1.00 PURPOSE AND ADMINISTRATION OF TAXES

1.01 Learning outcome

On successful completion of this Module, Students should be able to:

i. Effectively discuss the origin and essence of income tax in Nigeria;
ii. Examine the sources of tax legislations in Nigeria and their applicability;
iii. Evaluate the process for collection, recovery and payment of taxes;
iv. Deconstruct the process and organs for tax assessment, collection and appeal.

1.02 The Historical Development of Taxes

In pre-colonial Nigeria there are evidences of an elaborate system of taxation and payment of tribute to traditional rulers. For instance, in the North, evidence abound of: 1) the existence of the capitation tax on cattle belonging to the Nomads; and 2) community taxes. In the south (Oyo, Egba, Bini and others) there are also evidences of payment of tributes to Obas, Obi’s, Igwe etc of taxes ranging between five shillings to ten shillings per head.

In colonial Northern Nigeria the first step to introducing tax was taken in 1904 when Lord Luggard then High Commissioner for Northern Nigeria issued the land Revenue Proclamation No 4 that was meant to secure a proportion of the taxes on land and produce levied by native rulers. Two years later Revenue Proclamation of 1906 No.2 was issued with a view to compounding all forms of taxation that were not authorized by it. It drew a distinction between tributes and other specified traditional taxes; essentially it was a community (or village) tax.

Essentially from 1900 to 1914 the government of colonial Southern Nigeria derived its revenue from duties imposed on imports and exports. The First World War brought about a sharp decline in government revenue, and thus resulted in the introduction of direct taxation, from which government retained half of the tax collected.

In 1927 it was decided that direct taxation should be introduced into Eastern Nigeria, and it should be calculated at $2\frac{1}{2}$ percent of “gross total income”. In 1928 direct taxes were for the
first time collected throughout South-Eastern provinces through Warrant Chiefs. After the Native Revenue Ordinance of 1928, no other legislation was introduced with respect to direct taxation. However, in 1940 the Income Tax Ordinance No. 3 and Direct Taxation Ordinance No. 4 were enacted. The period 1928 – 1940 was devoted essentially to the consolidation of government position throughout the country on matters of taxation and establishment of fiscal system on the division of tax revenue between the multifarious Native Administrations already established and the Central Government.

Direct Taxation ordinance was enacted in 1940. It was enacted as a consolidating. Ordinance of all previous tax ordinances from 1906– 1940. For the first time this ordinance brought the whole of Nigeria under one system of income tax. Section 17 of the ordinance was amended in 1943 requiring all collections to be deposited into the Native Treasury after which the Government share as determined by the Governor should go to the Government Treasury before the residue could be transferred to the revenue of the Native Administration. In 1943 the Income Tax Ordinance was enacted. It was an admixture of poll tax and income tax that was imposed upon the total income or assessable income of natives’ resident in the township of Lagos and non-natives resident in Nigeria. During this period the Income Tax Ordinance 1943 enable the central government to receive the general revenue of the country whiles the Native Authority of the respective areas and the regional government received revenue accruing from Direct Taxation Ordinance.

In 1954 Nigeria became a federation of three regions, North, East and West. As an autonomous region, the Eastern region passed the Finance law No 1 of 1956 by which people above 16 years were to be assessed to tax. The Western Region followed suit by passing income tax law to replace the Direct Income Tax ordinance in 1957 by which taxable adults could be assessed.

The Nigerian Income tax ordinance of 1943 remained in force in the federal territory of Lagos until 1963 until when the personal income tax (Lagos) 1961 and the Personal Income Tax (Loss Act PIT) 1961 were enacted by the Federal Government.

In 1961 the Federal Government enacted:

i. The Income Tax Management Act 1961;

ii. The Companies Income Tax, 1961; and
iii. The Personal Income Tax Act 1961

Between 1959 and 1961 five tax legislations were enacted in Nigeria based on the recommendation of the Revenue and fiscal commission. These include

i. The Stamp Duties Act (SDA) 1959
ii. The Petroleum Profit Tax Act 1959
iii. The Companies Income Act 1961
iv. The Income Tax Management Act (ITMA), 1961
v. The Personal Income Tax (Lagos) (PITLA), 1961

Between 1961 to date most of the tax legislation have been amended the most recent amendment being the Personal Income Tax Act 2011.

1.03 Tax Legislations

From 1959 to date Nigeria has enacted a host of tax laws. These taxes are imposed either by the national sub national governments. The 1999 constitution of the Federal Republic of Nigeria under the concurrent list in part II of the second schedule item D paragraph 8 provides the national and sub national governments the powers to impose any tax or duty.

Nigerian tax laws are purely statutory. The tax system thus features a wide and mixed range of statutes by which the various governments in the country seek to charge and collect revenue for public expenditure. Of these, the most widely based are on income taxation. The Personal Income Tax Act makes provisions for the country. Liability to personal income tax in Nigeria does not depend on the domicile or nationality of the taxpayer. Profits arising from a trade, business, profession or vocation, from any source inside or outside Nigeria, are chargeable here if the taxpayer happens to be resident in Nigeria. Foreign residents are also taxable here if they have income arising from a Nigerian source. Once a company is incorporated, it becomes a legal entity and is treated under Nigerian law as an artificial person, separate and distinct from its shareholders. Corporate bodies are charged to tax under the Companies Income Tax Act. However, while Nigerian Companies are taxed on their profits, which is attributable to business operations carried on in Nigeria. In addition to the tax income accruing to companies, all
incorporated companies are required to pay 2% of their assessable profit into Education Tax Fund. This is charged by virtue of the Education Tax Act.

Where a particular income or profit is chargeable to tax in Nigeria as well as in another country, there is a possibility of the taxpayer getting taxation relief by way of tax credit under the provisions of the income tax statutes. To this end, the Federal Government of Nigeria has negotiated and signed income tax treaties with a few foreign governments. The statues also feature a wide array of tax holidays and exemptions, which are intended to boost investment. For instance, the Industrial Development (Income Tax Relief) Act makes provisions for the grant of tax relief to pioneer companies. The pioneer status is granted mainly to companies in any industry which in the opinion of the National Council of Ministers, is not being carried on in Nigeria on a scale suitable to the economic requirements of the country. Also, a company which has incurred expenditure in its qualifying building and plant equipment in an approved manufacturing activity in an Export Processing Zone is granted 100% capital allowance in any year of assessment. This makes the cost of capital acquisition entirely deductible in the year in which the qualifying expenditure was incurred. Another example is in Part IV of the Minerals and Mining Decree, (now Act) which gives various tax incentives to operators in the solid minerals mining sector.

