



Introduction

The recent disagreement between the Federal Inland Revenue Service (FIRS) and Nigeria Postal Service (NIPOST) via twitter over which agency has the responsibility to collect stamp duties has raised so many questions such as what body is vested with the authority to collect stamp duty in Nigeria?

The Director of Communication and Liaison of the FIRS, Abdullahi Ahmad, alleged through twitter that NIPOST operated an illegal stamp duty account;

"The FIRS is determined to not only ensure that all monies collected by NIPOST into its illegally operated Stamp Duties Account are fully remitted into the Federation Account but also make sure that any kobo not accounted for in that account is legally recovered".

10 August 2020

A SYNOPSIS ON THE BODY VESTED WITH THE AUTHORITY TO COLLECT STAMP DUTIES IN NIGERIA

What is Stamp Duty?

The Finance Act amended the definition of "stamp" under the Stamp Duties Act 2004 (as amended) to; an impressed pattern or mark by means of an engraved or inked block die as an adhesive stamp or an electronic stamp or an electronic acknowledgment for denoting any duty or fee.

Stamp Duties Act defines "duty" as any stamp duty for the time being chargeable under any other Act and also includes any fee chargeable in the Stamp Duty Act.

Stamp Duties are taxes paid to the Federal or State Government on documents (also known as instruments for the purpose of the Stamp Duties Act) such as Conveyance

on Sale, Bills of Exchange, promissory notes, agreements, contracts or even documents such as letters and certificate of admission, instruments of apprenticeship among others (the detailed list of documents can be found in the Schedule and the duty payable on each of them).

Which Body is Vested with the Power to Collect Stamp Duty?

Stamp Duties is listed as Item 58 under the Exclusive list in the 2nd Schedule Part 1 of the 1999 Constitution (as amended) which implies that only the Federal Government is competent to legislate on the subject matter.

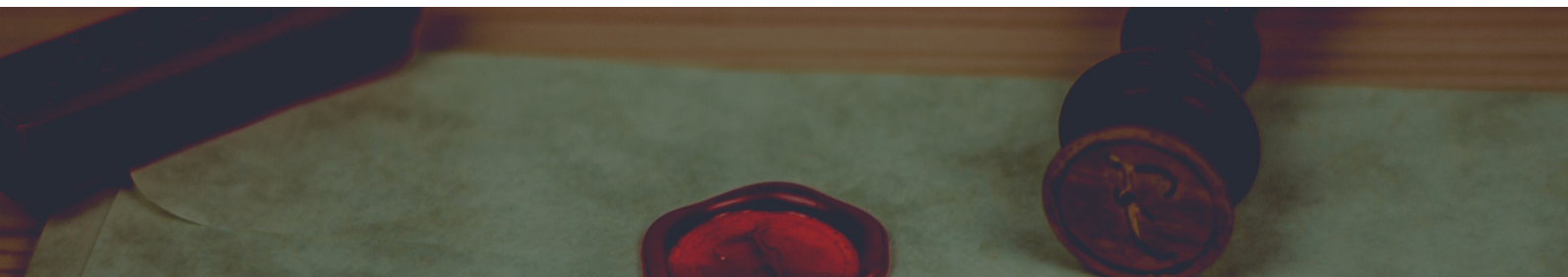
The Federal Government is the only competent authority to impose, charge, or collect duties on instruments (specified in the schedule of the Stamp Duties Act) that is executed between a company and an individual, group or body of individuals.

While the State Government is authorised to collect duties on instruments executed between individuals at such rates that are imposed or charged as may be agreed by the Federal Government. Therefore, only the Federal and State Government are authorised to collect, impose or charge stamp duty in Nigeria.

The Finance Act 2019 however, amended Section 4(1) of Stamp Duties Act to confer the FIRS as the only competent authority to impose, charge and collect Stamp Duties on dutiable instruments, where such instruments are executed between a company and an individual, group or body of individuals.

