



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 15th December, 2005

1. The Senate met at 10: 15 a. m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Wednesday, 14th December, 2005 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.
3. **Announcement:**
The Senate President read a letter from Senator Victor Ndoma-Egba as follows:

15/12/2005

SENATE PRESIDENT'S CHRISTMAS/END OF YEAR
DINNER WITH THE SENATE PRESS CORPS:

INVITATION

All
Distinguished Senators,

I have the honour and pleasure to invite you to the Senate President's Christmas/End of year Dinner with the Senate Press Corps which holds as follows:

Date: Tuesday, December 20, 2005

*Venue: Defence Guest House, Shehu
Shagari Way, Opposite
MTN Head Office, Maitama,
Abuja.*

Time: 7.00p.m.

Thank you.

(Signed)
Senator Victor Ndoma-Egba, SAN Chairman
Senate Committee on Media & Public Affairs.

4. **Committee on Navy:**
Report on Oversight Responsibilities:
Motion made and Question Proposed: That the Senate do receive the Report of the Committee on Navy on its Oversight Responsibilities (*Senator Hosea O. Ehinlanwo*).

Question put and agreed to.

Report laid.

5. **Committee on Federal Capital Territory FCT:**
*Report on **the** Federal Capital Territory Board of Internal Revenue Bill 2005:*
Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report of the Committee on Federal Capital Territory on the Federal Capital Territory Board of Internal Revenue Bill 2005 (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

A BILL FOR AN ACT TO ESTABLISH THE FEDERAL CAPITAL TERRITORY BOARD OF INTERNAL REVENUE AND FOR MATTERS CONNECTED THEREWITH

Committee's Recommendation:

Insert a new Clauses 11 as follows:

"Clause 11: Establishment of Technical Committee of the Board:

- (1) There shall be a Technical Committee of the Board which shall comprise:
 - (a) the Executive Chairman of the FCT Board as Chairman;
 - (b) the Directors of the Board;
 - (c) the Legal Adviser of the Board; and
 - (d) the Secretary of the Board
- (2) The Technical Committee shall :
 - (a) have powers 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 Board;
 - (c) advise the Board on all its powers and duties specifically mentioned, in _ Sections 6 and 7 of this Act; and
 - (d) attend to such other matters as may from time to time be referred to it by the Board" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 11 as recommended stand part of the Bill put and agreed to.

Committee's Recommendation:

Insert a new Clauses 12 as follows:

"Clause 12: Establishment of the Area Council Revenue Committee:

- (1) **There** is hereby established a Committee to be known as and called the Area Council Revenue Committee (herein this Act referred as "the Revenue Committee")
- (2) The Governing body of the Revenue Committee shall comprise:
 - (a) The Supervisor for Finance as Chairman;
 - (b) Three Area Council members; and

- (c) two other members experienced in revenue matters to be nominated by the Chairman of the Area Council on their personal merits" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 12 as recommended stand part of the Bill put and agreed to.

Committee's Recommendation:

Insert a new Clauses 13 as follows:

"Clause 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 amount so collected in a manner to be prescribed by the Chairman of the Area Council (*Senator Hayatu B. Gwarzo*).

Amendment Proposed:

Leave out the words "to be prescribed by the Chairman of the Area Council" and insert the words "consistent with Financial Regulations "instead thereof (Senator Mohammed Abba Aji).

Question that the amendment be made put and agreed to.

- (2) The Revenue Committee shall be autonomous of the Area Council Treasury and shall be responsible for the day-to-day administration of the Department which forms its operational arm" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 13 as amended stand part of the Bill put and agreed to.

Committee's Recommendation:

Insert a new Clauses 14 as follows:

"Clause 14: Establishment of Joint FCT Revenue Committee 1998 No 19:

There is hereby established for FCT of the Federation a Joint Revenue Committee which shall comprise -

- (a) the Chairman of the FCT Board of internal Revenue as the Chairman;
- (b) the Chairman of the Area Council Revenue Committee;
- (c) a representative of the Bureau on Area Council Affairs not below the rank of a Director;
- (d) a representative of the Revenue Mobilization Allocation and Fiscal Commission, as an observer;
- (e) the FCT Sector Commander of the Federal Road Safety Commission; as an observer; and
- (f) the Legal adviser of the FCT Board of Internal **revenue**" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 14 as recommended stand part of the Bill put and agreed to.