Exclusively, the Federal Government imposes both personal and company income taxes. The same government also collects company’s tax, but it partly delegates the power to collect personal income tax to State governments. In a normal case, personal income tax is thus collected and expended by the state in which the taxpayer is deemed resident in the relevant year of assessment. However, men of the Nigerian armed forces, officers of the foreign-service, persons resident in the Federal Capital Territory and non-residents pay to the Federal government. Nigeria ranks among the major oil producing countries of the world and much of its public revenue is generated from the sale of crude oil and natural gas. All petroleum resources belong to the Federal government, hence, companies engaged in petroleum operations are charged to tax under special legislation, the Petroleum Profits Tax Act (PPTA). The effect of the Act is however varied by a Memorandum of Understanding (MOU) between the oil producing
companies and the Federal Government of Nigeria. Any profit, which is charged to petroleum tax, is exempted from companies’ income tax.

Until 1967, there was no tax on capital or capital gains in Nigeria. In that year however, capital gains taxation was introduced. The Capital Gains Tax Act has been retained ever since with only a few amendments. The Act charges to tax any capital gain accruing to individuals and corporate bodies whenever they dispose of assets. The Federal Government has the exclusive authority to tax capital gains but the collection has been partially delegated to States. While corporate bodies pay capital gains tax to the Federal Board of Inland Revenue, others pay to the tax authorities in their States of residence. Inheritance tax, which was levied by virtue of the Capital Transfer Tax Act, was scrapped in 1996.

Before 1993, Nigeria had a limited form of sales tax, but it has since adopted a very widely based Value Added Tax. By virtue of the Value Added Tax Act of 1993, all purchasers of chargeable goods and services are expected to pay 5% of the purchase price as tax. The value Added Tax Act is a federal statute and the tax is administered by the Federal Inland Revenue Service (an arm the Federal Board of Inland Revenue) on behalf of the Federal, State and Local Governments. The proceeds are shared among the three tiers of government in accordance with a formula determined from time to time by the Federal legislature.

Another major source of revenue for the Federal Government is customs duty, which is payable by importers of specified goods. This tax is charged solely by the Federal Government and collected through the Nigeria Customs Service. Excise duty was levied on a variety of locally produced goods until 1988 when the tax was abolished. It was however partially reintroduced, with effect from January 1, 1999. The applicable law for customs and excise is the Customs and Excise Management Act.

The Stamp Duties Act imposes tax on a wide range of documents and transactions. Where one of the parties is a corporate body, the tax is payable to the Federal Board of Inland Revenue. Others pay to the State tax authorities.

Apart from those outlined above, there are sundry levies and rates which local governments are authorized to collect. Notable here is the tenement rate payable annually on buildings situated
with a particular local government area. This is levied by virtue of the Tenement Rate Law of the various states. There is also a Development Levy on individuals to State governments. When real property is transferred, the relevant State government imposes some charges before the Governor grants his consent in accordance with the Land Use Act of 1978.

It can be seen from this short survey that the Nigerian tax system features a mixture of direct and indirect taxes. All individuals, groups and corporate bodies that earn income, profits or gains, are affected. Except for tenement rates payable on buildings, there is no tax on the ownership of capital assets per se. Capital gains tax is charged only when these assets are disposed of at a profit. Virtually all the major taxes are within the exclusive legislative jurisdiction of the Federal government, but the power to collect is often delegated to the States. The usual pattern is that federal authorities collect taxes from corporate bodies while states are allowed to collect from individuals and unincorporated groups. Even though local government authorities do not have substantive legislative powers, they charge and collect such rates and levies as may be authorized by a statute of the relevant State government.

Under the 1999 Constitution of the Federal Republic of Nigeria, the National Assembly had the power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List. This list contains subjects like corporation, regulation and winding up of corporate bodies and the taxation of incomes, profits and capital gains. The same Constitution further reserves to the federal legislature the power to make laws with respect to any matter in the concurrent list to the extent prescribed in the second column of that list.

Item 7 of that concurrent list is on collection of taxes. The federal legislature is allowed to delegate the collection or administration of some taxes to the Government or other authority of a State, provided however that taxes on capital gains, incomes or profits of companies cannot be so delegated.

Item 9 of the concurrent list gives state legislatures the power to make provisions for the collection of any tax fee or rate or for the administration of laws providing for such collection by a local government. This clearly justifies the inference that states may impose, collect and spend
any tax, fee or rate which has not been expressly reserved for Federal Government control. The assumption is that States could not have been required to delegate to local government councils what they (the States) could not be themselves do. As noted by Bello JSC (as he then was) while reading his lead judgement in Abruagba v. Attorney General (Ogun State). “any tax” as used in the provision empowers the States to impose tax on all matters in the concurrent list and residual matters”.

Apart from the income tax which they pay to the Federal Government, companies in Nigeria are subjected to a wide array of taxes, levies and rates by States and Local Government.

Only the Federal government can charge companies to income tax, but other governments can charge companies other taxes within the legislative jurisdiction of those governments. This is, of course, in so far as the tax law does not in effect amount to “regulation” of corporate bodies, which is an exclusive preserve of the federal legislature.

It should be noted that, apart from the concurrent powers, the states ordinarily have further jurisdiction over the so-called residual matters, i.e., matters which are neither on the exclusive legislative list nor on the concurrent legislative list. Although this was not expressly indicated in the Constitution, the Supreme Court has held in the case of Attorney General (Ogun State) V. Aberuagba that it was the necessary inference to be drawn from section 4(7) of the 1979 Constitution.

There is however one crucial limitation on state legislative powers. In spite of the accommodation allowed the States under the concurrent legislative list, the Constitution further provides that if any law enacted by a State is inconsistent with any law validly made by the Federal Government, the latter shall prevail. The State law shall therefore be void to the extent of the inconsistency. Can this mean that a State cannot collect tax from a person or source of income on which the Federal Government has already imposed a tax? In the course of his judgment in the Aberuagba case, Bello JSC (as he then was) stated that the power of states to impose any tax over concurrent matters can only be exercised “….subject to the rule of inconsistency under Section 5(4) and the doctrine of covering the field.” If we accept the applicability of that doctrine, it would mean that whenever the Federal Government enacts a law on an issue on the concurrent list, that enactment forecloses the ability of the States to make a law on the same issue. More particularly
it would mean that once the federal government has provided for the collection of taxes from companies.

