



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 4th October, 2006

1. The Senate met at 10:45 a.m. The Senate President read Prayers.

1. Votes and Proceedings:

The Senate President announced that he had examined the Votes and Proceedings of Tuesday, 3rd October, 2006 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.

3. Announcements:

- (i) The Senate President announced that the Chairman, Independent National Electoral Commission (INEC) would not be able to brief the Senate as scheduled having travelled to Maiduguri on official assignment. He would however brief the Senate on Tuesday, 10th October, 2006 by 12:00 noon.

- (ii) The Senate President announced that the under-listed Senators have been invited by the President, Commander-in-Chief of the Federal Republic of Nigeria for the breaking of Ramadan fast at the Presidential Villa by 6:00 p.m:

(1)	Senator Ken Nnamam	—	President of the Senate
(2)	Senator Nasiru I. Mantu	—	Deputy Senate President
(3)	Senator Dalhatu S. Tafida	—	Senate Majority Leader
(4)	Senator Abiola Ajimobi		Member
(5)	Senator Baba Tela	—	Member
(6)	Senator Umaru I. Tsauri	— *	Member
(7)	Senator Usman S. Sami	—	Member
(8)	Senator Usman K. Umar	—	Member
(9)	Senator Muslim Obanikoro	—	Member
(10)	Senator Abubakar D. Sodangi	—	Member
(ID	Senator Idris I. Kuta	—	Member

(12)	Senator Clement K. Awoyelu	—	Member
(13)	Senator Daniel I. Saror	—	Member
(14)	Senator Patrick E. Osakwe	—	Member
(15)	Senator Mohammed A. Aji	—	Member
(16)	Senator Udoma U. Udoma	—	Member
(17)	Senator Omar A. Hambagda	—	Member
(18)	Senator Mamman B. All	—	Member
(19)	Senator Effiong D. Bob	—	Member

(iii) *Ad-Hoc Committee on Petroleum Technology Development Fund (PTDF):*

The Senate President further announced that Senator David Brigidi had been replaced by Senator Rufus I. Spiff on the membership of the Ad-hoc Committee on Petroleum Technology Development Fund (PTDF) and Other Related Matters.

4. Motion:

The Tragic Flood in Zamfara State:

Motion made and Question Proposed: That whereas on Friday, the 29th day of September, 2006 a tragic incident happened which seriously affected Zamfara State. On the night of the said day, there was a Torrential rain in most parts of the North-Western States of Nigeria. The down-pour lasted almost twenty-three hours. As a result, rivers and streams were flooded, destroying crops, houses and household properties. The embankments of the Gusau River barrage in Zamfara State were broken by the flood, destroying about 1500 houses in Gusau, and in the process killing about forty people.

WHEREAS the washed-away barrage is the main source of portable drinking water in Gusau. The tragic event of September 29 has created an acute shortage of drinking water, so much so, that Government and Private Water tankers have to travel a distance of 130 kilometres to Funtua, in Katsina State to fetch drinkable water for the use of Gusau residents.

WHEREAS the fear now is that, barring the supply of fresh drinking water, the residents may resort to the use of any available water with the consequent possibility of the out-break of water borne diseases.

WHEREAS hundreds of thousands of people, settlements and towns have been cut-off from the State capital. The movement of food items from the Southern part of Gusau to the State capital is now impossible. Also the movement of essential commodities, especially petroleum products, from Gusau to the Southern communities has ground to a halt.

WHEREAS as an interim remedial measure, the displaced victims of the flood are being camped in primary and secondary schools in Gusau, while the Zamfara State Government has engaged a competent contractor to immediately effect repairs to the damaged barrage. Furthermore, a Committee has been set up to ascertain and compile the list of victims, including those who lost their lives, with a view to rendering sundry assistance. Already, some food items have been supplied by the State Government at a stop-gap measure.

