

## **CHAPTER 125 - SALES TAX**

### **ARRANGEMENT OF SECTIONS**

#### **SECTION**

1. Citation and commencement.
2. Interpretation.
3. Sales tax on selected goods.
4. Rate of tax.
5. Persons to pay the tax.
6. Implementation of this Edict.
7. Powers of the Commissioner.
8. Persons accountable to collect, account and remit the tax.
9. Registration of business for taxation.
10. Other obligations, liabilities of person accountable.
11. Person accountable to keep records and books of account.
12. Bill of sales.
13. Estimate of tax by the Commissioner in lieu of return, estimate.
14. Objection to estimate.
15. Appeal to High Court.
16. Genuine, minor irregularity not to affect validity of estimate.
17. Payment of tax unaffected by pending objection of appeal.
18. Bond.
19. Refusal to answer question or produce document.
20. Offences and penalties.
21. Offence by body corporate.
22. Penalty, where none provided.
23. Evasion of tax penalty.
24. Exemption from the tax.
25. Protection from civil action.
26. Using criminal force or obstructing Commissioner, penalty.
27. Regulations.

#### **FIRST SCHEDULE**

#### **SECOND SCHEDULE**

## CHAPTER 125

### SALES TAX

#### AN EDICT TO IMPOSE A SALES TAX IN THE STATE

[31 *December* 1983]

1. This Edict may be cited as the Sales tax Edict.

2. In this Edict unless the context otherwise requires:—

"Commissioner" means the State Commissioner for Internal Revenue;

"consumer" means a person who uses goods sold or uses or derives benefit from services rendered;

"goods" means any movable object capable of being sold and delivered;

"Governor" means the Governor of the State;

"person accountable" means the seller of the goods sold or provider of the services rendered or his servant or agent who actually sells the goods or provide the services;

"person" includes any body of persons corporate or unincorporated;

"purchaser" means a person who buys goods or pays for services for monetary or other valuable and quantifiable consideration;

"State" means the Gongola State of Nigeria;

"tax" means the Sales Tax provided for under this Edict.

3. —(1) From the commencement of this Edict a sales tax shall be paid on every selected item of goods sold or services rendered in the State.

(2) The selected items of goods or services on which the tax shall be paid shall be those specified in Parts A and B, respectively, of the First Schedule to this Edict.

(3) The provisions of Parts A and B of the First Schedule may, from time to time, be amended by the Governor on the recommendation of the Commissioner.

4.—(1) The rate of the tax shall be two per centum (2%) of the value or cost of each item sold or services rendered.

(2) The rate of tax provided for in subsection (1) of this section may, from time to time, be revised by the Governor on the recommendation of the Commissioner.

5. The tax provided for in this Edict shall be paid by the purchaser of the goods sold or the consumer of the services rendered.

6. The provisions of this Edict shall be implemented by the Commissioner and such other officers as may be duly authorised by him.

7.—(1) In the course of his implementing this Edict, the Commissioner shall have the power, among others when necessary, to acquire, hold and dispose of property as security for or in satisfaction of the tax provided for under this Edict.

(2) Where the Commissioner acquires, holds or disposes of property by virtue of subsection (1) of this section, he shall account for the property and the proceeds of any sale of it in a manner to be prescribed in regulations to be made under this Edict for that purpose.

(3) The Commissioner may sue or be sued in his official statutory name, and he may authorise an officer to accept service of any document or other thing to be served upon or delivered to the Commissioner, or to do any other thing on behalf of the Commissioner.

8.—(1) The person accountable shall collect the tax at the rate provided for in subsection (1) of section 4 of this Edict from every buyer of the selected goods or consumer of the selected services, and he shall account for and remit the tax to the Commissioner.

9.—(1) A person who carries on the business of selling the selected goods or providing the selected services, the subject of taxation under this Edict shall register the business with the Commissioner within:—

(a) one calendar month from the coming into force of this Edict; or

(b) one calendar month of the establishment of the business in the State where it is established after the commencement of this Edict.

(2) The person accountable shall apply to the Commissioner for the registration, and the registration shall be in the form as prescribed in Form 1 of the Second Schedule to this Edict.

10. The tax payable and which the person accountable shall collect and remit to the Commissioner under this Edict shall be held in trust by the person accountable and shall be paid over to the Commissioner in the manner and at the time provided for under this Edict and the total amount or any part of the tax collected under this Edict by the person accountable shall, unless and until paid over to the Commissioner, be charged on the property and other assets of the person accountable, and shall have priority over any other claims made against that person.

11.—(1) Every person accountable shall keep and maintain proper records and books of account as may be specified in regulations to be made under this Edict and he shall enter in those records and books of account true and regular accounts of money received by him as tax due from the sales of the business of which he is the person accountable.

