

Legal Alert Stamp Duties Law & Enforcement

In this Issue:

1. Legal Alert for August, 2009 ? Stamp Duties Law & Enforcement in Nigeria.
2. Subscribe & Unsubscribe to Legal Alerts.
3. Disclaimer Notice.

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The recent economic down-turn and governments' need to expand their revenue base brought about the resuscitation of the legal requirement that all written instruments in Nigeria, of a contractual nature, must be stamped. This development has led to some disquiet in the business community where many practitioners are curious to know the legal basis for this "new tax" requirement.

Stamp duties payment is one of the oldest imposed tax. It is true that stamp duties is the least recognised and enforced of all the taxes and duties in Nigeria. However, in modern times, the legal requirement that all written documents must be stamped obviously affects everyone's day-to-day business life.

Stamp duties payment matters are governed by the Stamp Duties Act, cap 411, Laws of the Federation of Nigeria, 1990. This legal alert gives you a synopsis of what the Stamp Duties Act regulates.

Stamp Duties Act

Stamp duties, unlike other forms of taxes or duties, are taxes on written documents as opposed to taxes directly imposed on individuals or their transactions.

The care for and the management of stamp duties in Nigeria is imposed on the Commissioner for Stamp Duties. The Federal Government of Nigeria is the only competent authority allowed to impose, charge and collect stamp duties on written instruments between one incorporated company and another incorporated company or individual. The converse is the case that State Governments impose, charge and collect stamp duties on written instruments that are executed between individuals only.

Unlike other taxes, the decision not to stamp a written document does not attract a criminal penalty as it only bars such a written document from being admitted in evidence in a civil judicial proceeding. Thus, until a written document is stamped at the Stamp Duties office by the payment of the applicable stamp duties on the document, such a document will remain inadmissible. See Section 22 (4) of the Stamp Duties Act.

Generally, stamp duties is charged at the rate of 75k on every N50 of the consideration of a

conveyance. For other kinds of written documents, various rates of charge are imposed as stamp duties.

In the term of implementation, a written document is stamped by the affixing of adhesive stamps on it or the affixing of what is known as a die to the material or written instrument.

Every written instrument which is required to be stamped with an adhesive stamp must be stamped on or before its execution. In practice however, a grace period of forty days from when the written instrument is executed is allowed before a penalty accrues on the document for late presentation for stamping.

Any person presenting a written document for stamping after the date of its first execution must pay a penalty which includes (i) the unpaid stamp duty; (ii) a penalty of N20 or such sum as is charged by the stamp duty office; (iii) interest on such duty at the rate of ten per cent (10%) per annum from the day when the instrument was first executed up to the time when the unpaid duty is paid.

Conclusion

Barring any special reason, it is always recommended that sensitive business documents should be stamped before or immediately they are executed. There are stamp duties offices all over the federation of Nigeria who are always willing to provide applicants with information and assessment of what it will cost them to stamp their documents. This is a preferred option to none stamping of your written documents.

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