



Education Tax Decree
№ 7 of 1993
Laws of the Federation of Nigeria

This Act has been amended by **Education Tax (Amendment) Decree № 40 of 1998**. The entire amendment has been reflected in this text

26th day of May 1999

The Federal Military Government hereby decrees as follows: -

1. (1) As from the commencement of this Decree, there shall be charged and payable an annual education tax which shall be assessed, collected and administrated in accordance with the provisions of this Decree.
- (2) The tax, which shall be at the rate of 2 per cent, shall be charged on the assessable profit of a company registered in Nigeria (in this Decree referred to as "a company").
- (3) The assessable profit of a company shall be ascertained in the manner specified in the Companies Income Tax Act or the Petroleum Profits Tax Act (in this Decree referred to as "the Act") as the case may be.
2. (1) The Federal Board of Inland Revenue (in this Decree referred to as "the Board") shall assess and collect from a company the tax imposed by this Decree and accordingly-
 - (a) shall when assessing a company, for companies income tax or petroleum profit tax for an accounting period of the company, also proceed to assess the company for the tax due under this Decree;
 - (b) the provisions of the Act relating to the collection of companies income tax or petroleum profit tax shall, subject to this Decree apply to the tax due under this Decree.
- (2) The tax imposed by this Decree shall be due and payable within 60 days after the Board has served notice of the assessment on a company.
- (3) The Board may, for the purpose of assessing and collecting the tax imposed by this Decree, devise such forms as it may deem necessary.
3. (1) There is hereby established a fund to be known as the Educational Fund (in this Decree referred to as "the Fund) which shall be managed by the Board of Trustees established under section 4 of this Decree.
- (2) The Fund –
 - (a) shall be a body corporate with perpetual succession and a common seal, and
 - (b) may sue and be sued in its corporate name."-,
- (3) The Board shall pay the tax collect under this Decree into the fund and shall, when doing so, submit to the Board of Trustees, in such form as the Board of Trustees shall approve, a return showing -
 - (a) the name of the company making the payment;
 - (b) the amount collected; for the rehabilitation, restoration and consolidation of education in Nigeria and
 - (c) the assessable profit of the company for the accounting period and

- (d) such other information as may be required by the Board of Trustee for the proper administration of the tax.
4. There is hereby established for the management of the Fund an Education Trust Fund Board of Trustees (in this Decree referred to as "the Board of Trustees") which shall consist of –
- (a) a Chairman;
 - (b) eight Other members;
 - (c) a representative each of the Federal Ministries of Finance and Education who shall not be below the rank of a Permanent Secretary-, and
 - (d) the Executive Secretary who shall be the secretary to the Board of Trustees.
- (2) The membership of the Board of Trustees shall reflect the six geopolitical zones of the Federation.
- (3) The members of the Board of Trustees shall.-
- (a) be persons with considerable experience from both the public and. private sectors to represent the business, financial and education sectors;
 - (b) be appointed by the Head of State, Commander-in-Chief of the Armed Forces on the recommendation of the Minister;
 - (c) other than the ex-officio members, each hold office for a term of 4 years in the first instance and may be eligible for appointment for a further term of 4 years and no more;
 - (d) be paid such remuneration and allowances as the Head of State, Commander-in-Chief of the Armed Forces may, from time to time, determine.
- (4) The Board of Trustees shall meet for the conduct of its business at such times, places on such days as the Chairman may appoint not being less than four times in a year.
- (5) The supplementary provisions contained in the Schedule to this Decree shall have effect with respect to the proceedings of the Board and other matters contained therein.
- 4A. (1) A member of the Board of Trustees shall cease to hold office if –
- (a) he becomes of unsound or
 - (b) he becomes bankrupt or makes a compromise with his creditors; or
 - (c) he is convicted of a felony or any offence involving dishonesty; or
 - (d) he is guilty of serious misconduct in relation to his duties.
- (2) A member of the Board of Trustees may be removed from office by the Head of State, Commander-in-Chief of the Armed Forces, if, he is satisfied that it is not in the interest of the Fund or the interest of the public that the member should continue in office.
- (3) A member of the Board of Trustees, other than an ex-officio member, may resign his appointment by a notice in writing under his hand, addressed to the Head of State, Commander-in-Chief of the Armed Forces.
- (4) Where a vacancy occurs in the membership of the Board of Trustees, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest and shall be appointed by the Head of, State, Commander-in-Chief of the Armed Forces.
- 4B. The Board of Trustees shall of have responsibility, to –
- (a) monitor and ensure collection of tax by the Federal Inland Revenue Service and ensure transfer to the Fund;
 - (b) manage and disburse the tax,

- (c) liaise with the appropriate Ministries or bodies responsible for collection or safe keeping of the tax;
 - (d) receive requests and approve admirable projects after due consideration-
 - (e) ensure disbursement to various levels and categories of education.
 - (f) monitor and evaluate execution of the projects;
 - (g) invest funds in. appropriate and safe securities;
 - (h) update the Federal Government on its activities and progress through annual and audited reports;
 - (i) review progress and suggest improvement within the-provisions of this Decree,
- do such other things as are necessary or incidental to the objects of the Fund under this Decree or as may be assigned by the Federal Government.

