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NATIONAL OPEN UNIVERSITY OF NIGERIA

LAW OF TAXATION 1

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CONTENTS **PAGE**

MODULE 1

Unit 1 The meaning and nature of Taxation
Unit 2 Historical Background
Unit 3 The various forms of Taxation

UNIT 1 THE MEANING AND NATURE OF TAXATION

CONTENTS

1.0 INTRODUCTION

For any concept to be meaningfully discussed the students must have a basic idea of what the concept entails; and one of the best way of understanding the basics of any concept is by knowing its definition. The students also need to appreciate the characteristics of the concept.

In this unit, we shall give the various definitions that have been accorded tax and we shall then move on to examine the characteristics of tax, what are the things that must be present in a tax. We shall also examine the nature of tax as well as the characteristics and criteria used in identifying an ideal tax. Then we shall look at the importance of levying and payment of tax.

2.0 OBJECTIVES

At the end of this unit, you should be capable of:

- Defining the concept of tax and taxation
- Stating the criteria used to identify a particular payment as tax.
- Differentiating between tax and other types of payments like toll, fare etc.
- Understanding the importance of levying and paying tax in Nigeria.

3.0 MAIN CONTENTS

3.1 The Definition and Nature of Taxation

In a plain language, the *Oxford English Dictionary* (1973) has defined tax as ‘a compulsory contribution to the support of government levied on persons property, income, commodities, transactions, etc, now at a fixed rate proportionate to the amount on which the contributions is levied’. However, to further simplify this definition, the *Oxford Advanced Learner’s Dictionary* (2006) defined tax as ‘money that you have to pay to the government so that it can pay for public services.’ It further concluded that ‘people pay tax according to their income and businesses pay tax according to their profits. Tax is also often paid on goods and services.’

Another definition supplied by Investwords.com refers to tax as ‘a fee charged by a government on a product, income or activity.’

The word tax was further judicially defined in the Australian case of *Mathews v Chicory Marketing Board* (1938) 60 CLR 263 as ‘a compulsory exaction of money by a public authority for public purpose or raising money for the purpose of government by means of contributions from individual persons.’

Take note that there is no legislative definition for tax. That is, there is no definition of tax in all our laws relating to tax. Thus, we shall only rely on the available definitions.

You should also note that the definition supplied in the Oxford Dictionary has been criticized as inadequate by various writers. According to Chris White H. in his book, *Revenue Law: Principles and Practice*, the definition is inadequate because it has limited its view as to the purpose of tax. He further stated that its description of tax base was irrelevant and it places unnecessary emphasis on proportional taxation as opposed to progressive taxation. Another writer, Abdulrazaq, M. T. (1993), however tried to rectify this anomaly by adding a criterion to the incomplete definition by adding that 'taxes are <u>imposed under the authority of the legislature</u> that they are levied by a public purpose.'

However, despite the various definitions, you should note that a proper tax within the above definitions must be one backed by legislation and must be a deduction that gives to treasury of the authorities concerned with revenue generally. Also the compulsory nature of tax should also be noted.

Tax should not however be confused with other forms of compulsory contribution which bear semblance with it. The criterion of the compulsory nature of tax becomes clearer when distinguishing a tax from a charge for a government service. Firstly, if a payment is a charge for a government service, some service must be provided directly to the individual. For example, there is difference between paying a bridge toll and paying a tax to be used for the defence of one's country. Secondly, the charge must be related to the service given, and not varied according to the person's ability to pay or to some other criterion such as the value of his property.

I would therefore recommend the definition supplied in *Aiyar's Concise Law Dictionary* (2009) as the most apt and encompassing definition. Tax was defined as 'a compulsory exaction of money by a public authority for public purposes enforceable by law and is not payment for services rendered.'

SELF ASSESSMENT EXERCISE 1

Carefully examine the various definitions of tax.

3.2 The general principles of an Ideal Tax

By an ideal tax, we mean a good tax. Thus, various ingredients that make up a good tax shall be considered under this heading. A writer, Adam Smith who, in his book, *The Wealth of Nations,* described the ingredients as 'cannons of taxation', and Kath Nightingale (2001) in *Theory and Practice of Taxation* stated that a good tax must possess the following:

1. **Simplicity:** A good tax system must be straightforward, simple and coherent. The concept and principles of the tax must be understood by majority of the citizens and also must be simple to operate. There must also be consistency in administration of the tax among the different strata of government.
2. **Equity:** An ideal tax must be administered on the principles of equity. There are two types of equitable principles in the taxing system – horizontal equity and vertical equity. What we mean by **horizontal equity** is that those in equal circumstances should pay an equal amount of tax. And when we say **vertical equity**, it means that those in unequal circumstances should pay different amount of tax. The importance of this criterion is to install confidence in the tax payer who will be more willing to pay their taxes if they believe that the system is fair and equal.
3. **Ability to pay:** By this, we mean that the tax must not be unbearable for the tax payers. It must be within their financial capability.
4. **Administrative Efficiency:** The administrative costs should not be higher than the revenue yielded. Also the tax must take into account certain factors such as, the effects on economic incentives, and whether it is compatible with desirable international economic relations.
5. **Certainty:** The scope of the tax should be clear. This criteria also means the certainty that the tax can and will be enforced, because a tax that is easily evaded usually causes resentment and often a decline in tax payer morality. Also the tax which every person is bound to pay ought to be certain and not arbitrary.
6. **Flexibility and Stability:** The tax system should be flexible especially in a federal and democratic country such as Nigeria where there are always changes in government.

7. **Neutrality:** A tax must be neutral thus it must avoid distortions of the market. For instance, a selective tax, such as the sales tax, is not neutral, because it encourages the consumer to spend his money on another item rather than a taxable one.

SELF ASSESSMENT EXERCISE 2

Explain five criteria that can be used to determine an ideal tax.

3.3 The importance of Taxation

The introduction of tax is a good omen for human society. In egalitarian society, the importance of tax cannot be overemphasized.

Income tax is one of the major sources of revenue for the government, and it must be reckoned with in all the government's budgets. It raises revenue to meet government expenditure. The government expenditure which requires to be met include provision of services which the free market cannot provide such as defence, law and order and parks as well as provision of services which the state feels are better provided by itself such as health services and education – often referred to as public goods. Thus the taxes collected come back to the tax payers in the form of social amenities.

Income tax has been used to encourage and discourage some activities in the private sector, though this depends on whether the policy of the government is towards encouraging or discouraging such activities. The tax system may thus be used for discouraging immoral activities such use of alcohol or purchase of cigarettes.

Taxation is especially important to businessmen, who enjoy the benefits of water supply, electricity and land allocation. It also reduces the net return on investment and decreases the balance for private savings.

Taxation also has social effects as it affects the lives of nearly everybody. Personal reliefs (aids and assistance), reliefs in respect of children and tuition (scholarships and grants), reliefs on insurance policy premiums, and dependent relatives' relief (e.g. gratuities of a dead civil servant) affect the social structure of the whole country.

