

HOTEL OCCUPANCY AND RESTAURANT CONSUMPTION TAX LAW, 2022.

NO. 16 OF 2022



EKITI STATE OF NIGERIA

**A LAW TO IMPOSE TAX ON GOODS AND SERVICES CONSUMED IN
HOTELS, RESTAURANTS AND EVENT CENTRES IN EKITI STATE AND
OTHER MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.**

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EKITI STATE OF NIGERIA.

Commencement []

ENACTED BY THE HOUSE OF ASSEMBLY OF EKITI STATE AS FOLLOWS:

Imposition of Tax.

1. (1) A tax is imposed on any Consumer who:
 - (a) pays for the use or possession or for the right to the use or possession of any hotel, hotel facility or event centre or
 - (b) purchase consumable goods or services in any restaurant whether or not located within a hotel in Ekiti State.
- (2) The amount to which this tax applies shall be the total cost of facilities, consumable or personal services supplied to a consumable in, by or on behalf of the hotel, restaurant or event centre.

Rate of Tax.

2. The rate of tax imposed by this Law shall be five percent (5%) of the total bill issued to the consumer, excluding Value Added Tax.

Collection of Tax.

3. A person owning, managing or controlling any business or supplying any goods or services chargeable under Section 1 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 2 of this Law.

Administration.

4. The tax charged by this Law shall be under the care and management of the Ekiti State Internal Revenue Service (EKIRS).

Registration.

5. (1) 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 Service for the purpose of this Law.
- (2) Every Collecting Agent shall produce evidence of registration with the Service as a precedent to any contractual relationship with the State Government or any of its Ministries, Department, Parastatals or Local Government Authorities.

Report and Remittance.

6. (1) Every Collecting Agent Shall-
- (a) Keep, maintain and preserve such records, books and account 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 provision of subsection (3) of this Section, pay to the designated accounts of the State Government, the tax collected

during the preceding reporting period that at the same time, file with the Service, a report stating:

- (i) The total amount of payment made for all chargeable transactions during the preceding reporting period;
 - (ii) The amount of tax collected by the agent during the reporting period;
 - (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 20th day of the succeeding month.
- (3) The tax collected shall be a debt due to the State and recoverable by the Service from the supplier of chargeable facilities, good and services.

Right of Entry and Access to Books and Records.

7. An Officer of the Service -

- (a) with proper identification, 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 any other person.
- (b) 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.

Payment of Estimated Amount.

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.

Regulations.

9. The Service may from time to time by Order published in the State Gazette, issue rules and regulations for the determination, collection, and remittance of taxes due under and for the proper administration of this Law.

Interest on Remittance.

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 percent (5%) per annum above the prevailing Central Bank of Nigeria Minimum Rediscount Rate as determined at the time of actual remittance.

Penalties.

11. (1) If a collecting Agent fails to file a report and remit taxes (the goods and 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 percent (10%) of the amount of tax due.
- (2) 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 to a penalty of 6 months imprisonment or a fine of (₦2,000,000.00) or both.

Tax Collection on Determination or Transfer of Business.

12. (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 due transferor has first provided a receipt issued by the Service showing that the amount due at the date of transfer had been paid and no amount was due.
- (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 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 (60) days after the date of request.
 - (5) In the absence of willful concealment or fraud, the period of limitation during which the Service may assess tax against a transferor under this Section is four (4) years from the date when the transferor disposed the chargeable facility or when a determination is made against the transferor, whichever event occurs later.

Appeal Process.

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

- (2) Upon the receipt of such notice, as mentioned in sub-section (1) of this Section, 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 complainant who is dissatisfied at the High Court or other competent Court in Ekiti State.
- (4) Where the person served with an assessment shall be deemed to be final and conclusive.

Jurisdiction of Court.

14. (1) The Service may institute an action at the Revenue Court of the High Court of Ekiti State for the recovery of taxes, interests and penalties due under this Law.
- (2) All revenue recovered under this Law are revenue of the Ekiti State 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 of High Court of Ekiti 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 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 6 months or a fine of Five Hundred Thousand Naira (₦500,000.00) or both.

Power to Distrain.

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 due, 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, in the prescribed form, for the purpose of enforcing payment of the tax due-
- (a) distrain the defaulter by his goods or other chattels, bonds or other securities, or
 - (b) distrain upon the relevant facility or 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 prescribed by the Service.
- (3) For the purpose of levying a distrain under this Section, an Officer duly authorized in writing by the Service shall apply to a judge of a High Court sitting in Chambers, under oath for the issue of a warrant under this section.
- (4) The Judge may on application made ex-parte, authorize such Officer, referred to in subsection (3) of this Section, in writing to execute any warrant of distress and, if necessary, break open any building or place in the daytime for the purpose of levying such distress and he may call to his

assistance any Police Officer and it shall be the duty of any Police Officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

- (5) The distress taken pursuant to this section may, at the cost of the owner, be kept for 14 days, at the end of which time, if the, amount due in respect of tax and the cost and charges incidental to the distress are not paid, the same may be sold.
- (6) There shall be paid out of the proceeds of sale, in the first instance, the cost or charges incidental to the sale and keeping of the distress and residue, if any, after the recovery of the tax liability, shall be payable to the owner of the things distrained or to the appropriate court where the owner cannot be traced, within 30 days of such sale.
- (7) in exercise of the powers of distress conferred by this section, the person to whom the authority is granted under subsection (3) of this Section may distrain upon all goods, chattels and effects belonging to the debtor wherever the same may be found in Ekiti State.
- (8) 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.

