

A LAW TO IMPOSE TAX ON GOODS CONSUMED AND SERVICES RENDERED IN HOTELS, RESTAURANTS, EVENTS CENTRES AND OTHER FACILITIES THEREOF IN EDO STATE.

BE IT ENACTED BY THE EDO STATE HOUSE OF ASSEMBLY AND BY THE AUTHORITY OF THE SAME AS FOLLOWS:

Enactment

1. This Law may be cited as the Hotels and Events Centres Occupancy and Restaurants Consumption Law of Edo State and shall come into effect on the..... day of.....2011.

Citation and Commencement

2. In this Law, unless the context otherwise requires:-

Interpretation

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

**“Events Centres”** includes halls, auditoria, fields and places designated for public use for a fee:

**“Government”** means the Edo State Government:

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

**“Hotel facility”** includes a room, suite, 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 Edo State of Nigeria;

**“Transferee”** includes purchaser, assignee, lessee, licensee or other successor in title;

**“Transferor”** includes seller, assignor, lessor or licensor, or other successor in title;

**“Person”** includes a body corporate.

3. (1) A tax is imposed on any person (referred to in this Law as “the Consumer”) who-pays for the use of any hotel, hotel facility or events centre: or  
(b) Purchases consumable goods or services in any restaurant whether or not located within a hotel in Edo State.  
(2) The amount to which this tax applies shall be the total cost of facilities, consumables or personal services supplied to a consumer in, by or on behalf of the hotels, restaurants or events Centres. Imposition of Tax
4. The rate of tax imposed by this Law shall be five percent (5%) of the total bill issued to the consumer. Rate of Tax
5. A person owning, managing or controlling any business or supplying any goods or services chargeable under Section 3 of this Law (referred to in this Law as the “Collecting Agent”) shall collect 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 4 of this Law. Collection of Tax
6. The tax charged by this Law shall be under the care and management of the Edo State Board of Internal Revenue (referred to in this Law as “The Board”) Administration
7. (1) Any Hotel, Restaurant or other business affected by this Law shall, within 30 days of the commencement of this Law or upon commencement of business, whichever is earlier, register with the Board for the purpose of this Law. Registration

(2) Every Collecting Agent shall produce evidence of registration with the Board as a condition precedent to any contractual relationship with the State Government or any of its Ministries, Departments, Agencies, Parastatals or Local Government Councils.

8. (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 3 of this Law as the Board may prescribe and shall enter regular accounts of the tax collected from day to day.

(b) subject to the provisions of subsection (5) 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 Board 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 Board 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 7th day of the following month.

(3) The tax collected shall be a debt due to the State and recoverable by the Board from the supplier of chargeable facilities, goods and services.

9. An officer of the Board:-

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 Collecting Agent.

(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.

(3) it shall be an offence for any person to prevent any officer of the Board from having entry into the premises or access to the Records of the Collecting Agent.

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|-----|---|-----------------------------|
| 10. | 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 Board may make an estimate of the total amount of tax due and may order the person in writing to pay the estimated amount to the Board within 21 days of the date of service of the order. | Payment of Estimated Amount |
| 11. | The Board may from time to time by Order published in the Gazette, issue rules and regulations for the determination, collection, and remittance of taxes due and for the proper administration of this Law   | Regulations                 |
| 12. | All taxes that are not remitted to the Board within the time allowed, shall in addition to other penalties prescribed by this Law, bear interest at the rate of two percent (2%) per annum above the prevailing Central Bank of Nigeria Minimum Re-discount Rate as determined at the time of actual remittance.  | Interest on Remittance      |
| 13. | If a Collecting Agent fails to file a report and remit taxes collected within the time allowed by Section 8(2) of this Law, that Agent shall, in addition to interest payable under Section 12 of this Law, pay a penalty of ten percent (10%) of the amount of tax due.  | Penalties                   |
| 14. | Any Director, Manager, Officer, Agent or Employee of the Collecting Agent who fails to comply with the provisions of this Law, shall be guilty of an offence and liable on conviction   |                             |

tion to a penalty of not more than Six (6) months imprisonment or a fine of Two Million Naira (N 2,000,000.00) or both depending on the size of business.

