



FEDERAL INLAND REVENUE SERVICE
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Information Circular

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Subject: CLARIFICATION ON SECTION 16 OF COMPANIES INCOME TAX ACT IN RELATION TO TAXATION OF INSURANCE COMPANIES

This circular is issued for the information and guidance of the general public, taxpayers and tax practitioners in line with the provisions of the relevant tax laws. This instant circular replaces FIRS Information Circular 2021/16 of 3rd June 2021.

1.0 Introduction

Section 16 of the Companies Income Tax Act (CITA), Cap. C21, LFN 2004 (as amended) classifies insurance business into "life insurance" and "general insurance". The section also provides rules for the taxation of insurance business and provides clarity on what constitutes "Gross Premium", "Gross Income", and "Other Income". In addition, the Act provides that the profits of an insurance company may be liable to tax in accordance with section 13 of CITA and aligns the basis for the computation of minimum tax with section 33 of CITA.

1.1 Taxation of Insurance Business in Nigeria

1.1.1. Resident Insurance Companies

Pursuant to sections 13 and 16(1) of CITA (as amended), the profits of a Nigerian insurance business are liable to tax irrespective of where they have arisen and whether or not they have been brought into or received in Nigeria. To this effect, non-disclosure and non-repatriation of profits made abroad by a Nigerian insurance business will not prevent such profits from being taxed in Nigeria.

1.1.2. Non-Resident Insurance Companies

For a Non-Resident insurance business that has a fixed base in Nigeria or operates through an agent, the profits derived from such operations shall be liable to tax in accordance with section 16 of CITA. Also, the profits derived in Nigeria by a non-resident insurance company from other activities prescribed in section **13(2)** of CITA shall be subject to tax accordingly.

2.0 Non-Life Insurance Business

The provisions of Section **16(10)(a)(b)** of CITA specify how to determine reserve for un-expired risk, and amount for outstanding claims and outgoings.

2.1 Reserve for Un-Expired Risk

Based on the provisions of section 16(10)(a) of CITA, un-expired risk shall be determined on a time apportionment basis of the risk accepted in the year.

Illustration 1

An extract from the financial statement of Insurance Plc for the year ended December 2021 shows the following:

	2020	2021
	₦	₦
Reserve for un-expired risk as at 31 st Dec	2,000,000	5,000,000

The un-expired risk that is attributable to the risk accepted in the year is

	2021
	₦
Reserve for un-expired risk as at 31 st Dec, 2021	5,000,000
Less: Reserve for un-expired risk as at 31 st Dec , 2020	(2,000,000)
Reserve for un-expired risk for the year	₦3,000,000

NOTE:

An insurance company shall maintain details and schedule of policies or risks accepted in a given year and the computation of un-expired risks associated with them. The schedule shall include:

- the name of the policy holder;
- type of policy;
- period covered by the policy;
- amount of the premium; and
- amount and period of un-expired risk.

2.2 Outstanding Claims and Outgoings

An estimated amount of outstanding claims and outgoings during a given year is allowed, provided that it is not more than the amount utilized towards the settlement of claims and outgoings.

The “estimated outstanding claims” include verified but unpaid claims and an estimate for unverified claims for the accounting period. The estimated claims and outgoings of an accounting period is deductible in that same year and added to the assessable profits of the immediately following year. As such, any shortfall or excess of estimated claims and outgoings is adjusted for.

NOTE:

Estimated amount of outstanding claims and outgoings must be supported with detailed schedule of specific items making up the total.

