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L.S.L.N. No. 21– Stamp Duties (Recovery and Collection) Regulations 2016... .. B85-95

Provided that nothing herein shall be interpreted as preventing the appointment by the President and by a Governor of the same person to be both Federal and a State Commissioner under Section 6 of this Act."

- (2) Section 4(2) of the Stamp Duties Act provides that –
"The State Governments shall collect duties in respect of instruments executed between persons or individuals at such rate to be imposed or charged as may be agreed with the Federal Government."
- (3) Section 7(2) of the Stamp Duties Act provides that-
"No die of a new design of impressed revenue stamp shall be used without the approval of the Minister or Governor, as the case may be, and a notification of such approval shall be published in the Federal Gazette at least one month before such a new die shall be used."
- (4) Section 7(3) of the Stamp Duties Act provides that –
"The Minister or Governor as the case may be, may by notice in the Federal Gazette determine to discontinue the use of any die for the use of a revenue stamp and provide a new die to be used in lieu thereof: then from and after any day to be stated in the notice (such day not being within one month after the same is so published) the new die shall be the only lawful die for denoting the duty chargeable in any case in which the discontinued die would have been used: any and every instrument first executed by any person, or bearing date after the day so stated, and stamped with the discontinued die, shall be deemed to be not duly stamped:
Provided that –
 - (a) if any instrument stamped as last aforesaid, and first executed after the date so stated at any place out of Nigeria is brought to a Commissioner within 21 days after it has been received in Nigeria, then, upon proof of the facts to the satisfaction of the Commissioner, the stamps thereon shall be cancelled and the instruments shall be stamped with the same amount of duty by means of the lawful die, without the payment of any penalty;
 - (b) all persons having in their possession any material stamped with the discontinued dies, and which by reason of the providing of such new die has been rendered useless, may, at any time within six months after the day stated in the notice, send the said material to the Accountant-General who shall cause the stamp on such material to be cancelled and refund the amount of duty paid upon such material."

- (5) Section 23(8) of the Stamp Duties Act provides that –
Where the Minister or Governor, as the case may be, is of the opinion that the period of forty (40) days specified in subsection (1) of this Section or of thirty (30) days specified in subsection (3) and (4) of this Section is –

- (a) being used in any manner for the purpose of evading the payment of stamp duties; or
- (b) too long or too short in view of the fact that a commissioner is either easy or difficult of access for the purpose of assessing the duty, payable upon any instrument or of having stamps impressed upon an instrument liable to duty,

the Minister or Governor, as the case may be, may by order declare that for the period of forty days specified in subsection (1) and for the periods of thirty days specified in subsections (3) and (4) of this section or either of them, there shall be substituted such lesser or longer period of time as may be specified in the said order and thereafter such lesser period shall be for the period of forty days specified in subsection (1) of this section and such lesser or longer period for the periods of thirty days specified in subsection (3) and (4) of this section or either of them. there shall be substituted such lesser or longer period of time as may be specified in the said order and therefore such lesser period shall be substituted for the period of forty days specified in subsection (1) of this section and such lesser or longer period for the period of thirty days specified in subsection (3) and (4) of this section or either of them. as the case may be, in the application of this section to instruments first executed or received in those towns, areas or places to which the order relates.”

- (6) Section 23(9) of the Stamp Duties Act provides that –
“An order under this subsection may specify different periods of time in respect of different places and may be restricted or increased in the case of a period of time referred to in subsection (3) of this section to instruments first executed in Nigeria.”
- (7) Section 91 of the Stamp Duties Act provides as follows:
“(1) A receipt given without being stamped may be stamped with an impressed stamp on the following terms:
(a) within 28 days after it has been given, on payment of the duty and a penalty of four naira;
(b) after 28 days, but within 56 days, on payment of the duty and a penalty of twenty naira, and shall not in any other case be stamped with an impressed stamp.

(2) The payment of the penalty under subsection (1) of this section shall be certified on the face of the receipt under the hand of a Commissioner.

(3) Where in any legal proceedings or before any arbitrator or referee a receipt is inadmissible by reason of it not being duly stamped, the officer presiding over the court, the arbitrator or referee may, having regard to the illiteracy and ignorance of the party tendering the receipt in evidence, admit the receipt upon payment of a penalty of four naira and the officer presiding over the court, the arbitrator or referee, as the case may be, shall note the payment of the penalty upon the face of the receipt so admitted and the receipt shall be given for the same.

(4) A receipt so admitted in evidence shall not be deemed to be duly stamped but shall be available for the purposes of the suit in which it is tendered in evidence and for that purpose only.

(5) Where a person has been permitted under this subsection to tender a receipt not duly stamped upon payment of the penalty of four naira, such person may recover the said sum of four naira from the person whose duty it was to stamp the receipt at the time when it was first issued.