Taxation further assists in the redistribution of wealth in the society. Taxes paid are used to bridge the gap between the rich and the poor.

Income tax also has some effect on population movements and the extent of business carried on. A state with a low income tax rate will find that more people are moving into that state, while traders will leave states with high income tax rates or engaged in various schemes of tax avoidance and tax evasions.

SELF ASSESSMENT EXERICISE 3

How important is taxation to our society.

4.0 CONCLUSION

Although there is no where in our laws where the word 'tax' is defined, yet we were able to look through some other surrounding materials to bring out a succinct definition for the concept. The definitions supplied in this material ranged from literal to legal and it was concluded that whatever definition is chosen by the learner, he must bear in mind the idea of compulsion in the payment of tax and the fact that the tax must be imposed by legislation.

Before any form of levy or payment can be ideally regarded as a tax, it must show the trait of simplicity, neutrality, administrative efficiency, equity and certainty.

The levying and payment of tax is so important to mankind that it affects virtually all the strata of man's life. It affects human's life socially by way of various reliefs and population movements from a high tax rate state to a tax friendly state; economically as it assists businessmen in their investment and savings and ultimately being a major source of revenue for the government.

5.0 SUMMARY

In this unit, we examined the various definitions of tax. We also looked at the factors that characterize a good tax and then we discussed the importance of taxation in our society.

6.0 TUTOR-MARKED ASSIGNMENT

1. A Tax is a form of contribution from a member of a society to the constituted authority of that society in order to assist the authority. Discuss.
2. Why is it necessary to levy tax on the society?
3. Differentiate between a money paid by a person for the provision of education in his society and a fee paid for crossing a bridge.

7.0 REFERENCES/FURTHER READING

Abdulrazaq, M. T. (1993) *Principles and Practice of Nigerian Tax Planning and Management*, Batay Law Publications, Ilorin.

P. Ramanatha Aiyar's Concise Law Dictionary (2009) 3rd ed, LexisNexis Butterworths Wadhwa, Nagpur.

UNIT 2 HISTORICAL BACKGROUND

CONTENTS

1.0 INTRODUCTION

The concept of tax has been understood and applied by man since time immemorial. This is because the idea of striving towards attaining a better society is not strange to mankind.

Nigeria is still a developing country whose economy is not yet stable and efficient and a country's tax system is essentially a derivative of the history, economic structure and political economy of that country. Thus the advent and evolution of tax levying and payment system in Nigeria has been a chequered history. In view of this, to have a balanced understanding of the legal regime of taxation especially as it operates in Nigeria, you need to know the historical background of the Nigerian tax system. We shall therefore, in this unit, trace those histories from the pre colonial period till the present day tax system in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you must have been able to:

- give a detailed account of how taxation was levied and paid in Nigeria before the advent of colonialism and English law.
- tell in a graphic form, the history of taxation in Nigeria after the advent of English law.
- Identify the legal structural developments of taxation in Nigeria since the coming of the British into Nigeria till date.

3.0 MAIN CONTENT

3.1 History of Taxation in Nigeria

According to M. T. Abdulrazaq in his book, *Principles and Practice of Nigerian Tax Planning and Management* (1993), a country's tax system for all intents and purposes emanates from its economic, political and cultural history.

Nigeria is a country with very rich and long cultural histories which still substantially rub on general polity including our tax system. It is known that before the invasion of the

Europeans in Africa especially Nigeria, the various communities that existed in the landmass that today constitute the entity known as Nigeria have their respective legal norms and way of lives.

3.2 History of Taxation before the advent of British rule in Nigeria

Thus before the incursion of the British into Nigeria, the idea and system of tax levying and payment was an integral part of the financial system of the Nigerian communities then. Although at that period, the taxation system was largely operated on an ethnical basis. Therefore, there were few communities where taxes were not levied.

In the northern Nigeria, where there was a well structured government entrenched on the principles of Islamic law (*Shari'ah*), the emirs as the political and religious leader established various kinds of tax systems. These taxes include the payment of *Zakat* – a tax levied on Muslims for charitable, religious, educational and welfare purposes. It is generally used to cater for the needs of the less privileged and the needy in the society. There was also another kind of tax known as *Jizyah* – a form of tax levied on the non-Muslims who live in the Muslim communities. This was used as a payment for ensuring the safety of their lives and properties while they still lived in the Muslim community. Another tax being levied at the time was *Shukka-Shukka* – a tax paid on all crops that were not liable to *Zakat*. There was also *Jangali* – a tax levied on the heads of livestocks. It was commonly known as Cattle tax. Agricultural tax was also common at the time. It was known as *Kurdin Kasa* and paid by farmers on all their cash crops harvested within the territory of the Emir's province.

However, in the southern Nigeria, not all the communities practiced the taxing system. This is because quite a number of the communities did not have a formalized and organized governance system as the north.

Therefore, in the part of the southern communities where there was an established centralized authority, administrative machinery and judicial institutions (just as it operated in the north), such as the Yoruba land and the Benin Kingdom (both of which fell within the Western and Mid western part of Nigeria), there was a system of taxation.

But in other communities which do not have any centralized constituted authority, such as the Ibos, Tivs, Buras, Igbiras and Bachamas, there was little or no form of organized tax system.

You should note that the pre colonial era taxes were not strictly pecuniary. That is, they were not only paid in money or cash. They were also (largely) paid in kind and through obligatory personal services, which is also known as tribute taxes - for instance the *Ishakole* in the Yoruba land. Although introduction of money did not stop the use of obligatory personal service as a form of tax payment, it rather supplemented it.

SELF ASSESSMENT EXERCISE 1

1. The system of taxation is alien to the Nigerian legal system before the advent of British rule. Discuss

3.3 History of Taxation after the advent of British rule in Nigeria

After the British came into Nigeria and after having discovered that there was an organized government in the north and upon the introduction of the indirect rule, the British government under Lord Lugard introduced the first Income Tax law in what is today known as Nigeria in 1904 by consolidating all the various traditional taxes under the Land Revenue Proclamation of 1904.

There was no such tax law in the southern part of Nigeria until 1917 when Lord Luggard made certain changes to the law which culminated in the Native Revenue Ordinance of 1917. The ordinance became operative in the western and mid western Nigeria in 1918 while it started operating in the eastern Nigeria in 1928. The Native Revenue Ordinance was believed to be discriminatory as it applied to only natives that lived in other parts of Nigeria other than Lagos.

Thus, in 1937, a Native Direct Taxation (Colony) Ordinance No. 41 of 1937 was passed to provide for taxes for natives living within the Lagos colony. Later, the Non Native (Protectorate) Ordinance of 1939 was also passed to provide for taxation of non natives.

However, in 1940, the Native Revenue Ordinances of 1917, 1918 and 1928 were all later incorporated into one tax legislation that was more comprehensive – Direct Tax Ordinance No. 4 of 1940.

