

## Legal Alert Approved List of Taxes & Business Premises Levy

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Legal News: Lagos State Arbitration Law & Court

The Lagos State Government has signed into Law an Arbitration Law and another legislation establishing an Arbitration Court for Lagos State.

Legal Alert for April 2009 ? Approved List of Taxes & Business Premises Levy.

Tax is a charge or form of levy imposed by the government of a country on all kinds of property, persons and transactions, to raise money for various public needs. The generation of additional revenue is a key function of taxation as additional revenues to government enables the government to provide qualitative and quantitative services and utilities to its people.

Nigeria's over dependence on oil revenues has encouraged tax avoidance and inhibited the development of other sectors of the Nigerian economy including an efficient and effective tax administration system. Prior to the global economic melt down, local governments and state governments who have very low internally generated alternative sources of income outside the revenue derived from the federation account have resorted to illegal methods of collecting fictitious taxes which practices have among other things inhibited small and medium scale enterprises. To curb these multiple and unlawful tax practices, the Taxes and Levies (Approved List for Collection) Act 1998 No. 21 was enacted ("Approved List of Taxes Law").

In furtherance of increasing its revenues and acting within the ambit of the Law, some State Governments have recently commenced the issuance of demand notices for the strata of taxes that they are authorised to collect. The Business Premises Levy is one of such levies. This Alert therefore provides you with a summary of what taxes and levies each arm of government is authorised to charge and collect in Nigeria.

Approved List of Taxes for Collection by the Federal Government of Nigeria

Part 1 of the Schedule to the Approved List of Taxes Law enumerates the traditional taxes authorised for collection by the Federal Government of Nigeria to include Companies Income Tax, Petroleum Profit Tax, Value Added Tax, Education Tax, Capital Gains Tax for employees and residents of the Federal Capital Territory, Abuja ("FCT"), with non-residents and corporate bodies included; and withholding tax on the income of companies, residents of FCT and non-

resident individuals.

Personal Income Tax in respect of the remuneration of members of the armed forces, the Police, residents of FCT, staff of the ministry of foreign affairs and non resident individuals are authorised to be collected by the Federal Government of Nigeria.

#### Approved List of Taxes for the State Governments

Part II of the Approved List of Taxes Law authorises State Governments to charge and collect personal income tax on the income of individuals only, withholding tax for individuals only, capital gains tax for individuals only, stamp duties fees on instruments executed by individuals only, pool betting and lotteries tax, gaming and casino taxes, road taxes, business premises registration fees for urban and rural areas, development levy for individuals only, street naming registration fees in the State capital only, right of occupancy fees on land owned by the government in urban areas of a State, market taxes and levies where State finance is involved.

#### Approved List of Taxes for Collection by Local Government Authorities

Taxes and levies approved for collection by local government areas include shops and kiosks rates, tenement rates, on and off liquor licence fees, slaughter slab fees, marriage, birth and death registration fees, street naming registration fees for non urban area streets, right of occupancy fees on lands in rural areas, market taxes and levies excluding where the State used its finances to construct the market, motor parks levies, domestic animals license fees, religious places permit fees, signboard and advertisement permit fees, wrong parking charges, vehicle radio licence fees to be imposed by the local government where the vehicle is registered, merriment and road closure levy, domestic animal license fees.

#### Collection & Related Offences

It is a mandatory provision of the Approved List of Taxes Law that no person other than the legally authorised tax authority of either the federal or state or local government area, as applicable, can access and collect any tax except as authorised under the Approved List of Taxes Law.

The unlawful mounting of road blocks on expressways in any part of Nigeria for the purpose of collecting any tax or levy with or without Policemen or other law enforcement agents is forbidden and punishable under this referenced Law.

Any person who collects or levies any tax or levy, or who mounts a road block or causes one to be mounted for the purpose of collecting any tax or levy contravenes Section 2 of the Approved List of Taxes Law and is liable on contravention to a fine of N500,000 or three years imprisonment or to both the fine and the term of imprisonment.

#### Business Premises Registration/Renewal Fees & Development Levy

Any business premises in an urban area of Nigeria is required to be registered on the payment of a N10,000 registration fee in the first year of registration, and N5,000 per annum as renewal registration fees in the subsequent years.

For rural areas, the business premises registration fees is N2,000 for the first year of registration, and N1,000 per annum as registration renewal fees for the subsequently years.

A development fee of N100 per annum per individual is also liable for payment by each taxable individual in the entire country.

### Conclusion

Subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 the Approved List of Taxes Law is the most comprehensive and authoritative legislation on the taxes that can be collected by each level of government ? i.e. Federal, State or Local Government - in Nigeria.

Legal challenges on the taxing powers of the various tiers of government especially with respect to which tier of the government has the taxing authority to charge and collect value added tax ("VAT"), lottery and gaming fees licences, vehicle registration fees, etc are pending in some courts of law.

It is expected that the Supreme Court decision in Attorney General of Ogun State v. Aberuagba & Ors (1997) 1 NRLR 51 on the taxing powers of the Federal and State Government will be revisited and further clarity brought to the subject matter in the light of this Law.

Enforcement of Section 2 of the Approved List of Taxes Law, being the unlawful mounting of road blocks with or without the security agents of the government, need to be strictly enforced as are the other provisions of the Law in order for the level of tax compliance to increase appreciatively.

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