

# MODULE 8

## **TAXATION FOR ESTATES, TRUST AND SETTLEMENTS**

# OUTLINES

- Definitions of Trust, Estate, Settlement of Trustee
- Assessments
- Apportionment of Computation.

# Definitions of Trust, Estate, Settlement of Trustee

- **Trust:**

A trust refers to the property (real or personal) held and managed by one or more persons for the benefit of another or others. A trust may be created by will or deed. A person who administers a trust is called the trustee and must operate according to the provisions of the will or deed.

- **Estate:**

An estate means the property of a deceased person. On the death of a person, his estate passes to his executor named in his will. The executor is responsible for administering the estate of the deceased person. A will is a legal document in which a person leaves instructions on how he wants his assets to be distributed after his death. The person who makes or has made a valid will is called a testator. The executor is appointed by the testator to execute the testator's will.

If a person dies without having made a will before his death, he is said to have died intestate. The person appointed by the court to administer the estate of a deceased person who died without leaving a will is called an administrator.

- **Settlement:**

Settlement includes any disposition, trust, covenant, agreement, arrangement or transfer

of assets (PITA 2004, second Schedule, paragraph 8). A settler in relation to a settlement includes:

A person by whom the settlement was made or entered into directly or indirectly, and in particular includes a person who has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

# Assessments

## **Basis of Assessment**

The income from a settlement, trust or estate assessable to tax in the hands of any trustee, executor, beneficiary or annuitant or settler for a year of assessment is that of the year preceding that year of assessment. The commencement and cessation rules are not applicable.

# Apportionment of Computation.

The rules for the apportionment of the computed income of a year of assessment of a settlement, trust or estate are as follows:

1. Where the terms of the deed of settlement or trust or of a will provide that the whole income of the settlement, trust or estate after deduction of any authorized expenses or annuity of fixed amount is to be divided in specific proportions among the beneficiaries, the income of each beneficiary of any year from the settlement, trust or estate shall be his similarly apportioned share of the computed income.
2. Where a trustee or executor has discretion to make any payment (other than a payment on account) to a beneficiary out of the income of a settlement, trust or estate, the aggregate of the payments made in the course of a year shall be treated as income of that year which is assessable to tax in the hands of that beneficiary.
  - a) The remainder of the computed income after deducting the aggregate discretionary payments made during the year shall be shared among the beneficiaries in specific proportions according to the terms of the deed of settlement or trust or of a will.
  - b) Where the aggregate amount exceeds the computed income, the amount of such discretionary payment to be treated as income in the hands of a beneficiary shall be reduced proportionally so that the aggregate amount as so reduced does not exceed the computed income.
3. Any remainder of the computed income after the deduction of all amounts apportioned to beneficiaries, or treated as income in the hands of the beneficiaries shall be apportioned to the trustee or executor for assessment in his name as trustee or executor.

# Illustration 1

MR CIROMA made his will in favour of his children and appointed Kaura & Co. Legal Practitioners as executors. He died on 1<sup>st</sup> October, 2010. The records of the executors for the year ended 31<sup>st</sup> December, 2011 show the following information in relation to MR CIROMA'S Estate.

	₦
Trading income	4,800,000
Rental income (net)	3,852,000
Miscellaneous income	1,200,000

Additional information:

- (a) The remuneration of the executors is fixed at ₦240,000 per annum plus 3% of computed income.
- (b) Administrative expenses of the executors allowable – ₦180,000
- (c) Fixed annuity to the eldest child, Eddie, is ₦360,000
- (d) Discretionary payments were made to the children by the executors as follows: Eddie ₦300,000, Mary ₦360,000 and Saye ₦420,000.
- (e) Capital allowance granted in relation to the business was ₦350,000
- (f) The net distributable income of the estate is to be shared as follows: Eddie 4/10, Mary 3/10 and Saye 1/10.

## Required:

- (a) Calculate the amount of income chargeable to tax in the name of the executors.
- (b) Compute the assessable income of each beneficiary

# Solution

## MR CIROMA ESTATE

(a) Calculation of Executors' Chargeable Income for 2012 Year of Assessment

	₦	₦
Trading income	4,800,000	
Less Capital allowance	<u>350,000</u>	4,450,000
Rental income (Gross)		4,280,000
Miscellaneous income		<u>1,200,000</u>
Total income of the estate		9,930,000
Less:		
Executors' administrative expenses	180,000	
Executors' remuneration:		
Fixed	240,000	
3% of computed income	266,500	
Eddie fixed annuity	<u>360,000</u>	<u>1,046,500</u>
Computed income		8,883,500



Less discretionary payments:

Eddie 300,000

Mary 360,000

Saye 420,000 1,080,000

Remainder of the computed  
income 7,803,500

Apportionment:

Eddie ( $4/10 \times \text{₱}7,803,500$ ) 3,121,400

Mary ( $3/10 \times \text{₱}7,803,500$ ) 2,341,050

Saye ( $1/10 \times \text{₱}7,803,500$ ) 780,350 6,242,800

Income chargeable to tax to executor s 1,560,700

(b) Computation of Assessable Income of each Beneficiary

	Eddie	Mary	Saye
	₦	₦	₦
Fixed annuity	360,000		
Discretionary payments	300,000	360,000	420,000
Apportionment of Income	<u>3,121,400</u>	<u>2,341,050</u>	<u>780,350</u>
Assessable income	<u>3,781,400</u>	<u>2,701,050</u>	<u>1,200,350</u>