The Direct Taxation Ordinance 1940 was believed to be the first major tax legislation in Nigeria. It would therefore be proper to describe it as the fore runner of Nigerian tax legislations.

Tax under the Direct Taxation Ordinance 1940 was levied on the community. The community was described in section 2 (1) of the Ordinance as comprising any town, village or settlement, or any locality therein, including a band of nomad herdsmen; and individuals within a community. By section 4 of the Ordinance, the income to be assessed was income from land; rents derived from land; annual profits of the produce from land which were enjoyed by the community or individual; income from employments and pensions; profits from trade or manufacture; dividends or interest; and the value of all livestock owned by individuals or community. You should note that apart from the introduction of tax over employment and pension, other items upon which tax were levied were those inherited from the earlier traditional tax system.

The importance of the Direct Taxation Ordinance in the history of income tax in Nigeria is that it was the first tax statute that applied throughout the country having consolidated all previous tax ordinances from 1907 to 1939. One shortcoming for the Direct Taxation Ordinance however was its failure to uniformity in the administration of tax in the country. Under the Direct Taxation Ordinance, administrative officers only levied tax on the incomes of Africans throughout the country and the Europeans that lived in Federal Territory of Lagos. Thus the Europeans living in the former regions were not subject to tax in the regions in which they were resident.

Another shortcoming was that the Ordinance applied to both persons and companies thus lumping together under the same law provisions for the taxation of personal and company incomes.

I also wish to say that at the time we are talking about, the Nigerian tax system has a narrow national tax base and limited tax instruments, thus lacking the revenue elasticity required to meet the usual upward trend in national spending.

The situations described above led to the constitution of the Raisman Fiscal Commission of 1958. The Commission recommended the introduction throughout Nigeria of basic principles for taxing incomes. The recommendation however formed the basis of the Income Tax Management Act of 1961 whose principles we still largely use in Nigeria today though with periodic reviews and amendments.

SELF ASSESSMENT EXERCISE 2

1. Account for the evolution of the legal framework of taxation in Nigeria after the advent of British rule in Nigeria.
2. Discuss the importance and shortcomings of the 1940 Ordinance to the system of taxation in Nigeria.

4.0 CONCLUSION

Before the advent of the British rule in Nigeria, the idea and system of levying one another for the good of the society has been one of the common norms in certain communities. The taxes levied at the time were based on ethnic factors. Taxes were basically administered in communities that had established centralized and organized administrative governance. Thus, there was no uniform system of taxation.

However, upon the advent of the British colonial rule in Nigeria, the British government through the indirect rule policy introduced the first ever tax legislation in northern

Nigeria in 1904. The statute operated only in the northern region until it was extended to other parts of Nigeria in 1918 and 1928.

The inadequacies attendant to the above statute led to the promulgation of the first general legislation on tax in Nigeria, the Direct Taxation Ordinance 1940 and subsequently Income Tax Management Act 1961 which introduced the Basic principles for taxing incomes throughout Nigeria.

5.0 SUMMARY

We have discussed in this unit, the chequered history of taxation in Nigeria. We discussed how taxes are levied in traditional Nigerian communities before the introduction of British law as well as the evolution of the British laws on taxation. We further examined the differences and similarities between the traditional taxation and the taxation introduced under the tax ordinances.

6.0 TUTOR-MARKED ASSIGNMENT

1. Examine in details the evolution of taxation in Nigeria between 1904 and 1961.
2. Trace the history of tax laws in Nigeria, identifying the period when it was practiced and when it was jettisoned.

7.0 REFERENCES/FURTHER READINGS

Ola, C. S. (2004) *Income Tax Law and Practice in Nigeria* (3rd ed) Heinemann Educational Books, Ibadan.

UNIT 3 VARIOUS FORMS OF TAXATION

CONTENTS

1.0 INTRODUCTION

Since the formal introduction tax, the system of taxation has undergone various forms of evolution and transformation. The earliest known form of taxation was on head to head basis. And over time, taxation has taken different forms. As a student of law of taxation, it behoves of you to fully understand and be able to identify all the kinds of taxes that operate in our society. In this unit, we will look into the various types of taxation with a view to understanding their respective characteristics and identifying them.

2.0 OBJECTIVES

At the end of this unit the learner must be able to:

- identify and state the various categories of taxes.

3.0 MAIN CONTENTS

3.1 The Categories/Classifications of Taxes

There are two major categories of taxation depending on the object of the taxation. The different categories of taxes include the following:

1. Direct/Indirect Taxation

Taxes can be classified into either direct or indirect. The distinguishing factor between these two is that whether the taxpayer is aware of the incidence of the particular tax paid.

a. **Direct Tax**: This is the tax levied directly on the person who is expected to pay the tax. With this type of taxation, the taxpayer will be duly advised through a notification known as 'assessment notice' and he will also be given receipt for he tax paid. Examples of direct taxation include personal income tax, Pay As You Earn (PAYE), capital gain tax, capital transfer tax, company's income tax, etc.

b. **Indirect Tax:** This is a tax demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another. Indirect tax is borne by a person other than the one from whom the tax is collected. Such tax is usually levied on the manufacturer but paid by consumer. The taxpayer of indirect tax s never notified nor have actual knowledge of such levy. Examples of indirect tax include value added tax (VAT), stamp duty, customs duty, excise tax, etc.

2. Proportional, Progressive and Regressive Taxation

This classification is based on the way in which the burden of the tax is distributed among the tax payers.

a. **Proportional Tax:** This is the kind of tax in which the amount paid as tax is directly proportionate (equal) to the amount raised (calculated) as the value of the property taxed (also known as tax base). For this, the percentage of the tax rate remains the same as the tax base increases. It is also referred to as neutral tax.

b. **Progressive Tax:** This is the form of tax in which the percentage of the tax rate increases as the tax base of a person increases. Therefore a person with higher income would pay a greater percentage of tax than a person who earns a lower income. The progressive tax system preaches fairness and equity by asking the richer to pay more tax than the poor.

c. **Regressive Tax:** This is a tax whose structure is such that the percentage of tax rate paid becomes smaller as the value of the property taxed (tax base) increases. Thus a person earning higher income pays lesser tax than a person earning lower income.

There are other miscellaneous forms of categorizing taxation. Tax may be classified based on the mode of payment of the tax. That is whether par **unit** or ***ad valorem***. UNIT or specific tax is levied on the volume of what is being taxed. Most excise duties for instance are specific in nature, e.g. tobacco tax is charged by weight of the tobacco. AD VALOREM tax is levied on the value if the tax base, e.g. income tax could be charged at 10% to 40% depending on the level and type of income.

4.0 CONCLUSION

The categorization of tax is an unending one. Taxation could be categorized into different categories depending on the variant used. Taxation could be categorized based on the level of awareness of a taxpayer about the incidence of the tax he is expected to pay. It could also be classified based on how the burden of the tax is spread among the inhabitants of the community. It could also be categorized based on the mode of paying such tax.