Be it resolved that: *

The Senate do:

- (i) sympathise with the victims of the flood, the Government and people of Zamfara State, and condole the families of the deceased;
- (ii) direct its Committee on Special Duties to visit the sites and victims of the flood disaster, and the Governor of Zamfara State and commiserate with him;
- (iii) request the President, Commander-in-Chief to direct the National Emergency Management Agency, (NEMA) to, as a matter of urgency, assist the victims of the flood with food, household items and building materials to help in the reconstruction or repair of their washed-away houses.

- fry) request the President, Commander-in-Chief to direct the Ministry of Health and Social Services to send experts in water diseases to Gusau to assist the medical personnel of Zamfara State in taking preventive measures against the outbreak of water-borne diseases;
- (v) request the President, Commander-in-Chief to direct the Federal Ministry of Water Resources to urgently drill some water bore-holes to alleviate the acute shortage of drinking water in Gusau and its environs; and
- (vi) request the President, Commander-in-Chief to direct the Federal Ministry of Environment to send Environmental and Ecological experts to Zamfara State to advise the State government in taking measures to prevent any future occurrence of such disasters (*Senator Saidu M. Dansadau*).

Debate:

Prayer (i):

Question: That the Senate do sympathise with the victims of the flood, the Government and people of Zamfara State, and condole the families of the deceased — *Agreed to.*

Prayer (ii):

Question: That the Senate do direct its Committee on Special Duties to visit the sites and victims of the flood disaster, and the Governor of Zamfara State and commiserate with him — *Agreed to.*

Prayer (Hi):

Question: That the Senate do request the President, Commander-in-Chief to direct the National Emergency Management Agency, (NEMA) to, as a matter of urgency, assist the victims of the flood with food, household items and building materials to help in the reconstruction or repair of their washed-away houses — *Agreed to.*

Prayer (iv):

Question: That the Senate do request the President, Commander-in-Chief to direct the Ministry of Health and Social Services to send experts in water diseases to Gusau to assist the medical personnel of Zamfara State in taking preventive measures against the outbreak of water-borne diseases — *Agreed to.*

Prayer (v):

Question: That the Senate do request the President, Commander-in-Chief to direct the Federal Ministry of Water Resources to urgently drill some water bore-holes to alleviate the acute shortage of drinking water in Gusau and its environs — *Agreed to.*

Prayer (vi):

Question: That the Senate do request the President, Commander-in-Chief to direct the Federal Ministry of Environment to send Environmental and Ecological experts to Zamfara State to advise the State Government in taking measures to prevent any future occurrence of such disasters — *Agreed to.*

Resolved:

- (i) That the Senate do sympathise with the victims of the flood, the Government and people of Zamfara State, and condole the families of the deceased.
- (ii) That the Senate do direct its Committee on Special Duties to visit the sites and victims of the flood disaster, and the Governor of Zamfara State and commiserate with him.
- (in) That the Senate do request the President, Commander-in-Chief to direct the National Emergency Management Agency, (NEMA) to, as a matter of urgency, assist the victims of the flood with food, household items and building materials to help in the reconstruction or repair of their washed-away houses.
- (iv) That the Senate do request the President, Commander-in -Chief to direct the Ministry of Health and Social Services to send experts in water diseases to Gusau to assist the medical personnel of Zamfara State in taking preventive measures against the outbreak of water-borne diseases.
- (v) That the Senate do request the President, Commander-in-Chief to direct the Federal Ministry of Water Resources to urgently drill some water bore-holes to alleviate the acute shortage of drinking water in Gusau and its environs.

(vi) That the Senate do request the President, Commander-in-Chief to direct the Federal Ministry of Environment to send Environmental and Ecological experts to Zamfara State to advise the State Government in taking measures to prevent any future occurrence of such disasters (S.Res/066/06).

5. Auditor-General for the Federation (Additional Powers and Functions) Bill 2006 (SB.266):

Consideration of Bill stood down till next legislative day.

6. Auditor-General for the Federation (Additional Powers and Functions) **Bill** 2006 (SB .266) (Provision for Audit Service Commission):

Consideration of Bill stood down till a later date.