5. (1) The Board of Trustees shall administer the tax imposed by this Decree and disburse the amount in the Fund to Federal, State and Local Government educational institutions, including primary and secondary schools, for any other matter ancillary thereto, but specifically for the following:-

- (a) works centers and phototype development;
- (b) staff development and conference attendance;
- (c) library system at the different levels of education.
- (d) research equipment procurement and maintenance;
- (e) Higher Education Book Development Fund;
- (f) redressing any imbalance in enrolment tax mix as between the higher educational institutions; and
- (g) execution of the 9 year compulsory education programme.

(2) in disbursing the tax as between the various levels of education-

- (a) the higher education section shall receive 50 per cent;
- (b) the primary education section shall receive 30 per cent; and
- (c) the secondary education section shall receive 20 per cent; of the total tax collected in any one year.

(3) The distribution of the tax accruing to the higher education section shall be in the ratio of 2:1:1 as between universities, polytechnics and colleges of education.

"(4) The Board of Trustees shall administer, manage and disburse the tax imposed by this Decree on the basis of –

- (a) equality among the six geopolitical zones of the Federation-
- (b) equality among the States within a zone;
- (c) equality among the Local Governments or Area Councils within a State or the Federal Capital Territory, Abuja respectively.

(5) Notwithstanding the provisions of subsections (1), (2), (3) and (4) of this section, the Board of Trustees shall have power to give due consideration to the peculiarities of each geopolitical zone in the disbursement and management of the tax imposed by this Decree between the various levels of education."

5A. There shall be for the Fund an Executive Secretary who shall –

- (a) be appointed by the Head of State, Commander-in-Chief of the Armed Forces on the recommendation of the Minister;

- (b) be a person with good knowledge in administrative matters;
 - (c) be the chief executive and accounting officer of the Fund;
 - (d) have such qualifications and experience as are appropriate for a person required to perform the functions of that Office under this Decree; and
 - (e) hold office for a period of 5 years in the first instance and may be eligible for reappointment for a further term of 5 years and no more and on such terms and conditions as to emolument, conditions of service as may be specified in his letter of appointment.
- (2) The Executive Secretary shall, subject to the general direction of the Board of Trustees, be responsible
- (a) for the day to day administration of the Fund;
 - (b) for keeping the books and proper records of the proceedings of the Board of Trustees;
 - (c) for –
 - (i) the administration of the secretariat of the Board of Trustees, and
 - (ii) the general direction and control of all other employees of the Fund.
- (3) The Board of Trustees shall have power to –
- (a) employ either directly or on transfer or secondment from any civil or public service in the Federation such number of employees as may, in the opinion of the Board of Trustees, be required to assist the Board of Trustees and the Executive Secretary in the discharge of any of their functions under this Decree, and;
 - (b) pay to persons so employed such remuneration (including allowances) as the Board of Trustees may, after consultation with appropriate bodies, determine.

5B. (1) Service in the Fund shall be approved service for purposes of the Pensions Act.

- (2) Employees of the Fund shall be entitled to pension, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the Federation.
- (3) Nothing in subsection (1) or (2) of this section or in this Decree shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.
- (4) For the purposes of the application of the provisions of the Pensions Act any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Board of Trustees other than any other person or authority.

6. (1) A person who contravenes or fails to comply with a provision of this Decree is guilty of an offence under this Decree.

- (2) Subject to the provisions of subsection (3) of this section-
 - (a) if a tax due under section 2 of this Decree is not paid within the time specified in that section, the Board shall serve on the company, a demand note for the unpaid tax plus a sum which is equal to five per cent of the tax; and
 - (b) if a sum demanded under paragraph (a) of this subsection is not paid within two months of the demand, the company is guilty of an offence under this Decree.
- (3) The Board shall, with the approval of the Board of Trustees, remit in whole or in part a sum added to the unpaid tax under subsection (2)(a) of this section."
- (4) Where an offence under this Decree is committed by a body corporate or firm or other association of individuals-
 - (a) every director, manager, secretary or other similar officer of the body corporate;

- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association; or
- (d) every person who was purporting to act in capacity as aforesaid is severally guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

7. (1) Except as otherwise provided in this Decree, a person who is guilty of an offence under this Decree shall on conviction be liable-

- (a) for a first offence, to a fine of N10,000 or imprisonment for a term of three years;
- (b) for a second and subsequent offence, to a fine of N20,000 or imprisonment for a term of five years or to both such fine and imprisonment.