(2) When required by a notice in writing by the Commissioner or a duly authorised officer to do so, a person accountable shall produce for examination within the time specified in the notice any records, books of account and any other documents relating to his business, and shall, at all reasonable times, give all necessary facilities to any officer so duly authorised by the Commissioner to inspect or audit the records, books and other documents in so far as they relate to the taxation under this Edict.

12.—(1) A person accountable shall issue a bill of sale to the purchaser or consumer of the goods or services sold or rendered, respectively, by him.

(2) The bill of sale shall be in the form specified in Form II in the Second Schedule to this Edict.

13.—(1) Where a person accountable fails to:—

(a) make a return or remittance as required of him under this Edict or under regulations made under this Edict; or

(b) substantiate by records his return or remittance;

the Commissioner may make an estimate of the total amount or the tax due and payable from the business of the person accountable and issue a written notice to the person accountable requiring the person to pay to the Commissioner the estimated amount of tax due and payable

or otherwise account for it within thirty (30) days from the date of the receipt by him of the notice.

(2) Proof by the Commissioner that the notice provided for under subsection (1)(*b*) of this section has been issued to the person accountable at his known or last address shall be prima facie evidence that the amount stated in the notice is due and payable as the tax and the onus of providing otherwise shall rest on the person accountable.

**14.—**(1) Any person who is aggrieved by an estimate made by the Commissioner under section 13 of this Edict may, within thirty (30) days of the receipt by him of the notice of the estimate tax, either personally or by his solicitor or agent, object to the estimate by serving a notice of objection on the Commissioner.

(2) The notice of objection shall:—

(*a*) be in writing and addressed to the Commissioner; and

(*b*) set out clearly and in detail the reasons for the objection, together with all the facts relating to the matter.

(3) The Commissioner shall, within thirty (30) days of his receipt of the notice of objection from the person, duly consider the objection in all its aspects, and amend or affirm the estimate, as the case may be.

(4) Any decision reached by the Commissioner after his due consideration of the objection shall be communicated in writing to the person within the time limit specified in subsection (3) of this section.

**15.—**(1) Any person who is dissatisfied with the decision of the Commissioner on that person's objection on the tax may appeal to the High Court from that decision.

(2) The appeal shall be made by that person or by his solicitor or agent within twenty-one (21) days of the receipt by him of the Commissioner's decision.

(3) The notice of appeal shall:—

(*a*) be in writing, signed by the appellant or his solicitor or agent, and addressed to the High

Court, with a copy sent to the Commissioner;

(b) set out clearly the grounds of appeal; and

(c) be filed in the High Court Registry by the appellant or his solicitor or agent.

(4) On receiving the copy of the notice of appeal, the Commissioner shall cause to be produced before the High Court all relevant records and documents in his possession or under his control.

16. In so far as the Commissioner or an authorised officer acting on his behalf acts in good faith with due diligence, an estimate of the tax made by him under section 13 of this Edict may not thereby be rendered invalid or be abated or disallowed on the grounds of a minor irregularity, error or omission in implementing the provisions of this Edict or of any regulation made under the Edict on the part of the Commissioner or of the officer where the person accountable or other person is not thereby substantially affected or prejudiced.

17. —(1) The giving of the notice of objection or the appeal by an aggrieved person or delay in the hearing of an objection or appeal shall not in any way affect the liability to pay, nor the payment and collection on the due date, of the tax or estimated tax in accordance with the provisions of this Edict or of regulations made under the Edict.

(2) Any tax already lawfully collected by the Commissioner or on his behalf shall, similarly, not be affected by the giving of the notice of objection or appeal or by delay in hearing the objection or appeal except as may be affected by any review on appeal.

(3) Where an assessment or estimate of tax already collected is set aside or reduced on an objection or appeal the Commissioner shall refund to the person aggrieved the tax so set aside or the balance of it after the reduction.

18.—(1) The Commissioner may require a person accountable who fails to collect and remit the tax in accordance with the provisions of this Edict to deposit with the Commissioner a bond supported by cash or other satisfactory security for assessed or estimated tax due from his business.

(2) Where the person accountable fails to collect and remit the tax in accordance with the provisions of this Edict the Commissioner may, by giving that person a written notice to that effect, apply the bond in whole or in part for the satisfaction of the assessed or estimated tax

due from the business of the person accountable as at the date of issuing the notice.

