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**FINANCE ACT AND THE NEW STAMP DUTY PAYMENT
REGULATION DURING COVID 19 PANDEMIC**



**STAMP
DUTY**



expanded to cover transactions, instruments, materials, receipts and transfer of money generated and/or done electronically. The terms **“Stamp”** and **“Stamped”** pursuant to section 52 of the Finance Act are now defined as follows:

“Stamp means 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 acknowledgement for denoting any duty or fee”.

“Stamped with reference to instruments and materials, applies to instruments and materials impressed with stamps by means of an engraved or inked block die, adhesive stamps affixed thereto as well as to instruments and materials digitally tagged with electronic stamp or notional stamp on an electronic receipt”.

Conceptualizing Stamp Duty

Stamp duty is a tax that is levied on documents. Historically, this included the majority of legal documents such as cheques, receipts, military commissions, marriage licenses and land transactions. A physical **stamp** (a revenue **stamp**) had to be attached to or impressed upon the document to denote that **stamp duty** had been paid before the document was legally effective.¹

Previously, under the Stamp Duties Act,² the word **“stamp”** was defined to mean a stamp impressed by means of a die as an adhesive stamp for denoting any duty or fee.³ Similarly, the Act states that the word **“Stamped”** with reference to instruments and materials, applies as well to instruments and materials impressed with stamps by means of a die as to instruments and materials having adhesive stamps affixed thereto.⁴



It should be noted that the Act⁵ further defines **“instruments”** to include every written document and electronic documents. The Act⁶ also offers a sufficient description of the expression **“receipt”** to include any note, memorandum, writing or electronic inscription whereby any money, or any bill of exchange or promissory note for money is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.⁷

Going by the above definitions, the Stamp Duties Act clearly excluded electronically generated instruments, materials, receipts or money electronically generated and other transactions duly completed electronically between corporate bodies or between corporate bodies and individuals. This was a serious defect and a loophole in that Act as there was no legal basis to charge duties on such electronic documents.

However, by virtue of **Section 52** of the Finance Act, 2020, the definitions of those terms as contained in **Section 2** of the Stamp Duties Act have been



Having offered the above definitions and descriptions, the Act goes further to fix a flat rate of **₦50** for electronic transfer in the following words:

“Notwithstanding the provisions of the Stamp Duties Act, electronic receipt or electronic transfer for money deposited in any bank or with any banker, on any type of account, to be accounted for and expressed to be received of the person to whom the same is to be accounted for of amounts from **₦10,000.00** upwards shall attract a singular and one-off duty of the sum of **₦50.00**”.⁸

The delayed implementation

Although, the Finance Act was enacted and made to take effect on the **13th day of January, 2020**, the implementation of the relevant provisions of the Act as stated above did not commence immediately. This is because; the relevant tax authority (Federal Inland Revenue Service) that is constitutionally charged with the power to collect such duties did not take steps or issue the necessary instructions as well as the policy guidelines on the implementation to the affected financial institutions.



However, on the **29th day of May, 2020**, the Federal Inland Revenue Service (FIRS) in its initial efforts to commence the implementation of the amended provisions of the Stamp duties Act issued a circular to that effect.


The circular specified **fixed** duty instruments such

as Power of Attorney, Certificate of Attorney, Proxy forms, Appointment of receivers, Memorandum of Understanding, Joint Venture Agreements, Guarantors form, Ordinary agreements and Receipts; and **Ad-valorem** instruments such as Tenancy or lease agreements, legal mortgage or debentures, Sales agreements and Deed of assignments. Those documents either written, printed or in electronic form would be charged with the stamp duty. It further notes that: *“any electronic receipt for, or electronic transfer of, money deposited in any bank or with any banker, in any type of account of an amount from **₦10, 000.00** upwards shall attract a singular or one-off duty of the sum of **₦50**”.* Secondly, *“stamp duty upon receipt (written or in electronic form) for transactions, between corporate bodies or between a corporate body and an individual, group or body of individuals, which value amounts to **₦10, 000.00** and above, shall be denoted by payment of **₦50** per receipt to the Service.”*



By this circular, there is no gainsaying that implementation of the Stamp Duties Act (as amended) has already commenced. Indeed, the Finance Act, 2020 has removed the hitherto conjectures and uncertainties that surrounded the charge and payment and collection of stamp duties on electronic instruments and materials.

As good as this implementation may seem to be as a result of the expected increase in revenue for the government on one hand, it is regrettable on another hand that FIRS has not thought it expedient to suspend the implementation at least for the period of the COVID-19 pandemic because of the effect of the pandemic on general commercial activities.



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Conclusion

The enactment of a law such as the Finance Act, 2020 has been expected for a long while. Therefore, its eventual passage was considered a great milestone in the finance sector of the economy as it marks a return to an era of active fiscal supervision. However, laws are made by the state for the good and benefit of its citizenry.

It is the writer's opinion that though, the Act is a right step in the right direction, its implementation especially the provisions under review should be put on hold considering the prevailing financial crisis that befuddles everyone in the country due to the disastrous effects of Covid-19. At a time when the increased value added tax is already a component of so many other banking charges, additional stamp duty would make it worse for citizens who would obviously find it extremely difficult to cope especially during these trying times. It is humbly advised that FIRS should kindly consider a reversal or suspension of the implementation of the circular until the situation improves.

REFERENCES

1. Available at https://en.wikipedia.org/wiki/Stamp_duty accessed on 5th June, 2020.
2. Cap. S8, LFN, 2004
3. ibid, Section 2
4. ibid
5. Finance Act, 2020
6. Ibid
7. Ibid, Section 54.
8. Section 89 (3), Stamp Duties Act (as amended)



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