Illustration 2

An extract from the tax returns of XYZ Insurance Ltd. for YOA 2020 and 2021 shows the following:

	2020	2021
	₦	₦
Estimated claims and outgoings	7,000,000	3,500,000
Actual claims and outgoings for the year	4,000,000	9,000,000
Net Profit Before Claims	12,000,000	9,500,000
NOTE: Actual claims and outgoings paid in 2021 include: i. 2020 Accepted Claims 5,000,000 ii. 2021 New Claims 4,000,000		

The Assessable Profits of XYZ Insurance Ltd for 2020/2021 year of assessment is computed as follows:

XYZ Insurance Ltd Computation of Assessable Profits:

For 2020 year of assessment	₦	₦
Net Profit (per account)		12,000,000
Less: Actual claims and outgoings	4,000,000	
Estimated claims and outgoings	7,000,000	11,000,000
Assessable Profit		1,000,000
For 2021 year of assessment	₦	₦
Net Profit (per account)		9,500,000
Add: Unutilised Estimated claims and outgoings 2020		2,000,000
		<u>11,500,000</u>
Less: Actual claims and outgoings for the year	4,000,000	
Estimated claims and outgoings (2021)	3,500,000	7,500,000
Assessable Profit		4,000,000

OR

For 2021 year of assessment	₦	₦
Net Profit (per account)		9,500,000
Add: Estimated claims and outgoings 2020		7,000,000
		<u>16,500,000</u>
Less: Total claims and outgoings	9,000,000	
Estimated claims and outgoings (2021)	3,500,000	12,500,000
Assessable Profit		4,000,000

NOTE:

Insurance companies should maintain a schedule of estimated claims and outgoings that constitute the amount deducted yearly.

2.3 Minimum Tax Computation for Non-Life Insurance Business

Section 16 (14) of CITA, prescribes that the provisions of minimum tax in section 33 of CITA shall apply to insurance business. Accordingly, the minimum tax payable shall be computed at the rate of 0.5% (or 0.25% as the case may be) of gross turnover of the company less franked investment income (if any). However, "gross turnover", which is the base for the computation of minimum tax means "gross premium and other income" for the purpose of minimum tax computation for non-life insurance business.

2.4 Gross Premium

Gross premium which is the base for computation of minimum tax for non-life business is defined by section **16(15) of CITA (as amended)**, as “the total premiums written, received and receivable excluding unearned premium, and premium returned to insured”.

Note that no further deductions shall be allowed against the gross premium besides those specified by the Act.

2.5 Other Income

Other income for the purpose of computation of minimum tax refers to other revenues, gains or profit earned by the company besides gross premium, irrespective of where embedded. This excludes Franked Investment Income.

Illustration 3

ABC Insurance PLC has the following extract from its financial statement for the period ended Dec. 2021.

	₦
Total Premium Written	15,000,000
Premium Received & Receivable	7,500,000
Premium Returned to Insured	1,000,000
Premium paid on reinsurance	2,000,000
Un-Earned Premium (premium received in advance)	1,500,000
Revenue from discontinued operation	3,500,000
Rent (gross)	1,500,000
Franked investment income	2,000,000

The minimum tax payable for 2022 year of assessment is as follows:

	₦	₦
Total Premium Written		15,000,000
Premium Received & Receivable		7,500,000
		22,500,000
Less:		
Premium Returned	1,000,000	
Un-Earned Premium	1,500,000	2,500,000
Gross Premium Liable to Min Tax		20,000,000
Add Other Income:		
Revenue from discontinued operation	3,500,000	

Rent (gross)	1,500,000	
Franked Investment Income	<u>2,000,000</u>	<u>7,000,000</u>
		27,000,000
Less: Franked Investment Income		(2,000,000)
Gross premium and other Income Liable		25,000,000
Minimum Tax @ 0.5% X 25,000,000		125,000

NOTE:

Only dividend that has suffered Withholding Tax (WHT) shall be allowed as a deduction against other income for the computation of minimum tax. As such, evidence of WHT suffered is a condition to be met before treating dividend income as Franked Investment Income.

2.6 Format for Computing Non-Life Insurance Business Tax

This format may be used as a guide for the computation of CIT of Non-Life Insurance Businesses.