The enactment of the Finance Act 2019 which took effect on 13 January 2020 has resulted in a feud between the FIRS and the NIPOST, as NIPOST insist that the office of the Accountant-General issued a circular to NIPOST on the collection of both physical and electronic stamp duty of ₦50 from bank customers' accounts.

"The Finance Act 2019 however, amended Section 4(1) of Stamp Duties Act to confer the FIRS as the only competent authority to impose, charge and collect Stamp Duties on dutiable instruments..."



The FIRS on the other hand, acting on the provisions of the Finance Act 2019 released a circular informing the public that the FIRS have a portal for automated stamp duty collection where all stamp duties collection agents, namely, the Office of the Accountant General of the Federation, Central Bank of Nigeria (CBN), Deposit Money Banks (DMBs), Central Securities Clearing Systems and other relevant institutions are to remit stamp duties going forward.

Conclusion

Accordingly, there is no agency specifically stated in the Stamp Duties Act to collect stamp duties on behalf of the Federal Government however, by virtue of the Finance Act, the FIRS became the only legal and competent agency authorised to collect stamp duties on behalf of the Federal Government. While, the respective state internal revenue services are the competent authority to collect stamp duties payable to the State.

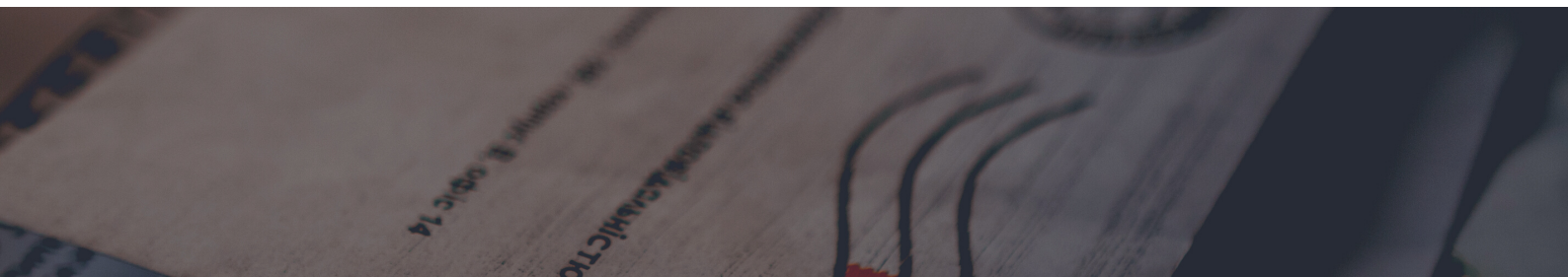
Irrespective of the circular received by NIPOST from the Accountant-General, NIPOST no longer has a right collect stamp

duty payable to the Federal Government; the Finance Act has superseded this circular or power vested in NIPOST. NIPOST has the statutory powers to print, mint, produce, retail, and provide adhesive postage stamp for denoting documents.

Therefore, the feud between the NIPOST and the FIRS has been resolved and all issues regarding the appropriate agency authorised to collect stamp duties on behalf of the Federal Government has been laid to rest.

The difficulty faced by the NIPOST is understandable because the agency's revenue has been depleted due to the removal of stamp duty as part of its collectible revenue gained through the 4% retention cost.

Consequently, by the implementation of the Finance Act, DMBs that have historically remitted stamp duty on electronic fund transfers to the CBN are now statutorily required to remit the duty collected to the FIRS. Likewise, other relevant institutions that execute dutiable instruments are obliged to remit applicable stamp duties to the FIRS Stamp Duty Account.



References:

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2. Federal Inland Revenue Service (Establishment) Act 2007
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8. Andersen Tax "FIRS clarifies amendments to the Stamp Duties Act" 20 June 2020
9. Punch "Stamp Duty: NIPOST tackles FIRS, moves for Finance Act amendment" 11 June 2020.
10. The Premium Times "FIRS, NIPOST battle over stamp duties charge" 6 August 2020
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