7. Committee on Finance:

Report on the Company Income Tax Act (Amendment) Bill 2006 (SB. 178):

Motion made and Question Proposed: That the Senate do receive and consider the Report of the Committee on Finance on the Company Income Tax Act (Amendment) Bill 2006 (*Senator Effiong D Bob*).

Question put and agreed to.

Report Presented and Laid.

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

A BILL FOR AN ACT TO AMEND THE COMPANIES INCOME TAX ACT AND FOR MATTERS CONNECTED THEREWITH

Clause 1: Amendment of Cap 60 LFN:
The Companies Income Tax (in this Act referred to as "the Principal Act") is hereby amended as set out in this Act.

Committee's Recommendation:

That the provisions in Clause 1 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2: Amendment of Section 11:

Section 11 of the principal Act is amended -

(a) by deleting subsections (1) to (5) and renumbering the existing subsections (6) to (10) as subsections (1) to (5) respectively;

(b) in paragraph (c) of subsection (7) thereof by substituting therefore the following new paragraph, that is -

*

"(c) providing working capital for any cottage industry established by the company;" and

(c) by inserting immediately after the existing interpretation of the words "base lending rate" the following interpretation, that is -

"cottage industry" means an industry where the creation of products and services is home-based, rather than factory-based."

Committee's Recommendation:

That the provisions in Clause 2 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 2 do stand part of the Bill, put and agreed to.

Clause 3: Amendment of Section 16:

Section 16 of the Principal Act is amended by substituting therefore the following new section, that is -

- 16(1) Notwithstanding anything to the contrary contained in this Act, insurance business shall be taxed as-
- (1) (a) in an insurance company, whether proprietary or mutual, other than a life insurance company; or
 - (b) a Nigerian company which carries on business through a permanent establishment in Nigeria and whose profit accrued in part outside Nigeria, the profit on which tax may be imposed, shall be ascertained by taking the gross premiums and interest and other incomes receivable in Nigeria less reinsurance, and deducting from the balance so arrived at, a reserve for unexpired risks at the percentage consistently adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, subject to the limitation imposed in subsection (8)(a) of this section.
- (2) The profits on which tax may be imposed in an insurance company which is a life insurance company, whether proprietary or mutual, other than a Nigerian company which carries on business through a permanent establishment in Nigeria shall -
- (a) be the investment income less the management expenses, including commission, subject to the limitation imposed in subsection (8) (b) of this section; and
 - (b) where the profits of the company accrue in part outside Nigeria, be that proportion of the total investment income of the company as the premium earned whether received or receivable, less the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company but where the insurance company has its head office outside Nigeria the Board may substitute some basis other than that prescribed in this paragraph for ascertaining the required proportion or the total investment income.
- (3) Any amount distributed in any form as dividend from an actuarial revaluation of unexpired risks or from any other revaluation shall be deemed to be part of the total profits of the company for tax purposes.
- (4) Not more than three months after an actuarial revaluation of the unexpired risks or any other revaluation has taken place, the Company shall provide the Board with full particulars of the revaluation carried out, including a copy of the actuary's revaluation certificate.
- (5) The profits on which tax may be imposed-
- (a) in a general Nigerian insurance company, shall be ascertained in accordance with the provisions of subsection (1) of this section as though the whole premium and investment incomes of the company were derived from Nigeria; and
 - (b) in a Nigerian life insurance company shall be ascertained in accordance with the provisions of subsections (2),(3) and (4) of this section as though the whole investment and other incomes were received in Nigeria and all the expenses and other outgoings of the company were incurred in Nigeria.

