

HOTEL OCCUPANCY AND RESTAURANT
CONSUMPTION BILL, 2017

ARRANGEMENT OF SECTIONS

SECTION

1. Imposition of Tax
2. The Rate of Tax
3. Collection of Tax
4. Administration
5. Registration
6. Report and Remittance
7. Access to Books and Records
8. Payment of Estimated Amount
9. Regulations
10. Interest on Remittance
11. Penalties
12. Tax Collection on Determination or Transfer of Business
13. Appeal Process
14. Jurisdiction of Court
15. Power of Distrain for Non-Payment of Tax
16. Exemption from Sales Tax Law
17. Interpretation
18. Citation and Commencement

**A BILL
FOR
A LAW TO IMPOSE TAX ON GOOD AND SERVICES
CONSUMED IN HOTELS, RESTAURANTS AND EVENTS
CENTRES WITHIN KWARA STATE**

()

Date of
Commencement

BE IT ENACTED by the Kwara State House of Assembly and the authority of same as follows:

1.(1) A tax is imposed on any person (referred to in this Law as ("the Consumer")) who –

Imposition
of Tax.

(a) pay for the use or possession or for the right to the use or occupation of any hotel, hotel facility or events centers: or

(b) purchases consumable goods or services in any restaurant whether or not located within a hotel in Kwara State.

(2) The amount to which this tax applies shall be the cost of facilities, consumable or personal services supplied to a consumer in, by or on behalf of the hotel, restaurant or events centre.

2. The rate of tax imposed by this Law shall be five per cent of the total bill issued to the consumer, excluding Value Added Tax.

The rate of
tax.

3. A person owning, managing or controlling any business or supplying any goods or services chargeable under section 1 of the Law (referred to in this Law as the "Collecting Agent") shall collect of this, for and on behalf of the State, the tax imposed by this Law based on the total amount charged or payable by the consumer in accordance with the provisions of section 2 of this Law.

Collection
of tax.

4. The tax charged by this Law shall be under the care and management of the Kwara State Internal Revenue Service (KWIRS) (referred to in this Law as "The Service").

Administration.

5. (1) Any Hotel, Restaurant or other business affected by this Law shall, within thirty (30) days of the commencement of this Law or upon commencement of business, whichever is earlier, register with the Service for the purpose of this Law.

Registration.

- (1) Every Collecting Agent shall produce evidence of registration with the service as a condition precedent to any contractual relationship with the State Government or any of its Ministries, Departments, Parastatals or Local Government Authorities.

6. (1) Every Collecting Agent shall –

Report and
Remittance.

- (a) Keep, maintain and preserve such records, books and accounts in respect of all transactions chargeable under section 1 of this Law as the Service may prescribe and shall enter regular accounts of the tax collected from day to day.
- (b) Subject to the provisions of subsections (3) of this section, pay to the designated account of the State Government, the tax collected during the preceding reporting period and at the same time, file with the Service, a report stating—
 - (i) the total amount of payments made for all chargeable transactions during the preceding reporting period;
 - (ii) the amount of tax collected by the agent during the reporting period; and
 - (iii) any other information required by the Service to be included in the report.
- (2) For the purpose of these provisions, each calendar month is a reporting period and the taxes imposed and collected under this Law are due and payable on or before the 20th day of each calendar month.
- (3) The tax collected shall be a debt due to the State and recoverable by the Service from the collecting agents.

7. An officer of the Service –

Access to
Books and
Records

- (1) May enter without warrant, any premises on which he reasonably believes that a person is carrying on business in order to ascertain whether this Law is being complied with by the occupier of the premises or other person.
- (2) Shall at any reasonable time of the day be given access to all books and records of any hotel, restaurant or other establishment offering chargeable

goods and services for the purpose of verifying facts necessary to determine the amount due and payable to the Government under this Law.

8. Where a Collecting Agent fails to make a return or remittance as required by the provisions of this Law or where his returns are not substantiated by records, the Service may make an estimate of the total amount of tax due and may order him in writing to pay the estimated amount to the State Government within 21 days of the date of service of the order.

Payment of
Estimated
Amount.

9. The service may from time to time by order published in the Gazette issuerules and regulations for the determination, collection, and remittance of taxes due and for the proper administration of this Law.

Regulations.

10. All taxes that are not remitted to the designated account of the Government within the time allowed, shall in addition to other penalties prescribed by this Law, bear interest at the rate of five per cent per annum above the prevailing Central Bank of Nigeria Minimum Rediscount Rate as determined at the time of actual remittance.

Interest on
Remittance.

11. (1) If a Collecting Agent fails to file a report and remit taxes (the goodsand services tax) collected within the time allowed by section 6(2) of this Law, that Agent shall, in addition to interest payable under section 10 of this Law, pay a Penalty of ten per cent of the amount of tax due.

Penalties.

(2) Any Director, Manager, Agent or Employee of the Collecting Agentwho fails to comply with the provisions of this Law, shall be guilty of an offence and liable on conviction to a penalty of six months imprisonment or a fine of not more than two million Naira (N2,000,000.00) or both.

12. (1) Whena hotel, restaurant or other facility covered by this Law is soldor otherwise disposed of, the transferee shall withhold such amount of the purchase price or other consideration as is sufficient tooffset all payments already due to the Government under the provisions of this Law, unless the transferor has first provided a receipt issued by the Service showing that the amount due at the date of transfer had been paid or that no amount was due.

Tax
Collection on
Determination
or Transfer of
Business.

(2) A transferee of a chargeable facility who fails to comply with the provisions of subsection (I) of this section shall be liable to pay the amount due to the designated Government account and the provisions of sections 10 and 11

of this Law shall apply as if he was operating the hotel business at the time the payments were due.