Since 1959 to date Nigeria has enacted a host of tax laws. Essentially all taxes are imposed either by Federal or State Government. Some of these enactments include:

1.04 Income Tax Management Act 1961

There were various tax systems operating in Northern, Western and Eastern Regions of the country. The inconsistencies and apparent confusion resulted in the setting up of Raisman Fiscal Commission of 1958 who recommended that there should be a uniform basic principle for taxing incomes throughout Nigeria. It was this recommendation that was embodied in the Nigerian (Constitution) Order in Council 1960, which resulted eventually in the enactment of the Income Tax Management Act 1961 (ITMA 1961) ITMA 1961 was the precursor to CITA's 1961, 1979 and 1990 as well as the Personal Income Tax Decree (now Act) of 1993 and 2011

1.05 Income Tax Management (Uniform Taxation Provisions) Decree No. 7, 1975 amendment

In 1975 the Income Tax Management (Uniform Taxation Provisions) Decree No. 7 was promulgated. This Decree unified reliefs and rates throughout the country with the key advantage of resolving, to some extent, the proliferation of various tax laws in the different States of the Federation.

1.06 Finance Miscellaneous (Taxation Provisions) 1985 Decree

There was Finance Miscellaneous (Taxation Provisions) Decree 1985 that introduced some reforms into the tax provisions such as: increase in personal allowances, tax authorities were empowered to request any bank for information about customers (individuals in this case), the basis of computing changed from reducing balance to straight line method, capital allowances claimable was restricted to 75% for manufacturing business and 66 2/3% for other businesses. No limit for agricultural businesses, capital allowance rates were reviewed upwards and harmonized with that of companies to increase the benefits to tax payers, interest on loan for agricultural and
export purposes were to be treated as exempted from tax, (g) losses to be limited to four years for businesses other than agriculture.

1.07 1987 Amendment
The amendment to the Nigerian tax laws in 1987 included:
Slight increase in personal allowances, review, again, of some capital allowances, rates, (c) treatment of withholding taxes on rent, interest, dividends and royalties as “final tax” payable; in other words, they are treated as “franked investment income”.

1.08 1990 Amendment
The following also happened: significant improvement in capital allowances’ rates, (b) removal of limits on capital allowance claimable by manufacturing business.

1.09 1992 Amendment
The amendment includes increase in personal income tax reliefs/allowances, (b) increase in the tax table rates.

1.10 1993 Act
In 1993, the Personal Income Tax Act was promulgated as Decree No. 104 which replaced ITMA 1961 as amended up to the point of abrogation. The Act provides for the taxation of every individual or corporate sole or body of individuals (e.g. partnership) that are deemed to be resident for that year in the relevant State and (ii) increase in the table of rates for the taxation of individuals under PITA.

1.11 1998 Act
Taxes and Levies (Approved List for Collection) Act 1998 authorized Federal Government through Federal Inland Revenue Service to collect personal income tax from:
Members of the Armed Forces of the Federation; members of the Nigeria Police Force; residents of the Federal Capital Territory, Abuja; and Staff of the Ministry of Foreign Affairs and non-
resident individuals. Under the same Act, in addition to personal income tax in respect of PAYE, the State Governments are empowered to collect direct taxation (self-assessment).

**1.12 Personal Income Tax Amendment Act of 2011**
The Personal Income Tax (Amendment) Act, 2011 was made available to the public in January 2012 (although 24 June 2011 was the date of publication stated on the Gazette). The PITAM amends thirty-six sections of the Personal Income Tax Act, Cap P.8, Laws of the Federation of Nigeria, 2004 (PITA). It also modifies the First, Third and Sixth Schedules to the PITA. We have highlighted below the key provisions and implications of the PITAM:

The date of commencement of the amendment is 14th June 2011, based on the Federal Republic of Nigeria Official Gazette No.115, Vol.98. This date is the same as the date of assent of the Act by the President. As a consequence, tax payers and employers may be required to re-compute the personal income tax (PIT)/pay-as-you-earn (PAYE) tax due for the period June 2011 to January 2012. We envisage that many tax payers will qualify for refund from relevant tax authorities (RTAs) by reason no for their over payment to tax under the old PIT regime. Given the difficulties currently associated with claiming tax refund in Nigeria, our view is that PIT/PAYE tax over payments would likely be recovered as credit from subsequent remittances to the RTAs.

**1.13 PITA Sections 2 and 108: Tax imposition and Interpretation**
The main amendment to Section 108 of the PITA is the redefinition of itinerant worker to include “an individual irrespective of his status who works at any time in any stated year of assessment (other than as a member of the armed forces) for wages, salaries or livelihood by working more than one state for a minimum of twenty (20) days in at least three (3) months of every assessment year”. Based on the amendment, employees of service companies who migrate from state to state in providing services to clients may now qualify as itinerant workers. Similarly, entrepreneurs, company executives and other personnel who by virtue of their responsibilities work in multiple locations in different states may qualify as itinerant workers. The PITAM also amends section 2 of the PITA by inserting a new subsection (1A), that provides that “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”. Following from the above, individuals who now qualify as itinerant workers may find themselves liable to tax in more than one state. Consequently, such individuals or their employers would need to set up adequate administrative processes to effectively track the duration of stay and income subject to tax in the different states.

1.14 PITA Sections 3: Income chargeable and Personal relief

(a) Tax free allowances are no longer available: Section 3 of the PITA has been amended to highlight the fact that both temporary and permanent employees are liable to PIT. However, the more important implication of the amendment to this section is the effective deletion of section 3(1) (b) (ii)-(xii), which provides employees with tax free allowances such as leave allowance, housing allowance, etc. With the amendment, PITAM has withdrawn all tax-free allowances previously enjoyed by employees under the section, with the exception of reimbursement of expenses incurred by an employee in the performance of his duties, and from which the employee is not expected to derive any profit or gain.

1.15 Registration and Collection of Various Taxes, Assessments and Appeals

a. Annual Returns
b. Individuals
c. Identifying Assessable Person

Tax is not imposed in a vacuum; the entity to be taxed and source(s) of the income to be taxed must be identified.

An assessable entity is defined as a person whatever 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, labor organizations and government boards, states and corporation.

There are personalities relevant to the process of levying and collecting tax. These persons will be taxed under different statutes and in different ways and so it is necessary to identify them.

The first is an individual who is within the taxable age and with income, which may be salary, rent, dividend or interest. He may have shares in companies through which he gets dividend. He
may have money lodged in the bank from which he gets interest or he may have properties from which he earns rent.

The second person is the individual who is in business. This is the person that has gone to legalize himself through incorporation. This individual **son** may take two forms. If he decides to start a business on his own with no partners or shareholders, he is said to be a sole proprietor. He bears all the costs and keeps all the profits after the Relevant Tax Authority has taken its cut in taxes, of course. As a sole proprietor, he has unlimited liability. What this means is that he is personally responsible for all the business debts. If he borrowed money for the business and cannot repay the loan, he may be forced into personal bankruptcy.

