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EXAMINING THE LEGAL FRAMEWORK FOR THE COLLECTION OF STAMP DUTIES UNDER THE NTA 2025

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Abstract

Prior to the enactment of the Nigeria Tax Act 2025 and the Nigeria Tax Administration Act 2025, collection of stamp duties was within the purview of the Federal Government and collected on its behalf by the FIRS (now NRS), in respect of instruments executed between a corporate entity and another, or between a corporate entity and an individual. Similarly, in respect of instruments evidencing transactions between individuals, the respective states where the transaction is carried out is entitled to levy and collect stamp duties on the instrument through the relevant tax authority for the state. However, under the New Stamp Duties regime established under the Nigeria Tax Act 2025, the Nigeria Tax Administration Act has now vested the Federal Tax Authority (the Nigeria Revenue Service) with the exclusive power to administer and collect all stamp duties. This article seeks to examine in detail the new legal regime for the administration of stamp duties in Nigeria vis-a-vis the mandatory constitutional provision which makes the NRS merely an agent of collection on behalf of each state but liable to remit and render account to each state the net proceeds of stamp duties collected by it from each state.

Keywords: Stamp Duties, Chargeable Instruments, Dutiable Instruments Rate

1. Introduction

Stamp duty is a tax on instruments.[2] It is basically a tax paid to the Government for the legal recognition of documents or instruments such as Conveyances on Sale, Bills of Exchange, Promissory notes, Agreements, Contracts or even documents such as Letters and Certificates of admission, Instruments of Apprenticeship, Insurance Policies, etc. The payment of Stamp Duties is backed up by legislation and currently, it is governed by the Nigeria Tax Act 2025 and Administered by the NRS under the Nigeria Tax Administration Act 2025.The Nigeria Tax Act, amongst other things, imposes stamp duties on written or electronic instruments (agreements, contracts, receipts etc.). Under the Act, stamp duties may be levied either at an ad valorem or flat rate depending on the type or nature of the instrument.[3]

2. Definition of Key Concepts

2.1 Imposition of Stamp Duties

Stamp Duties under the Nigeria Tax Act, is imposed on instruments first executed in Nigeria, or executed outside Nigeria, and relates to any property situated or to any matter or thing done in

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[2] written or electronic documents.

[3] Ad valorem means "according to value" so an ad valorem rate is based on the value of the transaction (i.e the tax amount is a percentage of the transaction value) while fixed rate, as the name implies, means a flat fee applies regardless of the value of the transaction.

Nigeria.[4] The rate is as specified in the Nineth Schedule to the Nigeria Tax Act 2025, subject to the exemptions contained in the said Nineth Schedule.

2.2 Manner of Denoting Stamp Duties

Duties payable on any instrument shall be paid and denoted by any of the following means- (a) tax stamps; (b) a die; (c) electronic or digital tagging; (d) electronic receipt (e) issuance of certificate ; or (f) any other means as may be determined by the relevant tax authority.[5] In addition, The Joint Revenue Board may, on the advice of the Nigerian Postal Service and by regulations published in the Official Gazette, determine additional modes of duty denotation and specify processes and requirements for their application.[6]

2.3. Obligation to Stamp

Every instrument executed in Nigeria, chargeable with a duty as prescribed under Chapter Five of the Nigeria Tax Act, shall be stamped not later than 30 days after its execution by the person required to pay the appropriate duty.[7] In this regard, a person, being the transferee of interest in a real property, other than in a voluntary disposition during the lifetime of the transferor, or beneficiary of a service for which consideration was paid, or any other person taking the security in a transaction for which an instrument is executed, shall be responsible for paying the duty relating to the transaction.[8]

3. Legal Admissibility of Unstamped Instruments

Any unstamped dutiable instrument shall not be admissible in evidence in any court, judicial or arbitration proceedings, and in satisfying any evidentiary requirements unless otherwise stated by the Nigeria Tax Act.[9] In this regard, an unstamped instrument may be given in evidence in a criminal proceeding.[10]

4.Chargeable Instruments[11]

Chargeable Instrument liable to Stamp Duties under the Nigeria Tax Act includes:

1. ***Bill of Exchange*:** This includes draft, order, cheque and letter of credit, and any document or writing, except a bank note entitling or purporting to entitle a person, whether named therein or not, to payment by any other person of or to draw upon any other person for, any sum of money;[12]

2. ***Bill of Exchange Payable on Demand***: this includes an order for the payment of any sum or money- (a) by a bill of exchange or a promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money or for payment of any sum of money out of any particular fund which may or may not be available, or on any

[4] Section 124 NTA 2025.
[5] Section 125(1) NTA 2025
[6] Section 125(2) NTA
[7] Section 126(1) NTA
[8] Section 126(2) NTA
[9] Section 127(1) NTA
[10] Section 127(2) NTA
[11] See Part II of Chapter 5 of the NTA 2025
[12] Section 128 NTA 2025

condition or contingency which may or may not be performed or happen; and (b) weekly, monthly or at any other stated periods, an order for the payment by a person at any time after the date of the payment of any sum of money, and sent or delivered by the person making the same to the person by whom the payment is to be made and not to the person to whom the payment is to be made, or to any person on his behalf.[13]

3. ***Promissory Note***: It includes any document or writing, except a bank note, containing a promise to pay any sum of money.[14]In this regard, a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, shall be deemed a promissory note for that sum of money.[15]

4. ***Sale or Purchase of Options***: The provision of Chapter 5 of the Nigerian Tax Act (On Stamp Duties), in relation to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, as it applies to the sale or purchase of any stock or marketable security.[16] Where under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.[17]

5. ***Conveyance on Sale***: Every transfer of interest or rights in real property shall be subject to duty as conveyance on sale.[18] However, where there is an exchange of a real property for another, any consideration exceeding N1,000,000 or a sum equal to the annual national minimum wage, whichever is higher, shall be charged to duty with the same ad valorem duty as a conveyance on sale.[19]

6. ***Conveyance in Consideration of a Debt***: Where a property is conveyed to a person in consideration, wholly or in part, of a debt due to the person, the debt shall be deemed the consideration in respect of which the conveyance is chargeable with ad valorem duty.[20]

7. ***Duty on transfer of Mineral Assets***: An agreement for the transfer of mineral assets of any kind what soever or interest therein, shall be charged with duty and payable as specified in the Eighth Schedule to the Nigeria Tax Act.

8. ***Leases***: An agreement for a lease, with respect to the letting of land or building, shall be subject to duty on grant of a lease or sublease, or the assignment of a lease, and shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement, provided that lease agreements for which the annual value is less than N10,000,000 or 10 times the annual minimum wage, whichever

[13] Section 128 NTA
[14] Section 129(1) NTA
[15] Section 129(2) NTA
[16] Section 130(1) NTA
[17] Section 130(2) NTA
[18] Section 131 NTA 2025
[19] Section 134 NTA 2025
[20] Section 132 NTA 2025

is higher, shall not be chargeable with any duty under Chapter Five of the Nigeria Tax Act.[21]

9. ***Duty on Share Capital***: The share capital of a company shall be charged with *an ad valorem* duty, as specified in the Ninth Schedule to the Nigeria Act, of the amount of such capital, or increase of capital, as the case may be.[22]

10. **Duty on Loan Capital**: The loan capital of a company shall be charged with ad valorem duty, as specified in the Ninth Schedule to the Nigeria Tax Act.[23] In this regard, "loan capital" means any debenture stock, other stock or funded debt by whatever name known or any debt raised by any corporation, company or body of persons formed or established in Nigeria but does not include- (a) an overdraft; (b) loan obtained for a period not exceeding twelve months; and (c) loan obtained for onward disbursement to any other person in an on lending arrangement: provided that the beneficiary of the disbursement shall be responsible to pay the duty as prescribed in the Ninth Schedule to the Nigeria Act.[24]

11. ***Marketable Security***: An instrument made for the purpose of issuing marketable securities by or on behalf of a company or body of persons, corporate or unincorporated, formed or established in Nigeria shall be subject to stamp duty whether the securities are issued in Nigeria or not.[25]

