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Government Notice No. 175

The following is published as Supplement to this *Gazette* :

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## PERSONAL INCOME TAX (AMENDMENT) ACT, 2011



## ARRANGEMENT OF SECTIONS

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32. Amendment of First Schedule.
33. Amendment of Third Schedule.
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## PERSONAL INCOME TAX (AMENDMENT) ACT, 2011

## ACT No. 20

AN ACT TO AMEND THE PERSONAL INCOME TAX ACT, CAP. P8 LAWS OF THE FEDERATION OF NIGERIA, 2004 ; AND FOR RELATED MATTERS.

[14th Day of June, 2011]

Commence-  
ment.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

1. The Personal Income Tax Act (in this Act referred to as "the Principal Act") is amended as set out in this Act.

Amendment  
of Cap. P8  
LFN, 2004.

2. Section 2 of the Principal Act is amended—

Amendment  
of Section 2.

(a) by substituting for the word "impose" in the marginal note the word "collect" and wherever it occurs in the section ;

(b) by inserting, immediately after subsection (1), a new sub-section "(1A)" —

"(1A) Notwithstanding anything in the Principal Act, the relevant tax authority in a State shall have powers to collect tax under this Act from itinerant workers." ; and

(c) in sub-section (8), by inserting immediately after the word "allowances" the words "including benefits in kind".

3. Section 3(1) of the Principal Act is amended by substituting for paragraph (b) a new paragraph "(b)"—

Amendment  
of Section 3.

"(b) any salary, wage, fee, allowance or other gain or profit from employment including compensations, bonuses, premiums, benefits or other perquisites allowed, given or granted by any person to any temporary or permanent employee other than so much of any sums as or expenses incurred by him in the performance of his duties, and from which it is not intended that the employee should make any profit or gain".

4. Section 10 of the Principal Act is amended—

Amendment  
of Section  
10.

(a) in sub-section (1) (a) (i), by inserting immediately after the word "Nigeria", the phrase "and the remuneration of the employee is not borne by a fixed base of the employer in Nigeria" ;

(b) in sub-section (1) (a) (ii), by inserting immediately after the word "amounting to", the phrase "an aggregate of " and also immediately after the phrase 183 days, the phrase (inclusive annual leave or temporary period of absence ;

(c) in sub-section (1) (a) (iii), by inserting immediately after the word, "country", the phrase "under the provisions of the avoidance of double taxation treaty with that other country" ;

(d) in sub-section (1) by substituting for paragraph (b), a new paragraph "(b)" — "the employer is in Nigeria, or has a fixed base in Nigeria" ; and

(e) by deleting subsection (5) and renumbering the subsequent subsections accordingly.

Amendment  
of Section  
33.

5. Section 33 of the Principal Act is amended by—

(a) substituting for subsection (1) a new sub-section "(1)—

"(1) There shall be allowed a consolidation relief allowance of ₦200,000.00 subject to a minimum of 1 percent of gross income whichever is higher plus 20 *per cent* of the gross income and the balance shall be taxable in accordance with the Income table in the Sixth Schedule to this Act" ;

(b) inserting a new sub-section "(2)" before the existing subsection (2) as follows—

"(2) For the purposes of this section, "gross emoluments" means, wages, salaries, allowances (including benefits in kind), gratuities, superannuation and any other incomes derived solely by reason of employment" ; and

(c) renumbering the existing sub-sections (2) and (3) as sub-sections (3) and (4) accordingly.

Amendment  
of Section  
36.

6. Section 36 of the Principal Act is amended by inserting a new sub-section "(6)" as follows—

"(6) Notwithstanding any of the provisions of this Act, where for all practical purposes the income of the taxpayer cannot be ascertained or records are not kept in such a manner as would enable proper assessment of income, then such a taxpayer shall be assessed on such terms and conditions as would be prescribed by the Minister in regulations by order of *gazette* under a presumptive tax regime".

Amendment  
of Section  
37.

7. Section 37 of the Principal Act is amended by substituting for the figures "0.5" the figure "1" in lines 6 and 7 wherever it appears.

Amendment  
of Section  
38.

8. Section 38 of the Principal Act is amended—

(i) by substituting for the existing marginal note, the following new Marginal Note—

"Avoidance of double taxation agreement" ;

(ii) by substituting for the existing sub-section (1), a new sub-section "(1)"—

“(1) Where the Government of the Federal Republic of Nigeria has entered into agreement with the Government of any country outside Nigeria with a view to affording relief from double taxation in relation to tax imposed under the provisions of this Act, any tax of a similar character imposed by the laws of that country, and that it is expedient that the agreement have effect, the Agreement shall have effect "upon ratification by the National Assembly” ; and

(iii) by substituting for the word “arrangement”, the word “Agreement” anywhere it occurs in the section.

9. Section 44 of the Principal Act is substituted for a new section “44”—

Amendment  
of Section  
44.

“44. A taxable person required by this Act to file a return of income shall in the return calculate the amount of tax payable in the form as may be prescribed by the Minister by order of *gazette*”.

10. Section 47 of the Principal Act is Amended—

Amendment  
of Section  
47.

(a) in the proviso to sub-section (1) (d) by deleting—

(i) the words "including a person charged with the administration of the FSB International Plc” ;

(ii) the commas (,) immediately before and after the deleted ; and

(b) in sub-section (3) by substituting the figure “5,000” and “500” in lines 2 and 3 the figure “500,000” and “50,000” respectively ; and

(c) by inserting a new sub-section “(5)—

“(5) Any organization including governmental bodies, professional bodies, trade associations and any other organization shall provide any information demanded of them by any tax authority in a format as may be prescribed by the tax authority”.