5.0 SUMMARY

In this unit, we have identified and stated the various categories to which taxation can be divided. Thus taxation could be classified into direct or indirect, proportionate, progressive and retrogressive as well as unit and *ad valorem*.

6.0 TUTOR MARKED ASSESSMENT

1. Discuss in details the various categories of taxes.

7.0 REFERENCES/FURTHER READINGS

Soyode, L and Kajola, S. O. (2006) *Taxation Principles and Practices in Nigeria*, Silicon Publishing Co., Ibadan.

Module 2

UNIT 1 Administration of Tax

CONTENTS

1.0 INTRODUCTION

After knowing and understanding the general principles of taxation, we now need to know how taxation is being operated (in Nigeria). We also need to look into the framework guiding and espousing the procedural operation of tax. Tax administration is the process of assessing and collecting taxes from individuals and companies by relevant tax authorities; in such a way that correct amount assessed is collected efficiently and effectively with minimum tax avoidance or tax evasion.

In this unit we shall look at the relevant tax authorities responsible for assessing and collecting each category of tax and the process.

2.0 OBJECTIVES

- * **To understand the basics of the relevant laws on taxation in Nigeria.**
- * To enable the learners highlight the relevant tax authorities.
- * To give the student an understanding of the process of collecting tax

3.0 MAIN CONTENTS

There are two components of most tax systems. These are the law and its administration. The law determines the liability of the tax payer, the rate and the base. The law also provides the framework for the due administration of the tax. On the other hand, good administration of the tax law is a *sine qua non* to the attainment of the overall good of the tax system. Meanwhile, it is necessary for you to note that the administration of the tax laws is the function of the tax authorities constituted pursuant to those laws.

However, a proper administration of any tax system requires the establishment of assessable income and assessable entity (that is, the taxpayer) and a relevant and appropriate tax authority. We shall now look at the relevant laws and tax authorities (in Nigeria).

3.1 Relevant Tax Laws

Before we identify the relevant laws that govern tax administration, it should be noted that in order to promote uniformity, the Nigerian constitution vested the legislative power for income tax, whether individuals or corporate, on the federal government. It only delegates the administration of the various taxes to the tiers of government. Thus the major taxes in terms of revenue, economic and equity significance are enacted under Federal Laws. Such tax laws presently operating include:

a. Personal Income Tax Act, Cap P8, LFN 2004 (as amended).

b. Companies Income Tax Act, Cap C21, LFN 2004.

c. Value Added Tax Act, Cap V1, LFN 2004.

d. Stamp Duties Act, Cap S8, LFN 2004.

e. Petroleum Profit Tax Act, Cap P13, LFN 2004.

f. Capital Gains Tax Act, Cap C1, LFN 2004.

h. Taxes and Levies (Approved List of Collection) Act, Cap T2, LFN 2004.

i. Customs, Excise Tariff, etc. (Consolidation) Act (as amended)

j. Education Tax Act (as amended)

k. Capital Transfer Tax Act

l. Federal Inland Revenue Service Act

Each of these laws relates to tax administration and form the basis for the regulation of taxes in Nigeria. While some of them deal with individual tax payers, others are concerned with companies and corporate institutions. There are some that deal specifically with the goods and services purchased while few others establish the authorities that are concerned with tax.

SELF ASSESSMENT EXERCISE

List the relevant tax statutes that are applicable to law of taxation in Nigeria.

3.2 Interpretation of Tax Laws

Income tax law is to be interpreted strictly. There is no equity in tax law and no room for intendment. The terms of the law should be applied but not necessarily against the revenue. Where the provisions of the tax law is ambiguous, the law should not be interpreted as to place on the tax payer a burden not previously imposed by any law. Where there is a mistake or an omission in the law or the law has brought an income within the taxing section the revenue board has no right to impose tax but if due to an error or an omission a tax payer's income is unfairly brought within the charging section, no rules of equity can be pleaded in mitigation of the harshness of the law.

SELF ASSESSMENT EXERCISE

How is a tax statute construed?

3.3 Relevant Tax Authorities

After we have known and identified the relevant tax laws, what we need to know now is to identify the relevant tax authorities that are in the position to collect the tax on behalf of government. These are the revenue boards constituted by the government with mandate to assess and collect tax. According to the provision of section 100 of Personal Income Tax Act (PITA) (as amended by the Finance (Miscellaneous Taxation Provisions) Act 1998), ‘tax authorities’ means Federal Board of Inland Revenue (now Federal Inland Revenue Service), the State Board of Internal Revenue or the Local Government Revenue Committee. For better understanding, some of the relevant tax authorities are discussed hereunder:

1. Federal Inland Revenue Service (FIRS)

The FIRS was established by virtue of section 1 of the Federal Inland Revenue Service (Establishment, etc.) Act of 2007 (hereafter referred to as the Act). This body took over from the erstwhile Federal Board of Inland Revenue (established under section 1 of the Companies Income Tax Act (CITA) 1990), which was dissolved by section 62 of the Act. The FIRS is the federal government’s operational agency in charge of assessing and collecting relevant taxes for the Federal Government.

The function of the FIRS as provided in section 8 of the Act, include, among others:

a. to collect, recover and pay to the designated account, any tax recognized b the Act or any other law or enactment.
b. to assess persons including companies, enterprises and individuals chargeable with tax
c. to assess, collect and enforce payment of taxes as may be due to the government or any of its officials
d. to collaborate with relevant ministries and agencies, for the review of the tax regimes and promote the application of tax revenue for the stimulation of economic activities and development
e. to make, from time to time, a determination of the extent of financial loss and such other losses by government arising from tax evasion and fraud and such other losses (or revenue forgone) arising from tax waivers and other related matters.

The FIRS also has a board, whose power is to provide general policy guidelines relating to the functions of the service, among other related matters (section 7). There is also a

Technical Committee of the board which considers all tax matters that require professional expertise and make recommendations to the Board.

2. State Board of Internal Revenue (SBIR)

The SBIR is the relevant tax authority charged with assessing and collecting taxes that are due to the state government. The SBIR was established under section 85A of the Personal Income Tax Act (PITA) 1993. The SBIR has an operational arm known as State Internal Revenue Services or State Services.

The SBIR is responsible for:

a. ensuring the effectiveness and optimum collection of all taxes and penalties due to the state government under the relevant laws.

b. doing all such things as may be deemed necessary and expedient for the assessment and collection of he tax and shall account for all amounts so collected in a manner to be prescribed by the Commissioner for Finance of the relevant state.

c. Making recommendations where appropriate to the Joint Tax Board on tax policy, tax reform, tax legislation, tax treaties and exemptions as may be beginning from time to time.

d. generally controlling the management of the State Services on matters of policy subject to the provisions of the law setting up the State Service.