12. ***Appraisements:*** Every appraisement or valuation carried out for the purpose of ascertaining the value of a real property is subject to duty, which shall be accounted for by the appraiser.[26] In this context, "appraiser" means any person who values or appraises any estate or real property, or any interest, whether in possession or not, in any estate or real property, for a fee.[27]
13. ***Duplicates and Counterparts***: The duplicate or counterpart of an instrument chargeable with duty shall not be deemed duly stamped, unless it is stamped as an original instrument or certified by the relevant tax authority that the full duty on the original instrument has been paid.[28]

14. ***Duty relating to one instrument covering multiple transactions***: Where an instrument contains or relates to more than one transaction or several distinct matters, each transaction or distinct matter shall be charged to duty separately.[29]

15. ***Duty relating to multiple instruments covering same transaction***: Where multiple instruments chargeable with *ad valorem* duties are executed for effecting the same transaction, only one of the instruments, as may be determined by the relevant tax

[21] Section 135 NTA 2025
[22] Section 136 NTA
[23] Section 137(1) NTA
[24] Section 137(2) NTA
[25] Section 138 NTA
[26] Section 139(1) NTA
[27] Section 139(2) NTA
[28] Section 140 NTA 2025
[29] Section 141 NTA 2025

authority, shall be charged with the ad valorem duty.[30] Any other instrument referred to shall be stamped as counterparts at flat rates prescribed in the Nineth Schedule to the Nigeria Tax Act.[31]

16. Instruments with non- monetary consideration: Where an instrument chargeable with ad valorem duty consists of non-monetary consideration, the value shall be deemed as the market value of the consideration or part thereof.[32]

7**. Dutiable Instrument Rate**[33]

S/N	Name of Instruments	Type	New Rate	Persons liable to Pay Duty	Exemptions
1.	Agreement or Contract accompanied with a deposit (see Mortgage)	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000
2.	Agreement for sale of real property (see Conveyance on sale)	Ad Valorem	1.5%	Transferee	
3.	Annuity (see Conveyance on Sale)	Ad Valorem	1.5%	Transferee	
4.	Assignment (by way of security or of any security) (see Mortgage)	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000
5.	Irrevocable Assignment (upon a sale or otherwise) (see Conveyance)	Ad Valorem	1.5%	Transferee	
6.	Bill of Exchange - of any other Kind (Local & Foreign)	Ad Valorem	0.10 %	Payee	
7.	Bonds (Repayment of	Ad Valorem	0.375 %	Party taking security	

[30] Section 142(1) NTA
[31] Section 142(2) NTA
[32] Section 143 NTA
[33] Nineth Schedule to the NTA 2025

	money & Transfer Stocks)				
8.	Capital Duty on Nominal Shares	Ad Valorem	0.75 %	Company	
9.	Capital Duty on Loan capital	Ad Valorem	0.125 %	Borrower	-Overdraft at the bank. -Loan raised for a period not exceeding 12 months. - Loan obtained for onward disbursement to any other person in an on-lending arrangement
10.	Capital Duty on Loan Capital issued wholly or partly for the purpose of converting or consolidating existing capital	Ad Valorem	0.1%	Lender	
11.	Contract notes for marketable security	Ad Valorem	0.8%	Transferee	Contract note sent by a broker or agent to his principal where the principal is himself acting as a broker or agent for a principal.
12.	Contract notes for marketable security	Ad Valorem	0.08 %	Transferee	
13.	Contract note (Option note)	Ad Valorem	0.04 %	Transferee	
14.	Contract note (following a duly stamped option note)	Ad Valorem	0.04 %	Transferee	
15.	Conveyance or transfer on sale	Ad Valorem	1.5%	Transferee	• Where the property has a value of N10,000,000 or less • Where the transfer is between associated companies holding at least 90% shareholding in each other or through a third-party, provided it
16.	Conveyance or transfer by way	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000