	₱	₱
TOTAL PREMIUM WRITTEN*		XXXXXXXX
LESS:		
UN-EARNED PREMIUM FOR THE YEAR (IF ANY)	xxxxxx	
PREMIUM RETURNED (CANCELLED INSURANCE POLICIES)	<u>xxxxxx</u>	<u>xxxxxxxx</u>
GROSS PREMIUM		XXXXXXXX
ADD:		
ESTIMATED INSURANCE CLAIMS FOR PREVIOUS YEAR (IF ANY)	XXXXXXX	
INVESTMENT INCOME	XXXXXXX	
FEES AND COMMISSION	XXXXXXX	
RENT RECEIVED	XXXXXXX	
OTHER INCOME	<u>XXXXXXX</u>	<u>XXXXXXXX</u>
NET INCOME		XXXXXXXX
LESS:		
NON-TAXABLE INCOME (IF ANY)		<u>(XXXXXXX)</u>
NET TAXABLE INCOME		XXXXXXXX
LESS:		
RE-INSURANCE PREMIUM PAID	XXXXXXX	
RESERVE FOR UNEXPIRED RISK	XXXXXXX	
TAX ALLOWABLE OUTGOINGS	XXXXXXX	
INSURANCE CLAIMS: - ACTUAL FOR THE YEAR	XXXXXXX	
- ESTIMATED FOR THE YEAR	<u>XXXXXXX</u>	<u>(XXXXXXX)</u>
ASSESSABLE PROFIT		XXXXXXXX
LESS: LOSS BROUGHT FORWARD (IF ANY)		<u>(XXXXXXX)</u>

ADD BALANCING CHARGE		XXXXXXX
LESS: CAPITAL ALLOWANCES		XXXXXXX
TOTAL PROFIT		<u>XXXXXXXXX</u>
COMPANIES INCOME TAX @ 30% OF TOTAL PROFIT (A)		XXXXXXXXX
MINIMUM TAX @ 0.5% OF GROSS PREMIUM (B)		XXXXXXXXX
COMPANIES INCOME TAX IS THE HIGHER OF (A) and (B)		<u>XXXXXXXXX</u>

3.0 Life Insurance Business

Section 16(7) of CITA defines "investment income" as "*income derived from investment of shareholders' fund*". Furthermore, section 16(14) of CITA aligns the basis for computation of minimum tax with Section 33 of CITA and provides that "gross turnover" shall mean "gross income" for the purpose of computation of minimum tax for life insurance business. As such, minimum tax shall be computed at the rate of 0.5% (or 0.25% as the case may be) of gross income less franked investment income (if any).

3.1 Gross Income

Section 16(15) of CITA (as amended) defines gross income as "total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims by re-insurers". The assessable profits of a life insurance business shall be computed on the basis of the gross income derived by that business.

For the above provisions, other deductions besides frank investment income, premiums received and claims by re-insurers shall not be allowed as a deduction against gross income for purposes of computing assessable profits and minimum tax of a life insurance business.

NOTE:

Only dividend that has suffered Withholding Tax (WHT) shall be allowed as a deduction against gross income for the computation of minimum tax. As such, evidence of WHT suffered is a condition to be met before treating dividend income as Franked Investment Income for the purpose of minimum tax computation.

3.2 Investment Income

Investment income (which may relate to investment of shareholders' fund or policy holders' fund) includes:

- Interest earned from bonds and treasury bills
- Interest from fixed deposit placement with banks
- Gain or profits from investment in real estate

- Gain from investment in stock sales

3.2.1 Taxable Investment Income

By virtue of Section 16(7) of CITA, investment income derived from investment of shareholders' fund shall be liable to tax under subsections (3) (4) and (5).

3.2.2 Non-Taxable Investment Income

Incomes from investment of policy holders' fund will not be liable to tax under subsections (3) (4) and (5) of CITA.

Note

Insurance companies should maintain separate schedule and evidence relating to investment of shareholders' fund and investment of policy holders' fund or other funds, together with the associated income realised.

