



# Tax Alert

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## **FIRS provides clarifications on administration of stamp duties in Nigeria**

Following the recent launching of its adhesive stamp, the Federal Inland Revenue Service (FIRS) has issued a press release to provide clarifications on the administration of stamp duties in Nigeria. We have summarized below, the guidelines provided by the FIRS in the publication:

1. Stamp duty is applicable on all dutiable instruments, such as agreements, contracts, receipts, memorandum of understanding, promissory notes, insurance policies and other instruments stipulated in the Schedule to the Stamp Duties Act, Cap S8, Laws of the Federation of Nigeria 2004 (as amended) (SDA or "the Act").
2. The Finance Act, 2019 has expanded the scope of the SDA to include technology, e-commerce and cross-border transactions, in line with global practice and current economic realities.
3. Stamp duty is chargeable on both physical and electronic dutiable instruments, either as a fixed sum or a percentage of the consideration on the instrument (*ad-valorem*) as illustrated in the sample table of rates contained in the press release.
4. The FIRS affirms that it is the competent authority to impose, charge and collect stamp duties on all dutiable instruments executed between a company and an individual, while the remit of the State tax authorities (STAs) is limited to collection of stamp duties on instruments executed between individuals. However, the FIRS is the relevant tax authority to collect stamp duties on all banking transactions, even when the parties thereto are individuals, especially electronic fund transfers.

5. A fixed-rate of ₦50 FIRS' adhesive stamp is applicable on all receipts. Also, electronic transfers above ₦10,000 through the Money Deposit Banks (MDBs) will attract a stamp duty of ₦50 which the MDBs are obliged to remit to the FIRS.
6. Stamp duties due to the Federal Government and collectible by the FIRS are to be remitted into the FIRS Stamp Duties Account with the Central Bank of Nigeria, while the stamp duties due to State Governments are to be remitted to the stamp duties accounts of the States.
7. The burden of payment of the stamp duties on contracts and bank transfers is that of the beneficiary of the contract and the customer who initiated the transfer, respectively. The party making the payment have the obligation to account for the stamp duties applicable on the transaction. Therefore, ministries, departments, agencies, landlords and other executors are agents of collection for stamp duties purpose and are required to ensure that their service providers, contractors, tenants, etc. pay the applicable duties on the relevant instruments.
8. The postage stamp administered by the Nigerian Postal Service (NIPOST) for delivery of goods does not denote stamp duties and, therefore, is not a substitute for the FIRS' adhesive stamp.
9. Failure to deduct or remit stamp duties into the appropriate stamp duties account would attract penalty and interest as provided by the SDA.

In conclusion, the FIRS reiterated its commitment to make stamp duties the next major source of revenue for funding the Federal Government's budgetary requirements in the face of dwindling oil revenue.

### **Comments**

We commend the FIRS for the timely issuance of the guidelines and providing the much-needed clarity to taxpayers regarding the application and administration of Stamp Duties. With FIRS' current focus on stamp duties and enforcement drive, it is important that all the stakeholders understand and comply with their obligations under the SDA

Further, with the launch of its adhesive stamp, the FIRS has exercised its power under the Finance Act, 2019, as the only competent authority with powers to impose, charge and collect stamp duties on all dutiable transactions under the SDA. In effect, the NIPOST postage stamps currently used by taxpayers on receipts is not a substitute for the FIRS' adhesive stamp.

However, whilst the FIRS affirmed that the SDA is the legal basis for the imposition of stamp duties in Nigeria, we noted that some of the rates stipulated in the press release contradicts the provisions of the SDA. For example, while the FIRS in the press release assigned a 0.375% *ad-valorem* rate to a mortgage, the SDA provides for rates ranging from 0.075% to 0.375% depending on certain conditions. Similarly, the rates provided for receipts, bank cheque per leaflet and a letter appointing an attorney are inconsistent

with the rates provided in the SDA. It is obvious that some of the rates adopted by the FIRS originated from the *Joint Tax Board Harmonisation of Stamp Duty Rates and Items* which, lacking legislative force, cannot be considered an amendment to the Schedule to the SDA. Section 116 of the SDA vests the power to increase, diminish or repeal the duty chargeable on instruments solely on the National Assembly or the House of Assembly of a State, as the case may be. Therefore, the FIRS will be hard-pressed to sustain the validity of the revised rates, which are inconsistent with the provisions of the SDA.

Further, the SDA did not provide specific rates for instruments, such as certificate of occupancy, vending agreement and appointment of a receiver. Therefore, such instruments should be liable to stamp duties at a flat rate of 15 kobo as stipulated in the SDA for contracts that are not specifically charged with any duty.

It is important for the FIRS to review the foregoing issues and update its position to avoid unnecessary dispute with taxpayers during tax review, audit or investigation exercises. On their part, taxpayers should review their records and remediate as necessary, and put measures in place for full compliance as and when they execute a dutiable transaction to avoid interest and penalty on unremitted duties.

Please click [here](#) to read the FIRS Press Release.

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