	of security of any property or security (see Mortgage)				
17.	Conveyance or transfers (dispositions inter vivos except to entity created by Act for the benefit of Nigeria) (see	Ad Valorem	1.5%	Transferee	
18.	Covenant (payment of money or transfer or re-transfer of stock) (see mortgage)	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000
19.	Covenant on annuity (original creation and sale)(sea conveyance)	Ad Valorem	1.5%	Transferee	
20.	Covenant on annuity (not original creation and sale) (see Bond, Covenant)	Ad Valorem	0.375 %	Party taking security	
21.	Defeasance (of any conveyance, apparently absolute but intended only as a security for money or stock) (see Mortgage)	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000
22.	Demise (see Lease)	Ad Valorem	Up to 7 years = 0.78 %. Above 7 years = 3%	Lessee	Relates to property
23.	Further charge of further security	Ad Valorem	0.375 %	Mortgagee	

24.	Marketable security (all types)	Ad Valorem	0.225 %		
25.	Mortgage, Bond, Debenture, Covenant (See bonds)	Ad Valorem	0.375 %	Party taking security	
26.	Mutual disposition (see Exchange)	Ad Valorem	1.5. %	Transferee	
27.	Partition or Division (see Conveyance on sale)	Ad Valorem	1.5%	Transferee	
28.	Policy of insurance (life insurance) (on premium)	Ad Valorem	0.075 %	Policy Holder	
29.	Policy of insurance (of any other kind)	Ad Valorem	0.075 %	Policy Holder	
30.	Promissory note (see Bill of Exchange)	Ad Valorem	0.1%		
31.	Reconveyance (of any security) (see Mortgage)	Ad Valorem	0.375 %	Mortgagee	Relates to property less than N10,000,000
32.	Superannuation annuity (see Bond, Covenant)	Ad Valorem	0.375 %	Party taking security	Relates to property less than N10,000,000
33.	Transfer (see Conveyance)	Ad Valorem	1.5%	Transferee	
34.	Transfer of Mineral Assets	Ad Valorem	2%	Transferee	
35.	Agreement or Contracts (all types)	Fixed duty	N1,000	Beneficiary of service	• Relates to a subject, the value of which is less than ¦ 1,000,000. • Is for the hire of any labourer, employee, artificer, manufacturer or menial servant. • Is made for or relating to the sale of any goods, wares or merchandise, including a Hire Purchase Agreement.

36.	Agreement or Memorandum of Agreement under hand	Fixed duty	N500	Beneficiary of service	(See Agreement)
37.	Bill of Exchange - Payable on Demand	Fixed duty	N500	Payee	
38.	Bill of Lading	Fixed duty	N500		Master's Copy
39.	Cheque leaf (Bill of Exchange)	Fixed duty	N50	Account owner	
40.	Counterpart or Duplicate	Fixed duty	N500	(Same as original)	
41.	Draft for money (see Bill of Exchange)	Fixed duty	N50	Payee	
42.	Guarantee	Fixed duty	N500	Guarantor	
43.	Letter of credit (see Bill of Ex change)	Fixed duty	N500		
44.	Order (for the payment of money) (see Bill of Exchange)	Fixed duty	N50	Payee	
45.	Policy of marine insurance	Fixed duty	N500	Policy Holder	Cover notes, slips or other instruments made in anticipation of a formal marine insurance policy
46.	Policy of insurance against personal injury	Fixed duty	N500	Policy Holder	Insurance policies on personal or household effects.
47.	Receipt (for value from N10,000)	Fixed duty	N50	(Same as liable for underlying transaction)	
48.	Electronic receipt or Transfer of N10,000 upwards	Fixed duty	N50	Transferor	Money paid into one's own account or transferred electronically between accounts of the same owner within the same bank

8. Collection of Stamp Duties

The Nigerian Tax Administration Act in section 3 (1) (b) has placed stamp duties entirely under the Nigerian Revenue Service. It provides as follows:

> 3(1) The Nigeria Revenue Service (in this Act referred to as "the Service") established under the Nigeria Revenue Service (Establishment) Act, 2025, shall- (b) have power to administer

> the following taxes (i) income tax, (**ii) stamp duties**, (iii) tax incentives; ...” [emphasis mine]

While Section 3 (2) of the Nigeria Tax Administration Act did outline the Taxes collectible by the state,[34] stamp duties is not part of the responsibilities of the States. In view of this development, it appears that State revenues have been stripped of their powers to collect stamp duties.