- (6) Where an insurance company carries on a life class and a general class insurance business, the funds and books of accounts of one class shall be kept separate from the other as though one class does not relate to the other class, and the annual tax returns of the two classes of insurance businesses shall be made separately.
- (7) Each class of insurance shall be assessed separately as "life insurance assessment" and "non-life (other) insurance assessment" and in respect of each class of insurance business where there are more than one type of insurance in the same class, they form one type of business and shall not be allowed against the income from another type of insurance business but the loss shall be available to be carried forward against profits from the same class of insurance business and, in all cases, the period of carrying forward of a loss shall be limited to four years of assessment.
- (8) An insurance company, other than a life insurance company, shall be allowed as deductions from its premium the following reserves for tax purposes -
 - (a) for unexpired risks, 45 per cent of the total premium in case of general insurance business other than marine insurance business and 25 per cent of the total premium in the case of marine cargo insurance;
 - (b) for other reserves, claims and outgoings of the company an amount equal to 25 per cent of the total premium, so however that, after allowance under the Second Schedule to this Act as may be restricted, has been allowed for in any year of assessment, not less than an amount equal to 15 per cent of the total profit of the company for tax purposes.
- (9) An insurance company, in respect of its life insurance business shall be allowed the following deductions from its investment incomes and other incomes-
 - (a) an amount which makes a general reserve and fund equal to the net liabilities on policies in force at the time of an actuarial valuation;
 - (b) an amount which is equal to 1 per cent of gross premium or 10 per cent of profits (whichever is greater) to a special reserve fund and accommodation until it becomes the amount of the statutory minimum paid-up capital;
 - (c) all normal allowable business outgoing, except that after allowing for all the outgoing and allowance under the Second Schedule to this Act as may be restricted under the provisions of this Act for any year of assessment, not less than all amount equal to 20 per cent of the gross incomes shall be available as 'total profit' of the company for tax purposes.
- (10) A reinsurance company shall be allowed the following deductions from its gross profit to be credited to a general reserve fund -
 - (a) an amount not more than 50 per cent of the gross profits of the reinsurer for the year where the general reserve fund is less than the initial statutory minimum authorised share capital; or
 - (b) an amount not more than 25 per cent of the gross profit of the reinsurer for the year, where the fund is equal to or exceeds the initial statutory minimum authorised share capital.
- (11) An insurance company that engages the services of an insurance agent, a loss adjuster and an insurance broker shall include in its annual tax returns, a schedule showing the name and address of that agent, loss adjuster and insurance broker, the date their services were employed and terminated, as applicable, and payments made to each such agent, loss adjuster and insurance broker for the period covered by the tax returns.

Committee's Recommendation:

That the provisions in Clause 3 be retained (*Senator Effiong D. Bob*).

Amendments Proposed:

- (i) Leave out the word "in" in Subclause 16(1)(a)
- (ii) Leave out the letter "b" in Subclause 16(1)(b) (*Senator S. Zwingina*).

Question that the amendment be made put and agreed to.

Question that Clause 3 as amended do stand part of the Bill, put and agreed to.

Clause 4:

Amendment to Section 23:

Section 23 of the principal Act is amended in subsection (1) thereof by inserting immediately after the existing paragraph (r) the following new paragraph (s), that is -

"(s) the profit of a company established within an Export Processing Zone or Free Trade Zone:

Provided that 100 per cent production of such company is for export otherwise tax shall accrue proportionately on the profits of the company".

Committee's Recommendation:

That the provisions in Clause 4 be retained (*Senator Effiong D. Bob*) ~ *Agreed to.*

Question that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5:

Amendment to Section 24:

Section 24 of the principal Act is amended by deleting -

(a) paragraph (c); and (b) from paragraph (d) the phrase "of Employment, Labour and Productivity, and the Productivity, Prices and Income Board" and substituting therefore with the phrase "responsible for labour matters."

Committee's Recommendation:

That the provisions in Clause 5 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6:

Insertion of Section 25A:

There shall be inserted immediately after section 25 of the principal Act, the following new section 25A, that is-

25A. (1) Notwithstanding the provision of section 24 of this Act, for the purpose of ascertaining the profit or loss of any company for the period from any source chargeable with tax under this Act, there shall be deducted the amount of donation to a university and other tertiary or research institutions for research or any developmental purpose or as an endowment out of the profits of the period by the company.

(2) Without prejudice to section 25(2) and (3) of this Act, any donation made by a company pursuant to subsection 1 of this section, shall be allowed as deductible by the company out of the profits of that period notwithstanding that the donation is of a revenue or capital nature.

