

Stamp Duties FAQs

I will attempt to answer some of the Frequently Asked Questions on Stamp Duties

What is this stamp duty that everybody is talking about?

Stamp duty is a tax on instruments (mostly written or electronic documents). It is based on the Stamp Duties Act, CAP S8 LFN 2004 as amended. But in substance, not much has changed from the original law, the Ordinance 41 of 1939.

How is Stamp Duty calculated?

Stamp duties may be levied at a fixed or ad valorem rate depending on the instrument. Fixed means the same amount regardless of size of transaction while ad valorem means an amount that is based on the value of the transaction.

Who can legislate on Stamp Duties?

Stamp Duties is an item on the Exclusive Legislative List of the Constitution of the Federal Republic of Nigeria. However, item 7 on the Concurrent Legislative List allows the National Assembly to delegate the functions of collecting stamp duties to state government.

The Federal Government is responsible for imposing and collecting duties charged on all instruments except those executed between individuals which is due to the relevant state government.

Who collect Stamp Duties on behalf of the government?

It is FIRS except for instruments between individuals in which case it is the tax authority of the relevant state. The Finance Act 2019 now states specifically that only FIRS is the competent authority (for federal government) and tax authorities of states (for states).

What instruments are subject to Stamp Duties?

All instruments listed in the Act are subject to stamp duty except where they are stated as exempt from duties. With the amendment by the Finance Act 2019, electronic instruments are liable to stamp duty. However, in the case of money transfer, the N50 stamp duty is only applicable on N10k and above.

How is Stamp Duty denoted?

S5(1) of the SDA states that "All duties for the time being chargeable under the provisions of this Act upon any instruments shall be paid and denoted according to the provisions in this Act, and, except where express provision is made to the contrary in this Act or by the regulations made thereunder, are to be denoted by impressed stamps only."

S5(2) says, "Where the duty may be denoted by adhesive stamps, postage stamps may, subject to the provisions of any Act or regulation, be used for the purpose."

In simple terms, stamp duty may be denoted either by an impressed stamp or adhesive stamp. In the case of adhesive stamp, postage stamp may be used. So, adhesive stamp does not mean 'postage stamp'. The primary purpose of postage stamp is to be affixed to an envelop, postcard, or a package as evidence that postal charges have been paid.

How is revenue from Stamp Duties shared?

In line with S.163 of the Constitution, stamp duties collected by a state belongs to the state while the net proceed from stamp duties collected by the federal government is distributed among the States on the basis of stamp duty derivation.

Can I buy one and re-use it?

Where adhesive stamp is used, it should be cancelled by the person who first executed the document. Failure to cancel or an attempt to re-use it is punishable on conviction.

When is Stamp Duty payable?

Generally, a document that is first executed in Nigeria should be stamped on or before the first execution and in any case within 30 (for ad-valorem duties) or 40 days (for fixed duties) from date of execution.

What happens if I don't stamp?

There are financial penalties (on conviction) under the SDA. The FIRS may choose to apply penalties under the FIRS Establishment Act which can be as high as 10% penalty plus interest at CBN MPR and imprisonment of up to 3 years. Also, in civil proceedings unstamped documents are not admissible as evidence.

Who can alter the rate of Stamp Duties payable?

The National Assembly or the State Houses of Assembly may increase, reduce, add new duties or repeal chargeable duty (as it relates to matters within their legislative competence) by resolution. Any other provision of the SDA (other than the Schedule) can only be amended by an Amendment Bill duly passed by the National Assembly and assented to by the President.

Which party to a transaction has the obligation to pay stamp duty?

Generally, it is not clear from the law but in some cases the law states who will be liable to pay the penalty for failure to stamp so we can deduce that such party has the obligation to stamp.

Dutiable instrument	Person liable to pay penalty
Bond, Covenant or Instrument of any kind whatsoever	The Obligee, Covenantee or the person taking the security
Conveyance on Sale	Vendee or Transferee
Conveyances or transfers operating as voluntary dispositions inter vivos	Grantor or transferor
Lease	Lessee (tenant)
Mortgage bond, debenture, covenant and warrant of attorney	The mortgagee or obligee, in the case of a transfer or re-conveyance, the transferee, assignee or disponee or the person redeeming the security.
Settlement	Settlor