15. (1) When a hotel, restaurant or other facility covered by this Law is sold or otherwise disposed of, the transferee shall withhold such amount of the purchase price or other consideration as is sufficient to offset all payments already due to the Government under the provision of this Law, unless the transferor has first provided a receipt issued by the Board 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 (1) of this Section shall be liable to pay the account and the provisions of Sections 12 and 13 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 for a fee to be determined by the Board request from the Board 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 Board shall issue certificate within 14 days of receiving the request or within 14 days after the day on which the relevant records of the business are made available for audit, whichever is later, but in either event, the Board shall issue the certificate within 30 days after the date of request.

16. (1) Any person aggrieved by any assessment made by the Board under this Law shall within seven (7) days of being notified of such decision write to the Chairman or other designated Officer of the Board requesting the Board to review, amend or reverse the assessment.

Appeal Process

(2) Upon the receipt of such notice, as mentioned in

subsection (1) of this Section, the Board may reconsider, affirm or amend its assessment and notify the complainant of its decision.

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

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

17. (1) The Board may institute an action at the High Court of Edo 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 Edo State Government and accordingly, all legal actions taken in relation to this Law or anything done pursuant to it shall, subject to the provision of Section 16 of this Law, be instituted at the High Court of Edo 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 Board to enter the premises of the suspect at any reasonable time of 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 to the Board shall be guilty of an offence and liable on conviction to imprisonment for a period of six (6) months or a fine of Five Hundred Thousand Naira (N 500,000.00) or both

18. (1) Without prejudice to any other power conferred on the Board 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, and payment is not made within the time limited by the demand notice, the Board, shall in the prescribed form, for the purpose of enforcing payment of the tax due:-

Power to  
Distain  
for Non-  
Payment  
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 Board 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 authorized in writing by the Board 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 the cost and charges incidental to the distraint are still not paid, may subject to the provisions of sub-section (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 distraint, and the amount due in respect of the tax. The balance (if any) shall be payable to the defaulter by the Board.

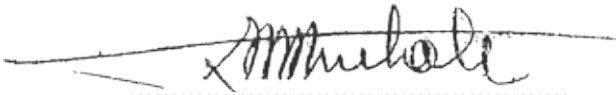
(6) Nothing in this Section shall be construed as authorizing the sale of an immovable property without an Order of the State High Court, made on application in such form as may be prescribed by the Rules of Court.



This printed impression has been compared by me with the law which has been passed by Edo State House of Assembly and found by me to be true and correctly printed copy of the said Law.

..... 03 - 06 - 11 .....  
Clerk of the House of Assembly

Assented to by me this ..... 30th ..... day of ..... June ..... 2011

  
.....  
Governor of Edo State of Nigeria

Assent withheld by me this ..... day of ..... 2011

.....  
Governor of Edo State of Nigeria

## ENVISAGED QUESTIONS ON THE IMPLEMENTATION OF THE CONSUMPTION TAX AND LIKELY ANSWERS.

1.     **Q**     **What is the name of the Law?**  
   **A**     Hotel and Event Centers Occupancy and Restaurant Consumption Law of Edo State, 2011.
2.     **Q**     **What outfits are covered by the Law?**  
   **A**     Hotels, Guest Houses, Events Centers, Fast Food Joints, Restaurants, Eateries.
3.     **Q**     **What is the Law meant to achieve?**  
   **A**     The law is meant to generate revenue for rapid social and economic development of Edo State and also act as a catalyst for the growth of the hospitality/tourism industry.
4.     **Q**     **What is the tax to be paid on?**  
   **A**     The tax is to be paid on any service rendered and facilities used in the hotels, event centers, fast food joints, restaurants, eateries.
5.     **Q**     **How is the Consumption tax different from VAT?**  
   **A**     The Consumption Tax is an Edo State Government tax to be paid by any individual/group on services enjoyed/facility used in any of the outfits covered by the Law; while the value added tax is a Federal tax imposed on certain goods/services.
6.     **Q**     **What is the rate of tax?**  
   **A**     The rate of the consumption tax is a 5% charge on the cost price of any service enjoyed/facility used in any of the identified outfits.