(3) Except as the Minister with the approval of the Federal Executive Council may, by order in the Federal Gazette otherwise direct, any deduction to be allowed to any company under subsection (1) of this section shall not exceed an amount which is equal to 15 per cent of the total profits or 25 per cent of the tax payable in the year of the

Committee's Recommendation:

That the provisions in Clause 6 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 6 do stand part of the Bill, put and agreed to.

Clause 7:

Amendment of Section 31:

Section 31 of the principal Act is amended by deleting subsection (2)(a) (iii) therein.

Committee's Recommendation:

That the provisions in Clause 7 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

Clause 8:

Amendment of Section 34:

Section 34 of the principal Act is hereby amended -

(a) in subsection (1) by substituting for the words "as electricity, water, tarred road or telephone" the words "as electricity, water or tarred road"; and

(b) in subsection (2) by deleting paragraph (e) thereof .

Committee's Recommendation:

That the provisions in Clause 8 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 8 do stand part of the Bill, put and agreed to.

Clause 9:

Amendment of Section 38:

Section 38 of the Principal Act is hereby deleted.

Committee's Recommendation:

Leave out the provisions in Clause 9 (*Senator Effiong D. Bob*) — *Agreed to.*

Clause 10:

Amendment of Section 40:

Section 40 of the Principal Act is amended -

(a) in paragraph (a) of subsection(4) thereof by substituting for the amount "N500" the amount "N20,000";

(b) in paragraph (b) of subsection (4) thereof by substituting for the amount "N400" the amount "N25,000";and

(c) by deleting subsection (5) and re-numbering the existing subsections (6) to (12) as subsections {5) to (11) respectively.

Committee's Recommendation:

That the provisions in Clause 10 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Clause 11:

Question that Clause 10 do stand part of the Bill, put and agreed to.

Amendment of Section 41:

Section 41 of the Principal Act is hereby deleted.

Committee's Recommendation:

That the provisions in Clause 11 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Clause 12

Question that Clause 11 do stand part of the Bill, put and agreed to.

Amendment of Section 55:

Section 55 of the principal Act is amended by substituting thereof the following new section, that is -55.- (1) Every company including a company granted exemption from incorporation shall, whether or not a company is liable to pay tax under this Act for a year of assessment, with or without notice from the Service, file a

- (a) the audited accounts, tax and capital allowances computation for the year of assessment and a true and correct statement in writing containing the amount of profit from each and every source computed thereof;
 - (b) a duly completed self-assessment form as may be prescribed by the Service, from time to time, attested to by a director or secretary of the company and such attestation shall contain a declaration that It contains a true and correct statement of the amount of its profits computed in respect of all sources in accordance with this Act and any rules made thereunder and that the particulars given in such returns are true and complete; and
 - (c) evidence of payment of the whole or part of the tax due into a bank designated for the collection of the tax.
- (2) Subject to this Act or any regulations made thereunder, the time of filing returns shall be-
 - (a) in the case of a company that has been in business for more than 18 months, not more than 6 months after the end of the accounting year and;
 - (b) in the case of a newly incorporated company within 18 months from the date of its incorporation or not later than 6 months after the end of its accounting period, whichever is earlier, in addition, the form of returns shall be signed by a director, who must be the chairman or the managing director of the company and the secretary respectively.
- (3) Any company which fails to comply with, the provision of subsection (2) of this section shall be liable to pay as penalty for late filing as follows -
 - (a) N25,000 in the first month in which the failure occurs; and
 - (b) N5,000 for each subsequent month in which the failure continues.
- (4) Notwithstanding anything to the contrary in any law, an income tax assessment shall be made in the currency in which the transaction took place.
- (5) Where an offence under this section by a company is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, any director, manager, secretary or other similar officer, servant or agent of the company (or the person purporting to act in any such capacity) he as well as the company shall be deemed to have committed the offence and shall on conviction be liable to a fine of N 100,000 or imprisonment for a term of 2 years or to both such fine and imprisonment.
- (6) For the purposes of this section-
 - fa) every company shall designate a representative who shall answer every query relating to the tax matters of the company; and
 - (b) a person designated by a company pursuant to paragraph (a) of **this** subsection shall be a person knowledgeable in the field of taxation as may be approved, from time to time, by the Service."