Committee's Recommendation:

Insert a new Clauses 15 as follows:

"Clause 15: Function of FCT Joint Revenue Committee

The functions of the FCT Joint Revenue Committee shall be to -

- (a) implement decisions of the Joint Tax Board;
- (b) advise the Joint Tax Board and the FCT and Area Councils on revenue matters
- (c) harmonises tax administration in the FCT;
- (d) enlighten members of the public generally on FCT and Area Councils revenue matters; and

- (e) carry out such other functions as may be assigned to it by the Joint Tax Board" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 15 as recommended stand part of the Bill put and agreed to.

PART IV - FINANCIAL PROVISIONS

- Clause 16: Fund of the Board:
- (1) The Board shall establish and maintain a fund which shall be applied towards the discharge of its functions under this Act.
 - (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section -
 - (a) any subvention or budgetary allocation from the Federal Government; and
 - (b) all moneys raised for the purposes of the Board by way of gifts, grants-in-aid or testamentary disposition to the Board.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 16 as recommended stand part of the Bill put and agreed to.

- Clause 17: Expenditure of the Board:
12. The Board may, from time to time, apply the proceeds of the fund established in pursuance of section 15 of this Act -
 - (a) to the cost of administration of the Board ;
 - (b) to the paying of the emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee of the Board for such expenses as may be expressly authorized by the Board ;
 - (c) to the payment of salaries, fees or other remuneration or allowances, gratuities, and pensions, and other benefits payable to the officers and other employees of the Board, so however that no payment of any kind under this paragraph (except such as may be expressly authorized by the Minister) shall be made to any person who is in receipt of emoluments from the Federal, State and Local Governments or Area Council ;
 - (d) for the development and maintenance of any property vested in or owned by the Board ; and
 - (e) for and in connection with all or any of its functions under this Act.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 17 as recommended stand part of the Bill put and agreed to.

- Clause 18: Annual Estimates and Accounts:
- (1) The Board shall, not later than 30th September in each year, submit to the Minister an estimate of its expenditure and income (including payment to the Board's fund) for the next succeeding year.
 - (2) The Board shall keep proper accounts in response of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 18 as recommended stand part of the Bill put and agreed to.

Clause 19:

Annual Report:

The board shall prepare and submit to the Minister, through the Director, not later than six months after the end of each year, a report in such form as he may direct on the activities of the Board during the immediately proceeding year, and shall include in such report a copy of the audited accounts of the Board for that year and the auditor's report on the accounts.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 19 as recommended stand part of the Bill put and agreed to.

Clause 20:

Power to accept Gifts

(1) The Board may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or Organization making the gift.

(2) The Board shall not accept any gift if the conditions attached by the person or organization offering the gift are inconsistent with the functions of the Board.

Committee's Recommendation:

Leave out the provision in Clause 19 and insert the following:

"(1) The Board may accept any gift of land, money or other property, provided that the term or condition that may be attached to such gifts is not likely to influence the decision of the Board or its officers, and are not inconsistent with the functions of the Board or provisions of any other law" (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 20 as recommended stand part of the Bill put and agreed to.

Clause 21:

Power to Borrow:

(1) The Board may, from time to time, borrow by overdraft or otherwise such sums as it may require for the performance of its functions under this Act.

(2) The Board shall not, without the approval of the Minister, borrow money which exceeds, at any time, the amount set by the Minister.

(3) Notwithstanding the provisions of subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Board shall not borrow the sum without the prior approval of the Minister.

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 21 as recommended stand part of the Bill put and agreed to.

Clause 22:

Investment Cap. 449 LFN:

The Board may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investments Act or in such other securities as may, from time to time, be approved by the Minister.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 22 as recommended stand part of the Bill put and agreed to.

- Clause 23: Exemption from Tax:
- (1) The Board shall be exempted from the payment of income tax on any income accruing from investments made by the Board or otherwise howsoever.
 - (2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Board.

