

*...it pays to pay your tax*

**A Publication of**

**Federal Inland Revenue Service**

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# TAXPAYER INFORMATION GUIDE ON STAMP DUTY

## **1.0 Brief background on Stamp Duty**

The High Commissioner of the then Northern Protectorate, Sir Frederick Luggard issued the first Stamp Duty Proclamation of 1903. Thereafter, the Stamp Duty Ordinances of 1928, 1931, 1935, 1939, 1990 came into being and finally Stamp Duties Act CAP S8, LFN 2004 as amended was enacted.

Stamp Duty is an indirect tax in Nigeria governed by the Stamp Duties Act (SDA), CAP S8 LFN 2004 (as amended). It is a tax charged for a stamp or seal applied on a written or electronic document which if executed, makes it a legal document and will be admissible in any court of law. Stamp duties can either be levied at a Flat rate, which is fixed and does not vary with consideration, or an Ad-valorem rate which varies with consideration.

The Finance Act 2019 (“the FA 2019”), particularly section 52, expanded the scope of the SDA to capture electronic transactions.

### **1.1 What are Stamp Duties?**

Stamp Duties are taxes paid on written and electronic instruments or documents relating to an act performed or required to be performed in Nigeria.

### **1.2 What are the statutory laws governing Stamp Duties in Nigeria?**

- The Constitution of the Federal Republic of Nigeria (item 58, Exclusive Legislative List of the 1999 Constitution).
- The Stamp Duties Act (“SDA”), Cap S8, Laws of the Federation of Nigeria 2004 as amended.

- Federal Inland Revenue Service Establishment Act and Decided Cases in the court of Law.

### **1.3 What is the role of FIRS in Stamp Duties Administration?**

According to Section 4(1) Stamp Duty Act as amended by S.53 of the Finance Act 2019, Federal Inland Revenue Service is the sole regulatory agency for the administration of Stamp Duties in Nigeria as regards to assessing, collecting and stamping of instruments between a company and an individual, group or body of individuals and accounts for such revenues.

### **1.4 What is the role of the Attorney General of the Federation in recovery of the Back Year Duties under the SDA**

Section 174 of the 1999 Constitution empowers the Attorney General of the Federation to institute and undertake any criminal proceedings against any person before any Court of Law in Nigeria in respect of any offence created by or under any Act of the National Assembly (including offences as they relate to recovery of Back Year Duties under the Stamp Duty Act)

### **1.5 Who can legislate on Stamp Duties?**

Stamp Duties is Item 58 on the Exclusive Legislative List of the Constitution of the Federal Republic of Nigeria. However, Item 7 on the Concurrent Legislative List allows the National Assembly to delegate the functions of collecting stamp duties between (only) individuals to state governments.

### **1.6 What is the effect of paying Stamp Duty?**

The effect of paying stamp duty is that it makes document becomes

a legal document and therefore binding on both parties to a transaction, and therefore admissible and enforceable in the event of court litigation and thereafter.

### **1.7 What is the time for payment of Stamp Duty.**

Section 23(1) of the Stamp Duty Act requires that duties must be paid within 30-40 days after they have been executed or within 30 days after they have been received in Nigeria (if executed outside Nigeria).

### **1.8 How do I determine the applicable Stamp Duty rate?**

Stamp Duties can be levied at a fixed or ad valorem rate as provided in the SDA. The schedule to the Act provides a list of dutiable documents and the applicable Stamp Duty rates.

### **1.9 What instruments attract Stamp duties?**

All instruments relating to transactions to be performed in Nigeria (whether or not executed in Nigeria) are subject to Stamp Duty except such instruments as specifically exempted under the SDA.

List of dutiable transactions are, but not limited to, the following:

S/N	FLAT RATE INSTRUMENTS	RATE
1	Appointment of Trustee or of Attorney	N500
2	Affidavit-Affirmation, Statutory Declaration, Agreement (Memo of Handwritten) Ordinary	N500
3	Certificate of Occupancy, Partnership	N500
4	Will	N500
5	Bank Cheque per leaflet	N500
6	Letter of Power of Attorney (Revocable/Not Land Related)	N500
7	Memorandum, Articles of Association Pre-Incorporation / Post Incorporation	N500

S/N	AD VALOREM INSTRUMENT	RATE
1	Appraisalment or Valuation of Property	1.5%
2	Discharge (from Insurance Company) Indemnity or lease of Mortgage	0.375%
3	Bill of Sale	1.5%
4	Bonds (See Mortgage)	0.375%
5	Contract Agreement	1%
6	Deeds of Assignment, Confirmation	1.5%
7	Deeds on Conveyance or transfer on sale of property	1.5%
8	Insurance Policy/Policies	0.075%
9	Lease agreement on plant and machinery	1-7yrs: 0.78% 7-21yrs: 3% Above 21yrs: 6%
10	Lease agreement or rent agreement <ul style="list-style-type: none"> <li>i. 1-7 years</li> <li>ii. 7-21 years</li> <li>iii. 21 years to 99 years</li> </ul>	1-7yrs: 0.78% 7-21yrs: 3% Above 21yrs: 6%
11	Marketable securities transferable by delivery	2.25%
12	Power of Attorney (Irrevocable/Land Related)	1.5%
13	Promissory Notes/I.O. U	0.1%
14	Share Capital and Share Capital Increase (TCC Required)	0.075%
15	Surrender, Bills of Exchange	0.01%

The above list is not exhaustive and the full list of qualifying transactions can be found in the Schedule to the Stamp Duty Act.