Committee's Recommendation:

That the provisions in Clause 12 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 12 do stand part of the Bill, put and agreed to.

- Clause 13: Bonus for early filing of self-assessment return:
13. Section 56 of the Principal Act is hereby deleted.

Committee's Recommendation:

Leave out the provisions in Section 56 (*Senator Effiong D. Bob*) — *Agreed to.*

- Clause 14: Amendment of Section 58:
Section 57 of the Principal Act is amended in subsection (1) thereof by inserting immediately after the word "exchange" the words "as a capital market operator"

Committee's Recommendation:

That the provisions in Clause 14 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 14 do stand part of the Bill, put and agreed to.

- Clause 15: Amendment of Section 58:
Section 58 of the Principal Act is amended by substituting for the word "limited" the word "specified"

Committee's Recommendation:

That the provisions in Clause 15 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 15 do stand part of the Bill, put and agreed to.

- Clause 16: Amendment of Section 60:
Section 60 of the Principal Act is amended by substituting for the existing section, the following new section, that is-

Call for returns, books, documents and information

60. (1) For the purpose of obtaining full information in respect of the profits of any person the Service shall give notice to that person requiring him, within the time specified by the notice to -
- (a) complete and deliver to the Service any return specified in such notice;
 - (b) appear personally before an officer of the Service for examination with respect to any matter relating to such profits;
 - (c) produce or cause to be produced for examination books, documents and any other information at the place and time stated in the notice, which time may be from day-to-day, for such period as the Service may deem necessary; or
 - (d) give orally or in writing any other information including a name and address specified in such notice.
- (2) For the purposes of paragraphs (a) to (d) of subsection (1) of this section, the time specified by such notice shall not be less than 7 days from the date of service of such notice except that an officer of the Service not below the rank of a chief inspector of taxes or its equivalent may act in any of the cases stipulated in paragraphs (a) to (d) of subsection (1) of this section, without giving any of the required notices set out in this section.
- (3) Any person who contravenes the provisions of this section commits an offence and shall, in respect of each offence, be liable on conviction to a fine equivalent to 100 per cent of the amount of the tax liability-

- (4) Nothing in the foregoing provision of this section or in any other provision of this Act shall be construed as precluding the Service from verifying by tax audit or investigation into any matter relating to any returns or entries in any book, document, accounts, including those stored on a computer, or in digital or magnetic or optical or electronic media as may, from time to time, be specified in **any** guideline by the Service.
- (5) Any person may apply in writing to the Service for an extension of time within which to comply with the provisions of this section and section 12 of this Act, in so far as the person -
 - (a) makes the application before the expiration of the time stipulated in this section for making the returns, and
 - (b) shows good cause for his inability to comply with this provision.
- (6) If the Service is satisfied with the cause shown in the application under paragraph (b) of this subsection, it may in writing grant the extension of the time or limit the time as it may consider appropriate."

Committee's Recommendation:

That the provisions in Clause 16 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 16 do stand part of the Bill, put and agreed to.

Clause 17:

Amendment of Section 61:

Section 61 of the Principal Act is amended by substituting thereof the following new section, that is -

Information to be delivered by bankers

61. (1) Without prejudice to section 60 of this Act, every person engaged in banking shall prepare a quarterly return specifying all transactions involving the sum of N1,000,000 and above and the names and addresses of all customers of the bank connected with the transaction and deliver the return to the Service.

- (2) Subject to the foregoing provisions of this section, for the purpose of obtaining information relative to taxation, the Service may give notice to any person including a person engaged in banking business in Nigeria to provide **within** the time stipulated in the notice, information including the name and address of any person specified in the notice:

Provided that a person engaged in banking business in Nigeria, shall not be required to disclose any additional information about his customer or his bank under this section unless such additional disclosure is required by a notice signed by the Executive Chairman of the Service on the advice of the Technical Committee of the Board.