Committee's Recommendation:

Leave out the provision in Clause 23 and insert the following:

"The Board shall not be exempted from the payment of tax on any income accruing from investments made by the Board or otherwise howsoever" (Senator Hayatu B. Gwarzo) —

Agreed to.

Question that Clause 23 as recommended stand part of the Bill put and agreed to.

PART V - PERSONS CHARGEABLE TO TAX ASSESSMENT, ETC.

- Clause 24: Persons Chargeable to Tax:
- (1) Subject to the provisions of this Act, a taxable person shall chargeable to tax -

Amendment Proposed:
Immediately after the word "shall" *insert* the word "be" (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to.
 - (a) in his name ; or
 - (b) in the name of any receiver, trustee, guardian, guarantor or committee who have the control or management of any property or concern on his behalf.
 - (2) Any person whose name is chargeable to tax be answerable for all matters within his competence which are required to be done by virtue of this Act for the assessment of the income of such taxable person and payment of any charge thereon.
 - (3) Where two or more persons act in the capacity of trustees they may be charged jointly or severally with the tax with which they are chargeable in that capacity and shall be jointly and severally liable for payment of the *same* (Senator Hayatu B. Gwarzo).

Question that Clause 24 as amended stand part of the Bill put and agreed to.

- Clause 25: Statement and Returns of Taxable Person:
- (1) A taxable person shall during each year of assessment, prepare and submit to the Board, in such form as the Board may prescribe from time to time, a true statement in writing, and without prejudice to the generality of the following, the statement shall contain -
 - (a) the amount of his income for the year of assessment ;
 - (b) the source of such income;
 - (c) allowances, relief's and deductions;
 - (d) such other particulars as may be required by the Board.
 - (2) The Board may by notice in writing published in any two daily National newspapers request any or group of taxable persons to submit their tax returns in such form and within the duration as the Board may, from time to time, determine.

- (3) For the purpose of subsection (1) of this section, the Board shall, from time to time, by notice prescribe the forms or formats in which the statement shall be submitted.
- (4) The form for the return of taxable statement shall contain a declaration which shall be signed by or on behalf of any taxable person to whom a notice has been given under subsection (2) of this section, stating that the form contains a true statement of his income computed in accordance with the provisions of this Act, or that any particulars given in the return, in accordance with all other requirements of such notice, are true and complete.
- (5) Any taxable person who has been required to prepare and deliver a statement under the provisions of subsection (2) of this section for any year shall do so whether or not any tax is chargeable on him for that year.
- (6) For every year assessment, any trustee, executor, body corporate or individuals and every other taxable person whose total income for such year exceed forty thousand Naira, unless required to make any return for such year under the provisions of subsection (1) of this section shall give notice in writing to the board within one month after the end of such year source of his income liable to tax under this Act.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 25 as recommended stand part of the Bill put and agreed to.

Clause 26:

Request for Further Information or returns:

- (1) The Board may give notice in writing to any person, from time-to-time, as it thinks necessary requiring him to submit within a reasonable time such information or further information or returns as the Board may require for the purpose of proper tax assessment of such person.
- (2) The Board may by notice in writing require any person to keep such records, books and accounts in such forms and language as specified in such notice (*Senator Hayatu B. Gwarzo*).

Amendment Proposed:

Leave out the word "forms" in line 2 and insert the word "form" instead thereof (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to. Question

that Clause 26 as amended stand part of the Bill put and agreed to.

Clause 27:

Assessment of Tax of Taxable Person:

- (1) After the expiration of the time allowed to any person under section 21 of this Act and the person has not submitted the statement or returns, the Board may assess such taxable person chargeable with income tax in such manner as the Board may determine.

Committee's Recommendation:

Leave out the provision in sub-clause 27(1) and insert the following: "(1) The Board after the expiration of the time allowed to any person under section 27 of this Act and the person fails to submit the statement or returns assess such taxable person chargeable with income tax in such manner as the Board may determine" (Senator Hayatu B. Gwarzo).

Amendment Proposed:

- (i) *Leave out the Committee's Recommendation and retain the provision as in the*

Principal Act (Senator Dalhatu S. Tafida) Question that the amendment be made put and agreed to. , .