On the other hand, instead of starting on his own, he may wish to pool his money or expertise with friends or business associates; and another form of individual businessperson known as Partnership has come into being. Usually there is a written partnership agreement, which set out how management decisions are to be made and the rights and duties of partners to the partnership. This includes partners’ entitlements like salary, interest on capital and share of profits.

The partners pay personal income tax on their share of profits individually. Partners, like sole proprietors, have the disadvantage of unlimited liability. If the business runs into financial difficulties, each partner has unlimited liability for all the business debts, not just his or her share. However, in practice larger businesses can be set up as limited partnerships, under this, partners are classified as “General” or “Limited”.

General partners manage the business and have unlimited personal liability for the business debts. Limited partners usually have a restricted role in management, but their liability is confined to the money they contribute to the business. They can lose everything they put in, but no more.

Many professional businesses are organized as partnerships. They include the large accounting, legal, investment and management consulting firms.

Incomes of individual persons are taxed under Personal Income Tax Act 1993 (as amended by PITA 2011) with certain exemptions.
1.16 Residency Issues in Taxation

After determination of the tax liability of a person, the question of residency becomes very important as this resolves the Relevant Tax Authority to which the tax computed is payable. Resolving the issue of residency also affects the scope and type of relief and deductions that may be allowed for the purpose of computing taxable income. For example, the rent allowance for a person resident in Lagos is different from person resident in Ago-Iwoye.

The Personal Income Tax Act (1993) considered the question of where a person is deemed to be resident in a particular year of assessment along the following lines in its first schedule.

1.17 Persons in Employment on 1st January

The Act deems a person who is in a paid employment or trade at the commencement of a particular year of assessment to be resident for the tax year in a place or principal office (if he resides in more than one place) of residence in that year of assessment. A place of residence means a place available for his domestic use in Nigeria on a relevant day. It does not include any hotel, rest house or other temporary place of abode unless no permanent place is available for his use on that day.

Principal place of residence in relation to an individual with two or more places of residence on a relevant day not been both within any one state means:

(a) For a pensioner, with no other source of income it is that place of those places that he usually resides.

(b) For an individual who has a source of earned income other than a pension in Nigeria, his principal place of residence is that place of those places, within a relevant day is nearest to his usual place of work.

(c) For an individual who has a source or sources of unearned income in Nigeria, the principal place of residence is that place or places in which he usually resides.
1. Persons taking up Employment within the Year

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

2. 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 leaves began.

3. An Individual who is in Foreign Employment on 1st January

An individual who holds a foreign employment on the first day of January or who first becomes liable to tax in Nigeria for that year by reason of his entering that employment during the year and who is not: (a) employed in the Nigeria Army, the Nigerian Navy, the Nigeria Air force, the Nigeria Police Force except in civilian capacity. (b) an officer of the Nigeria Foreign Service (c) resident outside Nigeria and at the same time derives income or profit in Nigeria: shall be deemed to be resident for that year in the territory in which the principal office of his employer is situated on that day or on the day foreign employment commences as may be the case.

Foreign employment means an employment the duties of which are wholly performed outside Nigeria save during any temporary visit of the employee to Nigeria.

4. Armed Forces Personnel

Persons employ in the Armed Forces (in combatant capacities) are deemed to be resident in the Federal Capital Territory for tax purpose in a year of assessment.

5. Pensioners

An individual whose only source of income arising in Nigeria on the first day of January in a year of assessment was a pension and who had a place or principal place of residence shall be deemed to be resident for that year in the territory in which that place or principal place of residence was situated on that day.
6. **Trustees, Executors, etc**

The tax accruing on the estates managed by trustees and executors on a year of assessment is deemed accrued to the relevant tax authority in charge of a place where the Trustee or Executor has a place or principle or principal place of business (registered office) in the assessment year.

7. **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.

8. **Communities**

In the case of a village or other indigenous communities, the place of residence is the territory in which the community is to be found in any year of assessment.

**Chargeability to Tax**

Section 36 of CITA CAP 60 Law of the Federation, 1990 specifically states that a company shall be chargeable to tax:

(a) In its own name; or

(b) In the name of any principal officer, attorney, factor, agent or representative of a company in Nigeria in like manner and to like amounts as such company would be chargeable; or In the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as such company would have been chargeable if no receiver or liquidator has been appointed.

**Assessments**

The Federal Inland Revenue Service (FIRS) or State Inland Revenue Service (SIRS) is mandated by the various Acts to assess every company or person chargeable to tax as may be after the expiration of the time allowed to such company or person for the filing of return for tax purposes.

**Types of Assessment**

There are three main types of assessment. These are:

1. Original Assessment
2. Revised or Amended Assessment
3. Additional Assessment
4. Self-Assessment

**Original Assessment**
This is the first assessment raided on a tax-payer in a particular tax year. However, a taxpayer may not agree with the tax authority on this assessment. The taxpayer can thus, make an objection (by filing a notice of objection).

**Revised or Amended Assessment**
This is the assessment that is raised to replace an original assessment. This is possible after the notice of objection raised by the taxpayer has been determined.

**Additional Assessment**
If the tax authority discovers or is of the opinion at any time that any person or company liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Board may, within the year of assessment or within six years after the expiration thereof, assess such person or company such amount or additional amount, as ought to have been charged. This type of assessment is known as Additional Assessment.

**Forms of Assessment**
1. **Provisional Assessment.** It is an estimate of tax payable based on the tax paid by the taxpayer in the preceding year of assessment.
2. **Best of Judgment (BOJ) Assessment.** This usually occurs where the taxpayer has either not filed returns or not even registered for tax purposes. The Board will then assess the taxpayer based on their own judgment.
3. **Self-Assessment.** It was introduced in 1993. The taxpayer is expected to complete a standard Self-Assessment Form. The following are incentives for filing of self-Assessment
   i. Non-payment of provisional tax
   ii. Grant of instalmental payment, provided they accompany attach evidence of payment of first installment in their returns.
   iii. 1% incentive bonus is granted to all self-assessment filers.
Service of Notice of Assessment

The tax authority shall cause to be served on or sent by registered post to a person or each company, or person in whose name a company is chargeable, a notice stating:

(a) The amount of total profits
(b) The tax payable, and
(c) The place at which such payment should be made.

When a taxpayer receives a notice of assessment, he either agrees with it or disagrees. Where he goes, he is required to effect payment of the tax within 60 days from the date of receipt of the assessment. However, where he is aggrieved, there are laid down procedures to be followed for the matter to be resolved.

Corporate Bodies

As the individual or individual business person grow, he or they may become aware of the benefits of another personality very important to the taxman called the company. For Nigeria, a “Nigerian Company” is defined in section 84 of CITA 1990 supra as, “any company incorporated under the Companies and Allied Matters Act 1990 or any enactment replaced by that Act”.