3. Local Government Revenue Committee

The Local Government Revenue Committee was also established under the PITA , section 85D (1). The function of the Revenue Committee includes assessment and collection of all taxes, fines and rates under its jurisdiction and shall account for all amount so collected in a manner to be prescribed by the Chairman of the Local Government.

4. Other tax authorities

Apart from the above mentioned, there are other tax authorities created by the law. These include among others:

a. Joint Tax Board (created under section 85(1) of PITA 1993)

b. Joint State Revenue Committee (section 85F PITA 1993 as amended by Finance (Miscellaneous Taxation Provisions) Act 1998).

SELF ASSESSMENT EXERCISE

1. While citing statutory authorities, state the various relevant tax authorities.
2. Write short notes on the relevant tax authorities.

4.0 CONCLUSION

We have seen that a proper tax system would only work through two machineries, good tax laws and responsive tax authorities. With these two in place, the tax system would be properly administered.

5.0 SUMMARY

In this unit, we have been able to identify the machineries that would make a tax system work properly. We identified two of such machineries, the tax laws and the tax authorities. The tax laws are the legislations put in place to provide for the general tax guidelines and stating the punishments for failing to pay tax while the tax authorities are the relevant bodies and/or agencies constituted by the government, either federal, state or local government and charged with the responsibilities of assessing and collecting the relevant taxes on behalf of the government.

6.0 TUTOR MARKED ASSESSMENT

1. What do you understand by 'Relevant Tax Authorities'
2. What are the Relevant Tax Laws in Nigeria
3. Examine administration of tax in Nigeria.
4. State Briefly the composition and functions of the Following:
   a. Joint Tax Board
   b. Joint State Revenue Committee

5. Give the compositions and duties of the relevant tax authorities.

7.0 FURTHER READING/REFERENCES

Soyode, L and Kajola, S. O. (2006) *Taxation Principles and Practices in Nigeria*, Silicon Publishing Co., Ibadan.

UNIT 2 Persons subject to Tax and the Determination of Residence as a Basis for Taxation.

CONTENTS

1.0 INTRODUCTION

It is axiomatic that you don't build something upon nothing. This statement is a truism of the status of tax. Tax is not imposed in vacuum. It must be targeted at an entity that is capable of being taxed. Thus this unit will identify the persons upon whom are the burden of paying tax. This unit shall also look at the determination of residence as a basis for taxation.

2.0 OBJECTIVES

At the end of this unit, you are expected to be able to:

* identify the persons at whom the tax is targeted

* identify the tax authority to whom the taxpayer will pay the tax accruable to and assessed for a particular year of assessment.

3.0 MAIN CONTENTS

3.1 Persons subject to Tax

Tax is not imposed upon nothing. The entity to be taxed and the source(s) of the income to be taxed must be identifiable. However, it is necessary to state here that the person upon whom tax assessed and from whom tax is collected is known as ‘assessable person’. The assessable person is the person whether artificial or real who resides in any part of the country in a particular year of assessment with express exemption of religious, charitable, trade union, labour organizations and government boards, states and corporation. There are personalities relevant to the process of levying and collection of tax. The taxable persons therefore include:

i. Individuals,
ii. Sole proprietors,
iii. Partnerships,
iv. Companies,
v. Communities and families,
vi. Trustees and executors.

The taxes of all of these persons except the company are chargeable under the PITA while the taxes chargeable to a company are assessed under the CITA.

3.2 Determination of Residence as a basis for Taxation

After we have identified the persons liable to pay tax, another issue that is very germane to the proper administration of tax is that of residence of the tax payers. This is because the determination of the residence of the tax payers will resolve the relevant tax authority that will collect the tax. Resolving the issue of residency also affect the scope and type of deductions and relief that may be allowed to a particular tax payer. For example, the amount that would be deducted as PAYE for a person resident in Lagos would be different from the amount to be deducted from the income of a person resident in Dutse.

Generally, residence means living in a particular locality and it may be possible that a person has two places of residence. Residence therefore connotes the idea of remaining and settling in a place for a fairly long period. It is for this reason that residence is used to determine liability to personal income tax.

The Personal Income Tax Act considered the question of where a person is deemed to be resident in a particular year of assessment along the following lines:

a. Individuals in Employment on 1st January of a particular year

A place of residence is defined under paragraph 1 of the First Schedule to the PITA in relation to an individual to mean 'a place available for his domestic use in Nigeria on a relevant day, and does not include any hotel, rest house or other places at which he is temporarily lodging unless no more permanent place is available for his use on that day.'

However, where an individual has two or more places of residence, his tax would be administered by the tax authority within his principal place of residence. And the phrase 'principal place of residence' in relation to an individual with two or more places of residence on a relevant day not being both within a State means:

i. for an individual who is a pensioner, with no other source of income, his principal place of residence is that particular place or those places that he usually resides.

ii. for an individual who earns his income from paid jobs in Nigeria (that is not pensioner), his principal place of residence is that place or those places which on a relevant day is nearest to his usual place of work

iii. for an individual who has a source or sources of unearned income in Nigeria, his principal place of residence is that place or those places in which he usually resides.

b. Individuals taking up Employment within the Year

A person taking up an employment or trade during a particular year of assessment is deemed to be resident for that year in place where he has a place of residence or principal place of residence if he resides in resides in two or more places in an assessment year.

c. Persons on Leave from Employment at 1st January

An individual who is on leave from a Nigerian employment on the first day of January in a year of assessment shall be deemed to be resident for that year by reference to his place or principal place of residence immediately before his Leave begins.

d. An Indvidual who is in a Foreign Employment on 1st January

An individual who holds a foreign employment on the first day of January of the year of assessment, the duties of which are performed in Nigeria (apart from temporary visits of the employee to Nigeria), is deemed to be resident in that year in the territory in which the main or principal office is situated on that day.

e. Armed Forces Personnel

A member of the Armed Forces (employed in combatant capacity) is deemed to be resident in the Federal Capital Territory for tax purposes in the year of assessment.

f. Trustees

The tax to be paid on the estates managed by trustees on a year of assessment would be payable to the tax authority in charge of the place where the Trustee has a place or place of business (registered office) in the assessment year.

g. Executors

The tax to be paid with respect to the estates managed by an executor would collected by the tax authority in charge of the place where the deceased was last resident.

h. Itinerant Worker

In the case of an itinerant worker, tax may be imposed for any year by any state, in which the itinerant worker is found mostly during the year.

i. Communities

Community income is taxed by the tax authority of the State where the members of the community are usually resident. That is, the State in which the community is found during the year of assessment.

j. Corporation Sole, Partnership or Body of Individuals

A corporation sole, partnership or body of individuals other than a family or community shall be deemed to be resident for a year of assessment in the State in which its principal office in Nigeria is situated on the first day of January in that year. But the corporation sole, partnership or body of individuals has no office in Nigeria on that day, its place of residence shall be the State in which any part or the whole of its income liable to tax in Nigeria arises for that year.