- (ii) *Leave out the figure "21" in line 1 and insert the figure "26" instead thereof (Senator Udoma Udo Udoma).*

Question that the amendment be made put and agreed to.

- (2) Where a taxable person has submitted a statement or a return, the Board may -
- (a) accept the statement or return and make an assessment accordingly ; or
 - (b) refuse to accept the statement or return and, to the best of it's judgment, determine the amount of the assessable tax, total or chargeable income of such person and make an assessment accordingly.

- (3) Where a taxable person has not delivered a statement or return within the time allowed under this Act or pursuant to a notice given by the board and the Board is of the opinion that tax is chargeable upon such person, the Board may determine the amount of assessable tax, total or chargeable income and make such assessment;

Provided that such assessment shall not affect any liability otherwise incurred by such person by reason of his failure to deliver a return or statement under the provisions of the Act.

- (4) Notwithstanding the provisions of subsection (3) of this section, no assessment to income tax for a year of assessment shall be made by the Board upon a staff or employee with respect to his emolument or other income if that tax is recoverable by deduction under the PAYE provisions of this Act unless, within 6 years after the end of such year, he applied to the Board so as to be assessed for repayment of tax or otherwise (Senator Hayatu B. Gwarzo).

Question that Clause 27 as amended stand part of the Bill put and agreed to.

Clause 28:

List of Persons Assessed:

- (1) The Board shall, from time to time, prepare a list of taxable persons assessed to income tax..
- (2) The list of taxable persons assessed prepared under subsection (1) of this section shall contain -
 - (a) the name and address of the taxable persons assessed to income tax;
 - (b) name and address of any person whose name any such taxable person chargeable;
 - (c) the amount of the assessable tax, total or chargeable income on which the tax is computed, as the case may be
 - (d) the amount of the income tax charged; and
 - (e) such other particulars as may be prescribed by the Board.
- (3) Where completed copies of all notice of assessment and all notices amending the assessment are filed in the offices of the Board, they shall constitute a preliminary assessment list for the purpose of this Act.

Committee's Recommendation:

That the provision in Clause 28 be retained (Senator Hayatu B. Gwarzo) — *Agreed to.*

Question that Clause 28 as recommended stand part of the Bill put and agreed to.

Clause 29:

Records of Tax Under PAYE, etc:

In the case of any employee from whom tax is recoverable by deduction from this emoluments under the PAYE provisions of this Act the Board may, from time to time prescribe -

- (a) the form in which a record of his assessable tax and chargeable income and of the tax so recovered from him, shall be maintained in the offices of the Board;

- (b) the form in which his employer shall maintain a like record ; and
- (c) the form in which his employer shall account to Board for the tax deducted, and the employer shall produce the record maintained by him for examination by the Board within 21 days from the date of notice given by the Board thereto.

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 29 as recommended stand part of the Bill put and agreed to.

Clause 30:

Service of Notice of Assessment:

The Board may serve upon any taxable person or a person in whose name taxable person is chargeable, a notice stating whose name appears in the amount of any assessable tax, total or chargeable income, the tax charge and the place at which payment shall be made.

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 30 as recommended stand part of the Bill put and agreed to.

Clause 31:

Objection to Assessment:

- (1) If any person is not satisfied with any assessment he may apply to the Board, by notice of objection in writing, to review and to revise the assessment.
- (2) A notice of objection referred to under subsection (1) of this section shall state precisely the grounds of objection to the assessment and shall be made within 30 days from the date of service of the notice of assessment.
- (3) The Board may, upon receipt of the objection, request for any information or such books or document as it may deem necessary, and may summon any person who may be able to give information which is material to the determination of the objection.
- (4) Where an objection to review or revise any assessment has been considered by the Board and the correct amount chargeable has been determined by the Board, the assessment shall be amended accordingly and a new or revised notice of assessment shall be served on such person.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause' _31 as recommended stand part of the Bill put and agreed to ____

Clause 32:

Appeals to the Tax Appeal Committee, etc:

- (1) where any person is aggrieved by the decision of the Board in respect of the determination of the objection under section 26 of this Act, he may appeal to the Minister who shall constitute a Tax Appeal Committee consisting of such number of persons as the Minister may determine, from time to time, to consider the appeal.

