

LAGOS STATE VALUE ADDED TAX LAW

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**A
BILL
FOR**

A LAW TO IMPOSE AND CHARGE VALUE ADDED TAX ON CERTAIN GOODS AND SERVICES, PROVIDE FOR THE ADMINISTRATION OF THE TAX AND FOR RELATED MATTERS

THE LAGOS STATE HOUSE OF ASSEMBLY enacts as follows:

1. Interpretation

In this Law, unless the context otherwise requires –

“Authorized officer” means an officer who has been authorized by the Service to perform any function under this Law;

“Business” includes any trade, commerce or any concern in the nature of trade or commerce;

“Company” means a company as defined under the Companies and Allied Matters Act and a corporate body that may be formed under any other written law, and includes any association, whether incorporated in or outside Nigeria;

“Court” means the Magistrate or High Court having jurisdiction in respect of the subject matter;

“Governor” means the Governor of Lagos State;

“Import” means bringing in goods and services from another country or from an export processing zone;

“Importer” means a person who imports taxable goods;

“Invoice” means a document issued as an evidence of demand for payment;

“Local Government” includes Local Council Development Areas of the State;

“Manufacturer” means a person who engages in the manufacturing of goods and includes a person who has manufactured for him or on his behalf by others, goods made to his specification or design;

“Manufacturing” means the process by which a commodity is finally produced, including assembling, bottling, repacking, mixing, blending, grinding, cutting, bending, twisting and joining or any other similar activity;

“State” means Lagos State of Nigeria;

“Supplies” means any transaction, whether it is the sale of goods or the performance of a service, for a consideration that is for money or money’s worth;

“Supply of goods” means any transaction where the whole property in the goods is transferred or where the agreement expressly contemplates that it will, and includes the sale and delivery of taxable goods and services used outside the business, the letting out of taxable goods on hire or leasing, and any disposal of taxable goods;

“Supply of services” means any service provided for a consideration;

“Tax” means the Value Added Tax imposed and charged in accordance with the provisions of this Law;

“Tax period” means one calendar month commencing from the beginning of the month to the end of that month;

“Taxable goods and services” means the goods and services not listed in the Schedule;

“Taxable person” includes:

(a) an individual or body of individuals;

- (b) family;
- (c) corporation sole;
- (d) trustee or executor;
- (e) a person who independently carries out in a place an economic activity, as a producer, wholesale trader, supplier of goods, supplier of services etc, and includes a person and an agency of government acting in that capacity; or
- (f) a person exploiting tangible or intangible property for the purpose of obtaining income by way of trade or business, or a person or agency of Government acting in that capacity;

“Transaction at arm’s length” means a transaction on normal open market commercial terms;

“Vehicle” includes every description of conveyance for the transportation by land of human beings or goods.

2. Imposition of Value Added Tax

There is imposed and charged the Value Added Tax (referred to in this Law as “the Tax”) which shall be administered in accordance with this Law.

3. Taxable goods and services

The tax shall be charged and payable on the supply of all goods and services (referred to in this Law as “taxable goods and services”) other than goods and services listed in the Schedule to this Law.

4. Rate of tax

The tax shall be computed at the rate of 6 percent on the value of goods and services as prescribed under Sections 5 and 6 of this Law, except the goods and services listed under Part III of the Schedule which shall be taxed at Zero rates.

5. Value of taxable goods and services

- (1) The value of taxable goods and services shall be determined in the following ways:

- (a) where the supply is for money consideration, its value shall be deemed to be an amount which with the addition of the tax chargeable, is equal to the consideration;
 - (b) where the supply is for a consideration not consisting of money, the value of the supply shall be deemed to be its market value; and
 - (c) where the supply of taxable goods and services is not the only matter to which consideration in money relates, the supply shall be deemed to be part of the consideration as is properly attributed to it.
- (2) The open market value of supply of taxable goods and services shall be the amount that would be taken as its value under subsection (1)(b) of this Section where the supply were for a consideration in money that could be payable by a person in an arm's length transaction.

6. Value of imported taxable goods

The value of imported taxable goods shall be the amount which is equal to the price of the imported goods and includes all:

- (a) taxes, duties and other charges levied outside or for importation into Nigeria, other than the tax imposed by this Law; and
- (b) costs of parking, transportation, insurance and commission up to the port or place of importation.

7. Administration of the Tax

The Lagos State Internal Revenue Service (referred to in this Law as "the Service") shall –

- (a) administer and implement this Law;
- (b) account for money collected in accordance with this Law; and
- (c) do any other thing necessary and expedient for the assessment and collection of the tax.