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

Any dispute as to the residency of a person in any assessment year shall be referred to the Board for adjudication by the relevant tax authorities involved.

Unlike a proprietorship or partnership, Company is legally distinct from its owner. It has a Constitution or Charter called Memorandum of Association, setting out its powers and status as well as its relationship to the outsiders. The Articles of Association regulate the management of the internal affairs of the company.

Company may be limited by shares or limited by guarantee. The first type is more suitable for commercial purposes. There are two types of companies limited by shares, viz: Private Companies and Public Companies. While a private company is particularly suitable for a small
family business, a public company is formed where there is a business requiring large capital, which can only be, raised from the public through stock exchange.

Every company including a company granted exemption from incorporation shall at least once in every year without notice or demand make and deliver to the Board a return together with the following:

i. The audited account, tax and capital allowance computation and a true and correct statement in writing containing the amount of profits from each and every source.

ii. A declaration which shall be signed by a Director or Secretary of the company that the returns contain a true and correct statement of amount of its profit computed in respect of all sources and that the particulars in such returns are true and complete.

**Filling of Returns for New Companies**

In the case of a newly incorporated company, the submission shall be within eighteen months from the date of its incorporation or not later than six months after the end of its first accounting period, whichever is earlier.

**Filing of Returns for Existing Companies**

For a company that has been in business for more than eighteen months, not more than six months after the close of the company’s accounting year.

**Filling of Tax Returns for Self-Assessment Filer**

Self-assessment became mandatory for all companies with effect from 1st January, 1998. A tax return for self-assessment tax filer comprises the following:

a. Duly completed self-assessment Income Tax Form (IR3C-4COY);

b. Audited financial statements together with the relevant schedules showing assets, trade debtors, trade creditors etc.;

c. A declaration which shall signed by the Managing Director, a Directors, or Statutory Secretary of the company indicating that the returns contain a true and correct statement of the amount of its profits computed in respect of all sources and that the particulars in such returns are true and complete;

d. Capital allowance computations;

e. Tax computations for the year of assessment;
f. Evidence of direct payment of the whole or part of the tax due into a blank designated for the payment of tax. If there is no default in payment arrangement, the company is granted a bonus of 1% of the tax payable.

**Lateness in Filing or Failure to File Self-Assessment Returns**

a. A penalty of ₦2,500 is payable by every company in the first month that failure to file tax returns occurs and thereafter ₦500 penalty attends to each month the failure persists.

b. Denial of installment payment privileges.

c. Forfeiture of 1% bonus for all self-assessment filers.

d. Payment of provisional tax for the year with accrued penalties and interest.

e. Payment of penalty and interest for the period of the default.

**Objection to Assessment and Appeal Procedure**

Where the taxpayer objects to the assessment made, he is expected to notify the Board in writing to review and revise the assessment. The Notice of Objection should state precisely the grounds of objection and must be made within 30 days from the date of service of notice.

Having examined the books and records together with oral interview the tax authority may revise the assessment and give notice of revision to the company, or the Board may refuse to revise the previous assessments, it can then issue a notice of refusal to amend. If there is no compromise between the parties (Board and the company) the matter goes to the body of appeal commissioners. The taxpayer is expected to file the Notice of Appeal to the Body within 30 days of the receipt of the Notice of Refusal to Amend.

The Notice of Appeal shall specify the following:

(a) Official number of assessment and the tax year

(b) Amount of tax charged by such assessment

(c) Amount of the total profits upon which tax was charged as appeared on the notice of assessment.

**1.18 Collection, Recovery and Payment of Tax**

Every company shall pay provisional tax of an amount equal to the tax paid by such company in the immediately preceding year of assessment in one lump sum or such number of monthly
installments (not being more than six) as may be approved by the Board not later than 3 months from the commencement of each year of assessment.

The tax charged by any assessment which is not or has not been the subject of an objection or appeal by the company shall be payable within 2 months after service of notice upon the company and must not be later than 14th December of the year of assessment in which the tax was charged.

It is however, to be noted that the collection of tax in any case where the company has given notice of an objection or appeal, shall remain in abeyance until such objection or appeal is determined. After the determination of an appeal, the Board shall serve upon the company a notice of the tax payable as so determined and that the tax shall be payable within one month of the date of service of such notice upon the company.

It is pertinent to note that no claim for repayment of tax shall be allowed unless it was made in writing within 6 years after the end of the year of assessment to which it relates. The Board shall give a certificate of the amount of tax to be repaid.

**Final and Conclusive Assessments**

This occurs where:

- (a) No valid objection or appeal has been lodged on assessment raised by the Board within the specified statutory time limit.
- (b) No further notice of appeal has been given against the decision of the Body of Appeal Commissioners or the High Court or Court of Appeal.
- (c) The amount of total income or profit or tax liability has been determined and agreed by the taxpayer

### 1.19 Establishment of Tax Appeal Tribunals

1. (1) Pursuant to section 59 (1) of this Act, there shall be established a Tax Appeal Tribunal (hereinafter-referred to as —the tribunal[]) to exercise the jurisdiction, powers and authority conferred on it by or under this Schedule.

2. The Minister may by notice in the Federal Gazette specify the number of zones, matters and places in relation to which the Tribunal may exercise jurisdiction.
2. **Composition of the Tribunal**

   (1) A Tribunal shall consist of five members (hereinafter referred to as —Tax Appeal Commissioners) to be appointed by the Minister.

   (2) A Chairman for each zone shall be a legal practitioner who has been so qualified to practice for a period of not less than 15 years with cognate experience in tax legislation and tax matters.

   (3) A Chairman shall preside at every sitting of the Tribunal and in his absence the members shall appoint one of them to be the Chairman.

   (4) The quorum at any sitting of the Tribunal shall be three members.

3. **Qualifications for appointment as a Tax Appeal Commissioner**

   A person shall not be qualified for appointment as a Tax Appeal Commissioner unless he is knowledgeable about the laws, regulations, norms, practices and operations of taxation in Nigeria as well as persons that have shown capacity in the management of trade or business or a retired public servant in tax administration.

4. **Term of Office**

   A Tax Appeal Commissioner shall hold office for a term of three years, renewable for another term of three years only and no more, from the date on which he assumes his office or until he attains the age of 70 years whichever is earlier.

5. **Resignation and Removal**

   (1) A Tax Appeal Commissioner may by notice in writing under his hand addressed to the Minister resign his office:

       Provided that the Tax Appeal Commissioner shall, unless he is permitted by the Minister to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor assumes his office or until the expiry of his term of office, whichever is earlier.