- (3) Any person who, having been engaged in banking in Nigeria, contravenes the provision of this section, commits an offence and shall, in respect of each contravention, be liable on conviction to a fine of N500.000 in the case of a body corporate, and in the case of an individual a fine of N50.000 or imprisonment for a term of one year or to both such fine and imprisonment."

Committee's Recommendation;

Leave out the provisions in Clause 17 (*Senator Effiong D. Bob*) — *Agreed to.*

- Clause 18: Amendment of Section 81:
 Section 81 of the principal Act is amended -
- (a) in subsection (5) thereof by deleting the words "but only to the extent that the total of such deductions does not exceed the amount of the assessment and provided the assessment is for the period to which such payments relate under the provisions of section 29 of this act";
 - (b) in subsection (7) thereof by inserting the following new subsection (7), that is -
 "(7) Any excess-payment arising from compliance with sections 78, 79, 80 and 81 of this Act over the assessment under section 29 of this Act shall be refunded by the Service within a reasonable time of the assessment if duly filed with the option to set-off against future taxes.¹; and
 - (c) by renumbering the existing subsection (7) as subsection (8).

Committee's Recommendation:

Leave out the words "within a reasonable time" and insert the words "90 days" instead thereof (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 18 do stand part of the Bill, put and agreed to.

- Clause 19: Amendment of Section 82:
 Section 82 of the Principal Act is amended by -
- (a) substituting for the words "thirty days" the words "twenty-one days; and
 - (b) substituting for the words "liable on conviction to a fine of 200 per cent" the words "liable to a penalty of 10 per cent per annum".

Committee's Recommendation:

That the provisions in Clause 19 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 19 do stand part of the Bill, put and agreed to.

- Clause 20: Amendment to Section 86:
 Section 86 of the principal Act is hereby amended by substituting for the existing section, the following new section, that is -
86. (1) Without prejudice to any other power conferred on the Service for the enforcement of payment of tax due from a company that has been properly served with an assessment which has become final and conclusive and a demand notice has been served upon the company in accordance with the provisions of this Part of this Act, or has been served on the company or upon the person in whose name the company is chargeable, then, if payment of tax is not made within the time specified by the demand notice, the Service may in the prescribed form, for the purpose of enforcing payment of the tax due-
 (a) distrain the taxpayer by his goods, other chattels, bond or other securities;
- (b) distrain upon any land, premises or places in respect of which the taxpayer is the owner and, subject to the provisions of this section, recover the amount of tax due by sale of anything so distrained.
- (2) The authority to distrain under this section shall be in the form contained in the Fourth Schedule to the Federal Inland Revenue Service Act, and such authority shall be sufficient warrant and authority to levy by distress the amount of tax due.

- (3) For the purpose of levying any distress under this section, an officer duly authorised by the Executive Chairman may apply to a Judge of the Federal High Court under oath for the issue of a warrant under this section.
- (4) The Judge of the Federal High Court may on application made ex-parte authorise such officer, referred to in subsection (3) of this section, in writing to execute any warrant of distress and, if necessary, break open any building or place in the daytime for the purpose of levying such distress and he may call to his assistance any police officer and it shall be the duty of any police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.
- (5) The distress taken pursuant to this section may, at the cost of the owner thereof, be kept for 14 days, at the end of which time, if the amount due in respect of tax and the cost and charges incidental to the distress are not paid, the same may be sold.
- (6) There shall be paid out of the proceeds of sale, in the first instance, the cost or charges incidental to the sale and keeping of the distress, and the residue, if any, after the recovery of the tax liability, shall be payable to the owner of the things distrained upon demand being made within one year of the sale or shall thereafter be forfeited.
- (7) In exercise of the powers of distress conferred by this section, the person to whom the authority is granted under subsection (4) of this section may distrain upon all goods, chattels and effects belonging to the debtor wherever the same may be found in Nigeria.
- (8) Nothing in this section shall be construed as authorising the sale of any immovable property without an order of a Court of competent jurisdiction."