(6) Nothing contained in this section shall relieve any person from any penalty incurred by him in relation to such receipt."

(8) Section 92 of the Stamp Duties Act provides that –

"If any person –

- (a) gives a receipt liable to duty and not duly stamped;
or
- (b) in any case where a receipt would be liable to duty, refuses to give a receipt duly stamped; or
- (c) upon a payment to the amount of four naira or upwards, gives a receipt for a sum not amounting to four naira, or separates or divides the amount paid with the intent to evade the duty, he shall be guilty of an offence and liable on conviction to a fine of twenty naira."

(9) Section 107 of the Stamp Duties Act provides that –

"Where the collection of duty or the stamping of instruments according to the provisions of this Act is impracticable or inexpedient, or where such collection or stamping causes undue inconvenience to trade or business or where the exercise of the power conferred by this section is in the interest of Nigeria or of a State thereof, the President or Governor, as the case be, may make regulations –

- (a) for compounding any duty; or
 - (b) for delivery of accounts by, and collecting duty from, the persons making or issuing the instruments upon which the duty is charged.”
- (10) Section 113 of the Stamp Duties Act provides as follows:
 - “(1) The President or Governor, as the case may be, may in his discretion mitigate any fine or penalty or debt due to the Government of the Federation under this Act or stay or compound any proceedings for recovery thereof and may also after judgment further mitigate or entirely remit any such fine, penalty or debt.
 - (2) The decision of the President or Governor, as the case may be, to stay or compound any proceedings which have been commenced, may be intimated to the court by a law officer or State Counsel.”
- (11) Section 114 of the Stamp Duties Act provides that –

“All proceedings for the recovery of any duty, fine, penalty and debt due to the Government of the Federation imposed by this Act, may be commenced or prosecuted at any time within five years after the offence committed by reason whereof such duty, fine, penalty, or debt shall be incurred.”
- (12) Section 115 of the Stamp Duties Act provides that –

“In addition to the powers conferred on him by sections 15 and 105 of this Act, the President and the Governor of a State may make regulations relating –

 - (a) to the custody of dies to be used under this Act;
 - (b) to the circumstances in which allowances shall be made for spoiled stamps;
 - (c) to the accounting for the revenue derived from stamp duties;
 - (d) to the substitution of adhesive stamps for impressed stamps, or of impressed stamps for adhesive stamps, or of the revenue stamps for postage and revenue stamps;
 - (e) to the manner in which and the persons by whom impressed stamps shall be affixed to documents; and
 - (f) to the further and better carrying into effect of the objectives and purposes of this Act.
- 3. (1) These Regulations shall apply to –
 - (a) Electronic Instruments and Transactions of and between individuals carried out through or on their behalf by banks, operators of clearance services and electronic

payment systems and/or any other provider of electronic instruments and transactions operating within the territory of Lagos State;

- (b) all paperless or transaction made electronically by way of any electronic settlement and registration system involving depository receipts or any receipts and clearance services through any intermediary or through the operations of any such paperless systems.

- (2) The Schedule to this Regulation shall have effect to other types of instruments and transactions operating within the territory of Lagos State.

- 4. (1) All banks, operators of clearance services and electronic payment systems and providers of electronic instruments and transactions shall account to the Government of Lagos State the Stamp Duties deducted and paid into a dedicated "Stamp Duties Account" in accordance with the arrangements set up for that purpose. Duty to Account.

(2) All banks, operators of clearance services and electronic payment systems and providers of electronic instruments and transactions shall be accountable persons for the purpose of these Regulations and shall on or before the accountable date, give written notice in the prescribed form to the designated authority of each charge and pay the Stamp Duty due into an account designated for that purpose.

(3) For the purpose of this Regulation, a clearance service is an arrangement for trading transactions in securities or any other instrument or transaction where securities or transactions are carried out by way of a paperless system or waiver of receipts in bank transfers.

- 5. All banks, operators of clearance services and electronic payment systems and all providers of electronic instruments and transactions shall at the end of each day send full detail of all the transactions and deductions for that day to the designated authority and pay the deductions into the designated account in any bank or banks appointed for that purpose. Payment of Deductions to Designated Account.

- 6. All banks, operators of clearance services and electronic payment systems and providers of electronic instruments and transactions shall verify that they have collected the correct amount of stamp duties. Verification.

Duty to
Provide
Information.

7. All banks, operators of clearance services and electronic payment systems and providers of electronic instruments and transactions shall provide necessary information to the Compliance Team appointed for this purpose.

Waiver of
paper
Receipt.