**19. A person accountable for his servant or agent who:-**

(a) refuses or fails without just cause to answer any question put to him by the Commissioner or by any officer duly authorised by the Commissioner; or

(b) refuses or fails without just cause to produce for inspection, by the Commissioner relevant documents or records in his possession or under his control shall be guilty of an offence and liable on conviction to a fine of five hundred Naira or imprisonment for a term not exceeding four months or to both such fine and imprisonment.

**20. A person accountable who without due cause fails to:-**

(a) apply for the registration of his business in accordance with section 9 of this Edict; or

(b) complete and return to the Commissioner the registration form; or

(c) deliver correct and accurate returns and records; or

(d) allow the Commissioner or an officer duly authorised by the Commissioner access to records or other documents in his possession or under his control; or

(e) collect, account for or remit the tax to the Commissioner, shall be guilty of an offence and liable on conviction to a fine of five thousand Naira or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

**21. Where the person convicted of an offence under this Edict is a body corporate, it shall be liable to the penalties prescribed under section 20 or other penal section of this Edict and, in addition every person who, at the time of the commission of the offence is a director, chief executive secretary or other chief officer of the body corporate or any other responsible officer of it who cause or consents to or connives at or aids or abets the commission of the offence by the body corporate shall be liable to be prosecuted and be punished with the respective punishment provided for under this Edict.**

**22. A person guilty of a breach of or failing to comply with any of the provisions of this Edict or who commits an offence against this Edict for which no special penalty is provided shall be liable upon conviction to a fine of five hundred Naira or to imprisonment for a term not exceeding four months or to both such fine and imprisonment.**

**23.** A person who evades or attempts to evade or aids or abets any other person to evade the tax shall be guilty of an offence and liable on conviction, to a fine of one thousand Naira or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

**24.** The Governor may, in consultation with the Commissioner, for good reason exempt any person from the provision of this Edict and such exemption shall be published in the State Gazette.

**25.** —(1) The Commissioner or any duly authorised officer acting on his behalf shall not be liable to a civil action for anything done or omission made by him in good faith in the course of discharging the Commissioner's functions and exercising his powers under this Edict.

(2) This section shall operate without prejudice to any other protection accorded a public officer under any other enactment.

**26.** No person shall harass, intimidate, attack or obstruct or incite or abet any other person to harass, intimidate, attack or obstruct the Commissioner or any duly authorised officer acting on his behalf while the Commissioner or that officer is performing the Commissioner's duties or exercising his powers under this Edict, and any person or body who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable, on conviction to a fine of five thousand Naira or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

**27.—**(1) The Governor may, for the more effective implementation of this Edict make regulations on the following matters:—

(a) the manner the Commissioner shall account for any property he may acquire, possess or dispose of and for the proceeds of the sale of any such property;

(b) forms of records and books of account to be kept by the Commissioner;

(c) forms of return of tax collected;

(d) details of the periods and circumstances of submitting returns and remittances of tax collected;

(e) forms of assessment or estimate of the tax due from a business;



- (f) forms of notices to be issued by all concerned;
- (g) limit of the minor irregularity error or omission which will invalidate assessment or estimate of tax made;
- (h) the methods and formulae of assessing and estimating the tax;
- (i) periodical accounting for the tax collected to be made by the Commissioner and submitted to Governor; and
- (j) any other matter deemed necessary.

## FIRST SCHEDULE

### PART A

Selected goods which are subject to the tax under this Edict:–

liquor, beer and stout  
soft-drinks (non-alcoholic)  
cigarettes and tobacco  
air conditioners  
television sets  
video-recorders  
radio sets  
tape recorders  
cameras  
fans  
refrigerators  
deep freezers.

### PART B

Selected services which are subject to the tax under this Edict:–

hotel services, other than services in hotels.

SECOND SCHEDULE

FORM I

Form of Application for Registration of Business for the purposes of the Sales Tax Edict.

To the Commissioner of Internal Revenue,  
Ministry of Finance and Economic Development,  
Internal Revenue Division,  
Gongola State

I .....

of .....

carrying on business as .....

at.....

hereby apply to be registered for the purposes of the sales tax provided for under the Sales Tax Edict.

Place or places of business:-

(a) .....

(b) .....

(c) .....

(d) .....

I certify that the business commenced at .....

..... on the ..... day

of ..... 19.....

Date ..... 19.....

.....  
Signature of Applicant

FORM II

Bill of Sales

Bill No..... date ..... 19.....

.....  
(Name of Proprietor of Business)

Address of Business.....

.....  
Name Customer/Client.....

	Charges for	Total value	Two per	
	goods sold	of goods sold	centum (2%)	
Goods sold or	or services	or services	sales tax	
services rendered	rendered	rendered	₱ : k	Remarks

Totals

Date ..... 19.....

.....  
Signature of person accountable

