



BAYELSA STATE GOVERNMENT

Board of Internal Revenue Law

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BOARD OF INTERNAL REVENUE LAW

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CHAPTER B2

BOARD OF INTERNAL REVENUE LAW

A Law to establish the Bayelsa State Board of Internal Revenue, Bayelsa State Internal Revenue Service, Local Government Revenue Committee, and for other purposes connected therewith.

[R.S.L. 1993 No. 4.]

[Commencement: 29th September, 1993]

PART I

*Establishment of the Bayelsa State Board of Internal Revenue, Composition
Qualification of Members, etc.*

1. Establishment of the Bayelsa State Board of Internal Revenue

(1) There is hereby established within the Ministry of Finance, a Board to be known as the Bayelsa State Board of Internal Revenue (hereafter in this Law referred to as "the Board").

(2) The operational arm of the Board shall be known as the Bayelsa State Internal Revenue Service established by section 18 of this Law, and hereafter called "the Service".

(3) The Board shall be—

- (a) an extra-ministerial department of the Ministry of Finance;

- (b) the governing body of the Bayelsa State Internal Revenue Service established by section 18 of this Law; and
- (c) responsible directly to the Commissioner on policy and fiscal matters.

2. Composition of the Board

The Board shall consist of the following members—

- (a) the executive head of the State Service as Chairman, being a person experienced in taxation who shall be appointed by the Governor from within the State Service;
- (b) three persons nominated by the Commissioner on their personal merits;
- (c) the Directors and Heads of Departments within the State Service;
- (d) a Director from the State Ministry of Finance appointed by the Commissioner;
- (e) the Secretary, who shall be an *ex officio* member to the Board, shall be appointed by the Board from within the Service; and
- (f) a representative of the Ministry or arm of Government howsoever designed, responsible for Lands and Housing not below the rank of Assistant Director.

3. Other qualifications of members

(1) No person shall qualify to be a member of the Board who—

- (a) is not a citizen of Nigeria;
- (b) has been adjudged or otherwise declared—
 - (i) a bankrupt under any law in force in Nigeria and has not been discharged;
 - (ii) to be of unsound mind;
- (c) is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment for an offence involving dishonesty (by whatever name called) exceeding 6 months imposed on him by such a court or substituted by competent authority for any other sentence imposed on him by such a court;
- (d) within a period of less than 10 years before his appointment has been convicted and sentenced for an offence involving dishonesty or has been found guilty of a contravention of the Code of Conduct;
- (e) has been found by the report of a commissioner or tribunal of inquiry that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office or wilfully acted in a manner prejudicial to the interest of the State or the Federation and such findings have not been set aside on appeal or judicial review;
- (f) has had his property confiscated as the result of the findings of a commission or tribunal or committee of inquiry and such findings have not been set aside on appeal or judicial review; or
- (g) is otherwise disqualified by any law for the time being in force in Nigeria.

(2) Without prejudice to subsection (1) of this section, a member of the Board shall cease to be a member if, in the case of a person possessed of professional qualifications, he is disqualified, otherwise than at his own request, from practising his profession in Nigeria or in any other country by order of a competent authority made in respect of him personally.

4. Tenure of office of members *

(1) Any member appointed under section 2 (1) (c) of this Law, shall hold office for a period of five years from the date of his appointment and shall be eligible for re-appointment for one further period of five years; thereafter he shall no longer be eligible for re-appointment.

(2) Any member of the Board, not being a public officer, may resign his office by a letter addressed to the Commissioner, provided the Commissioner accepts his resignation.

(3) The Commissioner may, with the approval of the Governor, terminate the appointment of a member of the Board (not being an *ex officio* member) if he is satisfied that it is not in the interest of the Board that the member concerned should continue in office.

5. Emoluments of members of the Board

(1) There shall be paid to members of the Board not being members in the public service of the State, such subsistence, travelling and other allowances as the Commissioner may, with the approval of the Governor, determine.

(2) Public servants may, however, be paid such allowances as the Commissioner may with the approval of the Governor, determine in relation to them.

PART II

Responsibilities and Other Functions of the Board

6. Responsibilities of the Board

(1) The Board shall be responsible for—

- (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 as may be considered necessary and expedient for the assessment and collection of all taxes 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 policy, tax reform, 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; and
- (e) appointing, promoting, transferring and imposing discipline on employees of the Service.

(2) The Board shall be autonomous in the day-to-day running of the technical, professional and administrative affairs of the Service.

7. Functions of the Board

(1) Without prejudice to the general effect of section 6 of this Law, the functions of the Board shall be to—

- (a) administer the Personal Income Tax Act, 1993, the Finance Law, 1998, this Law and any tax or levy which shall be under the care and management of the Board;

[L.F.N. 2004 Cap. P8.]