Constitutionally, while Stamp Duties is a Concurrent item under item 7(b) of the Concurrent List in Part II of the 2nd Schedule to the 1999 Constitution. Unfortunately, it is also an Item in the Exclusive Legislative List under Item 58 of Part I of the 2nd Schedule to the 1999 Constitution.

It is imperative to note that while the listing of stamp duties as an item in the Exclusive legislative list to the Constitution is not qualified, however the listing of stamp duties as an item in the Concurrent list is qualified, and the ability of state to collect same is dependent on the national Assembly enacting a law enabling states to collect. Unfortunately, it appears that the national Assembly has not empowered states to collect stamp duties under the Nigeria Tax Act, and the Nigeria Tax Administration Act respectively.

This notwithstanding, there is a Constitutional provision in Section 163 of the 1999 Constitution, which makes the Nigeria Revenue Service (NRS) merely an agent of collection of stamp duties from each state, and is to remit the entirety of the net proceed derived from each state back to the state. It also appears to suggest that the Federal Government has no share in stamp duties derived from the respective states except that derived from the FCT.

Section 163 1999 Constitution provides as follows:

> Where under an Act of the National Assembly, tax or duty is imposed in respect of any of the matters specified in **item D of Part II of the Second Schedule to this Constitution**,[35] the net proceeds

[34] Section 3(2) NTAA provides as follows: “(2) The relevant tax authority in a State or the Federal Capital Territory, shall pursuant to the First Schedule to this Act, be responsible for (a) the administration of taxes for resident individuals in respect of (i) imposition of tax on income, profits or gains, (ii) ascertainment of profits and income, (iii) ascertainment of assessable profits and income, (iv) ascertainment of total income, (v) ascertainment of chargeable gains, (vi) rates of tax, subject to subsection (1) (a) (ii) - (iv) ; and (b) exercising such other powers and functions conferred on it under any tax law enacted by the National Assembly.”

[35] Part II of the Second Schedule to the 1999 Constitution containing the Concurrent Legislative List in Part D on collection of Collection of Taxes, in item 7(b) listed Stamp duties as concurrent item. It provides thus:

> “In the exercise of its powers to impose any tax or duty on –
>
> (a) capital gains, incomes or profits or persons other than companies; and
>
> (b**) documents or transactions by way of stamp duties**.
>
> the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.”

> of such tax or duty shall be distributed among the States on the basis of derivation and accordingly –
>
> (a) where such tax or duty is collected by the Government of a State or other authority of the State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State;
>
> (**b)where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State. [emphasis mine]**

The above provision is simply spelling out how the revenue generated from stamp duties should be distributed, hence where it is collected by the Federal Government through the NRS as stipulated in the NTA & NTAA, the net proceed of the stamp duties generated from each state should be paid to such state. Hence making derivation the basis for distribution of stamp duties revenue. Most especially in the current circumstances, where the National Assembly has made the NRS the sole agent for collection. The net proceeds of whatsoever is collected from each state, is held in trust for that state by the NRS and should be remitted back to the state by the NRS. It is not the contemplation of section 163 of the 1999 Constitution that that the proceeds be mixed up with proceeds from other sources for purpose of redistribution at FAAC. Also, from the provision of section 163(b) of the 1999 Constitution, it appears that the Federal Government has no share in Stamp Duties derived from each state, except for net proceeds of Stamp Duties derived from the FCT.

8. Conclusion

While the Nigeria Tax Administration Act has stripped the respective State Tax Authorities from the powers to administer or collect stamp duties, and has conferred such powers and responsibility exclusively on the Nigeria Revenue Service (NRS), the stamp duties collected from each state by the NRS however belong to the respective state government and the NRS is merely made an agent for collection for purposes of remittance to the respective states. In this regard the respective states in Nigeria are within their rights to call on the NRS to render account of the stamp duties collected in their states for purposes of accountability and remittance.