   (2) A Tax Appeal Commissioner may be removed from office by the Minister on the grounds of gross misconduct or incapacity after due inquiry has been made and the Tax Appeal Commissioner concerned has been informed of the reasons for his removal and given an opportunity of being heard in respect of the reasons.

**Salary, Allowances and Conditions of Service of Tax Appeal Commissioners**

The salary and allowances payable to and the terms and conditions of service of the Tax Appeal Commissioners shall be determined by the Revenue Mobilization Allocation and Fiscal Commission and shall be prescribed in their Letters of Appointment:
Provided that neither the salary and allowances nor the other terms and conditions of service of a Tax Appeal Commissioner shall be varied to his disadvantage after appointment.

**Filling Up of Vacancies**

7. If for reason other than temporary absence, any vacancy occurs in the office of a Tax Appeal Commissioner, then the Minister shall appoint another person in accordance with the provisions of this Act to fill the vacancy.

**Order Constituting a Tribunal to be Final**

8. The question as to the validity of the appointment of any person as a Tax Appeal Commissioner shall not be the cause of any litigation in any court or tribunal and no act or proceedings before the Tribunal shall be called into question in any manner on the ground merely of any defect in the constitution of the Tribunal.

**9. Secretary to the Tribunal**

(1) The Minister shall appoint for each place or zone where the Tribunal is to exercise jurisdiction a Secretary who shall-

(a) Subject to the general control of the Tax Appeal Commissioners, be responsible for keeping records of the proceedings of the Tribunal;

(b) Be the head of the secretariat and responsible for-

   i. The day-to-day administration; and
   ii. The direction and control of all other employees of the Tribunal

(2) The official address of the Secretary appointed for each zone shall be published in the Federal Gazette.

**Other Staff of the Tribunal, etc.**

(1) The Minister shall appoint such other employees as he may deem necessary for the efficient performance of the functions of the Tribunal and the remuneration of persons so employed shall be determined by the National Salaries and Wages Commission.

(2) It is declared that employment in the Tribunal shall be subject to the provisions of the Pension Reform Act and, accordingly, officers and employees of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.
Jurisdiction of the Tribunal, etc.

(1) The Tribunal shall have power to adjudicate on disputes, and controversies arising from the following tax laws (hereinafter referred to as —the tax laws)—:

i. Companies Income Tax Act, CAP. 60 LFN; 1990


iii. Petroleum Profits Tax Act CAP. 354 LFN; 1990

iv. Value Added Tax Act No. 102; 1993

v. Capital Gains Tax Act CAP. 42 LFN; 1990, and

vi. Any other law contained in or specified in the First Schedule to this Act or other laws made or to be made from time to time by the National Assembly.

(2) The Tribunal shall apply such provisions of the tax laws referred to in subparagraph (1) of this paragraph as may be applicable in the determination or resolution of any dispute or controversy before it.

Criminal Prosecution
Where in the course of its adjudication, the Tribunal discovers evidence of possible criminality; the Tribunal shall be obliged to pass such information to the appropriate criminal prosecuting authorities, such as the office of the Attorney-General of the Federation or the Attorney General of any state of the Federation or any relevant law enforcement agency.

Appeals from Decisions of the Service 249

(1) A person aggrieved by an assessment or demand notice made upon him by the Service or aggrieved by any action or decision of the Service under the provisions of the tax laws referred to in paragraph 11, may appeal against such decision or assessment or demand notice within the period stipulated under this Schedule to the Tribunal.

(2) An appeal under this schedule shall be filed within a period of 30 days from the date on which a copy of the order or decision which is being appealed against is made, or deemed to have been made by the Service and it shall be in such form and be accompanied by such fee as may be prescribed provided that the Tribunal may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.

(3) Where a notice of appeal is not given by the appellant as required under subparagraph (1) of this paragraph within the period specified, the assessment or demand notices shall
become final and conclusive and the Service may charge interests and penalties in addition to recovering the outstanding tax liabilities which remain unpaid from any person through proceedings at the Tribunal.

**Appeals by the Service**
Service aggrieved by the non-compliance by a person in respect of any provision of the tax laws; it may appeal to the Tribunal where the person is resident giving notice in writing through the Secretary to the appropriate zone of the Tribunal.

**Procedure before Tax Appeal Tribunal**
(1) As often as may be necessary, Tax Appeal Commissioners shall meet to hear appeals in the jurisdiction or zone assigned to that Tribunal.

(2) Where a Tax Appeal Commissioner has a direct or indirect financial interest in any appeal pending before the Tribunal or where the taxpayer is or was a client of that Tax Appeal Commissioner in his professional capacity, he shall declare such interest to the other Tax Appeal Commissioners and refrain from sitting in any meeting for the hearing of that appeal.

(3) The Secretary to the Tribunal shall give seven clear days’ notice to the Service and to the appellant of the date and place fixed for the hearing of each Appeal except in respect of any adjourned hearing for which the Tax Appeal Commissioners have fixed a date at their previous hearing.

(4) All notices, documents, other than decisions of the Tribunal, may be signified under the hand of the Secretary.

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

(6) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(7) At the hearing of any appeal if the representative of the Service proves to the satisfaction of the Tribunal hearing the appeal in the first instance that-

(a) the appellant has for the year of assessment concerned, failed to prepare and deliver to the Service returns required to be furnished under the relevant provisions of the tax laws mentioned in paragraph 11;

(b) The appeal is frivolous or vexatious or is an abuse of the appeal process; or

(c) It is expedient to require the appellant to pay an amount as security for prosecuting the appeal, the Tribunal may adjourn the hearing of the appeal to any subsequent day and order the appellant to deposit with the Service, before the day of the adjourned hearing, an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged upon the appellant for the preceding year of assessment or one half of the tax charged by the assessment under appeal, whichever is the lesser plus a sum equal to ten percent of the said deposit, and if the appellant fails to comply with the order, the assessment against which he has appealed shall
be confirmed and the appellant shall have no further right of appeal with respect to that assessment.

(8) The Tribunal may, after giving the parties an opportunity of being heard, confirm, reduce, increase or annul the assessment or make any such order as it deems fit.

(9) Every decision of the Tribunal shall be recorded in writing by the Chairman and subject to the provisions of paragraph 16, a certified copy of such decision shall be supplied to the appellant or the Service by the Secretary, upon a request made within 30 days of such decision.