8. (1) These Regulations exempt or waive the use of paper receipts in electronic transactions, clearance services and electronic bank transfers.
- (2) For the purpose of this Regulation –
- (a) the expression “receipt” includes any note, memorandum, or writing amounting to four naira upwards, or any bill of exchange or promissory note for the money amounting to one thousand naira or upwards, is acknowledged or expressed to have been received or deposited or paid, or any debt or demand, or any amount of one thousand naira or upwards, is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgement, and whether the same is or is not signed with the name of any person:
- (b) the duty upon a receipt may be denoted by an adhesive stamp which is to be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

Accountability
for Duty
Charged.

9. The duties charged shall be accounted for in a manner to be prescribed by the Governor of Lagos State.

Right to Collect
Duties.

10. The Lagos State Government shall collect duties in respect of instrument executed between persons or individuals at such rates to be imposed or charged as may be agreed with the Federal Government or any agreed designated authority acting on its behalf to which it has consented or agreed with.

Prescription
of Use of
Stamps

11. (1) Impressive stamps, revenue stamp and any other stamps as may be approved by the Governor shall be used to denote stamp duties in respect of instruments executed in Lagos State.
- (2) The duty upon a receipt shall not be denoted by a postage stamp in Lagos State.

Power to
Extend or
Reduce Period
of Stamping.

12. The Governor may extend or reduce the period for the stamping of instruments after execution.

13. The designated authority may by notice in writing require any person to furnish them within such time, not less than thirty (30) days, as may be specified in the notice with such information (including documents or records) as the designated authority may reasonably require for the purposes of stamp duty.
14. (1) Every accountable person or operator must whenever required to do so, make available for inspection by a duly authorized officer all books, documents and other records in his possession or under his control containing information relating to any relevant transaction to which he was a party or in connection with which he acted.
(2) Where records are electronically maintained by a computer, the person required to make them available for inspection must do so with all facilities necessary for obtaining such information.
15. (1) Where it appears to the designated authority that a relevant transaction has taken place or where a claim is made to the Service in connection with a relevant transaction, they may give notice to any person who appears to them in relation to that transaction to be the accountable person or operator, or the person liable for any of the stamp duty charged or to the claimant, stating that they have determined the matters specified in the notice.
(2) If it appears to the designated authority that any such matter specified in a notice of determination is, or may be, material as respects any liability to stamp duty of two or more persons, they may give notice of the determination to each of those persons.
(3) Any matter that appears to the designated authority to be relevant for the purpose of the Stamp Duties may be determined and specified in the notice.
(4) A determination for the purpose of a notice of any fact relating to the relevant transaction –
(a) must, if that fact has been stated in a notice of charge given by an accountable person and the designated authority is satisfied that the notice is correct, be made by the designated authority in accordance with that notice; but
(b) may, in any other case, be made by the Service to the best of their judgment.
(5) Subject to any variation, by agreement in writing or on appeal, a determination in a notice under these provisions is conclusive for the purpose of the Stamp Duties against a person on whom the notice is served.
- Power of Designated Authority to Request for Information.
- Right to Inspect Records.
- Power to Issue Notice to Account.

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| Mode of Service of Document. | 16. | A notice or other document which is to be served on or given to a person under these Regulations may be delivered to him or left at his usual or last known place of residence or served by post, addressed to him at his usual or last place of residence or place of business or employment. |
| Appeal. | 17. | <p>(1) A person on whom a notice of determination has been served, may within thirty (30) days of the date of the notice, appeal against any determination specified in the notice in writing given to the designated authority specifying the grounds of the appeal.</p> <p>(2) The appeal shall be filed before the Tax Appeal Tribunal unless the-</p> <ul style="list-style-type: none">(a) appellant and the designated authority agree that it should be a High Court; or(b) High Court, on an application made by the appellant, is satisfied that the matters to be decided on the appeal are likely to be substantially confined to questions of law and gives leave for that purpose. |
| Underpayment of Tax. | 18. | <p>(1) Where a stamp duty has been under paid in respect of a relevant transaction, the tax underpaid is payable with interest, whether or not the amount that has been paid was that stated as payable in a notice of charge given by an accountable person or operator.</p> <p>(2) Where any payment has been made and accepted in satisfaction of any liability for a tax and on the view of the law generally received or adopted in practice, any question whether too little or too much has been paid or what was paid or what was the right amount of tax payable is determined on the same view, notwithstanding that it appears from a subsequent legal decision or otherwise that the view was or may have been wrong.</p> <p>(3) Where stamp duty is paid in accordance with a notice of charge given to the Service and the payment is made and accepted in full satisfaction of the tax, no additional amount of tax may be determined and specified in a notice of determination after the end of the period of five (5) years beginning with the later of the –</p> <ul style="list-style-type: none">(a) date on which the payment was made and accepted; and(b) relevant accountable date and at the end of that period, any liability for the additional tax is extinguished. <p>(4) If on a claim made within a period of five (5) years beginning with the later of the –</p> <ul style="list-style-type: none">(a) date on which the payment was made; and(b) relevant accountable date it is proved to the Service's satisfaction that too much stamp duty has been paid in respect of any relevant transaction, the excess, including any interest paid on it shall be repaid by the designated authority. |

(5) Where an amount of stamp duty has been repaid, or interest has been paid to any person who ought not to have been repaid or paid to him, that amount may be determined and recovered as if it were stamp duty due from him.