- (b) formulate from time to time proposals for the expansion and increase of the internal sources of revenue of the State;
- (c) identify sources of revenue available in the State;
- (d) enlighten the public on the subject of taxation;
- (e) appropriately assess all sources of revenue and taxes in the State;
- (f) design an effective revenue collection machinery and implement it;
- (g) enforce all laws relating to taxation and revenue collection;
- (h) keep proper accounts and proper records in relation to all tax or revenue collections made by the Board;
- (i) monitor and co-ordinate the collection of taxes and revenue by all agencies of Government such as the Ministries, parastatals and companies; and
- (j) do all such things as it may consider necessary or expedient for the assessment and collection of taxes and revenue.

(2) All moneys and securities for money collected or received for or on account of taxes and other revenues imposed under the Personal Income Tax Act, 1993, the Finance Law, 1998 and other relevant legislation (including subsidiary legislation) shall be paid into the Consolidated Revenue Fund of the State.

[Act No. 104, 1993. L.F.N. 2004 Cap. P8.]

8. Power to take property as security, etc.

(1) When the Board considers it necessary with respect to any tax, levy or penalty due, the Board may take and acquire, hold and dispose of any property as security for or in satisfaction of any such tax, levy or penalty or of any judgement debt due in respect of the tax or penalty and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the Commissioner.

(2) The Board shall sue and be sued in its official name and subject to any provision under any subsidiary legislation or otherwise, the Board may authorise any person to sue, issue or accept service of any document to be sent or served upon or delivered to the Board.

(3) In the exercise of the powers and duties conferred upon it, the Board shall be subject to authority, direction and control of the Commissioner, and any direction, order or instruction given by him after consultation with the Executive Chairman of the Board, shall be carried out by the Board; but the Commissioner shall not give any direction, order or instruction in respect of any particular taxable person which would have the effect of requiring the Board to raise an additional assessment upon such person or to increase

or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to deter the collection of any tax, penalty or judgement debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or any offence relating to tax.

9. Meetings of the Board

(1) The Board shall ordinarily meet for the dispatch of business at such time and places as the Executive Chairman may from time to time appoint but shall meet at least once in every month.

(2) The Secretary shall summon a meeting of the State Board whenever the business requiring the attention of the Board so warrants or upon a written request of a member.

(3) At every meeting of the Board, the Executive Chairman shall preside and in his absence, the most senior of the full time Directors present shall preside at the meeting.

(4) Every question coming before the Board at any meeting shall be decided by a majority of the votes of members present and voting.

(5) Any five members of the State Board, of whom one shall be the Chairman or a Director, shall constitute a quorum.

(6) The Executive Chairman or other person presiding at any meeting of the Board, shall have an original as well as a casting vote.

(7) Notwithstanding that the Legal Adviser to the State Board is at any time a member of the State Board, he may appear for and represent the State Board in his professional capacity in any proceedings in which the State Board is a party; and the Legal Adviser shall not in such circumstances give evidence on behalf of the State Board.

(8) The Board may co-opt any legal practitioner or practising accountant knowledgeable in tax laws as an adviser to attend any meeting of the Board but a person so co-opted shall not have the right to vote on any matter coming before the Board for decision at that meeting.

10. Execution of contracts, documents, etc.

The use of the Seal of the Board shall be authenticated by two signatures, namely—

- (a) the signature of the Executive Chairman or that of the most senior of the Directors of the Internal Revenue Service; and
- (b) the signature of the Secretary, or, in the absence of the Secretary, the most senior of the Directors of the Internal Revenue Service.

11. Establishment of Technical Committee of the State Board

(1) There shall be a Technical Committee of the State Board (hereafter in this Law referred to as "the Technical Committee") which shall comprise—

- (a) the Chairman of the State Board as chairman;
- (b) the Directors within the Service;
- (c) the Legal Adviser to the Board; and
- (d) the Secretary to the Board.

(2) The Technical Committee shall—

- (a) have power to co-opt additional staff from within the Service in the discharge of its duties;
- (b) consider all matters that require professional and technical expertise and make recommendations to the State Board;
- (c) advise the State Board on all its powers and duties specifically mentioned in section 6 of this Law; and
- (d) attend to such other matters as may from time to time be referred to it by the Board.

12. Establishment of Local Government Revenue Committee

(1) There shall be established in each Local Government of the State a Committee to be known as the Local Government Revenue Committee (hereafter in this Law referred to as "the Revenue Committee").