8. Registration

- (1) A taxable person shall, within six (6) months of the commencement of this Law or within six (6) months of the commencement of business, whichever is earlier, register with the Service for the purpose of the tax.
- (2) A taxable person who fails or refuses to register with the Service within the specified time commits an offence and is liable on conviction to a fine of:
 - (a) Fifty Thousand Naira (₦50,000.00) for the first month in which the failure or refusal occurs; and
 - (b) One Hundred Thousand Naira (₦100,000.00) for each subsequent month in which the failure or refusal continues.
- (3) Where, after three (3) months, the person has not registered, the premises where the business is carried on shall be sealed up, subject to an order of court.

9. Registration by non-resident companies

- (1) A non-resident company that carries on business in the State shall register for the tax with the Service, using the address of the person with whom it has a subsisting contract, as its address for purposes of correspondence relating to the tax.
- (2) A non-resident company shall include the tax in its invoice, and the person to whom the goods and services are supplied in the State shall remit the tax in the currency of the transaction.

10. Records and accounts

- (1) A person registered under this Law shall keep records and books of every transaction, operation, import and any other activity relating to taxable goods and services as are sufficient to determine the correct amount of tax due.
- (2) A taxable person who fails to keep records and accounts of his business transactions to allow for the correct ascertainment of tax and filing of returns, commits an offence and is liable on conviction to pay a

maximum penalty of Two Hundred and Fifty Thousand Naira (₦250,000.00) for every month the failure continues.

11. Payment of tax by taxable person

- (1) A taxable person shall pay to the supplier the tax on taxable goods and services purchased by or supplied to the person.
- (2) The tax paid by a taxable person under subsection (1) of this Section shall be known as Input Tax.

12. Remittance of tax

- (1) Every ministry, statutory body or other Government Agency shall, at the time of making payment to a contractor, remit the tax charged on the contract to the Service.
- (2) The Service shall, by notice, direct the companies to remit the tax charged on taxable goods and services deducted at source to the Service.
- (3) The remittance shall be accompanied with a schedule showing the:
 - (a) name and address of the company;
 - (b) invoice number;
 - (c) gross amount of invoiced goods or services rendered;
 - (d) VAT registration number;
 - (e) amount of tax; and
 - (f) month of return.

13. Tax invoice

- (1) A taxable person who makes a taxable supply or render services shall, in respect of the supply or service, furnish the purchaser with a tax invoice containing:
 - (a) tax payer's identification number;

- (b) name and address;
 - (c) VAT registration number;
 - (d) date of supply;
 - (e) name of purchaser or client;
 - (f) gross amount of transaction; and
 - (g) tax charged and rate supplied.
- (2) A tax invoice shall be issued on supply whether or not payment is made at the time of supply.
- (3) A person who fails to issue a tax invoice for any goods sold or service rendered, commits an offence and is liable on conviction to a fine of fifty (50) percent of the cost of the goods or service for which the invoice was not issued.
- (4) An unregistered or unauthorized person, who issues an invoice purporting to be attributable to tax, commits an offence and is liable on conviction to imprisonment for a term of six (6) months or a fine of Two Hundred and Fifty Thousand Naira (₦250,000.00).

14. Collection of tax by taxable person

- (1) A taxable person shall, when supplying taxable goods or services to his accredited distributor, agent, client or consumer, collect the tax on those goods or services at the rate specified in Section 4 of this Law.
- (2) The tax collected by a taxable person under subsection (1) of this Section shall be known as Output Tax.
- (3) A taxable person who fails to collect tax under this Law, commits an offence and is liable on conviction to pay a penalty of one hundred and fifty (150) percent of the amount not collected, in addition to five (5) percent interest rate above the Central Bank of Nigeria's monetary policy from the date when the rate becomes payable until it is paid.

15. Taxable person to render returns

- (1) A taxable person shall render to the Service, on or before the 21st day of the succeeding month, a return of taxable goods and services

purchased or supplied by him during the preceding month in the manner specified by the Service.

- (2) A person who imports taxable goods into the State shall render to the Service, returns on the taxable goods imported by him.
- (3) A taxable person who fails to render returns to the Service, commits an offence and is liable on conviction to a maximum fine of Five Hundred Thousand Naira (₦500,000.00) for every month the failure continues.