It is important for you to note that any dispute that arises with respect to the determination of place of residence of a person for the purpose of tax in any assessment year shall be referred to the Board for adjudication by the relevant tax authorities involved.

SELF ASSESSMENT EXERCISE

How do the rules of residence affect taxpayers in foreign employment, local employment, federal service and pensioners?

4.0 CONCLUSION

Before any tax system can be effective, it must not be imposed in vacuo. Thus the tax must be targeted at a subject, either an individual who also include businessperson or a corporate body. We have in this unit listed and explained the categories of persons upon whom the onus of paying tax lies.

5.0 SUMMARY

In this unit, we first identified the persons that are subject to the payment of tax. Thereafter, we examined and discussed the factors that determine the jurisdiction of the tax authority. That is, to which particular authority will the taxpayer be required to pay his tax at any year of assessment. To understand this, we looked at how the place of residence of the taxpayer is used to determine that jurisdiction.

6.0 TUTOR-MARKED ASSESSMENT

1. How do the rules of residence affect taxpayers in foreign employment, local employment, federal service and pensioners?
2. State the persons upon whom tax is chargeable and explain how their places of residence would be used to determine the payment of their tax.

7.0 REFERENCES/FURTHER READINGS

Ayua, I. A. (1996). The Nigerian Tax Law**.** Ibadan: Spectrum Law Publishing.

Ola, C. S. (1999). Income Tax Law and Practice in Nigeria. Ibadan: Heineman Educational Books (Nig.) Plc.

Module 3

Unit 1 Definition and Ascertainment of Income Tax

Unit 2 Computation of Income Tax

UNIT 1 Definition and Ascertainment of Income Tax

CONTENTS

1.0 INTRODUCTION

Every person or corporate body that earns certain amount of income or gain a measure of profit from its business is subject to payment of tax. Known as income tax, this type of tax is paid after identifying who the payer will be and due assessment of the amount payable has been made. In this unit we shall consider what income tax entails and how it is ascertained.

2.0 OBJECTIVES

At the end of this unit you are expected to be capable of:

- defining and ascertaining the income tax
- explaining what is used to determine the basis of assessment of period of taxation
- calculating and computing taxes accruable to a given taxpayers and identifying the kind of income upon which tax is chargeable.

3.0 MAIN CONTENTS

3.1 Definition and Ascertainment of Income Tax

The ascertainment of income tax payable by an entity in Nigeria depends on the nature of that entity. Thus, the assessment of income tax payable by an **employed individual** is different from an **individual businessman**. The assessment generally for individuals differs from the **company's**.

For individuals (employed and businessman) generally, 'income tax' is the income of the tax payer from all sources, including balancing charge, less allowable deductions for expenses, capital allowances, and losses. It must be the income of the taxpayer. It is however known as the **Statutory Total Income or Total Assessable Income**.

For the company, income tax is payable upon income, accruing in Nigeria, derived from Nigeria, brought into Nigeria and received in Nigeria. Income Tax is payable on income from a source inside or outside Nigeria. It should be noted that examples of the types of income stated above are as follows: income accruing in Nigeria include the income producing assets, income derived from Nigeria include income producing activities; income brought into Nigeria include remittances; while income received in Nigeria include emoluments. See section 8 of the Companies Income Tax Act.

From the foregoing, the sources upon which income tax are payable include but not restricted to the following:

i. profit or gain from a trade

ii. remuneration from an employment, which could be any salary, wage, fee, allowance or gain or profit from employment including compensations, commission, bonuses, premiums, benefits or other prerequisite allowed, given or granted by any person to an employee.

You should further note that there are two types of income (especially in respect of individuals) thus: **earned income** and **unearned income**. Earned income means income derived by a person from a trade, business, profession, vocation or employment carried on or exercised by him and a pension derived by him in respect of any previous employment. It is a reward for effort. Unearned income on the other hand, represents rent, dividends, royalty, discounts, usually received net of withholding tax. These are also known as investment income.

You should however further note that there are two types of income for the purpose of tax namely: personal income and company income.

Personal income tax is charged on income of every taxable person (individuals) from a source inside or outside Nigeria including:

a. the gains or profits from any trade, business, profession or vocation;
b. the salary, wages, fees, allowances or other gains or profits from an employment including gratuities, compensations, bonuses, premiums, benefits or other perquisites allowed, given or granted to an employee
c. the gains or profits including premiums from the grant of rights for the use of occupation of any property
d. dividends, interests or discounts;
e. a pension, charge or annuity; or
f. any profit or gains not mentioned in the above categories
g. balancing charge arising where a business person disposed off an asset used for the purpose of trade or business carried on by it at a profit.

Therefore the statutory total income or total assessable income for an employed individual is the addition of (a) – (f) above while the statutory total income for individual businessman is the addition of (a) – (g) above.

The following categories of income have been provided for the purposes of measuring the taxable income of companies:

a. gains or profits from a trade or business
b. rents or premiums arising from property
c. dividends, interests, discounts, charges or annuities

d. any source of annual profits or gains not falling within the preceding categories
e. benefits from pension or provident funds treated as income under the Income Tax Management Act
f. fees, dues, and allowances (wherever paid) for services rendered.

You should note that in the case of *Arbico v FBIR (1968) NCLR 150 at pp. 150 -151*, the court had stated that before any particular activity can be said to be a trading transaction which has given rise to profit or gain upon which tax can be levied, the following factors would be considered:

a. nature of assets
b. circumstances of purchase
c. vocation of tax payer
d. number of like transactions
e. the object clause of memorandum and articles of association
f. length of time property was held by the company
g. circumstances of sale

SELF ASSESSMENT EXERCISE

1. How would you define income tax bearing in mind the different types of income tax we have.
2. It is generally believed that profits and gains are the major chargeable incomes. Discuss, while stating the chargeable income for a business person and a company, the factors used to determine profit for the purpose of taxation.

3.2 Basis Period for determination of assessable income (for individuals) or profits (for companies)

The principle guiding the determination of basis period of assessable income individuals (employed and businessman) and assessable profits for companies is the same. Basis period of assessment is the period, the profit of which is to be assessed in a year of assessment. It is the period of business activity to be taken into account in determining the tax liability of a chargeable person in a particular year of assessment.

There are two types of basis period – normal and abnormal basis period of assessment.

a. Normal Basis Period of assessment

In using a normal basis period of assessment, the tax administrator or collector will use the preceding year to calculate the tax accruing from the taxpayer. Thus, the profit or gain that will be taxed in this year of assessment is the profit of the previous year (i.e. last year). The characteristics of a normal basis period include:

i. It must be of 12 months duration
ii. It must be the only accounting period ending in a preceding fiscal or tax year
iii. It must also be commenced from a da immediately after the end of the previous year that is, there is an element of continuity. There must be no gap or coincidence of dates; one basis period must commence the day the end of the previous one.

b. Abnormal Basis period

Abnormal basis period of assessment is used where it is impossible for the administrator to use parameters for the normal basis period to calculate the tax. The following are examples of situations where a normal basis period will not apply:

i. where a business has just commenced operation
ii. where a business has ceased operation
iii. where there is a change in accounting date

SELF ASSESSMENT EXERCISE

Discuss how the period of assessment for the payment of tax is determined.