3.3 Treatment of Expenses Incurred and Capital Allowances Utilized in Earning Non-Taxable Investment Income

In accordance with the provisions of section 27(f) of CITA (as amended), any expense incurred in deriving non-taxable investment income (including income from investment of policy holders' fund) by a life insurance company **shall not be allowable for tax purposes**. Where joint cost is incurred for both taxable and non-taxable investment incomes, such expense shall be apportioned using the proportion of each investment income to the total income.

Also, where the proportion of the non-taxable investment income is higher than 20% of the total investment income, the capital allowance that will be utilised in relation to the taxable investment income shall be apportioned appropriately. This is in accordance with the provisions of section 31 (1A) & (1B) of CITA.

Illustration 4

The extract from the financial statement and the tax returns submitted by the Y2K Insurance Company for its life business to the Federal Inland Revenue Service shows the following:

	₦
Investment Income – Shareholders' fund	6,000,000
Investment Income from Policy holders' fund (Non-Taxable)	3,500,000
Other Income	500,000
Expenses specific to Investment of Policy holders' fund	300,000

Other Joint Management expenses	2,500,000
Capital Allowance for the year	2,000,000

The expenses to be disallowed will be determined as follows:

	₦
Expenses specific to Investment of Policy holders' fund	300,000
Apportionment of Joint Cost:	
Investment income from Policy Holders' Fund/Total Investment and Other Income X Joint Costs:	
$N3,500,000/N10,000,000 \times N2,500,000$	875,000
Total Disallowed expenses relating to non-taxable investment income	₦1,175,000

The Capital Allowance to be utilised will be determined as follows:

	₦
Capital Allowance for the year	2,000,000
Apportionment of Capital Allowance:	
Investment income from Policy Holders' Fund/Total Investment and Other Income X Capital Allowance for the year:	
$N3,500,000/N10,000,000 \times N2,000,000$	700,000
Total Capital Allowance relating to taxable investment income to be utilised for the year	₦1,300,000

3.4 Format for Life Insurance Business Tax Computation

Based on the new provisions introduced in the amendment, this format may be used as a guide for the computation of CIT payable by Life Insurance Businesses.

NOTE:

Any income earned that is not attributed to life business shall be subject to tax under non-life business.

	₦	₦
INVESTMENT INCOME (LESS FRANKED INVESTMENT INCOME)		XXXXXXXX
ADD:		
FEES AND COMMISSION INCOME	XXXX	
DIVIDEND DISTRIBUTION OF ACTUARIAL OR OTHER REVALUATION	XXXX	
ANY OTHER INCOME	<u>XXXX</u>	<u>XXXXX</u>
GROSS INCOME		XXXXXXXX
LESS:		
GENERAL RESERVE FUND:	XXXXX	
SPECIAL RESERVE FUND – THE HIGHER OF:	-	
1% OF GROSS PREMIUM EARNED XXXXX	-	
10% OF TOTAL PROFIT <u>XXXXX</u>	XXXXX	<u>XXXXX</u>
		XXXXXX
ADD: NON-ALLOWABLE EXPENSES (e.g., Expenses Incurred in Generating Tax Exempt Investment Income)		<u>XXXXX</u>
ASSESSABLE PROFIT		<u>XXXXXXXX</u>
ADD BALANCING CHARGE		XXXXX
LESS: CAPITAL ALLOWANCES		(XXXXX)
TOTAL PROFITS		<u>XXXXXXXX</u>
COMPANIES INCOME TAX @ 30% OF TOTAL PROFIT (A)		<u>XXXXXXXX</u>
MINIMUM TAX @ 0.5% OF GROSS INCOME (B)		<u>XXXXXXXX</u>
COMPANIES INCOME TAX IS THE HIGHER OF (A) and (B)		<u>XXXXXXXX</u>

4.0 Amendment or Revision of the Circular

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

5.0 Enquiries

Any request for further information or clarifications on this Information Circular should be directed to the:

Executive Chairman
Federal Inland Revenue Service
Revenue House,
15 Sokode Crescent, Wuse Zone 5, Abuja.

Or

Director, Tax Policy and Advisory Department
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No 12 Sokode Crescent, Wuse Zone 5,
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Or

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