

INCOME TAX (MISCELLANEOUS PROVISIONS) DECREE 1974



Decree No. 28

[See section 5 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Section 17 (1) of the Income Tax Management Act 1961 is hereby amended by the substitution for the words “and necessarily” (as inserted by the Income Tax (Amendment) Decree 1966) of the words “, necessarily and reasonably”.

Amend-
ment of
1961 No. 21.
1966 No. 65.

(2) Section 5 of the Income Tax (Amendment) Decree 1966 is consequently repealed.

2. The Companies Income Tax Act 1961 is hereby amended as follows, that is—

Amend-
ment of
1961 No. 22.

(a) in section 17 thereof by the addition immediately after paragraph (e) of the following new paragraph—

“(f) fees, dues and allowances (wherever paid) for services rendered.”

(b) by the addition immediately after section 17A thereof of the following new section—

“Full disclosure of agreement to be made.

17B. Any company entering into any agreement (whether oral or written) in respect of any service under paragraph (f) of section 17 of this Act shall forthwith make a full disclosure to the Board in writing of the terms of such agreement.”;

(c) in section 27 thereof by the substitution for the words “and necessarily” (as inserted by the Income Tax (Amendment) Decree 1966) of the words “, necessarily and reasonably” wherever they occur therein ;

(d) in section 33A thereof (as inserted by the Companies Income Tax (Amendment) Decree 1971) by the substitution for subsection (1) of the following, that is—

1971 No. 10.

“(1) Subject to the provisions of this section every company which had suffered a civil war damage in respect of its trade or business or any other operations carried on in Nigeria shall, to the exclusion of the operation of section 31 and the Third Schedule to the Act, be granted relief from tax in the manner and to the extent provided hereunder, so however that, where a claim for such relief is made no deduction shall be made or allowed to that company as respects any assets damaged or destroyed during the said civil war under the said section 31 and the Schedule aforementioned.”;

1966 No. 65.

(e) for section 61A thereof (as inserted by the Income Tax (Amendment) Decree 1966) there shall be substituted the following section—

“61A Where any amount becomes due from or payable by one company to another company as interest, management fee or royalty, the company paying such amount shall, at the date when the amount is paid or credited, whichever first occurs, deduct therefrom tax at the rate specified in section 32 of this Act and shall forthwith pay over to the Board the amount so deducted.”; and

(f) by the addition immediately after paragraph (f) of section 28 thereof of the following new paragraph—

“(g) any expense incurred for and on behalf of any company as Head Office expense.”

Amend-
ment of
1970 No. 56.

3. Section 10 of the Banking Obligations (Eastern States) Decree 1970 is hereby amended as follows, that is—

(a) immediately after subsection (5) thereof there shall be added the following new subsection—

“(6) In any case where a company incurs a loss as a result of the operation of this Decree, such loss shall not be treated as a trading loss for which the company would be entitled to relief from the payment of tax under section 27 of the Companies Income Tax Act 1961.”; and

(b) the existing subsection (6) thereof shall be re-numbered as subsection (7).

Amend-
ment of
1972 No. 51.

4. The Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972 is hereby amended as follows, that is—

(a) in section 1 (1) (a) thereof and in section 4 (1) (a) thereof, the words “other than in a civilian capacity,” shall be deleted; and

(b) by the addition immediately after section 4 thereof of the following new section, that is—

“Other
ranks
exempted
from
income tax.

4A.—(1) Nothing in this Decree shall be construed as imposing liability to tax on the personal emoluments of any person serving as other rank and any other enactment or law imposing tax on the income of individuals shall not apply accordingly:

Provided that where any other income accrues to a person serving as other rank (not being income by way of personal emoluments) such income shall be liable to tax under this Decree or under any other relevant enactment or law.

(2) In this section—

“other rank” has the meaning assigned thereto by the Military Pensions Act; and

“personal emoluments” means wages or salaries and includes allowances, gratuities, superannuation or pension schemes and any other income derived solely by reason of employment as other rank.”

Citation
and com-
mencement.

5.—(1) This Decree may be cited as the Income Tax (Miscellaneous Provisions) Decree 1974.

(2) The provisions of this Decree shall be deemed to have come into operation on the dates respectively set out hereunder, that is to say—

(a) section 3 thereof shall be deemed to have come into operation on 15th January 1970;

(b) section 2 (d) thereof shall be deemed to have come into operation on 1st April 1970; and

(c) sections 1, 2 (a), (b), (c), (e) and (f) and 4 thereof shall be deemed to have come into operation on 1st April 1972.

MADE at Lagos this 6th day of July 1974.

GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree but
is intended to explain its purport)*

The Decree makes sundry amendments to some taxation enactments and, amongst other things, gives effect to long standing practice of exempting other ranks in the Armed Forces from payment of personal income tax on personal emoluments.

**ROBBERY AND FIREARMS (SPECIAL PROVISIONS)
(AMENDMENT) (No. 2) DECREE 1974**



Decree No. 29

[See section 2 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Robbery and Firearms (Special Provisions) Decree 1970 ("the principal Decree") is hereby amended as follows :—

Amend-
ment of 1970
No. 47.

(a) in section 5 (2) for the word "captain" where it occurs in paragraph (b) there shall be substituted the word "major" and for the word "superintendent" where it occurs in paragraph (c) there shall be substituted the words "chief superintendent";

(b) for section 6 there shall be substituted the following new section :—

"Power to
make rules
and institu-
tion of
proceedings.

6.—(1) The Attorney-General of the Federation shall, with the approval of the Federal Executive Council, make rules as to the procedure to be adopted in prosecutions for offences under this Decree before a tribunal and, without prejudice to the generality of the foregoing provision, shall prescribe by such rules the manner of commencement of proceedings before the tribunal, the forms to be used in such proceedings, and generally for the better carrying into effect of the provisions and purposes of this Decree.

(2) Prosecutions for offences under this Decree shall be instituted by the Attorney-General of the State in respect of which the tribunal was constituted or, where there is no Attorney-General, by the Solicitor-General or by such officer in the Ministry of Justice of that State as the Attorney-General or, as the case may be, the Solicitor-General, may authorise so to do :

Provided that the question whether any authority, or what authority has been given in pursuance of this subsection shall not be enquired into by any person other than the Attorney-General or, as the case may be, the Solicitor-General.

(3) For the avoidance of doubt it is hereby declared that an offender under this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner, and to examine in person or by his legal practitioner, if he so wishes, any person whose evidence forms part of the case against him.”;

(c) immediately after section 6 there shall be inserted the following new section :—

“Right of
appeal to
the Supreme
Court.

7. Any person convicted of an offence under this Decree may within 30 days of the date of his conviction appeal as of right to the Supreme Court and the provisions of any enactment (including rules of court) regulating the practice and procedure of the Supreme Court shall, with any necessary modifications, apply in respect of such an appeal as they apply in respect of appeals from the decisions of any court subordinate to the Supreme Court.”;

(d) the existing sections 7 to 10 shall be renumbered as sections 8 to 11 respectively ;

(e) in section 8 (as renumbered) immediately after subsection (3) there shall be inserted the following new subsection :—

“(4) The Military Governor shall not exercise his powers under this section—

(a) until the time limited for an appeal under section 7 has elapsed and the accused has brought no appeal, or

(b) where an appeal has been brought and the appeal has been withdrawn or struck out for want of prosecution, until after such withdrawal or striking out, or

(c) where an appeal has been brought and the appeal has not been withdrawn or struck out, until after the appeal has been dismissed.”;

(f) in section 9 (as renumbered) subsection (2) shall be deleted ; and

(g) in section 10 (as renumbered), and in the definition of “armed patrol” for the words “Nigerian Army” there shall be substituted the words “Nigerian Armed Forces”, and all the words after “Nigeria Police Force” shall be deleted.

Citation and
commence-
ment.

2.—(1) This Decree may be cited as the Robbery and Firearms (Special Provisions) (Amendment) (No. 2) Decree 1974.

(2) This Decree shall come into operation on such date as the Attorney-General of the Federation may by order published in the *Gazette* appoint.

(3) Any part-heard proceedings before a tribunal constituted under the principal Decree on the date appointed for the commencement of this Decree pursuant to subsection (2) of this section shall be continued and completed as if the provisions of paragraphs (a) and (b) of section 1 of this Decree had not been made.

(4) For the purposes of subsection (3) of this section, “part-heard proceedings” means proceedings in the course of which the plea of the accused has been taken and the tribunal has commenced to hear evidence.

MADE at Lagos this 1st day of July 1974.

GENERAL Y. GOWON,
Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria

EXPLANATORY NOTE

*(This note does not form part of the above Decree
but is intended to explain its purpose)*

The Decree amends the Robbery and Firearms (Special Provisions) Decree 1970, among other things,—

(a) to vary the rank of officers of the Nigeria Police Force and of the Armed Forces who may be appointed as members of tribunals under the principal Decree ;

(b) to empower the Attorney-General of the Federation to make rules as to the procedure to be adopted in prosecutions for offences under the principal Decree ; and

(c) to confer a right of appeal to the Supreme Court against convictions under the principal Decree.