(2) The governing body of the Revenue Committee shall comprise—

- (a) the Supervisor for Finance as chairman;
- (b) three Local Government Councillors as members; and
- (c) two other members experienced in revenue matters to be nominated by the Chairman of the Local Government on their personal merits.

13. Functions of the Revenue Committee

(1) The Revenue Committee shall be responsible for the assessment and collection 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.

(2) The Revenue Committee shall be autonomous of the Local Government Treasury and shall be responsible for the day-to-day administration of the Department, which forms its operational arm.

14. Power to call for information

The Board may, pursuant to sections 15, 17 and 18 of the Finance Law, 1998 (which empowers an Assessment Authority to call for information) by notice in writing require any person at the place and within the time specified in the notice—

- (a) to prepare and deliver any statement specified in the notice;
- (b) to attend personally before the Board or a member thereof for examination in respect of any matter relating to the income of that person or his employees or his personal circumstances;
- (c) to produce or cause to be produced for examination any document, book, account or record relating to the income of the person's personal circumstances which the Board considers necessary; and

every person so required shall comply with the Board's request.

15. Disclosure and procurement of information

(1) Where the Board is in possession of any information, document or record relating to any person which, in the interest of the public revenue of the State, should be disclosed or transferred to any other tax authority, such information, document or record shall be so disclosed or transferred notwithstanding any provisions as to secrecy contained in any enactment.

(2) A member of the Board and any person employed in the offices of the Board shall not disclose any information respecting the income, tax or personal circumstances of any person which has come into his possession in the course of his duties except—

- (a) as may be expedient in any legal proceedings arising from this Law or the Finance Law, 1998;
- (b) to a tax authority; or
- (c) in accordance with the provisions of an arrangement with respect to taxes made in any other State; and

such information disclosed to a tax authority shall thereafter be subject to the provisions of subsection (1) of this section and to any secrecy provisions in the Finance Law, 1998.

(3) Subject to subsections (1) and (2) of this section and without prejudice to section 14 of this Law, for the purpose of obtaining information in respect of the income or personal circumstances of any person, the Board may give notice to that person in writing to deliver the information specified therein and within the time limited by the notice; but a person engaged in banking in Nigeria shall not be required to disclose any information concerning the customers of the bank other than in respect of interest paid or credited by the bank to those customers which in the case of any one person exceeds thirty naira in a period of twelve months.

16. Board may make inquiry

Notwithstanding anything contained in the Finance Law, 1998 or any other law, the Board may, on its own motion, make such inquiry or cause such inquiry to be made relating to the income or personal circumstances of any person as it may consider necessary and order such payment of tax as the circumstances of the matter may require.

17. Relationship with other authorities

(1) In the discharge of its functions under this Law, the Board shall, subject to this Law, so far as practicable, co-operate fully with all Government Departments, authorities or agencies, particularly the Joint Tax Board, firms, companies and other bodies.

(2) All the bodies referred to in subsection (1) of this section shall also co-operate with the Board.

PART III*The Board and the Management and Staff of the Internal Revenue Service***18. Establishment of Internal Revenue Service and functionaries**

(1) There is hereby established the Bayelsa State Internal Revenue Service which shall be the operational arm of the Board.

(2) The Executive Chairman of the Board shall be the Chief Executive of the Service and shall, subject to the general control of the Commissioner on matters of policy, be charged with the directing and day-to-day administration of the Internal Revenue Service.

(3) Where the Executive Chairman as Chief Executive of the Internal Revenue Service is incapable of performing his functions, the Board may authorise the most senior of the Directors of the Board of Internal Revenue Service to perform those functions for the duration of the incapacity.

(4) Subject to subsection (2) of this section, the Executive Chairman may delegate to any employee of the Service his functions under this Law and may impose in respect of the exercise of such delegated functions, such conditions as he may think fit; but nothing in this subsection shall be construed as absolving the Executive Chairman as Chief Executive of the Service from ultimate responsibility for any act done by any person in the performance of such delegated function.

19. Appointment of Directors of Divisions

The Board shall appoint suitable persons as Directors or Heads of the following departments of the Internal Revenue Service—

- (a) Assessment;
- (b) Collection;
- (c) Inspectorate, Planning and Research;
- (d) Finance and Administration.

20. The Secretary

The Secretary of the Board of Internal Revenue shall also be the Secretary of the Board in its role as the governing board of the Internal Revenue Service.

21. Chairman to be accounting officer

The Executive Chairman, as the Chief Executive, shall be the accounting officer of the Internal Revenue Service and shall observe all applicable laws and regulations governing receipt and disbursements of public funds and other assets entrusted to his care and shall be liable for any breach thereof.