7. **Q Who pays the tax?**  
**A** Those who patronize and use the facilities of Hotels, Guest Houses, Event Centres, Fast Food Joints, Restaurants, Eateries.
8. **Q Who collects the tax?**  
**A** Operators of Hotels, Guest Houses, Event Centres, Fast Food Joints, Restaurants, Eateries.
9. **Q When will the Law become fully operational?**  
**A** The Law came into effect on the 30th of June, 2011. However, effective implementation commenced on the 1st of September, 2011.
10. **Q At what point is the tax collected?**  
**A** The tax is collected at the point where a consumer makes payment for any service rendered or facility used in hotels, event centres, fast food joints, restaurants, eateries.
11. **Q When are collecting agents expected to make remittance?**  
**A** The respective collecting agents are expected to make remittances on or before the 7th day succeeding the month of collection.
12. **Q How does the collection agent make remittance?**  
**A** Collection Agents are expected to make remittances into dedicated Internally Generated Revenue accounts of Edo State Government in the designated Banks.
13. **Q What constitutes a default?**  
**A** A default is when a collecting agent fails to make return and /or fail to remit taxes collected within the time allowed by the law.
14. **Q Are there penalties/sanctions for defaulter?**  
**A** There are stipulated sanctions and penalties enshrined in the Law for defaulters. This range from a fine up to the sum

of N2 million naira, a jail term of up to 6 months or both depending on the gravity of the default. The tax authority (EIRS) is also empowered by Law to effect the BOJ principle in respect of defaulting operators.

**15. Q What does BOJ mean?**

**A** BOJ is an acronym for “Best of Judgement”. This is a principle that will be applied by the tax authority in the assessment of the tax liability of a defaulting operator. This implies that the tax authority has the mandate to make an estimation of the tax liability of an operator in the event of the operator withholding full disclosure in services offered or facilities operated.

# CONSUMPTION TAX ADMINISTRATION PROCESS IN EDO STATE

## **REGISTRATION:**

Every collecting Agent shall register with the Edo State Internal Revenue Service vide Section 7 (1) of the Hotel and Event Centres Occupancy and Restaurants Consumption Law of Edo State “Any Hotel, Restaurant of other Business affected by this Law shall, within 30 days of the commencement of this law or upon commencement of business, whichever is earlier, register with the Revenue Service”, a Certificate of Registration is issued which makes the facility an Agent of collection of Consumption Tax for the State.

## **COLLECTION:**

All registered Hotel, Event Centres, Restaurants, Eateries, Halls and Garden Operator serve as collecting and remitting Agents.” All collecting Agents must remit collection for the previous month to the designated Internally Generated Revenue (IGR) Bank Accounts of Edo State Government on or before the 7th day of the new month” in line with section 7 (2) of the Hotel and Event Centres Occupancy and Restaurants Consumption Law of Edo State.

## **RECEIPT:**

On submission of lodgement teller, e-payment slips, the tax officer must issue the Edo State Government Treasury Receipt 6A, for the amount remitted, to the collecting Agent.

## **RENDERING OF RETURNS:**

Failure to render returns will amount to non-compliance and punishable under Section 13 of the Hotels and Events Centres Occupancy and Restaurants Consumption Law of Edo State with a term of 6 months imprisonment or a fine of N2 million or both.

The law states that “The Agent shall in addition to interest payable under Section 12 of this law, pay a penalty of ten percent (10%) of the amount of tax due”.

**BEST OF JUDGEMENT:**

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 Board may, exercise its powers under Section 10 of the Hotels and Events Centres Occupancy and Restaurants Consumption Law of Edo State, make an estimate of the total amount of tax due and may order the person in writing to pay the estimated amount to the Board within 21 days of the date of service of the order.

**COLLECTING AGENT OFFICIALLY LIABLE:**

Any Director, Manager, Officer, Agent or Employee of the Collecting Agent who fails to comply with provisions of the law, shall be guilty of an offence and liable on conviction, to a penalty of not more than Six (6) months imprisonment or a fine of Two Million Naira (2,000,000.00) or both depending on the size of business.

**INSPECTION OF BOOKS:**

An officer of the Service, under section 9 of the Hotels and Event Centre Occupancy and Restaurants consumption Law of Edo State’ is empowered to:

- i. Enter without warrant, any premises, which he reasonably believes that a person is carrying on business in order to ascertain whether this law is being complied with by the Collecting Agent.
- ii. Examine all books and records of any hotel, restaurant or other outfit 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.
- iii. It shall be an offence for any person to prevent any officer of the Service from gaining entrance into the premises or access to the Records of the Collecting Agent.

**RECORDS:**

A Collecting Agent shall keep records to reflect clearly and state the Tax on goods and services rendered. (on its receipts and books of accounts).

**FALSE INFORMATION:**

Any person who know knowingly gives false information to the Revenue Service shall be guilty of an offence and liable on conviction to imprisonment for a period of Six (6) months or a fine of (Five Hundred Thousand Naira) N500,000 or both.