Notes:

- Rental income (Gross) =  $100/90 \times \text{₦}3,852,000 = \text{₦}4,280,000$
- Executors' remuneration based on 3% of computed income:  

	₦	₦
Total income of the estate		9,930,000
Less:		
Executors' administrative expenses	180,000	
Executors' fixed remuneration:	240,000	
Eddie fixed annuity	<u>360,000</u>	<u>780,000</u>
Compute income before 3% remuneration deduction		<u>9,150,000</u>

# Illustration 2

Sir Benedict created a trust for his children Etim, Udo and Edem. As at 30<sup>th</sup> November 2013, the following information were extracted from the records of the trustee

	₦
Adjusted trading income at year end 2011	210,000
Loan interest received	150,000
Rental income gross 2011	85,000
Other miscellaneous	125,000
The following are also relevant:	
Fixed annuity to a beneficiary	20,000
Fixed remuneration for the trustee	18,500
Trustee's percentage remuneration 5% of the total computed income	
Other allowable expenses	45,000
Discretionary payments were made to the children toward their maintenance and education as follows:	
Etim ₦12,000, Udo ₦9,000, Edem ₦14,000	
Capital allowance was agreed at	47,000

It is stipulated that in the trust, the beneficiaries are to share half the net distributable trust income equally.

**Required:** Calculate

(a) The share of each beneficiary in the net distributable income of the settlement,

(b) The amount of undistributed income assessable on the trustee.

(c) The chargeable income of each beneficiary.

# Solution

## SIR BENEDICT'S TRUST

### 2012 Computation of Assessment

	N	N
Adjusted trading income		210,000
Loan interest received		150,000
Rental income (gross)		85,000
Other miscellaneous income		<u>125,000</u>
Total computed income		570,000
Less Allowable Expenses:		
Fixed annuity	20,000	
Fixed remuneration for the trustee	18,500	
Other allowable expenses	45,000	
Percentage remuneration (5% x N570,000)	<u>28,500</u>	<u>112,000</u>
		458,000
Less:		
Trustee Discretionary Payments:		
Etim	12,000	
Udo	9,000	
Edem	<u>14,000</u>	<u>35,000</u>
Income before apportionment		423,000
Apportionment:		
Etim	70,500	
Udo	70,500	
Edem	<u>70,500</u>	<u>211,500</u>
Undistributed income assessable on the trustee		211,500
Less Capital allowance		<u>47,000</u>
Chargeable income on the trustee		<u>164,500</u>

## Beneficiaries Chargeable Income:

### Etim:

Share of computed income	70,500
Discretionary payment	<u>12,000</u>
Chargeable on Etim	<u>82,500</u>

### Udo:

Share of computed income	70,500
• Discretionary payment	<u>9,000</u>
• Chargeable on Udo	<u>79,500</u>
•	

### Edem:

• Share of computed income	70,500
• Discretionary payment	<u>14,000</u>
• Chargeable on Edem	<u>84,500</u>
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### Notes:

1. The balance of ~~₦~~211,500 will be chargeable on the trustee
2. The annuity of ~~₦~~20,000 will be charged on the annuitant.

# Review Questions

1. State the rules for the apportionment of the computed income of a year of assessment of a settlement, trust or estate as contained in the second Schedule to PITA
2. Chief Dasuki children settlement was created by Mr. Kaura Lawyer in favour of his two children named Buhari and Goodluck. The records of the settlement show the following as at 31<sup>st</sup> December, 2014:

		₦
Trading income 2013	820,000	
Rental income (gross)	500,000	
Loan interest received	250,000	
Bank deposit interest 2014		150,000
Miscellaneous income	54,000	

## Additional information:

1. Fixed annuity to a beneficiary 34,000
2. Each beneficiary is entitled to a quarter (1/4) of net distributable income

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|----|--|--------|
| 3. | Administrative expenses  | 40,000 |
| 4. | Trustee's remuneration fixed by the trust<br>Deed, plus 2 1/2% of total<br>computed income | 80,000 |
| 5. | Trustee made discretionary<br>payments of ₦20,000<br>Buhari and ₦12,000 to Good luck.      |        |
| 6. | The capital allowance was agreed at ₦145,000   |        |

**Required:** Compute

- a) Trust income chargeable on the trustee.
  - b) The amount due to each beneficiary.
3. Mention the persons who are liable to pay tax due in respect of the income from a settlement, trust or estate.



# References

- **Adejola, P. A (2015):** Revision Pack on Taxation for Professional, Conversion and Undergraduate Students, Arogbodo Press, Abuja.
- **Basseyy U. O (2013):** : “Companies Taxation in Nigeria”, the CIBN Press Ltd, Lagos.
- **Seyi Ojo (2006):** “Fundamental Principles of Nigerian Tax”, Sagribra Tax Publications, Lagos 2003.