividend in the company paying the dividend is either wholly paid for in foreign currency or by assets brought or imported into Nigeria between 1st January, 1987 and 31st December, 1992 and the company receiving the dividend is the beneficial owner of not less than ten *per cent* of the equity share capital of the company paying the dividend. For the purpose of this subsection, the dividend tax-free period shall commence from the year of assessment following the year in which the new capital is brought into Nigeria for the purpose of the trade or business in Nigeria of the company paying the dividend and shall continue for five years if the company paying the dividend

notwithstanding that such bad or doubtful debts were
before the commencement of the said period:

any period a deduction under this paragraph is to be
ts any particular debt, and a deduction has in any
been allowed in respect of the same debt, the approp-
i shall be made in the deduction to be made for the
on;

is recovered during the said period on account of
us written off or allowed either under the Companies
t 1979 or this Act in respect of bad or doubtful debts
poses of this Act be deemed to be profits of the trade
hat period;

ved to the satisfaction of the Board that the debts in
h a deduction is claimed either were included as a
ade or business in the profits of the year within which
red, or were advances not falling within the provisions
) of section 23 made in the course of normal trading
rations;

tribution to a pension, provident or other retirement
ociety or scheme approved by the Joint Tax Board
rs conferred upon it by paragraph (g) of section 20 of
come Tax Decree 1993, subject to the provisions of
dule to that Act and to any conditions imposed by that
contribution other than a penalty made under the
y enactment establishing a national provident fund or
t benefits scheme for employees throughout Nigeria;

se of the Nigerian Railway Corporation such deduc-
owed under the provisions of the Authorised Deduc-
Railway Corporation) Rules 1959, which Rules shall
e for all purposes of this Act;

(g) in the case of profits from a trade or business, any expense or
part thereof.

(i) the liability for which was incurred during that period wholly,
exclusively, necessarily and reasonably for the purposes of such trade
or business and which is not specifically referable to any other period
or periods; or

(ii) the liability for which was incurred during any previous period
wholly, exclusively, necessarily and reasonably for the purpose of
such trade or business and which is specifically referable to the period
of which the profits are being ascertained;

which is not deductible under any other provision of this section;

(iii) the expenses proved to the satisfaction of the Board to have
been incurred by the company on research and development for the
period including the amount of levy paid by it to the National Science
and Technology Fund.

(h) such other deduction as may be prescribed by the Minister by
any rule.

21. (1) Subject to the provisions of this section and notwithstand-
ing anything contained in section 20 of this Act, for the purpose of
ascertaining the profits or loss of any company for any period from
any source chargeable with tax under this Act, there shall be deducted
the amount of any donations made for that period by that company to
any fund, body or institution in Nigeria to which this section applies.

Deductible
donations.

(2) Without prejudice to section 23 of this Act, it is hereby
declared for the avoidance of doubt that the provisions of subsection
(1) of this section shall have effect if, but only if, the donations are
made out of the profits of the company, and are not expenditure of a
capital nature;

*Nigeria Companies
Income Tax Act
1995*

Companies Income Tax Act

(3) Except to such extent (if any) as the National Council of Ministers may by order in the Federal *Gazette* otherwise direct, any deduction to be allowed to any company, under subsection (1) of this section, for any year of assessment shall not exceed an amount which is equal to ten *per cent* of the total profits of that company for that year as ascertained before any deduction is made under this section.

(4) There shall be excluded from the sum allowed as a deduction under this section, any outgoings and expenses which are allowable as deductions under section 20 of this Act.

(5) This section shall apply to-

(a) the public funds;

(b) the statutory bodies and institutions;

(c) the ecclesiastical, charitable, benevolent, educational and scientific institutions, established in Nigeria, which are specified in the Fifth Schedule to this Act.

(6) the Minister may by order in the Federal *Gazette* amend the said Schedule in any manner whatsoever:

Provided that no fund, body or institution shall be added to that Schedule, in exercise of the powers conferred under the foregoing provisions of this subsection, unless the fund is a public fund established in Nigeria, or the body or institution is a statutory body or institution, or is a body or institution of a public character, established in Nigeria.

(7) In this section references to donations made by a company do not include references to any payments made by the company for valuable considerations.

Deduction
for Research
and Devel-
opment.

22. (1) Notwithstanding anything contained in section 20 of this Act, for the purposes of ascertaining the profit or loss of any company for any period from any source chargeable with tax under this Act,

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there shall be deducted the amount of reserve made out of the profits of that period by that company for research and development.