16. Remittance of excess tax

- (1) Where a taxable person renders a return under Section 15(1) of this Law, he shall, where the:
 - (a) output tax exceeds the input tax, remit the excess to the Service; or
 - (b) input tax exceeds the output tax, be entitled to a refund of the excess tax from the Service on production of the documents the Service may require.
- (2) An importer of taxable goods shall pay to the Service the tax on the goods before clearing.

17. Allowable Input Tax, Etc.

- (1) Pursuant to Section 11, the input tax allowed as a deduction from output tax shall be limited to the tax on goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output tax is charged.
- (2) Input tax shall not be allowed as a deduction from output tax on any:
 - (a) overhead, service and general administration of any business which can be expended through the income statement; and
 - (b) capital item and asset which is to be capitalized along with cost of the capital item and asset.

18. Incomplete or inaccurate returns or no returns

Where a taxable person renders incomplete or inaccurate returns, or no returns, the Service shall assess, to the best of its judgment the amount of tax due on the taxable goods and services purchased or supplied by the taxable person.

19. Effect of non-remittance of tax

- (1) Where a taxable person does not remit the tax within the time specified in Section 16 of this Law, a sum equal to five (5) percent per annum, plus interest at the commercial rate, of the amount of tax remittable shall be added to the tax, and the provisions of this Law relating to collection and recovery of unremitted tax, penalty and interest shall apply.
- (2) The Service shall give notice in writing to a taxable person or his agent of the tax due, penalty and interest, and where payment is not made within thirty (30) days of the notice, the Service may proceed to enforce payment in accordance with this Law.

20. Recovery of tax

- (1) A taxable person aggrieved by an assessment made on him may within thirty (30) days of the receipt file an objection to the Service.
- (2) The Service shall determine the objection filed within thirty (30) days.
- (3) Where the taxable person is dissatisfied with the decision of the Service, he shall appeal to the Value Added Tax Appeal Tribunal within twenty-one (21) days of the decision of the Service.
- (4) The Service may, through proceedings in the Value Added Tax Appeal Tribunal, recover any tax, penalty or interest which remains unpaid after the period specified for payment.
- (5) An appeal on the decision of the Value Added Tax Appeal Tribunal shall be made to the State High Court.

21. Establishment and composition of the Value Added Tax Appeal Tribunal

- (1) There is established a Value Added Tax Appeal Tribunal (referred to in this Law as “the Tribunal”) which shall comprise of the following members:
 - (a) a Chairman, who shall be a legal practitioner of proven ability and integrity with a minimum of ten (10) years’ experience in tax matters;
 - (b) one (1) accountant with relevant experience in tax matters;
 - (c) three (3) other persons from either the private or public sector whose membership shall in the opinion of the Governor, assist to resolve disputes arising from tax assessment.
- (2) The members of the Tribunal shall be appointed by the Governor on the recommendation of the Attorney-General and Commissioner for Justice.
- (3) The Tribunal shall assist the Service in resolving disputes arising from tax assessment as set out under the provisions of this Law.
- (4) The Tribunal shall have powers to regulate its own proceedings and may make standing orders for that purpose, and subject to any such standing orders, may function notwithstanding –
 - (i) any vacancy in its membership or the absence of any member;
 - (ii) any defect in the appointment of a member; or
 - (iii) that a person not entitled to do so took part in its proceedings.
- (5) Notwithstanding its standing order, the quorum at any meeting of the Tribunal shall be three (3) members.

22. Remuneration and allowances

The Chairman and members of the Tribunal will be paid such remuneration and allowances as may be approved by the Governor.

23. Tenure of office

The Chairman and members of the Tribunal will hold office for three (3) years and may be eligible for re-appointment for one further term of three (3) years only.

24. Cessation of office

- (1) A member of the Tribunal shall cease to hold office if such person –
 - (a) resigns his appointment by giving one (1) month notice in writing to the Governor;
 - (b) is unfit or unable to discharge the functions of the office either by reason of infirmity or mental incapacity;
 - (c) becomes bankrupt or makes a compromise with his/her creditors;
 - (d) is convicted of a felony or any offence involving dishonesty;
 - (e) is guilty of serious misconduct or dereliction of duty;
 - (f) is unable to attend three (3) consecutive meetings without any cogent reason.
- (2) The Chairman and any member of the Tribunal may be removed from office by the Governor, if the Governor is satisfied that it is not in the interest of the public that such a member should continue in office.

25. The Registrar of the Tribunal

- (1) There shall be a Registrar for the Tribunal, who shall be appointed by the Governor on the recommendation of the Attorney-General and Commissioner for Justice.
- (2) The Registrar shall be an officer in the State Public Service not below Salary Grade Level 15.

