

# Lagos State issues regulations to implement Electronic Fiscal Devices for Consumption Tax



## Key objective of the Regulation is to introduce Electronic Fiscal Devices (EFD to effectively administer Consumption Tax

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## Introduction

The Lagos State Internal Revenue Service (LIRS) has issued the Hotel Occupancy and Restaurant Consumption (Fiscalisation) Regulations 2017 pursuant to section 9 of the Hotel Occupancy and Restaurant Consumption Law empowering LIRS, to issue Regulations for the administration of the Law.

On 10 January 2018, the Regulations were gazetted. The main objective is to enable LIRS efficiently monitor transactions covered under the Law through the use of Electronic Fiscal Device (EFD).

## Highlights of the Legislation

**Scope:** The Regulation requires all Collecting agents - persons who own, manage or control any business or supplies any goods or services which is chargeable under the Law (hotels, event centres, restaurants, lounges, clubs and bars) – to use an EFD to record all taxable transactions.

**EFD:** An EFD is an electronic device for registering and calculating transactions at points of sale. EFDs record and transmit to LIRS real time taxable transactions for the purposes of administering Consumption Tax.

**Installation and registration:** From the commencement of the Regulations, all agents are required to, or cause to be installed fiscalisation hardware and software in all their business premises and exercise due care to ensure the proper functioning of the device. Agents are to register EFDs within 7 days of receipt of notification of the Regulation from the LIRS and display their registration number prominently on the EFD.

**Connection to LIRS:** Agents are to electronically connect the EFD to LIRS' central system so that all transactions are transmitted real time. Where there is no connection with LIRS, agents are to notify the LIRS within 7 days while the agent is allowed to use alternative measures to record transaction data.

**Penalties:** Failure to comply with any of the provisions of the regulation may lead to, upon conviction, penalty of 10% of the tax due and interest at 5% above the Minimum Rediscount Rate.

**Receipts/Invoices:** Customers must be issued receipts/invoices generated from the EFD and report where such is not issued. The receipts should contain special digital marking and information such as name, address, registration number, date of transaction, mode of payment, tax due etc.

**Small or disconnected agents:** Small agents (turnover less than N2 million) and disconnected agents (those without internet facilities) can apply for exemption from the EFD. Disconnected agents must satisfy LIRS that there are no internet services within their area.

**Power to enter and inspect:** Duly authorised officers of LIRS have the right to enter any business premises to inspect the installation and functionality of the fiscalisation software and hardware.

## Takeaway

This is another effort by the LIRS to expand the tax net and drive voluntary compliance. If properly enforced it should create a level playing field for all players in the sector by eliminating the advantage enjoyed by defaulting businesses in the past.

It is not clear if the LIRS intends to notify affected businesses individually or whether the gazetting of the Regulations will suffice as notification. The 7 days window for compliance is too short even if individual letters of notification will be issued. The LIRS should consider a longer period which will be sufficient for affected businesses to implement the new Regulation and comply 'practically'.

With the backing of a legal instrument, compliant with the EFDs will be more acceptable. However, EFD may also come at an extra administrative burden for the agents as it does not state whether the devices will be provided by the LIRS. The use of internet for connection would also come at a cost.

The LIRS promises to introduce a raffle draw for EFD compliant tickets so that customers of the qualifying businesses would qualify to win weekly, monthly and annual draws. With the opportunity to win brand new cars, it is expected that the public would act as enforcers of the Regulation.