4.0 CONCLUSION

From this unit, you now know the definitions of income tax as it relates to both individuals and companies. You also now know that taxes are not indiscriminately imposed but duly calculated using certain parameters like the period of assessment. In pursuance of this, you have also been taught how the period of assessment is arrived at.

5.0 SUMMARY

In this unit, we discussed the definition of income tax as it concerns the payable tax on the income of an individual and income tax payable by a company. We also explained the meaning of earned and unearned income after which we discussed the categories of income upon which tax will be levied both for individuals and companies. We finally looked at the basis period of assessment of taxable income and its types.

6.0 TUTOR-MARKED ASSESSMENT

1. What is a basis period of assessment in relation to tax payment.
2. What is meant by 'statutory total income' . State **five each** of the two categories of the statutory total income discussed in this unit.

7.0 REFERENCES/FURTHER READINGS

Ayua, I. A. (1996). The Nigerian Tax Law. Ibadan: Spectrum Law Publishing.

Soyode, L and Kajola, S. O. (2006). Taxation: Principles and Practice in Nigeria. Ibadan: Silicon Publishing Company.

Unit 2 Computation of Income Tax

CONTENTS

1.0 INTRODUCTION

The computation of the tax is the fulcrum of the study and knowledge of taxation. The aim of this unit is to ensure that the students would not only be grounded in the theoretical concepts of taxation but would also have the ability to explain and if possible calculate the computation of the tax payable on the income of the various categories of taxpayers in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you are expected to be able to explain and calculate the tax payable on the income of either an individual or a company.

3.0 MAIN CONTENTS

3.1 Computation of Income Tax

The income tax of taxable persons can be assessed and computed in accordance with the nature of each person. However the assessment and computation had been undertaken in two major divides – personal income and companies incomes.

3.2 Personal income

Computation of personal income tax accruing to an employed individual is different from an individual business person. Please note that a person is described as an individual or a businessperson. A businessperson is further looked at as a sole proprietor or partnership. We shall examine them each below.

a. Assessment and Computation of the Statutory Total Income for employed individual and individual businessperson.

According to section 36 of the Personal Income Tax Act (PITA), the total income of any individual for any year of assessment shall be assessed in accordance with the following steps:

First, the total amount of his total assessable income (statutory total income), earned and unearned, from all sources (listed in unit 1) for that year.

Second, you will add this total assessable income to any balancing charge for the year

Third, you will deduct the following from the total summation of the above (total assessable income plus balancing charge):

i. any loss relief for that year
ii. any capital allowances for that year
iii. personal relief granted by the Act. For example, personal allowance, life assurance relief, children allowance and dependant relative allowance (e.g. wife etc.)

The *net (total) figure* of the above is called **chargeable income** on which tax is chargeable at progressive rates in force during the particular year of assessment.

However, according to section 37 of the PITA 2005 (as amended) and the *Sixth Schedule* of the Act, the personal income tax shall be computed as follows

i. the *personal relief allowance* of a flat rate of **40 percent** of the taxpayers' income shall be granted on the income. That is, an amount equivalent to 40 percent shall be deducted from the taxpayers' total assessable income.
ii. After the personal relief allowance has been granted, the balance of income shall be taxed as specified in the following tax table:

Income to be taxed	**Percent Rates of Tax**
First N30, 000	1 percent
Next N30, 000	5 percent
Next N50, 000	15 percent
Next N50, 000	20 percent
Next N2, 840, 000	25 percent
Above N3, 000, 000	30 percent

3.3 Assessment and Computation of the Statutory Total Income for partnerships and companies.

Before the statutory total income of a partnership or a company can be duly taxed, the profits of the enterprise must first be ascertained. And according to sections 19 and 20 of the Companies Income Tax Act, certain expenses and income shall not be included in the profits computation. Thus the accounting profits (that is the total calculated profits) will have to be adjusted to obtain the actual profits due for tax. This is called **Adjusted** or **Assessable Profits**.

Taxable profit is however arrived at after the treatment of the following:

i. loss relief.
ii. capital allowances and balancing allowances.
iii. balancing charge.

Thus, the adjusted profit of a partnership or company is computed in accordance with the following steps:

First, ascertain the **net profit as per account (**i.e. the accounting profit as explained above**).**

Second, add the available **disallowable expenses** to the accounting net profit

Third, deduct the following from summation of the above (i.e. net profit as per account + disallowable expenses):

i. allowable items not so treated.
ii. income exempted.

After the ascertainment of the taxable profit (adjusted profit) as we have calculated above, then the tax payable for the relevant year of assessment shall be computed as follows:

First, add together the **adjusted profit** and **balancing charge**

Second, then deduct the following from the above summation (i.e. adjusted profit plus balancing charge)

i. capital allowances
ii. loss relief

The result of this calculation is known as **Taxable or chargeable profit**.

Third, after determining the chargeable/taxable profit, the actual tax payable on the profit shall then be determined by *multiplying* the **applicable rate** (as prescribed by the tax authorities from time to time) by the **taxable profit** (e.g. 30% x Taxable Profit).

SELF ASSESSMENT EXERCISE

1. Explain how No Wahala Enterprises tax for the year 2008 could be computed.
2. Idowu works in Chevron Oil and Energy Plc., an American company situated at Warri. He has been asked to pay his tax. Explain to him how to go about the calculation of his taxable income.

4.0 CONCLUSION

It is clear from this unit that a student cannot be said to have fully understood the this course without actually having an understanding of the taxable and chargeable incomes as well as how taxes are being computed both in respect of individuals and companies.

5.0 SUMMARY

In this unit, we looked at the definition of income tax in order to have a good understanding of the module. We also explained how the income tax is being ascertained and the basis period of assessment, which we said could be normal or abnormal. Finally we discussed the computation of the income tax.

6.0 TUTOR-MARKED ASSESSMENT

1. In accordance with the provision of section 8 CITA, *tax is imposed on the profits of any company accruing, derived from, bought into, or received in Nigeria*. You are required to name **six** of such profits
2. Riverine (Nig.) Ltd engages in Fishery business. It is reputed to be the largest fishery company in Nigeria. The company is ready to pay its tax for the year 2009. Explain in detail how its taxable income will be ascertained and computed.

3. Explain what you understand by the term ‘basis of period of assessment’ in computation of tax.
4. The Companies Income Tax Act states that certain profits or gains of companies and partnerships are exempted from taxation. Explain ten of such profits.
5. As a student of law of taxation, Chika has approached you that he wishes to pay his tax. Explain to him how his tax would be computed.

7.0 REFERENCES/FURTHER READINGS

Soyode, L and Kajola, S. O. (2006). Taxation: Principles and Practice in Nigeria. Ibadan: Silicon Publishing Company.