11. Section 49 of the Principal Act is amended—

Amendment  
of Section  
49.

(a) in sub-section (1), by deleting—

(i) the words "including a person charged with the Administration of the FSB International Plc” ; and

(ii) the commas (,) immediately before and after the deleted words ;

(b) in sub-section (2), by deleting—

(i) the words “and a person charged with the administration of the FSB International Plc” in lines 2 and 3 lines,

(ii) the commas (,) immediately before and immediately after the deleted words,

(iii) the words “including any person charged with the Administration of the FSB International Plc” in lines 1 and 2 in the proviso thereof ; and

as specified in section 40 and Second Schedule of this Act and in accordance with Section 59 (2) of the 1999 Constitution.”

**31.** Section 108 of the Principal Act is amended by substituting for the existing interpretation of the words “itinerant worker” the following new interpretation—

Amendment  
of section  
108.

“*itinerant worker*” includes an individual irrespective of his status who works at any time in any state during a year of assessment (other than as a member of the armed forces) for wages, salaries or livelihood by working more than one State and work for a minimum of twenty (20) days in at least three (3) months of every assessment year.

**32.** The First Schedule to the Principal Act is amended in paragraph 1 by inserting a new sub-paragraph “(d)” after the existing paragraph (c)—

Amendment  
of First  
Schedule.

“(d) in the case of an individual who works in the branch office or operational site of a company or other body corporate, the place at which the branch office or operational site is situate :

Provided that operational site shall include Oil Terminals, Oil Platforms, Flow Stations, Factories, Quarries, Construction Site with a minimum of 50 workers, etc.”

**33.** The Third Schedule to the Principal Act is amended by—

Amendment  
of Third  
Schedule.

(a) deleting paragraphs 2 and 3 ;

(b) substituting for paragraph 7, a new paragraph “7”—

“7. Interest on any loan granted by a bank on or after 1st January 1997 to a person engaged in—

(a) agricultural trade or business ; and

(b) the fabrication of any local plant and machinery” ;

(c) by substituting for paragraph 14 a new paragraph “14”—

“14 (1) pension granted to any person pursuant to any enactment or law for the time being in force.

(2) wound and disability pensions granted to members of the armed forces or of any recognized national defense organisation or to a person injured as a result of enemy action.”

(d) in paragraph 15, by substituting the words “Pensions Act” the words “Pensions Reform Act, 2004”.

(e) by inserting after the existing paragraph 31, a new paragraph “31A”—

“31A. Income earned from—

(a) bonds issued by Federal, State and Local Governments and their agencies ;

(b) bonds issued by corporate including supra-nationals ; and

(c) interest earned by holders of the bonds, and short term securities listed in paragraphs (a) and (b) ;”

Substitution  
for Sixth  
Schedule.

34. The Sixth Schedule to the Principal Act is substituted for a new Sixth Schedule—

“SIXTH SCHEDULE”

INCOME TAX TABLE

(1) A consolidated relief allowance shall be granted on income at a flat rate of ₦200,000 plus 20 *per cent* of gross income.

(2) *Tax Exempt* : The following deductions are tax exempt—

(a) National Housing Fund Contribution

(b) National Health Insurance Scheme

(c) Life Assurance Premium

(d) National Pension Scheme

(e) Gratuities

(3) After the relief allowance and exemptions had been granted in, accordance with paragraphs 1 and 2 of this Schedule, the balance of income shall be taxed as specified in the following tax table :

*Tax Income Rates*

Graduated Tax rates with consolidated allowance of ₦200,000 + 20 *per cent* of Gross Income, subject to a minimum tax of 1 *per cent* of Gross Income whichever is higher.

1. First ₦300,000 @ 7 *per cent*

2. Next ₦300,000 @ 11 *per cent*

3. Next ₦500,000 @ 15 *per cent*

4. Next ₦500,000 @ 19 *per cent*

5. Next ₦1,600,000 @ 21 *per cent*

6. Above ₦3,200,000 @ 24 *per cent*

Citation.

35. This Act may be cited as the Personal Income Tax (Amendment) Act, 2011.



I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SALISU ABUBAKAR MAIKASUWA, mni  
*Clerk to the National Assembly*  
2nd Day of June, 2011.

EXPLANATORY MEMORANDUM

This Act amends the Personal Income Tax Act Cap. P8 Laws of the Federation of Nigeria, 2004 to make it more responsive to the tax policies of the Federal Government and enhance its implementation and effectiveness.

**SCHEDULE TO THE PERSONAL INCOME TAX (AMENDMENT) BILL, 2011**

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date passed by the Senate</i>	(5) <i>Date Passed by the House of Representatives</i>
Personal Income Tax (Amendment) Bill, 2011.	An Act to amend the Personal Income Tax Act, Cap. P8 Laws of the Federation of Nigeria, 2004 ; and for Related Matters.	This Bill seeks to amend the Personal Income Tax Act, Cap. P8 Laws of the Federation of Nigeria, 2004.	1st June, 2011.	25th May, 2011.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT.



SALISU ABUBAKAR MAIKASUWA, mni  
*Clerk to the National Assembly*  
2nd Day of June, 2011.

DR. GOODLUCK EBELE JONATHAN, GCFR  
*President of the Federal Republic of Nigeria*  
14th Day of June, 2011.