Exemption.

- 16. As from the commencement of this Law, Sales Tax Law 2012 shall not apply to any facility or transaction covered by this Law.

Interpretation.

- 17. In this Law unless the context otherwise refers:
“**Consumer**” includes a hotel guest or any person who makes use of a hotel, restaurant, event centre or hotel facility for a fee,

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

“Government” means the Ekiti State Government.

“Hotel” includes a motel, guest house, apartments for short letting, taverns, meeting rooms and function halls, whether or not described as a 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, Lease, Concession, Permit, Right of License, Contract or other agreement.

“Person” Includes a body corporate or incorporate.

“Restaurant” includes eatery, bar, tavern, inn and café whether or not located within a hotel;

“Service” means Ekiti State Board of Internal Revenue Service (EKIRS);

“State” means Ekiti State of Nigeria;

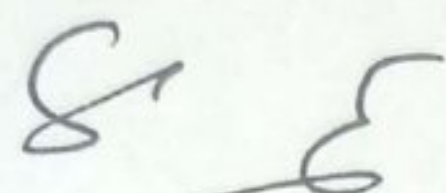
“Transferee” includes purchaser, assignee, lease, license, or other successor in little.

“Transferor” includes seller, assignor, lessee or licensor.

Citation.

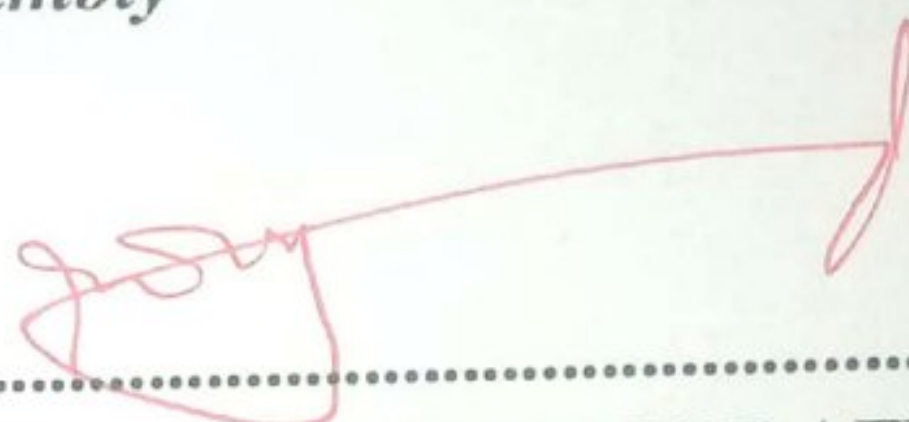
18. This Law may be cited as Hotel Occupancy and Restaurant Consumption Tax Law, 2022.

This printed impression has been carefully compared by me with the Bill, which has been passed by the Ekiti State House of Assembly and found by me to be a true copy of the said Bill.



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MR. TOLA ESAN

Clerk of the House of Assembly



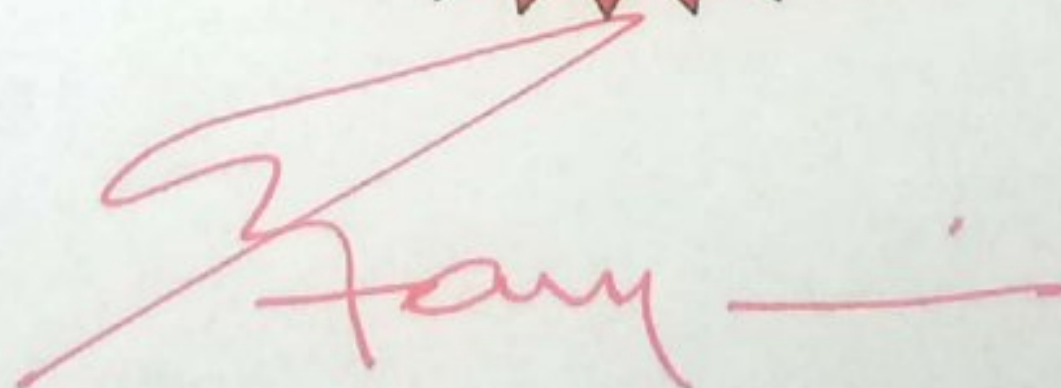
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RT. HON. FUNMINIYE AFUYE

Speaker of the House

Governor's Assent

I hereby signify my assent to this Bill





DR. JOHN KAYODE FAYEMI

Executive Governor of Ekiti State

MADE AT ADO EKITI THIS 7TH DAY OF OCTOBER 2022