Committee's Recommendation:

Leave out the figure "26" in line 2 and insert the figure "31" instead thereof (Senator Hayatu B. Gwarzo) — Agreed to.

- (2) The member of the Tax Appeal Committee shall -
 - (a) be appointed by the Minister on part-time basis;
 - (b) be persons with considerable experience and knowledge in tax matters; and
 - (c) not include any member of the Board.

- (3) Subject to any terms of reference given by the Minister, the Tax Appeal Committee shall regulate its proceedings and shall submit its findings to the Minister for implementation.
- (4) The Minister may, upon the receipt of the report of the Tax Appeal Committee, give such directives to the Board as he may deem necessary for the implementation of the recommendation of the Tax Appeal Committee.

Question that Clause 32 as recommended stand part of the Bill put and agreed to.

PART VI — OFFENCES AND PENALTIES

Clause 33:

General Offences:

- (1) Any person who contravenes any of the provisions of this Act or any regulations made pursuant hereunder commits an offence and, where no specific penalty is provided, shall be liable on conviction to a fine of N1,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Committee's Recommendation:

Leave out the figure "N1,000" in line 3 and insert the figure "N2,000" instead thereof (Senator Hayatu B. Gwarzo).

Amendment Proposed:

Leave out the phrase and figure "fine of N2,000" in the Principal Act and insert the phrase and figure "maximum fine of N100,000" instead thereof (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to.

- (2) Where the offence relates to failure to furnish a return, statement or information or to keep records required under this Act, the person shall in addition to the penalty specified in subsection (1) of this section be liable to a further fine of N100 for each day during which the act or omission constituting the offence continues.

Amendment Proposed:

Leave out the phrase and figure "fine of N100" in line 4 and insert the phrase and figure "a maximum fine of N 1,000" instead thereof (Senator Daniel I. Saror).

Question that the amendment be made put and agreed to.

Question that Clause 33 as amended stand part of the Bill put and agreed to.

Clause 34:

Failure to Attend to a Notice, etc:

Any person who -

- (a) fails to comply with the requirements of a notice served on him by the Board under this Act ; or
- (b) without sufficient cause fails to comply with any notice or summons served on him in respect of any proceedings of the Board or that of the Tax Appeal Committee for considering a notice of objection or an appeal by that person, as the case may be, commits an offence and shall be liable on conviction to a fine of N500 or to a term of imprisonment not exceeding 3 months or to both such fine and imprisonment (Senator Hayatu B. Gwarzo).

Amendment Proposed:

Leave out the phrase and figure "fine of N500" and insert the phrase and figure "maximum fine of N50,000" instead thereof (Senator Lee L. Maeba).

Question that the amendment be made put and agreed to.

Question that Clause 34 as amended stand part of the Bill put and agreed to.

Clause 35: Penalty for Making Incorrect Returns, etc:

(1) Any person who -

- (a) makes an incorrect returns or statements by omitting or understating any income chargeable to tax under this Act ; or
- (b) gives any incorrect information in relation to any matter or thing affecting the liability to tax of any taxable person, commits an offence and shall be liable on conviction to a fine of N500 and twice the amount of the tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

Amendment Proposed:

Leave out the phrase and figure "fine of N500" and insert the phrase and figure "maximum fine of N50,000" instead thereof (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to.

- (2) No person shall be held liable under the provisions of subsection (1) of this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within 3 years after expiration thereof (*Senator Hayatu B. Gwarzo*).

Question that Clause 35 as amended stand part of the Bill put and agreed to.

Clause 36: False Statements and Returns:

Any person who -

- (a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax for himself or any other person, or who in any statement or returns, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representation ; or
- (b) aids, abets, assists, counsels, incites or induces any other person -
 - (i) to make or deliver any false statement or returns under this Act ; or
 - (ii) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this law ; or
 - (iii) to unlawfully refuse or neglect to pay tax, commits an offence and shall be liable on conviction to a fine of N2,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment (*Senator Hayatu B. Gwarzo*).