(10) Where upon the hearing of an appeal—

(a) No accounts, books or records relating to profits were produced by or on behalf of the appellant;
(b) such accounts, books or records were so produced but rejected by the Tribunal on the ground that it had been shown to its satisfaction that they were incomplete or unsatisfactory;
(c) the appellant or his representative, at the hearing of the appeal, has neglected or refused to comply with a notice delivered or sent to him by the Secretary to the Tribunal, without showing any reasonable cause; or
(d) the appellant or any person employed, whether confidentially or otherwise, by the appellant or his agent (other than his legal practitioner or accountant acting for him in connection with his ability to tax) has refused to answer any question put to him by the Tribunal, without showing any reasonable cause the Chairman of the Tribunal shall record particulars of the same in his written decision.

Procedure following decision of the Tribunal

(1) Notice of the amount of the tax chargeable under the assessment as determined by the Tribunal shall be served by the Service upon the taxpayer or upon the person in whose name such taxpayer is chargeable.

(2) An award or judgment of the Tribunal shall be enforced as if it were a judgment of the Federal High Court upon registration of a copy of such award or judgment with the Chief Registrar of the Federal High Court by the party seeking to enforce the award or judgment.

(3) Notwithstanding that an appeal is pending, tax shall be paid in accordance with the decision of the Tribunal within one month of notification of the amount of the tax payable in pursuance of subparagraph (1) of this paragraph.
Appeal to the Federal High Court

17. (1) Any person dissatisfied with a decision of the Tribunal constituted under this Schedule may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within 30 days after the date on which such decision was given.

(2) A notice of appeal filed pursuant to subparagraph (1) of this paragraph shall set out all the grounds of law on which the appellant's case is based.

(3) If the Service is dissatisfied with the decision of the Tribunal, it may appeal against such decision to the Federal High Court on points of law by giving notice in writing as specified in subsection (1) of this section to the Secretary within 30 days after the date on which such decision was given.

(4) Upon receipt of a notice of appeal under subparagraph (1) or (2) of this paragraph, the Secretary to the Tribunal shall cause the notice to be given to the Chief Registrar of the Federal High Court along with all the exhibits tendered at the hearing before the Tribunal.

(5) The Chief Judge of the Federal High Court may make rules providing for the procedure in respect of appeals made under this Act and until such rules are made, the Federal High Court rules relating to hearing of appeals shall apply to the hearing of an appeal under this Act.

Right to Legal Representation

(1) A complainant or appellant, as the case may be, may either appear in person or authorize one or more legal practitioners or any of its officers to represent him or its case before the Tribunal.

(2) Every individual or company in a case before the Tribunal shall be entitled to be represented at the hearing of an appeal by a solicitor or chartered accountant or adviser provided that, if the person appointed by the taxpayer to be representative in any matter before the Tribunal is unable for good cause to attend hearing thereof, the Tribunal may adjourn the hearing for such reasonable time as it deems fit, or admit the appeal to be made by some other person or by way of a written address.

Application of Statute of Limitation

The provisions of any statute of limitation shall not apply to any appeal brought before the Tribunal.

Powers and procedures of the Tribunal

(1) The Tribunal may make rules regulating its procedures.

(2) The Tribunal shall, for the purposes of discharging its functions under this Schedule, have power to:
i. Summon and enforce the attendance of any person and examine him on oath;

ii. Require the discovery and production of documents;

iii. Receive evidence on affidavits;

iv. Call for the examination of witnesses or documents;

v. Review its decisions;

vi. Dismiss an application for default or deciding matters exparte;

vii. Set aside any order or dismissal of any application for default or any order passed by it exparte; and

viii. Do anything which in the opinion of the Tribunal is incidental or ancillary to its functions under this Schedule.

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding and the Tribunal shall be deemed to be a civil court for all purposes.

**Minister to make Rules and Regulations**

21. The Minister may make rules prescribing the procedure to be followed in the conduct of appeals before the Tribunal.

**Costs**

22. Each party to an appeal shall bear its own cost.

**Further Appeals**

23. An appeal against the decision of the Federal High Court at the instance of either party shall lie to the Court of Appeal.

(1) A Tax Appeal Tribunal is established, as provided for in the fifth Schedule to this Act.

(2) The Tribunal shall have power to settle disputes arising from the operations of this Act and under the First Schedule.

**Relevant Tax Authorities**

There are three (3) tax authorities representing the 3 tiers of government:

- Federal Government (FIRS) - Federal Inland Revenue Service
- State Government (SIRS) - State Internal Revenue Service
Federal Inland Revenue Service (FIRS)

Federal Inland Revenue Service (FIRS) is the federal tax authority and was created by the Companies Income Tax Act (CITA) of 1979 and now under the FIRS Establishment Act, 2007. The Board responsible for its management is Federal Inland Revenue Service Board (FIRSB).

Composition of the Board (FIRSB)

The Act stipulates the membership of the FIRSB as follows:

1. There is established for the Service a board to be known as the Federal Inland Revenue Service Board which shall have overall supervision of the Service as specified under this Act.

2. The Board shall consist of:
   a. The Executive Chairman of the Service who shall be experienced in taxation as Chairman to be appointed by the President and subject to the confirmation of the Senate;
   b. Six members with relevant qualifications and expertise who shall be appointed by the President to represent each of the six-geo-political zones;
   c. A representative of the Attorney-General of the Federation;
   d. The Governor of the Central Bank of Nigeria or his representative;
   e. A representative of the Minister of Finance not below the rank of a Director;
   f. The Chairman of the Revenue Mobilisation, allocation and Fiscal Commission or his representative who shall be any of the commissioners representing the 36 states of the Federation;
   g. The Group Managing Director of the Nigerian National Petroleum Corporation or his representative who shall not be below the rank of a Group Executive Director of the Corporation or its equivalent;
   h. The Comptroller-General of the Nigerian Customs Service or his representative not below the rank of Deputy Comptroller-General.
   i. The Registrar-General of the Corporate Affairs Commission or his representative not below the rank of a Director; and...
(j) The Chief Executive Officer of the National Planning Commission or his representative not below the rank of a Director;

(3) The members of the Board, other than the Executive Chairman, shall be part-time members.

**Powers and Duties of the FIRSB**

FIRSB has the powers to assess and collect taxes on behalf of Federal Government.

The Board shall

(a) Provide the general guidelines relating to the functions of the Service;

(b) Manage and superintend the policies of the Service on matters relating to the administration of the revenue, assessment, collection and accounting system under this Act or any enactment or law;

(c) Review and approve the strategic plans of the Service;

(d) Employ and determine the terms and conditions of service including disciplinary measures of the employees of the Service;

(e) Stipulate remuneration, allowances, benefits and pension of staff and employees in consultation with the National Salaries, Income and Wages Commission; and

(f) Do such other things in its opinion that are necessary to ensure the efficient performance of the functions of the Service under this Act.

