



CHAPTER H8

HOTEL OCCUPANCY AND RESTAURANT CONSUMPTION LAW

ARRANGEMENT OF SECTIONS

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CHAPTER H8

HOTEL OCCUPANCY AND RESTAURANT CONSUMPTION LAW

A LAW TO IMPOSE TAX ON GOODS AND SERVICES CONSUMED IN HOTELS, RESTAURANTS AND EVENTS CENTRES WITHIN THE TERRITORY OF LAGOS STATE

[Commencement]

[22nd June 2009]

THE LAGOS STATE HOUSE OF ASSEMBLY ENACTS AS FOLLOWS:

1. Imposition of Tax

(1) A tax is imposed on any person (referred to in this Law as “the Consumer”) who—

- (a) pays for the use or possession or for the right to the use or possession of any hotel, hotel facility or events centre; or
- (b) purchases consumable goods or services in any restaurant whether or not located within a hotel in Lagos State.

(2) The amount to which this tax applies shall be 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.

2. The Rate of Tax

The rate of tax imposed by this Law shall be five per cent of the total bill issued to the consumer, excluding Value Added Tax.

3. Collection of Tax

A person owning, managing or controlling any business or supplying any goods or services chargeable under section 1 Law (referred to in this Law as the “Collecting Agent”) shall collect of this, for and on behalf of the State, the tax imposed by this Law based on the total amount charged or payable by the consumer in accordance with the provisions of section 2 of this Law.

4. Administration

The tax charged by this Law shall be under the care and management of the Lagos State Internal Revenue Service (LIRS) (referred to in this Law as “The Service”).

5. Registration

(1) Any Hotel, Restaurant or other business affected by this Law shall, within thirty (30) days of the commencement of this Law or upon commencement of business, whichever is earlier, register with the Service for the purpose of this Law.

(2) Every Collecting Agent shall produce evidence of registration with the Service as a condition precedent to any contractual relationship with the State Government or any of its Ministries, Departments, Parastatals or Local Government Authorities.

6. Report and Remittance

(1) Every Collecting Agent shall—

- (a) keep, maintain and preserve such records, books and accounts in respect of all transactions chargeable under section 1 of this Law as the Service may prescribe and shall enter regular accounts of the tax collected from day to day.
- (b) subject to the provisions of subsection (3) of this section, pay to the designated account of the State Government, the tax collected during the preceding reporting period and at the same time, file with the Service, a report stating—
 - (i) the total amount of payments made for all chargeable transactions during the preceding reporting period;
 - (ii) the amount of tax collected by the agent during the reporting period; and
 - (iii) any other information required by the Service to be included in the report.

(2) For the purpose of these provisions, each calendar month is a reporting period and the taxes imposed and collected under this Law are due and payable on or before the 20th day of each calendar month.

(3) The tax collected shall be a debt due to the State and recoverable by the Service from the supplier of chargeable facilities, goods and services.

7. Access to Books and Records

An officer of the Service—

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(1) may enter without warrant, any premises on which he reasonably believes that a person is carrying on business in order to ascertain whether this Law is being complied with by the occupier of the premises or any other person.

(2) shall at any reasonable time of the day be given access to all books and records of any hotel, restaurant or other establishment offering chargeable goods and services for the purpose of verifying facts necessary to determine the amount due and payable to the Government under this Law.

8. Payment of Estimated Amount

Where a Collecting Agent fails to make a return or remittance as required by the provisions of this Law or where his returns are not substantiated by records, the Service may make an estimate of the total amount of tax due and may order him in writing to pay the estimated amount to the State Government within 21 days of the date of service of the order.

9. Regulations

The Service may from time to time by Order published in the Gazette issue rules and regulations for the determination, collection, and remittance of taxes due and for the proper administration of this Law.

10. Interest on Remittance

All taxes that are not remitted to the designated account of the Government within the time allowed, shall in addition to other penalties prescribed by this Law, bear interest at the rate of five per cent per annum above the prevailing Central Bank of Nigeria Minimum Rediscount Rate as determined at the time of actual remittance.

11. Penalties

(1) If a Collecting Agent fails to file a report and remit taxes (the goods and services tax) collected within the time allowed by section 6(2) of this Law, that Agent shall, in addition to interest payable under section 10 of this Law, pay a penalty of ten per cent of the amount of tax due.

(2) Any Director, Manager, Officer, Agent or Employee of the Collecting Agent who fails to comply with the provisions of this Law, shall be guilty of an offence and liable on conviction to a penalty of six months imprisonment or a fine of two million Naira (₦2,000,000.00) or both.

12. Tax Collection on Determination or transfer of Business

(1) When a hotel, restaurant or other facility covered by this Law is sold or otherwise disposed of, the transferee shall withhold such amount of the purchase price or

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other consideration as is sufficient to offset all payments already due to the Government under the provisions of this Law, unless the transferor has first provided a receipt issued by the Service showing that the amount due at the date of transfer had been paid or that no amount was due.

(2) A transferee of a chargeable facility who fails to comply with the provisions of subsection (1) of this section shall be liable to pay the amount due to the designated Government account and the provisions of sections 10 and 11 of this Law shall apply as if he was operating the hotel business at the time the payments were due.

(3) The transferee of a chargeable facility may request from the Service, a certificate stating that no tax is due or stating the amount of tax due from the facility at the date of transfer.