MODULE 4 DEDUCTION ALLOWANCE

Unit 1 - Deduction Allowance

1.0 INTRODUCTION

Tax concessions or deduction represent perhaps the most widely adopted measure in developed countries to promote economic development. In spite of skepticism of many fiscal experts over the efficacy of tax incentive schemes, virtually all developing countries and developed countries go after inducements to approve enterprises in form of reductions in or exceptional from import duties and income tax for given period of time. The basic question raised by critics is whether the economic benefits of the additional investment attracted outweigh the revenue loss from those who would have invested without special treatment.

We will consider the nature of deductions, the allowable deductions and the ones that are not allowable under this unit. It is also intended to consider waivers, refund and their effect.

(It is suggested that this portion below should be removed to 3.1 below)
Pioneer companies are companies engaged in manufacturing processing, mining, servicing and agricultural industries whose products have been declared pioneer products on satisfying conditions. A pioneer industry or product is regarded as one that is not already carried on in the country, or one not producing enough to meet current or exception requirements. The concept is however, broad enough to include any industry or product for which there is a favourable prospect of development. The policy relating to pioneer industry is dictated by the desire to encourage the development of new or necessary industries that will reduce the country's dependence on imports. The grant of pioneer status therefore gives a company a preferred position in getting established usually through exemption from income tax. In Nigeria, pioneer industries and products are identified by a list published in the official gazette.

Note that for a company to enjoy the privilege of pioneer status, the company shall forward a written application duly completed form to the federal ministry of industry from where it will be circulated to other ministries and departments, for example, the revenue department for necessary comments. Thereafter a memo will be prepared by the Ministry of Industries to the Council for consideration and approval or otherwise. If the council is satisfied that it is expedient in the public interest to encourage the development or establishment of the industry, the company will be granted a pioneer certificate.

2.0 OBJECTIVES

At the end of this Unit you should be able to:

i. understand the concept of deduction allowance.

ii. identify deductions allowable and deductions not allowable.

iii. understand other issues like deductable donations and refunds under Nigerian law.

3.0 MAIN CONTENT

3.1 DEDUCTION ALLOWABLE

Section 20 of the Personal Income Tax Act CAP p.8 LFN, 2004 provides that all outgoings and expenses wholly, exclusively, necessary and reasonably incurred during that period and ultimately borne by a business in the production of the income are deductible in the process of determining the assessable income. The choice of these words in this section presentably intended to have a narrowing effect on the deduction claimed but strictly speaking, it is doubtful whether in practice it has achieved this objective. It would appear that only expenses of a blatantly extravagant nature or expenses incurred which are wantonly unreasonable and are for the private or selfish benefit of directors and their association that it can in practice be readily disallowed. This is because there is no common standard as to what is necessary or reasonable. More over, it has been argued that no item of expenditure produces or earns income as expenditure is an outgoing not an incoming item.

Consequently, Section 20 of the CITA Act, 2004 proceeds to provide a list of expenses which are allowable and they include the following.

1- Capital in acquiring the profits
2- Rent and premium in respect of land and buildings occupied for the purpose of a trade or business.
3- Expenses of repairs of premises
4- Any provision for doubtful debt of a specific nature
5- Any bad debt written off

6- Contribution to a pension provident or other retirement

7- Legal expenses that are limited to

   a. general legal advisory services

   b. retainership fees

   c. renewal of a short lease i.e lease whose tenure is not more than 50 years.

   d. any cost of protecting and defending the properties the business.

The objective of deduction allowance include the following:

- **To promote economic development.**
- **Offers inducements to approval enterprises**
- **It encourages the development of new industries that will reduce dependence on imports.**

3.2 DEDUCTIONS NOT ALLOWED

The following items shall not be allowed as deduction for the purpose of ascertaining the income of an individual in respect of:

1- domestic or private expenses.

2- capital withdrawal from a trade, business, protection or vocation and any expenditure of a capital nature

3- any loss or expenses recoverable under an insurance or contract of indemigty.

4- rent or cost of repairs to any premises or part of premises not incurred for the purpose of producing income.

5- taxes on income or profits levied in nigeria or elsewher except as provided in section 13 of the act.

6- depreciation of any assest.

7- any sum reserved out of proft except there is in express permission of section 20 of the PITA

8- any provision for doubtful debt of a general nature.

9- any expenses incurred within or outside nigeria for the purpose of earning managment fees unless prior approval of an agreement giving rise to such management fees has been obtained from the minister.

10- legal expenses that includes

a. the cost of defending a traffic offence.

b. acquisition of new lease-long or short

11- donation

12- fines and penalties.

3.3 DEDUCTABLE DONATIONS

For the purposes of ascerting the profits or loss of any company for any period, there shall be deducted the amount of any donation made for that period by that company to any fund, body or institution in nigeria (section 21 of the CITA) which have.

a- The public funds

b- The statutory bodies and institutions

c- The ecclestastical, charitable, benevolent, educational and sceintifc institutions established in Nigeria.

These donations can only be made out of the profits of the company and are not expenditure of a capital nature. Such deductions shall not exceed an amount which is equal to 10% of the total profits of that company for that year.

3.4 WAIVER OR REFUND OF LIABILITY OR EXPENSES

By the provision of section 24 of CITA if a deduction has been allowed to a company under the provisions of the Act in respect of any liability or any expenses which is subsequently waived or released or an expenses which is refunded, the amount of the liability or expenses is treated as taxable profits of the company at the date of the waiver, release or refund.

4.0 CONCLUSION

Considering the United Kingdom's General Principle for the computation of taxable income, the taxable profits of a company are arrived at in Nigeria by allowing certain expenses to be set off against the company's receipts during the year of assessment as provided for under section 20 of the CITA.

However, it has been provided that where it appears that for any year of assessment, the business of a company produces either no assessable income or assessable income which in the opinion of the Federal Board of Inland Revenue is less than expected to arise from that business, the company may be charged on such fair and reasonable percentage of the turnover of the relevant trade or business an the board may determine.

5.0 SUMMARY

In this unit, we have discussed considered deduction allowable and deduction not allowable, deductible donations and waiver, or refund of liability expenses.

6.0 TUTOR-MARKED ASSIGNMENT

1. In computing the profits of a company, only expenses wholly, exclusively, necessarily and reasonably incurred for companies income tax are deductible. Discuss.

7.0 REFERENCES/FURTHER READINGS

1) Ola C.S (2004) income tax law and practice in Nigeria, Dalag Prints and Park Ltd, Ibadan.
2) Aguda A. (1996) the Nigerian tax law, Spectrum Books Ltd, Spectrum House Ring Road, Ibadan, Nigeria.
3) Soyode L. and Kajola S.O. (2006) taxation principles and practice in Nigeria, Silicon Publishing Company, Lagos- Ibadan Road, Ibadan, Nigeria.
4) Company Income TAX Act Cap C21 LFN 2004.