Amendment Proposed:

Leave out the phrase and figure "fine of N2,000" in line 2 and insert the phrase and figure "maximum fine of N100,000" instead thereof (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to.

Question that Clause 36 as amended stand part of the Bill put and agreed to.

Clause 37: Offences relating to Tax Officers, etc:

Any person who -

- (a) being a person appointed for the due administration of this law or employed in connection with the assessment or collection of the tax who -
 - (i) demands from any person an amount in excess of the authorized assessment of the tax ; or
 - (ii) withholds for his own use or otherwise any portion of the amount of tax collect ; or
 - (iii) renders a false return, whether orally or in writing, of the amount of tax collected or received by him ; or

- (iv) (a) frauds any person, embezzles any money, or otherwise uses his position to deal wrongly with any money accruable to the Board;
or

Amendment Proposed:

Leave out the word "frauds" in line 1 and insert the word "defrauds" instead thereof (Senator Oserheimen A. Osunbor).

Question that the amendment be made put and agreed to.

- (b) collects or attempts to collect tax without being authorized under this Act ; or
- (c) being an employer, false to deduct tax from any emoluments payable to his employees or fails to remit tax deducted as required by any provisions of this Act or any regulations made hereunder, commits an offence and shall be liable on conviction to a fine of N 1,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment (Senator Hayatu B. Gwarzo).

Amendment Proposed:

Leave out the phrase and figure "fine of N1,000" in line 5 and insert the phrase and figure "maximum fine of N100,000" instead thereof (Senator Udoma Udo Udoma).

Question that the amendment be made put and agreed to.

Question that Clause 37 as amended stand part of the Bill put and agreed to.

Clause 38:

Penalty not a Bar to Payment of Tax:

The institution of proceedings for or the imposition of a penalty, fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any tax for which he is or may become liable or chargeable.

Committee's Recommendation:

That the provision in Clause 38 be retained (Senator Hayatu B. Gwarzo) — *Agreed to.*

Question that Clause 38 as recommended stand part of the Bill put and agreed to.

PART VII - LEGAL PROCEEDING AGAINST THE BOARD

_____ **Clause 39.:**

Limitation of Suits Against the Board, etc._Cap. 379

- (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member or officer or employee of the Board.
- (2) No suit against the Board, a member of the Board, the Secretary or any other officer or employee of the Board for any act done in pursuance or execution of any law, or of any public duties or in respect of any alleged neglect or default in the execution of such law, duties or authority, shall lie or be instituted in any court unless -
 - (a) it is commenced within three months after the act, neglect or default complained of ; or
 - (b) in the case of continuation of damage or injury, within three months next after the ceasing thereof.
- (3) No suit shall be commenced against the Board, a member of the Board, the Secretary or any other officer or employee of the Board, before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Board by the intending plaintiff or his agent; and the notice shall clearly and explicitly state -
 - (a) the cause of action ;

- (b) the particulars of claim ;
- (c) the name and place of abode of the intending plaintiff ; and
- (d) the relief which he claims.

Committee's Recommendation:

That the provision in Clause 39 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 39 as recommended stand part of the Bill put and agreed to.

Clause 40:

Service of Documents:

The notice referred to in subsection (3) of section 34 of this Act, and any summons, notice or other document required or authorized to be served upon the Board under the provisions of this Act or any other enactment or law may be served by delivering the same to the Secretary or by sending it by registered post and addressed to the Secretary at principal office of the Board.

Committee's Recommendation:

Leave out the figure "34" in line 1 and insert the figure "39" instead thereof (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 40 as recommended stand part of the Bill put and agreed to.

Clause 41:

Reception on Execution Against the Agency:

- (1) In any action or suit against the Board, no execution or attachment of process in the nature thereof shall be issued against the Board but any sums of money which may by judgment of the court be awarded against the Board shall, subject to any directions given by the court, be paid from the general reserve fund of the Board.

Committee's Recommendation:

That the provision in Clause 41 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 41 as recommended stand part of the Bill put and agreed to.

