



IMO STATE OF NIGERIA

LAW NO. 35 OF 2019

**IMO STATE HOTEL OCCUPANCY AND RESTAURANT
CONSUMPTION TAX LAW**

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

Long Title

BE IT ENACTED by the House of Assembly of Imo State as follows –

Enactment

PART 1 – PRELIMINARY PROVISIONS

1. This Law may be cited as the Imo State Hotel Occupancy and Restaurant Consumption Tax Law, 2019.

Citation

2. In this Law, unless the context otherwise requires –

Interpretation

“Board” means the Imo State Board of Internal Revenue;

“Chargeable Facility” includes Hotels, Restaurants, Nightclubs, Fast Food Outlets, Bars, and Event Centres;

“Consumer” includes a hotel guest or any person who makes use of a Hotel, Restaurant, Nightclub, Fast Food Outlet, Bar, Event Centre or hotel facility for a fee;

“Electronic Fiscal Device” means an electronic devise for registering and calculating transactions at a point of sale, and connected to a printer which can print receipts;

“Event Centres” include halls, auditoriums, fields and places designated for public use at a fee;

“Government” means the Imo State Government;

“Governor” means the Governor of Imo State;

"Hotel" includes a Motel, Guest house, Apartment for short letting, Tavern, Meeting room, and Function hall, whether or not described as a hotel by the operator;

"Hotel facility" includes a room, suite, 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 cafe whether or not located within a hotel;

"State" means Imo State of Nigeria;

"Tax" means the tax imposed under Sections 3 and 4 of this law;

"Transferee" includes a purchaser, assignee, lessee, licensee or other successor in title;

"Transferor" includes a seller, assignor, lessor or licensor;

"Person" includes a body corporate.

- 3.(1) There shall be imposed a tax on any person in the State (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 event centre; or
 - (b) purchases consumable goods or services in any restaurant whether or not located within a hotel in Imo 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 event centre.

Imposition of Tax



4. 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. *The Rate of Tax*
5. A Person, Company, Partnership owning, managing or controlling any business or supplying any goods or services chargeable under sections 3 and 4 of this Law (referred to in this Law as the "Collecting Agent") shall collect, 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 Sections 3 and 4 of this Law. *Collection of Tax*
6. The tax charged by this Law shall be under the care and management of the Imo State Board of Internal Revenue (BIR) (referred to in this Law as "The Board"). *Administration*
- 7.(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 Board for the purpose of this Law. *Registration*
- (2) Every Collecting Agent shall produce evidence of registration with the Board as a condition precedent to any contractual relationship with the State Government or any of its Ministries, Departments, Parastatals or Local Government Authorities, or for operations within the State.
- 8.(1) Every Collecting Agent shall – *Report and Remittance*
- (a) keep, maintain and preserve such records, books and accounts in respect of all transactions chargeable under sections 3 and 4 of this Law as the Board 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 Board, 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 Board 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 Board from the supplier of chargeable facilities, goods and services.
9. An officer of the Board –
- (a) 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;
- (b) shall at any reasonable time 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.
10. 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 Board 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.
11. 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.

Due date of return on or before 20th.

Access to Books and Records

Amount of Audit

Payment of Estimated Amount

BoS

Interest on Remittance

- 12.(1) If a Collecting Agent fails to file a report and remit the taxes (imposed under Section 3 of this Law) collected within the time allowed by this Law, that Agent shall, in addition to interest payable under section 11 of this Law, pay a penalty of ten per cent of the amount of tax due. *Penalties*
- (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 (N2,000,000.00) or both.
13. (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 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 Board showing that the amount due at the date of transfer had been paid or that no amount was due. *Tax Collection on
Determination or
Transfer of
Business*
- (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, 11 and 12 of this Law shall apply as if he was operating the hotel business or other facility covered by this Law at the time the payments were due.
- (3) The transferee of a chargeable facility may request from the Board, 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 Board 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 Board 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 Board may assess tax against a transferor under this section is four (4) years from the date when the transferor disposed of the chargeable facility or when a determination is made against the transferor, whichever event occurs later.

14.(1) Any person aggrieved by any assessment made by the Board 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 Board requesting the Board to review, amend or reverse the assessment.

Appeal Process

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

(3) Where upon a review, the Board serves on the complainant a notice of refusal to amend, a complainant who is dissatisfied by the refusal may institute an action at the Magistrate or High Court of Imo State as may be appropriate.

(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.

15.(1) The Board may institute an action at the Magistrate or High Court of Imo State as the case maybe for the recovery of taxes, interests and penalties due under this Law.

Jurisdiction of Court

(2) All revenues recoverable under this Law are revenues of the Imo 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 14 of this Law, be instituted at the Magistrate or High Court of Imo State as may be appropriate.

(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 Board 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 (N500,000.00) or both.

16.(1) Without prejudice to any other power conferred on the Board 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 Board 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.

(2) The authority to distrain under this section shall be in such form as the Board 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 or agent of the Board authorised in writing by the Board may execute a warrant of distrain, and if necessary break open any building or place at any time for the

Power To
Distrain for Non-
Payment Of Tax

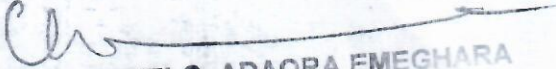
purpose of levying the distraint and may call to his assistance, any police or other security officer whose duty, when so required, shall be to aid and assist in the execution of the warrant of distraint and levying the distraint.

- (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 distraint are still not paid, may subject to the provisions of subsection (6) of this section, be sold at any time 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 distraint, 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 authorizing 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.
17. As from the commencement of this Law, the Imo State General Sales Tax Law, No. 9 of 2016, shall not apply to any facility or transaction covered by this Law.
 18. The Board may from time to time by Order published in the State Gazette, issue Rules and Regulations for the determination, collection, and remittance of taxes due and for the proper administration of this Law. The Board's power to issue Regulations shall include power to make Regulations for the introduction and use of suitable electronic platforms and electronic fiscal devices in order to have effective oversight of all sales transactions covered by this Law.

*Exemption From
Sales Tax Law*


Regulations

This printed impression has been carefully compared by me with the Bill which has been passed by the House of Assembly and found by me to be a true and correct printed copy of the said Bill.


BARR. CHINELO ADAORA EMEGHARA
Clerk of the House of Assembly
Imo State of Nigeria

Assented to by me this 4TH day of DECEMBER, 2019




RT. HON. EMEKA IHEDIOHA CON, KSC
Governor
Imo State of Nigeria

Assent withheld by me this day of, 2019

RT. HON. EMEKA IHEDIOHA CON, KSC
Governor
Imo State of Nigeria

Passed again by the Imo House of Assembly by two-thirds majority this
Day of, 2019.



RT. HON. DR. CHIJI CHIMEZIE COLLINS
Speaker
Imo State House of Assembly