

Lagos State Land Use Charge Law Amendment Bill 2018 - Highlights



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In 2001, the Lagos State government passed the Land Use Charge Law which consolidated and replaced all the state and local government taxes payable on property in Lagos State.

On 28 January 2018, the Lagos State House of Assembly passed the Land Use Charge Law 2018 to repeal and replace the Land Use Charge Law 2001. We have highlighted below, some of the provisions of the new law.

Highlights of the Changes

Properties exempt from Land Use Charge (LUC): The main change in the law is the introduction of an LUC formula that ensures that assessments are based on 'market' or commercial value of land and improvements.

The exemption available to cemeteries and burial grounds

under the old law is restricted under the new law to public cemeteries which means that owners of private cemeteries will now be expected to pay LUC. Private libraries will be exempt under the law in addition to public libraries, however, they must be certified to be non-profit making by the Commissioner of Finance for Lagos State. In addition, the exemption for property owned by religious bodies has been limited to those used as a place of worship or for religious education.

The law provides that where any exempt property is leased out to private entities for revenue generation, they shall not be exempt for purposes of the law. This may therefore capture religious centres that are also used as event centres or receptions for a fee. However, the LUC imposed shall be prorated so that it is applied to that part of the year in which the property, or part of it, is not exempt.

The owner of the property has the duty to inform the Commissioner of the loss of exempt status or risk a penalty of up to 3 times the exemption in issue.

Persons liable to pay LUC: Under the law, persons liable to pay LUC have been extended to include occupiers holding long leases of 10 years and above. The law is silent on whether such LUC paid can be recovered from the landlord.

One question that arises from this is whether shorter term leases that are automatically renewable unless expressly terminated would create an obligation for the occupier if the

automatic renewal takes the term above 10 years.

The law has amended the definition of Occupier to include persons unlawfully in occupation of property. This is in line with international principles on taxation that an illegality does not preclude a taxpayer from his fiscal obligations.

Assessment Appeal Tribunal:

The law reduces the number of the tribunal from 15 to 9 and gives the tribunal the power to adopt Alternative Dispute Resolution. Where the mediation does not resolve the dispute within 45 working days of the first session or when the mediator declares an impasse, the mediation shall be deemed inconclusive and parties shall be at liberty to resolve their dispute formally at the Tribunal or through any other lawful means. The Law does not state who will bear the alternative dispute resolution cost.

Penalty: Penalty for non-compliance with provisions of the law has been increased to a maximum fine NGN250,000 from NGN100,000.

Right of Enforcement: The rights of enforcement of the State has been extended to include a civil action against the owner to recover the accrued LUC or to obtain an order of Court for distraint of the property.

Takeaway

The changes introduced appear to be directed at blocking the loopholes in the old law rather than a fundamental change in the LUC regime in the state.