Clause 42:

Indemnity of Officers:

Every member of the Board, agent, auditor or officer or employee of the Board shall be indemnified out of the assets of the Board against any liability incurred by him in defending any proceeding, whether civil or criminal, if any such proceeding is brought against him in his capacity as such member, agent, auditor or officer or employee as aforesaid.

Committee's Recommendation: _____

That the provision in Clause 42 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 42 as recommended stand part of the Bill put and agreed to.

PART VII — MISCELLANEOUS

Clause 43:

Directives by the Minister:

The Minister may give to the Board such directive of a general nature or relating generally to matters of policy with regard to the exercise by the Board of its functions under this Act and it shall be the duty of the Board to comply with the directives or cause them to be complied with.

Committee's Recommendation:

That the provision in Clause 43 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 43 as recommended stand part of the Bill put and agreed to.

Clause 44:

Application of 1993 No. 104:

The provisions of the Personal Income Tax 1993, as amended, shall apply to this Act and to the Board.

Committee's Recommendation:

Immediately after the word "Tax" in line 1 insert the word "Act" (Senator Hayatu B. Gwarzo).

Question that Clause 44 as recommended stand part of the Bill put and agreed to.

Clause 45:

Power to make Regulations:

The Minister may, on the advice of the Board, make regulations generally for the purpose of this Act or for giving effect to the provisions of this Act.

Committee's Recommendation:

That the provision in Clause 45 be retained (Senator Hayatu B. Gwarzo) — Agreed to.

Question that Clause 45 as recommended stand part of the Bill put and agreed to.

Clause 46:

Interpretation:

In this Act, except the context otherwise requires -

"assessable tax" means the total or chargeable income on which tax is computed;

Question, That the meaning of the words "assessable tax" be as defined in the Interpretation to this Act, put and agreed to.

"Board" means the Federal Capital Territory Internal Revenue Board established under section 1 of this Act;

Question, That the meaning of the word "Board" be as defined in the Interpretation to this Act, put and agreed to.

"Director" means Director in the Ministry of Federal Capital Territory charged with responsibility for matters relating to internal revenue of the Federal Capital Territory;

Committee's Recommendation:

Leave out the provision "Director" and insert the following instead thereof

" "Director" means Director in the Federal Capital Territory Administration in charge of Finance & Accounts" (Senator Hayatu B. Gwarzo) — Agreed to.

Question, That the meaning of the word "Director" be as defined in the Interpretation to this Act, put and agreed to,

"Chargeable income" includes the total income of any person or body corporate on which tax is charged;

Question, That the meaning of the words "Chargeable income" be as defined in the Interpretation to this Act, put and agreed to.

"Member" means a member of the Board and includes the Chairman;

Question, That the meaning of the word "Member" be as defined in the Interpretation to this Act, put and agreed to.

"Minister" means the Minister of Federal Capital Territory;

Amendment Proposed:

Leave out the words "of Federal Capital Territory" and insert the words "in charge of Federal Capital Territory Administration" instead thereof (Senator Oserheimen A. Osunbor).

Question that the amendment be made put and agreed to.

"Taxable person" means a person who by virtue of the provision of this Act or any other enactment is under obligation to pay tax;

Question, That the meaning of the words "Taxable person" be as defined in the Interpretation to this Act, put and agreed to.

"Territory" means the Federal Capital Territory ;

Question, That the meaning of the word "Territory" be as defined in the Interpretation to this Act, put and agreed to.

"Year of assessment" means a period between January and December of the year or such other period for which tax is computed as the Board may, from time to time, determine.

Question, That the meaning of the words "Year of assessment" be as defined in the Interpretation to this Act, put and agreed to.

Question that Clause 46 as amended stand part of the Bill put and agreed to.

Clause 47: Short Title:
This Act may be cited as the Federal Capital Territory Board of Internal Revenue (Establishment, etc.) Act, 2005.

Committee's Recommendation:

That the provision in Clause 47 be retained (*Senator Hayatu B. Gwarzo*) — *Agreed to.*

Question that Clause 47 as recommended stand part of the Bill put and agreed to.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that or any of its committees, at every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their number to preside at the meeting.

Question, That Paragraph 1 stand part of Schedule 1 to the Bill, put and agreed to.