(6) The determination referred to in subsection (5) above, may be made before the expiration of five (5) years from the date on which the amount was repaid or paid.

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| 19. | The unpaid Stamp Duties shall be recovered as a debt owed Lagos State by the Attorney-General of Lagos State. | Right of the Attorney-General to Recover Debt. |
| 20. | In addition to the powers conferred under these Regulations, the Governor of Lagos State may make any further regulations or order to further and better carrying into effect the objects and purposes of the Stamp Duties Act. | Power of the Governor to Make an Order. |
| 21. | This Regulations may be cited as the Stamp Duties (Recovery and Collection) Regulations, 2016 and shall come into force on the 21st day of July, 2016. | Citation and Commencement. |

MR AKINWUNMI AMBODE
GOVERNOR OF LAGOS STATE

SCHEDULE

Section 3

- (1) Flat Rate Charges:
- (a) Affidavit-Affirmation, Statutory Declaration, Declaration of Age, Declaration of loss of items, Declaration of Ownership of Property etc.;
 - (b) Ordinary Tenancy Agreement (not involving corporate bodies, Government or its Agencies);
 - (c) Ordinary receipts;
 - (d) Certificate of Occupancy;
 - (e) Counterpart copy;
 - (f) Agreement (Under Seal);
 - (g) Agreement (Memo of any agreement);
 - (h) Oath and other affiliate bodies relating to above;
 - (i) Bond (ordinary);
 - (j) Gift (Land) and Gift (other than Land);
 - (k) Collateral Security;
 - (l) Certificate;
 - (m) Legacy (Movable property);
 - (n) Proxy forms or cards;
 - (o) Partnership;
 - (p) Bank Guarantee;
 - (q) Appointment of Trustee;
 - (r) Appointment of Commissioner for Affidavit;
 - (s) Warrants of Attorney of any kind;
 - (t) Notaries Act.
- (2) Ad-Valorem Charges:
- (a) Contract Agreement;
 - (b) Land Agreement;
 - (c) Lease Agreement, Sublease Agreement;
 - (d) Leasehold Agreement or Rent Agreement:
 - (i) if the term is less than one (1) year;
 - (ii) 1-7 years;
 - (iii) 7-12 years;
 - (iv) 21 years and above;
 - (v) indefinite period;
 - (e) Deed of Assignment, Deed of Ratification, Deed of Confirmation;
 - (f) Deed of Release, Hire Purchase or Surrender;
 - (g) Legacy (Immovable);
 - (h) Promissory Notes/IOU

***STAMP DUTIES (RECOVERY AND COLLECTION) REGULATIONS,
2016***

In the exercise of the powers conferred by Sections 3, 4(2), 7(2) & (3), 23(8) & (9), 89, 91, 113, 114 and 115 of the Stamp Duties Act, LFN 2004 (referred to in this Regulations as "The Act") and all other powers enabling me in that behalf, I, **Mr. Akinwunmi Ambode**, the Governor of Lagos State make the following Regulations:

1. These Regulations give effect to the provisions of the following enactments:

1. Section 163 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides that:
"Where under an Act of the National Assembly tax or duty is imposed in respect of any of the matters specified in item D of Part II of the Second Schedule to this Constitution, the net proceeds of such tax or duty shall be distributed among the States on the basis of derivation and accordingly-

Constitution
of the
Federal
Republic of
Nigeria
1999.

- (a) where such tax or duty is collected by the Government of a State or other authority of the State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State;
- (b) where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State."

2. (1) Section 3 of the Stamp Duties Act provides as follows:
"(1) From and after the commencement of this Act, the duties to be charged upon the several instruments specified in the Schedule to this Act shall be the several duties set out in the said Schedule, which duties shall be in substitution for the duties heretofore chargeable under the enactments repealed by this Act and shall be subject to the exemptions contained in this Act and in any other Act for the time being in force.
(2) The duties charged under this Act shall be accounted for in a manner to be prescribed in proper case by the Minister after consultation with the Governors of the States.
(3) The functions under this Act shall be respectively confined to matters in respect of which the Government of the Federation and the Government of such State shall be competent to make laws:

Stamp
Duties Act.