(2) The deduction to be allowed to any company under subsection (1) of this section for any year of assessment shall not exceed an amount which is equal to ten per cent of the total profits of that company for that year as ascertained before any deduction is made under this section and section 21 of this Act.

→ s. 23(3) Companies and other organisations engaged in research and development activities for commercialisation shall be allowed 20% investment tax credit on their qualifying expenditure for that purpose".

Deductions not allowed.

(a) capital repaid or withdrawn and any expenditure of a capital nature;

(b) any sum recoverable under an insurance or contract of indemnity;

(c) taxes on income or profits levied in Nigeria or elsewhere other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of this Act;

(d) any payment to a savings, widows and orphans, pension, provident or other retirement benefit fund, society or scheme except as permitted by paragraph (g) of section 23 of this Act;

(e) the depreciation of any asset;

(f) any sum reserved out of profits, except as permitted by paragraph (d) of section 20 or section 21 of this Act or as may be estimated to the satisfaction of the Board, pending the determination of the amount, to represent the amount of any expenses deductible under the provisions of that section the liability for which was irrevocably incurred during the period for which the income is being ascertained;

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FIFTH SCHEDULE

Section 21.

FUNDS, BODIES AND INSTITUTIONS IN NIGERIA TO WHICH DONATIONS MAY BE MADE UNDER SECTION 24 OF THIS ACT.

1. The Boys Brigade of Nigeria.
2. The Boys Scouts of Nigeria.
3. The Christian Council of Nigeria.
4. The Cocoa Research Institute of Nigeria.
5. Any educational Institution affiliated under any law with any university in Nigeria, or established under any law in Nigeria and any other educational institution recognised by any government in Nigeria.
6. The Girl Guides of Nigeria.
7. Any hospital owned by the government of the Federation or of a State or any University Teaching Hospital or any hospital which is carried on by a society or association otherwise than for the purpose of profits or gains to the individual members of that society or association.
8. The Institute of Medical Laboratory Technology.
9. The National Commission For Rehabilitation.
10. The National Library.
11. The Nigerian Council for Medical Research.
12. The National Science and Technology Development Agency.
13. The Nigerian Institute for International Affairs.

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| 14. The Nigerian Institute for Oil Palm Research. | 27. T |
| 15. The Nigerian Institute for Trypanosomiasis Research. | 28. T |
| 16. The Nigerian Museum. | 29. TH |
| 17. The Nigerian Red Cross. | 30. Va |
| 18. A public fund established and maintained for providing money for the construction or maintenance of a public memorial relating to the civil war in Nigeria which ended on 15th January, 1970. | 31. So |
| 19. A public institution or public fund (including the Armed forces Comfort Fund) established or maintained for the comfort, recreation or welfare of members of the Nigerian Army, Navy or Air Force. | 32. Isla |
| 20. A public fund established and maintained exclusively for providing money for the acquisition, construction, maintenance or equipment of a building used or to be used as a school or college by the Government of the Federation or a State or by public authority or by a society or association which is carried on otherwise than for the purpose of profit or gain to the individual members of that society or association. | 33. The
Fur |
| 21. The National Youth Council of Nigeria. | 34. Any
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in-ar |
| 22. National sports Commission and its State Associations. | 35. Nige |
| 23. The Nigerian Society for the Deaf and Dumb, | 36. Nige |
| 24. The Society for the Blind. | 37. Kewa |
| 25. The Nigerian National Advisory Council for the Blind. | 38. Afpr |
| 26. Associations or Societies for the Blind in Nigeria. | 39. Paters |
| | 40. Educa |
| | 41. Nation |
| | 42. Rotary |

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27. Training Centres and Residential Schools for the Blind.
28. The National Braille Library of Nigeria.
29. The Nigerian Youth Trust.
30. Van Leer Nigerian Educational Trust.
31. Southern Africa Relief Fund.
32. Islamic Education Trust.
33. The Institute of Chartered Accountants of Nigeria Building Fund.
34. Any public fund established or approved by the Government of the Federation or established by any of the State Governments in aid of or for the relief of drought or any other national disaster in any part of the Federation.
35. Nigerian Conservation Foundation.
36. Nigerian Accounting Standard Board.
37. Kewaram Chanrai Foundation Limited.
38. Afprint Foundation Limited.
39. Paterson Zochonis Nigeria Technical Education Trust Fund.
40. Educational Co-operation society.
41. National Science and Technology Fund.
42. Rotary International Polio Plus