(3) The transferee of a chargeable facility may request from the Service, a certificate stating that no tax is due or stating the amount of tax due from the facility at the date of transfer.

(4) in the case of a request made under subsection (3) of this section, the Service shall issue the certificate within thirty (30) days of receiving the request or within thirty (30) days after the day on which the relevant record of the business are made available for audit, whichever is later, but in either event, the Service shall issue the certificate within sixty days the date of request.

(5) in the absence of willful concealment of fraud, the period of limitation during which the Service may assess tax against a transferor under this section is four (4) year from the date when the transferor dispose the chargeable facility or when a determination is made against the transferor, whichever event occurs later.

13. (1) Any person aggrieved by any assessment made by the Service under this Law shall, within fourteen (14) days of being notified of such a decision, write to the Chairman or other designed Officer of the Service to review, amend or reverse the assessment.

Appeal
Process.

(2) Upon the receipt of such notice, as mentioned above, the Service may reconsider, affirm or amend its assessment and notify the complainant of its decision.

(3) Where upon a review, the Service serves on the complainant a notice of refusal to amend a complaint who is dissatisfied by the refusal may institute an action at the Revenue Court of Kwara State.

(4) Where the person served with an assessment or his authorized representative fail to contest the assessment within the period allowed by subsection (1) of this section, the assessment shall be deemed to be final and conclusive.

14. (1) The Service may institute an action at the Revenue Court Kwara State for the recovery of taxes, interests and penalties due under this Law.

Jurisdiction
of Court.

(2) All revenue recoverable under this Law are revenues of the Kwara State of Government and accordingly. all legal action taken in relation to this Law or anything done pursuant to it shall subject to the

provisions of section 13 of this Law, be instituted at the Revenue Court Kwara State.

(3) Where an ex-parte application is made to the Court supported by affidavit that there is reasonable cause for suspecting that a Collecting Agent or any other business organization or person is in contravention of any provision of this Law, the Court may make an order upon such terms as it deems fit to –

- (a) Prevent concealment of the fraud or dissipation of monies due to the Government; or
- (b) Authorize officers of the Service to enter the premises of the suspect at any reasonable time by day or night accompanied by police officers; to
 - (i) inspect the premises for any evidence of contravention; and
 - (ii) Seize any books of account, records or other things by which the liability of the Collecting Agent, business organization or other person may be established.

4) Any person who knowingly gives false information shall be guilty of an offence and liable on conviction to imprisonment for a period of six months or a fine of not more than five hundred thousand naira (N500,000.00) or both.

15. (1) Without prejudice to any other power conferred on the Service for the enforcement of payments due to Government under this or any other Law, where an assessment has become final and conclusive and a demand notice has been served on a person to make payment, if payment is not made within the time limited by the demand notice, the Service may, apply to court by an ex-parte application for the purpose of enforcing payment of the tax due to –

Power
to Distrain for
Non-Payment
of Tax.

- (a) distrain the defaulter by his goods or other chattels, bonds or other securities;
 - (b) Distrain upon the relevant facility or other place in respect of which the defaulter is the owner, and subject to the provisions of this section, recover the amount of tax due by sale of any of the things so distrained.
- (2) The authority to distrain under this section shall be in such form as the Court may direct and that authority shall be sufficient warrant to levy by distrain, the amount of tax due.
- (3) For the purpose of levying a distrain under this section, an officer authorised in writing by the court may execute a warrant of distrain, and if necessary break open any building or place in the day time for the purpose of levying the distrain and may call to his assistance, any

police or other security officer whose duty, when so required, shall be to aid and assist in the execution of the warrant of distrain and levying the distrain.

- (4) Things distrained under this section may, at the cost of the defaulter, be kept for fourteen (14) days and at the end of that time, if the amount due in respect of the tax and cost and charges incidental to the distrain are still not paid, may subject to the provisions of subsection (6) of this section, be sold at anytime thereafter.
- (5) Out of the proceeds of a sale under this section, there shall be paid, the cost or charges incidental to the sale and keeping of the distrain, and the amount due in respect of tax. The balance (if any) shall be payable to the defaulter on demand being made by him or on his behalf.
- (6) Nothing in this section shall be construed as authorising the sale of an immovable property without an order of the Revenue Court, made on application in such formas may be prescribed by the Rules of Court.

16. As from the commencement of this Law, Sales Tax Law, Cap. S2, Laws of Kwara State 2006 shall not apply to any facility or transaction covered by this Law.

17. In this Law, unless the context otherwise requires –

“Consumer” includes a hotel guest or any person who makes use of a hotel, restaurant, eventscentre or hotel facility for a fee;

“EventsCentres” includes halls, auditoriums, fields and places designated for public use at a fee;

“Government” means Kwara State Government;

“Hotel” means the motel, guest house, apartments for short letting, tavern meeting room, and function hall, whether or not described as a hotel by the operator;

“Hotel facility” includes a room, suit, hall, open space or other facility or resource centre which may be let out for a fee within a hotel or other facility covered by this Law under a lease, concession, permit, right of license, contract, or other agreement;

“Restaurant” includes any food sale outlet, bar, tavern, inn or café whether or not located within a hotel;

"State" means Kwara State of Nigeria;

"Transferee" includes purchaser, assignee, licensee or other successor in title;

"Transferor" includes seller, assignor, lessor or licensor;

"Person" includes a body corporate;

18. This Bill may be cited as the Hotel Occupancy and Restaurant Consumption, Bill, 2017. Citation.