26. Use of false documents

- (1) A person shall not produce, furnish or make use of false documents or make a false statement while furnishing an information to the Service.
- (2) Any person who contravenes the provisions of subsection (1) of this Section, commits an offence and is liable on conviction to a fine of twice the amount under-declared.

27. Evasion of tax

A person who participates in or takes steps to evade tax for himself or any other person, commits an offence and is liable on conviction to twice the amount of the tax being evaded or to imprisonment for a term not exceeding three (3) years.

28. Notification of change of address

- (1) Where a taxable person changes address, he shall notify the Service in writing within one (1) month of such change.
- (2) A person who fails to notify the Service in writing of any change of address within one (1) month of the change, is liable to pay a penalty of Ten Thousand Naira (₦10,000.00) for every month of default.

29. Resisting an authorized officer

A person who resists, obstruct or attempt to resist or hinder an authorized officer while in the performance of his functions under this Law, commits an offence and is liable on conviction to imprisonment for a term of six (6) months or a fine of One Hundred Thousand Naira (₦100,000.00) or both.

30. Offences by corporate bodies

Where an offence under this Law is committed by a corporate body or firm, or other association of individuals, every:

- (a) director, manager, secretary or other similar officer of the corporate body;
- (b) partner or officer of the firm;
- (c) person concerned in the management of the affairs of the association;
or
- (d) person purporting to act in a capacity as mentioned in paragraphs (a) – (c) of this Section,

commits that offence and is liable as if the person committed that offence, unless the person proves that the act or omission constituting the offence took place without the person's knowledge, consent or connivance.

31. Aiding and abetting commission of offence

- (1) An officer of the Service or any other person who aids or abets the commission of any offence under this Law, commits an offence and is liable on conviction to imprisonment for a term of five (5) years or a fine of Two Million (~~₦~~2,000,000.00).
- (2) Where a person's conduct during any specified period involved the commission or omission by him or anyone or more of the offences under this Law, then whether or not the particulars of the offences are known, it shall, by virtue of this section, be guilty of an offence and liable to pay a fine of four times the amount of any tax that was, or was intended to be evaded by his conduct or to imprisonment for a term not exceeding six (6) months or both.

32. Power of inspection

- (1) An authorized officer of the Service may, with the order of court enter into any premises for purpose of inspection, if the officer has reasonable grounds to believe that a taxable person is evading tax.
- (2) Where an authorized officer enters any premises in exercise of the powers conferred on by subsection (1) of this Section, the officer may take with him such persons as he considers necessary for carrying out his functions under this Law.

33. Distribution of Revenue

Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this Law shall be distributed as follows:

- (a) 75% to the State Government; and
- (b) 25% to the Local Governments, to be shared on the basis of derivation principle.

34. Forms

The Service shall specify the forms, statements and notices to be used under this Law.

35. Regulations

The Commissioner for Finance may, with the consent of the Governor and subject to the Regulation Approval Law, make regulations for the effective implementation of the provisions of this Law.

36. Citation and commencement

This Law may be cited as the Lagos State Value Added Tax Law and shall be deemed to have come into force on the day of 2021.

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Mr. BABAJIDE OLUSOLA SANWO-OLU
Governor of Lagos State

SCHEDULE

Goods and services exempt

[Section 3]

PART I

Goods exempt

1. All medical and pharmaceutical products
2. Basic food items.
3. Books and educational materials
4. Baby products.
5. Fertilizer, locally produced agricultural and veterinary medicine, farming machinery and farming transportation equipment.
6. All exports.
7. Plant, machinery and goods imported for use in the export processing zone or free trade zone:
Provided that one hundred (100) percent productions of the company are for export, otherwise tax shall accrue proportionately on the profits of the company.
8. Plant, machinery and equipment purchased for utilization of gas in down-stream petroleum operations.
9. Tractors, ploughs and agricultural equipment and implements purchased for agricultural purposes.
10. Items covered under the Hotel Occupancy and Restaurant Consumption Law of Lagos State.

PART II

Services exempt

1. Medical services
2. Services rendered by Community Banks, Micro Finance Banks and Mortgage Institutions.
3. Plays and performance conducted by educational institutions as part of learning.
4. All exported services.

PART III

Zero-rated goods and services

1. Non-oil exports
2. Goods and services purchased by diplomats
3. Goods purchased for use in humanitarian donor funded projects
“Humanitarian donor funded projects” include projects undertaken by Non-Governmental Organizations, religious and social clubs or societies recognized by law whose activities are in the public interest, and not for profit.