**Technical Committee of the Board**

This is also a creation of the Companies Income Tax Act, 1979 as amended. It has the following as members:

i. Executive chairman as who is also the chairman the service

ii. All directors and heads of department of the Federal Inland Revenue Service

iii. The legal adviser to the Board

iv. The Board Secretary.
The committee has power to co-opt additional member(s) as may be required in the discharge of its duties. It has the following functions to carry out:

(i) To consider tax matters requiring professional and technical expertise and make recommendations to the Board.
(ii) To advise the board on its powers and duties.
(iii) To carry out any other duty assigned to it by the Board.

The State Internal Revenue Service Board

The State Internal Revenue Service was established by the Personal Income Tax Decree of 1993 as the state tax authority. The operational arm of the board is the State Internal Revenue Service Board. The PITD (1993) Section 85A (1) provides a uniform composition for the boards in all the states of the federation.

The composition is as follows:

(a) The executive head of internal revenue service who shall be designated as the chairman of the Board. He shall be a person experience in tax matters and be appointed by the State government from within the State service.
(b) Three persons nominated by the commissioner of finance of the State on their personal merits.
(c) All the directors and head of the State Internal Revenue Service.
(d) A director from the State Ministry of Finance.
(e) The legal adviser to the Board.
(f) The secretary to the Board who shall be an ex-officio member appointed by the Board from within SIRSB.

Functions of the Board (SIRSB)

(a) Ensuring the effectiveness and optimum collection of all taxes and penalties due to the government under the relevant laws.
(b) Doing all such things that may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the commissioner.

(c) Making recommendations, where appropriate to the Joint Tax Board on tax policies, tax reforms, tax legislation, tax treaties and exemption as may be required from time to time.

(d) Generally controlling the management of the service on matters of policy subject to the provisions of the law setting up the service.

(e) Appointing, promoting, transferring and imposing discipline on employees of the State service.

**Technical Committee of the SIRSB**

The technical committee of the Board of the State Internal Revenue was also established by the Personal Income Tax Decree (1993). It comprises of the following as members.

(i) The chairman of the State Board of Internal Revenue who is also the chairman of the technical committee.

(ii) All the directors of the State Internal Revenue Service.

(iii) The legal adviser to the State Board.

(iv) The secretary to the technical committee.

**Functions of the State Technical Committee of SIRS**

To advice the State Board on matters that require professional and technical expertise.

To carry out any other duty assigned to it by the State Board.

**Joint Tax Board (JTB)**

The Joint Tax Board was established, by Section 85 of PIT as amended. Its function includes among other things, mediation between tax authorities of the States and Federation in case of tax disputes. The compositions of the Board as provided by the Personal Income Tax Decree of 1993 are as follows:
i. The Chairman of the Federal Inland Revenue Service who is also the Chairman of the Joint Tax Board

ii. One member from each State of the federation, being a person experienced in tax matters nominated by the Commissioner of Finance

iii. The secretary to the board who shall be an officer experienced in tax matters, appointed by the federal civil service commissioner, though not a member, but he is responsible for keeping records of the board’s proceedings and performing other administrative duties; and

iv. The legal adviser of the Federal Inland Revenue Service Board is to be in attendance at the board’s meeting and is to be the legal adviser to the board.

The Power and Duties of the Joint Tax Board

The Personal Income Tax Decree of 1993 stipulates the powers and duties of the Joint Tax Board as follows:

i. To exercise the powers or duties conferred on it by express provision of this decree, and any other powers, and duties arising under this decree which may be agreed by the government of each territory to be exercised by the board.

ii. To exercise powers and perform duties conferred on it by any enactment of the Federal Government imposing tax on the income and profit of companies or which may be agreed by the minister or to be exercised or performed by it under the enactment in place of the Federal Inland Revenue Service Board.

iii. To advice the federal government, requests, in respect of double taxation arrangement concluded or under consideration with any other country, and in respect of rates of capital allowances and other taxation matters having effect throughout Nigeria and in respect of any proposed amendment to this decree.

iv. To use its best endeavours to promote uniformity both in the application of tax laws and in the incidence of tax on individuals throughout Nigeria.

v. Impose its decision on matters of procedure and interpretation of this decree on any state for purpose of conforming to agreed procedure or interpretation.
vi. Processing for approval, decisions on provident funds schemes which are to be recognized as tax allowance for deductions.

vii. Resolving any dispute in determination of residence between taxpayers and a tax authority.

viii. To exercise any other powers or duties arising under the decree that may be agreed to by government of each State.

ix. From the above powers and duties, it could be seen that the JTB harmonizes tax administration in the country.

**State Joint Revenue Committee**

This is established for each State of the federation. It shall comprise:

(a) The chairman of the State Internal Revenue Service as the chairman

(b) The chairman of the Local Government Revenue Committees.

(c) A representative of the Bureau on Local Government Affairs not below the rank of a director.

(d) A representative of the Revenue Mobilization Allocation and Fiscal Commission, as an observer.

(e) The State Sector Commander of the Federal Road Safety Commission, as an observer.

(f) The legal adviser of the State Internal Revenue Service.

(g) The secretary of the committee who shall be a staff of the State Internal Revenue Service.

**Functions of the State Joint Revenue Committee**

(i) Implementing decisions of the Joint Tax Board.

(ii) To advice the Joint Tax Board and the State and Local Government on revenue matters.

(iii) Harmonize tax administration in the state.

(iv) Enlighten members of the public generally on State and Local government revenue matters.

(v) Carry out such other functions as may be assigned to it by the Joint Tax Board.
The Local Government Revenue Committee

The local government revenue committee is the local government tax authority. The committee was established by the provision of Section 85 of Personal Income Tax Decree of 1993. The committee is empowered to collect taxes at the local government level. The taxes to be collected by the local government revenue committee are listed in appendix one of the decree. The compositions of the governing body of the revenue committee are as follows:

(i) The chairman who is the supervisor of finance.
(ii) Three local government councillors.
(iii) Two persons to be nominated by the chairman of the local government. Those to be nominated must be experienced in revenue matters.

Functions of the Revenue Committee

(i) It shall be responsible for the assessment and allocation of all taxes, fines and rates under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the chairman of the local government.
(ii) It shall be autonomous of the local government treasury and be responsible for the day to day administration of the department, which form its operational arm.
(iii) Advice the local government on tax related matters.

1.20 Review Questions

1. When can an assessment be said to be final and conclusive?
2. An aggrieved taxable person may appeal against an excessive assessment to a relevant tax authority:
   (i) What is the time limit allowed for such appeal?
   (ii) State six contents of such notice of appeal.
3. (a) State the benefits of the Self-Assessment System.
    (b) Write short notes on:
        (i) Final and conclusive Assessment.
        (ii) Best of Judgment Assessment.
        (iii) Time limit for paying tax.