- _2. The quorum, at a meeting of the Board shall be not less than one third of the total number of members of the Board at the date of the meeting and the quorum of a committee of the Board shall be as determined by the Board.

Question, That Paragraph 2 stand part of Schedule 1 to the Bill, put and agreed to.

3. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to him by not than 5 other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

Question, That Paragraph 3 stand part of Schedule 1 to the Bill, put and agreed to.

4. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the board and shall not count towards a quorum.

Question, That Paragraph 4 stand part of Schedule 1 to the Bill, put and agreed to.

5. (1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board, or is interested in any contract made or proposed to be made by the Board shall, as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under this paragraph shall be recorded in the Minutes of Meetings of the Board and the member concerned shall -
- (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
- (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

Question, That Paragraph 5 stand part of Schedule 1 to the Bill, put and agreed to.

Committees

6. (1) Subject to its standing orders, the Board may appoint such number of standing and ad-hoc committees as it thinks fit to consider any report on any matter with which the Board is concerned.
- (2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and person, other than a member of the Board, shall hold office on the committee in accordance with the terms of his appointment and the committee shall be presided over by a member of the board.
- (3) The quorum of any committee set up by the Board shall be as may be determined by the Board.
- (4) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Question, That Paragraph 6 stand part of Schedule 1 to the Bill, put and agreed to.

Miscellaneous

7. (1) The fixing of the seal of the Board shall be authenticated by the signature of the Chairman or any other person generally or specifically authorized by the Board to act for that purpose and that of the Secretary.
- (2) Any contract or instrument which, if made 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 Board by the Secretary or by any other person generally or specially authorized by the board to act for that purpose.
- (3) Any document purporting to be a contract, instrument or other document duly signed or seal on behalf of the Institute shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or seal.
- (4) The validity of any proceedings of the Board or of any of its committees shall not be affected by-
- (a) any vacancy in the membership of the Board, or committee, or
- (b) any defect in the appointment of a member of the Board or committee ; or
- (c) reason that any person not entitled to do so took part in the proceedings of the Board or committee.

- (5) A member of a committee who has a personal interest in any contract or arrangement entered into proposed to be considered by the committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.
- (6) No member of the board shall be personally liable for any act or omission done or made in good faith while engaged in the business of the Board.

*Question, That Paragraph 7 stand part of Schedule 1 to the **Bill**, put and agreed to.*

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole consider the Report of the Committee on Federal Capital Territory on the Federal Capital Territory Board of Internal Revenue (Establishment, Etc.) Bill 2005 and Approved as follows:-

Clause 11-12	—	As Recommended
Clause 13	—	As Amended
Clause 14	—	As Recommended
Clause 15	—	As Corrected
Clause 16-23	—	As Recommended
Clause 24	—	As Amended
Clause 25	—	As Recommended
Clause 26	—	As Corrected
Clause 27	—	As Amended
Clause 28-32	—	As Recommended
Clause 33	—	As Amended
Clause 34-35	—	As Amended
Clause 36-37	—	As Amended
Clause 38-43	—	As Recommended
Clause 44	—	As Amended
Clause 45	—	As Recommended
Clause 46	—	As Amended
Clause 47	—	As Recommended
Schedule	—	As Recommended
Title	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — Resolved in the Affirmative.

Motion made and Question Proposed: That the Federal Capital Territory Board of Internal Revenue (Establishment, Etc.) Bill 2005 be read the Third Time (Senate Majority Leader).

Question put and agreed to.

Bill accordingly read the Third Time and Passed.

6. Domestic Violence (Prevention) Bill 2005 (SB. 263):

Motion made and Question Proposed: That the Domestic Violence (Prevention) Bill 2005 be read the Second Time (Senator Daisy Ehanire-Danjuma).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Judiciary, Human Rights and Legal Matters to report within four weeks.

7. National Commission for Polytechnics Bill 2005 (SB. 132):

Bill by leave of the Senate, withdrawn.

9. Adjournment:

Motion made and Question Proposed: That the Senate do adjourned till Tuesday, 20th December, 2005 at 10.00 a.m.

Adjourned accordingly at 1. 45 p. m.

Ken Nnamani
President of the Senate