22. Internal Audit Unit and Internal Auditor

(1) The Board shall establish and maintain an Internal Audit Unit to be headed by an Internal Auditor.

(2) Accordingly, the Board shall appoint a person knowledgeable in accounting with at least five years relevant experience to be the Internal Auditor of the Internal Revenue Service.

23. Duties of the Internal Audit Unit and Internal Auditor

(1) The Internal Audit Unit shall provide a complete and continuous audit of the accounts and records of revenue, expenditure, plants, allocated stores and unallocated stores.

(2) Notwithstanding the existence of an internal Audit Unit in the Board, the accounting officer's responsibilities subsist.

(3) The Internal Auditor shall be directly responsible to the Executive Chairman of the Board.

(4) The Internal Auditor shall—

- (a) submit to the Executive Chairman of the Board, the Commissioner and the Auditor-General of the State a detailed audit programme, and thereafter report monthly to the Executive Chairman of the Board, the Commissioner, as well as the Auditor-General of the State, on the progress of the Audit Unit;
- (b) issue special reports, if necessary, where in his opinion, the attention of the Commissioner shall be drawn to any irregularity or apparent departure from earlier internal audit reports or recommendations or from the Auditor-General's reports or recommendations; and
- (c) where a system of verification does not exist, assume the control of the stock verification staff and direct their programme of inspection.

24. Staff of the Board

(1) The Board may also engage the services of such consultants and advisers as the Board may, upon the recommendation of the Chairman, determine.

(2) The employees, consultants and advisers appointed by the Board shall enjoy such terms and conditions of service as the Board may, on the recommendations of the Chairman and approved by the Commissioner, determine.

(3) Public officers may be transferred or seconded to the Internal Revenue Service or may otherwise give assistance thereto.

25. Staff of Internal Revenue Department

The existing staff of the Internal Revenue Department of the Ministry of Finance shall automatically become staff of the Internal Revenue Service.

PART IV*Financial Provisions***26. Accounts and audit**

(1) The Internal Revenue Service shall keep proper accounts and proper records in relations thereto and the account books and records of the Internal Revenue Service shall be in such form as Auditor-General of the State may approve.

(2) The books and accounts of the Internal Revenue Service shall, within three months after the end of each financial year, be audited by the Auditor-General of the State.

PART V*General Provisions***27. Directions by Governor and Commissioner**

The Governor and the Commissioner may after consultation with the Board, give to the Board in writing directions of general or specific character not being inconsistent with this Law or other legal obligations of the Board relating to the exercise by the Board of its functions under this Law and the Board shall give effect to such directions.

27A. Power of the Commissioner before Constitution of the Board

The Commissioner, after consultation with the Governor, may, before the constitution of the Board, enter into agreement with any body corporate or unincorporated for the purpose of carrying out any of the responsibilities and functions of the Board under sections 6 and 7, respectively, of this Law.

28. Annual report

(1) The Board shall as soon as possible after the end of each financial year, but within six months after the end of that year, submit to the Commissioner an annual report dealing generally with the operations of the Board and the Internal Revenue Service within that year, which shall, without prejudice to the generality of the foregoing, include—

- (a) a copy of the audited accounts of the Internal Revenue Service together with the Auditor-General's report thereon;
- (b) a statement of all directions given to the Board under section 27 of this Law;
- (c) each report submitted by the Internal Auditor under section 23 of this Law; and
- (d) such other information as the Commissioner may request.

(2) A copy of the annual report shall be sent to the Commissioner who shall, as soon as practicable, lay it before the State Executive Council.

29. Regulations

The Board may, with the approval of the Commissioner, make such regulations as it may consider fit for the purpose of giving full effect to the provisions of this Law.

30. Consequential repeals and modifications

(1) The Finance Law, 1998 shall be read with such modifications as to bring it in conformity with this Law.

(2) The Revenue Collection Authority Law, 1984 is hereby repealed.

(3) The staff of the Revenue Collection Authority may be transferred to the Service or other Ministries where their services may be needed.

(4) Without prejudice to subsection (3) of this section, all the assets and liabilities of the Revenue Collection Authority established by the Revenue Collection Authority Law 1984 shall at the commencement of this Law, vest in the Board without any further assurance other than this section.

(5) The Board may continue all pending suits by and against the Revenue Collection Authority.

31. Interpretation

In this Law, except where the context otherwise requires—

“Commissioner” means the member of the Executive Council of Bayelsa State of Nigeria charged with responsibility for Finance;

"person" includes an individual, a company or association or body of persons corporate or unincorporated.

32. Short title

This Law may be cited as the Board of Internal Revenue Law.

CHAPTER B2

BOARD OF INTERNAL REVENUE LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