## **2.0 Who has the authority to collect stamp duty**

Section 53 of the Finance Act 2019 which amends Section 4 of the Stamp duty Act 2004 gives the Federal Inland Revenue Service (FIRS) the power to impose, charge and collect duties upon

instruments relating to transactions or matters executed between corporate bodies or between a corporate body and an individual, group or body of individuals. FIRS currently has 38 Stamp Duty offices headed by a Stamp Duty Commissioner nationwide. These comprises one (1) Stamp Duty office in each State including FCT, and two (2) Stamp Duty offices in Lagos. The relevant State Tax Authorities are responsible for the collection of stamp duties in respect of instruments executed between individuals.

## **2.1 Mode of denoting Stamp Duties**

Stamp duties may be denoted by:

- i. Employing a die impressed on an instrument;
- ii. Affixing printed adhesive stamps on instruments;
- iii. Direct electronic printing or impression on the instrument;
- iv. Electronic tagging;
- v. Issuance of stamp duties certificate; and
- vi. Any other form of acknowledgment of payment for stamp duties adopted by the Service.

## **2.2 How do taxpayers pay Stamp Duties?**

Stamp duties can be paid by E-Stamping through the TaxPromax Portal on [www.taxpromax.firs.gov.ng](http://www.taxpromax.firs.gov.ng). A taxpayer is expected to have a Tax Identification Number (TIN) which is used to register on the platform to make payment. This process enables stamp duties to be paid online without necessarily going to any of the 38 Stamp duty offices nationwide. Stamp duties processing and payment for all pre-incorporation and post-incorporation services are done through the Corporate Affairs Commission (CAC) portal.

### **2.3 What are the benefits of paying Stamp Duties.**

- a. Payment of stamp duties provides sustainable finance and funding for governance.
- b. Provides funds for the provision of social services and economic development.
- c. A dutiable transaction/instrument is deemed to be a legal document and will be admissible in any court of law.
- d. Compliance with stamp duty will enable law-abiding citizens avoid the consequences, penalties and sanctions of non-compliance.

### **2.4 What is the effect of non-compliance of SDA**

Failure to comply with provisions of the SDA may result in any of the following consequences:

- i. Prosecution for offences under the Act
- ii. Payment of penalties of various degrees.
- iii. Inability to use the relevant instrument as evidence in court or other judicial or quasi-judicial proceedings.
- iv. Enforcement actions, etc.
- v. FIRS may apply a penalty of 10 per cent of the unremitted duty and interest at the prevailing CBN minimum rediscount rate.

**2.5 What is Adjudication?** This is the process of determining the correct amount of duty, usually convincingly, by the commissioner of Stamp Duties.

## **2.6 What is the importance of Adjudication?**

- (a) It satisfies the statutory requirement.
- (b) Where the instrument is duly stamped under the adjudication process, the instrument is admissible for all purposes notwithstanding any objection as to the duty required to be paid.

## **2.7 E-Stamping and E-payment**

E-stamping is the process in which documents/instruments are stamped electronically, while E-payment is the process where payment for duty on such instrument is done online. Under the stamp duties context, both processes are carried out concurrently. Payment of Stamp duty and stamping of documents/instruments are done together when stamped electronically.

## **2.8 How is the payment process like?**

The procedure for payment for all instruments is done via Taxpro Max. Find below a step-by-step guide to follow:

### **A. For Dutiable instruments**

- i. Log on to [taxpromax.firs.gov.ng](http://taxpromax.firs.gov.ng)
- ii. Click on login and log in with credentials
- iii. Click on taxpayer services and
- iv. Select “group taxes” then select “stamp duty”
- v. Select and subscribe to a stamp duty instrument
- vi. Input instrument details
- vii. Make payment online.
- viii. Download/print stamp duty certificate
- ix. Payment certificates are sent to the company's email



## **B. For pre-incorporation and post-incorporation**

Go to [www.cac.gov.ng](http://www.cac.gov.ng) and follow the end-to-end process to complete your Pre and Post incorporation payment.

### **2.9 Which Instruments are exempted from payment of stamp duties/non-chargeable instrument?**

Some instruments are exempted from stamp duty though they need to be stamped. These include:

Admission as a military advocate

- Transfer of Shares (Tax Clearance Certificate required)
- Shipping Agreement
- Bills or Notes issued by CBN
- Letter of credit granted in Nigeria authorizing drafts to be drawn in Nigeria for payment out of Nigeria.

All instruments relating to the transfer of stocks & shares

- Bond given by a public officer for the execution of their duties.
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