Committee's Recommendation:

Leave out the provisions in Clause 20 (*Senator Effiong D. Bob*) — *Agreed to.*

Clause 21:

Amendment of Section 92:

Section 92 of the Principal Act is amended-

(a) in subsection (1) by substituting for the amount -

(i) "N200" the amount "N20,000.00",

(ii) "N40" the amount "N2,000.00"; and

(b) in paragraph (d) of subsection (4) by deleting the word "whether" and the words "or after".

Committee's Recommendation:

That the provisions in Clause 21 be retained (*Senator Effiong D. Bob*) — *Agreed to.*

Question that Clause 21 do stand part of the Bill, put and agreed to.

Clause 22:

Amendment of Section 93:

Section 93 of the Principal Act is hereby deleted

Committee's Recommendation:

Leave out the provisions in Clause 22 (*Senator Effiong D. Bob*) — *Agreed to.*

Clause 23:

Amendment of Section 94:

Section 94 of the Principal Act is hereby amended by substituting for the existing section, the following new section, that is -

94. (1) If any person-
- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Service or any officer of the Service, any declaration, notice, certificate or other document whatsoever; or
 - (b) makes any statement in answer to any question or enquiry put to him by an officer which he is required to answer by or under this Act or any other enactment or law, being a document or statement produced or made for any purpose of tax, which is untrue in any material particular, commits an offence under this section.
- (2) Where by reason of any such document or statement required to be produced under subsection (1) of this section the full amount of any tax payable is not paid or any overpayment is made in respect of any repayment of tax, the amount of tax unpaid or the overpayment shall be recoverable as a debt due to the Service.
- (3) Any person who commits an offence under this section shall be liable on conviction to a fine of N200,000 and 200 per cent of the amount of tax unpaid or overpayment made in respect of any repayment or to imprisonment for a term of 3 years or to both such fine and imprisonment."

Committee's Recommendation:

Leave out the provisions in Clause 23 (Senator Effiong D. Bob) — Agreed to.

Clause 24:

Amendment of Section 95:

Section 95 of the Principal Act is hereby amended by substituting for the existing section, the following new section, that is -

95. Any person who is appointed for the due administration of this Act or employed in connection with the assessment and collection of a tax who -
- (a) demands from any company an amount in excess of the authorised assessment of the tax;
 - (b) withholds for his own use or otherwise any portion of the amount of tax collected; or
 - (c) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or
 - (d) defrauds any person, embezzles any money, or otherwise uses his position to deal wrongfully with the Service; or
 - (e) steals or misuses service documents; or
 - (f) compromises on the assessment or collection of any taxes, commits an offence and shall be liable on conviction to a fine of the equivalent of 200 per cent of the sum in question or to imprisonment for a term of 3 years or to both such fine and imprisonment."

Committee's Recommendation:

Leave out the provisions in Clause 24 (Senator Effiong D. Bob) — Agreed to.

Clause 25:

Insertion of Section 95A:

The principal Act is amended by inserting immediately after the existing section 95 the following new section 95A, that is -

"95A. Where an offence under this Act 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; or

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Finance on Company Income Tax Act (Amendment) Bill 2006 and approved as follows:

Clauses 1 — 2	—	As Recommended
Clause 3	—	As Amended
Clauses 4 — 10	—	As Recommended
Clauses 11 — 16	—	As Recommended
Clauses 17 — 21	—	As Recommended
Clauses 22 — 25	—	As Recommended
Clause 26	—	As Amended
Clauses 27 — 28	—	As Recommended
Title	—	As Recommended

Question; That the Report of the Committee of the Whole be approved — Resolved in the Affirmative.

Motion made and Question Proposed: That the Bill be now read the Third Time (Senate Majority Leader).

Question put and agreed to.

Bill accordingly read the Third Time and Passed.

10. **Adjournment:**

Motion made and Question Proposed: That the Senate do adjourn till Thursday, 5th October, 2006 at 10.00 a.m. (Senate Majority Leader).

Adjourned accordingly at 1.25p.m.

Ken Nnamani
President of the Senate