

FIRS seeks to enforce compliance with Stamp Duties Act



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Overview

Section 3 of the Stamp Duties Act (SDA) imposes stamp duty on “instruments” listed in the schedule to the Act. Instrument is defined as every written document which involves words or figures written upon material.

In 2016, the Nigerian Postal Service (NIPOST) moved to enforce the provisions of the SDA based on a ruling of the Federal High Court which

resulted in banks deducting ₦50 on certain bank deposits.

However, the Federal High Court decision on the imposition of stamp duty on deposit was overruled as illegal by the Court of Appeal. Our earlier alert on the judgement is available on this [link](#).

Very recently, the Federal Inland Revenue Service [FIRS] has turned its focus to enforcement of stamp duties. Some large taxpayers have received letters from the FIRS requesting for evidence of payment of duties on specific transactions (such as leases, property transfer, rent, deeds of assignment, all forms of contracts etc.).

We anticipate that the letter will eventually be served on more taxpayers within the FIRS tax net. This renewed focus on stamp duties is not surprising given the tax revenue under-performance recorded in 2016.

The letter states that the FIRS will invoke Section 110, 112 and 114 of the SDA for enforcement. These provisions specify that the duties and penalties under the Act shall be recoverable in a summary manner in the name of the Attorney-General of the Federation or of the State and enforcement must be initiated within 5 years. This means that enforcement in 2017 can only cover periods from 2012.

The FIRS also stated that it will invoke Section 40 of the FIRS Establishment Act which imposes penalties and interest for non-deduction of tax. This provision may not be applicable to stamp duties as stamp duties are a surcharge and not a deduction. Also, some of the rates stated in the FIRS letter are not consistent with the Act.

The takeaway

It is important for taxpayers to pay extra attention to all their tax obligations regardless of whether the enabling laws have historically been enforced. FIRS had previously issued a public notice to the effect that it intends to enforce compliance with the SDA (see [link](#) to our previous alert).

It is advisable to review past documents and contracts to determine whether any duties are payable thereon and consider possible ways to mitigate any inherent risks.

The government is considering various options in its drive to increase revenue and tax is clearly an area of focus to achieve this. There is currently a bill before the House of Assembly to amend the SDA. The amendment could expand the scope of the SDA to specifically cover electronic transactions and also increase the duties payable on instruments and documents generally.

