

Nigeria Tax Alert

Hotel Occupancy & Restaurant Consumption Tax Law

The Law

The Lagos State Governor signed into law on 22 June 2009, a law to impose tax on goods and services consumed in hotels, restaurants and event centres within the territory of Lagos State and vested the power of administration (assessment and collection) in the Lagos State Inland Revenue Service (LIRS).

The Hotel Occupancy and Restaurant Consumption Tax Law (hereafter referred to as "the Law") imposes a 5% tax on goods and services consumed in hotels, event centers and restaurants within Lagos State. The tax base is the total cost of facilities, consumable or personal services supplied to a consumer in, by or on behalf of the hotel, restaurant or events centre, excluding value added tax (also levied at 5%).

The term **hotel** is defined under the Law to include motels, guest houses, and apartments for short time letting, while **restaurant** is defined to include any food sale outlet, bar tavern, inn or café whether or not located within a hotel. **Events centers** on the other hand are defined under the Law to include halls, auditoriums, fields, and places designated for public use at a fee.

Hotels, restaurants and other businesses affected by this Law are required to register with LIRS within thirty days of the commencement of the Law or upon commencement of business (whichever is earlier). Although the Law did not specify the effective date, it may be assumed to be the date of signing the bill into law.

Evidence of registration by Collecting Agents is a necessary condition in any contractual relationship with Lagos State Government or any of its Ministries, Department, Parastatals or Local Government Authority.

Reporting Requirements

Persons owning, managing or controlling any business or supplying goods or services chargeable under the Law (e.g. hotel owners/managers etc) are the collecting agents on behalf of LIRS and are required to remit amounts collected to LIRS on or before the 20th day of each calendar month.

The tax filing must be accompanied with a report stating:

- The total amount of payments made for all chargeable transactions during the preceding reporting period.
- The amount of tax collected by the agent during the reporting period.
- Any other information required by LIRS to be included in the report.
- Every collecting agent is required to keep, maintain and preserve such records, books and accounts in respect of all transactions chargeable under the Law.
- Where a Collecting Agent fails to make a return or remittances as and when due, LIRS may make an estimate of the total amount due and such estimate shall become due not later than 21 days of service of such a notice.



Penalty

- Failure to remit the tax collected within the stipulated time would attract interest at the rate of 5% per annum above the prevailing Central Bank of Nigeria (CBN) minimum rediscount rate (MRR) as determined at the time of actual remittance.
- Where a collecting agent fails to file a report and remit taxes within the stipulated time, in addition to the interest payable, a penalty of 10% of the amount of tax due will become payable.
- Persons convicted under the Law may be liable to imprisonment for up to two years or a fine of up to two million Naira, or both.

Exemption from Sales Tax Law

As from the commencement of the Law, the Lagos Sales Tax would not be applicable to any transaction or facility covered by the Law. The exemption is only in respect of goods and services consumed in hotels, event centers and restaurants within Lagos State which are liable to tax under this Law.

Note that the legality of the Lagos Sales Tax Law has been challenged and it is not currently being enforced. This new legislation effectively reintroduces the Sales Tax for this sector under a new heading.

Appeals Procedure

Any tax payer aggrieved by assessment made under the Law by LIRS shall within seven days of being notified of such decision write to the Chairman of LIRS or other designated officer requesting the service to review, amend or reverse the assessment.

Upon receipt of such notice, LIRS may reconsider, affirm or amend its assessment and notify the complainant of its decision.

Where LIRS serves on the complainant a notice of refusal to amend, a complainant who is dissatisfied by the refusal may institute an action at the Lagos State High Court. Where an aggrieved tax payer (i.e. complainant) fails to contest the assessment within seven days, the assessment shall be deemed to be final.

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