(4) In the case of a request made under subsection (3) of this section, the Service shall issue the certificate within thirty (30) days of receiving the request or within thirty (30) days after the day on which the relevant record of the business are made available for audit, whichever is later, but in either event, the Service shall issue the certificate within sixty days after the date of request.

(5) In the absence of wilful concealment or fraud, the period of limitation during which the Service may assess tax against a transferor under this section is four (4) years from the date when the transferor dispose the chargeable facility or when a determination is made against the transferor, whichever event occurs later.

13. Appeal Process

(1) Any person aggrieved by any assessment made by the Service under this Law shall, within seven (7) days of being notified of such a decision, write to the Chairman or other designated Officer of the Service requesting the Service to review, amend or reverse the assessment.

(2) Upon the receipt of such notice, as mentioned in subsection (1) of this section, the Service may reconsider, affirm or amend its assessment and notify the complainant of its decision.

(3) Where upon a review, the Service serves on the complainant a notice of refusal to amend, a complainant who is dissatisfied by the refusal may institute an action at the High Court of Lagos State.

(4) Where the person served with an assessment or his authorised representative fails to contest the assessment within the period allowed by subsection (1) of this section, the assessment shall be deemed to be final and conclusive.

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14. Jurisdiction of Court

(1) The Service may institute an action at the High Court of Lagos State for the recovery of taxes, interests and penalties due under this Law.

(2) All revenues recoverable under this Law are revenues of the Lagos State Government and accordingly, all legal actions taken in relation to this Law or anything done pursuant to it shall, subject to the provisions of section 13 of this Law, be instituted at the High Court of Lagos State.

(3) Where an ex-parte application is made to the Court supported by affidavit that there is reasonable cause for suspecting that a Collecting Agent or any other business organisation or person is in contravention of any provision of this Law, the Court may make an Order upon such terms as it deems fit to—

- (a) prevent concealment of the fraud or dissipation of monies due to the Government; or
- (b) authorise officers of the Service to enter the premises of the suspect at any reasonable time by day or night accompanied by police officers; to
 - (i) inspect the premises for any evidence of contravention; and
 - (ii) seize any books of account, records or other things by which the liability of the Collecting Agent, business organisation or other person may be established.

(4) Any person who knowingly gives false information shall be guilty of an offence and liable on conviction to imprisonment for a period of six months or a fine of Five Hundred Thousand Naira (₦500,000.00) or both.

15. Power to Distrain for Non-Payment of Tax

(1) Without prejudice to any other power conferred on the Service for the enforcement of payments due to Government under this or any other Law, where an assessment has become final and conclusive and a demand notice has been served on a person to make payment, if payment is not made within the time limited by the demand notice, the Service may, in the prescribed form, for the purpose of enforcing payment of the tax due—

- (a) distrain the defaulter by his goods or other chattels, bonds or other securities;
- (b) distrain upon the relevant facility or other place in respect of which the defaulter is the owner, and subject to the provisions of this section, recover the amount of tax due by sale of any of the things so distrained.

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(2) The authority to distrain under this section shall be in such form as the Service may direct and that authority shall be sufficient warrant to levy by distrain, the amount of tax due.

(3) For the purpose of levying a distrain under this section, an officer authorised in writing by the Service may execute a warrant of distrain, and if necessary break open any building or place in the day time for the purpose of levying the distrain and may call to his assistance, any police or other security officer whose duty, when so required, shall be to aid and assist in the execution of the warrant of distrain and levying the distrain.

(4) Things distrained under this section may, at the cost of the defaulter, be kept for fourteen (14) days and at the end of that time, if the amount due in respect of the tax and the cost and charges incidental to the distrain are still not paid, may subject to the provisions of subsection (6) of this section, be sold at anytime thereafter.

(5) Out of the proceeds of a sale under this section, there shall be paid, the cost or charges incidental to the sale and keeping of the distrain, and the amount due in respect of the tax. The balance (if any) shall be payable to the defaulter on demand being made by him or on his behalf.

(6) Nothing in this section shall be construed as authorising the sale of an immovable property without an Order of the State High Court, made on application in such form as may be prescribed by the Rules of Court.

16. Exemption from Sales Tax Law

As from the commencement of this Law, Sales Tax Law, Cap. S3, Laws of Lagos State 2003 shall not apply to any facility or transaction covered by this Law.

17. Interpretation

In this Law, unless the context otherwise requires—

“**Consumer**” includes a hotel guest or any person who makes use of a hotel, restaurant, events centre or hotel facility for a fee;

“**Events Centres**” includes halls, auditoriums, fields and places designated for public use at a fee.

“**Government**” means the Lagos State Government;

“**Hotel**” includes a motel, guest house, apartments for short letting, tavern, meeting room, and function hall, whether or not described as a hotel by the operator;

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“**Hotel facility**” includes a room, suit, hall, open space or other facility or resource centre which may be let out for a fee within a hotel or other facility covered by this Law under a lease, concession, permit, right of license, contract, or other agreement;

“**Restaurant**” includes any food sale outlet, bar, tavern, inn or café whether or not located within a hotel;

“**State**” means Lagos State of Nigeria;

“**Transferee**” includes purchaser, assignee, lessee, licensee or other successor in title;

“**Transferor**” includes seller, assignor, lessor or licensor;

“**Person**” includes a body corporate.

18. Citation and Commencement

This Law may be cited as the Hotel Occupancy and Restaurant Consumption Law, and shall come into effect on the 22nd day of June 2009.