(2) The institution of proceedings or imposition of a penalty under this Decree shall not relieve a company from liability to pay the Board which is or may become due under this Decree.

7A. (1) Subject to the provisions of this Decree, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Fund.

(2) Notwithstanding anything contained in any other law or enactment, no suit shall lie against any member of the Board of Trustees, the Executive Secretary or any other officer or employee of the Fund for any act done in pursuance or execution of this Decree or any other law or enactment, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Decree or such law or enactment, duty or authority, shall lie or be instituted in any court unless -

- (a) it is commenced within three months next after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

(3) No suit shall be commenced against a member of the Board of Trustees, the Executive Secretary, officer or employee of the Fund before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Fund by the intending plaintiff or his agent.

(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action.

the particulars of the claim, the name- and place of abode of the intending plaintiff and the relief which he claims.

7B. A notice, summons or other document required or authorised to be served upon the Fund under the provisions of this Decree or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the

7C. (1) In any action or suit against the Fund, no execution or attachment of process in the nature thereof shall be issued against the Fund.

(2) Any sum of money which may by the judgement of any court be awarded against the Fund shall, subject to any direction given by court where notice of appeal of the said judgement has been given, be paid from the general reserve fund of the Fund.

7D. A member of the Board of Trustees, the Executive Secretary, any officer or employee of the Fund shall be indemnified out of the assets of the Fund against any proceeding, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member of the Board of Trustees, the Executive Secretary, officer or employee of the Fund.

8. The Minister may, with the approval of the National Council of Ministers, make regulations generally for the purposes of this Decree and the due administration thereof.

9. (1) In this Decree, unless the context otherwise requires –

"Act" means the Companies Income Tax Act or the Petroleum Profits Tax Act, as the case may be;

"Board" means the Federal Board of Inland Revenue established under the Income Tax Management Act;

"Board of Trustees" means the Education Tax Board of Trustees established under section 4 of this Decree;

"Company" means a company registered in Nigeria;

"Fund" means the Fund established under section 3 of this Decree;

"Minister" means the Minister charged with responsibility for matters relating to education.

- (2) Where a provision is made in this Decree for a matter relating to the assessment and collection of the tax imposed by this Decree, the provisions of the Acts relating to the assessment and collection of companies income tax or petroleum profit tax, the case may be, shall apply mutatis mutandis to that matter.

10. This Decree may be cited as the Education Tax Decree 1993.

Supplementary Provisions Relating to the Board of Trustees

1. (1) Subject to this Decree and section 27 of the Interpretation Act, the Board of Trustees may make standing orders regulating its proceedings or those of any of its committees.
- (2) The quorum of the Board of Trustees shall be five members and the quorum of any committee of the Board of Trustees shall be determined by the Board of Trustees.
2. (1) The Board of Trustees shall meet not less than four times in each year and subject thereto, the Board of Trustees shall meet whenever it is summoned by the Chairman; and if the Chairman is required to do so by notice given to him by not less than three other members, he shall summon a meeting of the Board of Trustees to be held within fourteen days from the date on which the notice is given.
- (2) At any meeting of the Board of Trustees, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their number to preside at that meeting.
- (3) Where the Board of Trustees desires to obtain the advice of any person on a particular matter, the Board of Trustees may co-opt him to the Board of Trustees for such period as it thinks fit; but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board of Trustees and shall not count towards a quorum.
3. (1) The Board of Trustees may appoint one or more committees to carry out, on behalf of the Board of Trustees, such of its functions as the Board of Trustees may determine.
- (2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Board of Trustees) as may be determined by the Board of Trustees; and a person other than a member of the Board of Trustees shall hold office on the committee in accordance with the terms of his appointment.
- (3) A decision of a committee of the Board of Trustees shall be of no effect until it is confirmed, by the Board of Trustees.
4. (1) The fixing of the seal of the Fund shall be authenticated by the signature of the Chairman, the Executive Secretary or of any other person authorised generally or specially to act for that purpose by the Board of Trustees.
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Fund by the Chairman, Executive Secretary or any person generally or specially authorised to act for that purpose by the Board of Trustees.
- (3) Any document purporting to be a document duly executed under the seal of the Fund shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
5. The validity of any proceeding of the Board of Trustees or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Board of Trustees or committee, or by any defect in the appointment of a member of the Board of Trustees or of a committee, or by reason that a person not entitled to do so took part in the proceedings of the Board of Trustees or committee.