



December 2020

Questions and Pathways:
**Recent Issues in
Nigerian Stamp Duties'
Regulatory Framework**

(‘LeLaw on Stamp Duties’)



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It is no longer news that stamp duties became a hot burner issue in the Nigerian tax space in the course of Year 2020, following enactment of the **Finance Act 2020** that amended provisions of the **Stamp Duties Act, Cap. S8, LFN 2004**. Given declining oil revenues and increasing pressure for non-deficit funding of public budgets, it is no surprise that government is beginning to look at stamp duties as an avenue to generate substantial funds. Rather what may be surprising is why it took government so long to actually look in the direction of stamp duties before now.

Consequent on the new focus on stamp duties, and always being mindful of issues of concern to our clients and prospective clients at *LeLaw Barristers & Solicitors*, we decided to write a little primer memorialising some of the related thorny or topical issues based on

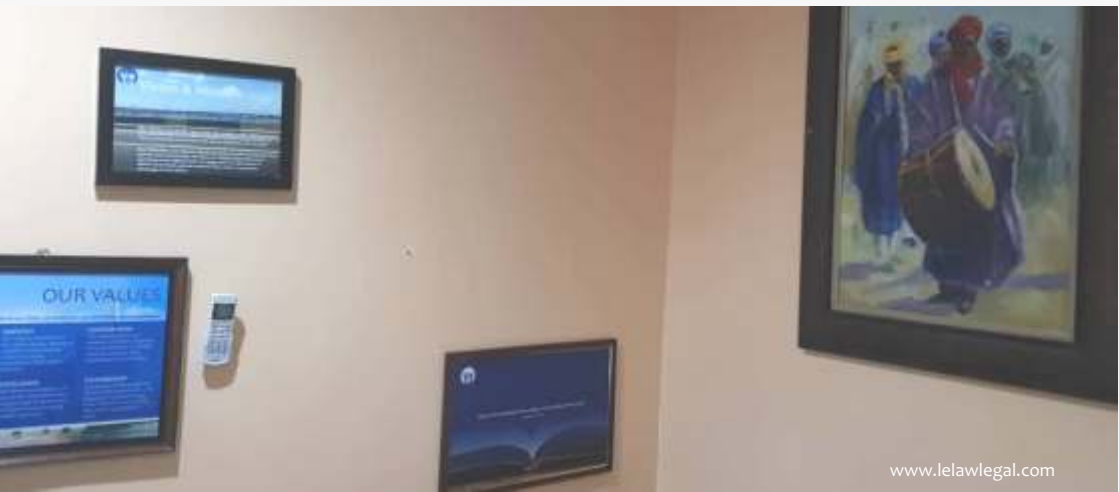
current state of the law and practice for the benefit of interested stakeholders.

We hope this treatise answers some of your own questions, and would be delighted to provide more specific stamp duties advice, should you so require. We would also appreciate any other feedback you may have on this publication.

We hope you find this publication an enjoyable read. With it, we are birthing a tradition of producing a special publication annually, each focusing on a major “*stay awake*” or trending issue in the Nigerian market. We would be pleased to share the next edition of the publication with you, D.V. in December 2021.

Whilst thanking our clients for their support and patronage in 2020, we wish all our readers a Merry Christmas and a wonderful 2021.

Afolabi Elebiju, Esq., Principal
Lagos, 24th December 2020.





Preface

Introduction

Regulatory Overview of the Nigerian Stamp Duty Regime

- Commissioners of Stamp Duties (CSDs)
- Effect of Not Stamping a Document
- Penalties for Failing to Pay Stamp Duties: Would the **SDA** or **FIRSEA** be Applicable?
- Stamp Duties Timelines and Non- Compliance Implications

B: Who is Liable to Pay Stamp Duties?

- Absent Express **SDA** Provision, Can Parties Vary or Displace their (Instruments') SD Responsibilities?
- Agents of Collection Issues

C: Validity Issues - Recent Changes in Stamp Duty Regime and Rates

- **FA 2020** Amendments of the **SDA**
- SD New Regime Implementation Clarifications: FIRS Circulars and Public Notices
- Turf Wars'? : FIRS v. NIPOST

The 'Sales Agreement' Conundrum

- I - Ad Valorem Treatment of Sales Agreements
- II - Nominal Duty or SD Exempt Treatment of Sales Agreements

Conclusions and Recommendations

- Health Check/SD Compliance Status Review & Concomitant Actions
- SD Optimisation Techniques: Leases and Other Examples
- SD Optimised Fee Structures

Next Steps

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About the Editor



Afolabi Elebiju, *Principal, LeLaw Barristers & Solicitors* graduated from Harvard Law School's *International Finance LLM* programme in 2007, after his *Corporate & Commercial LLM* from the University of Lagos in 1997. He obtained his *Second Class Upper Honours BA (Ed.)* and *LLB* degrees from Obafemi Awolowo University (OAU), Ile Ife, in 1987 and 1993 respectively. He has been a Fellow of the *Chartered Institute of Taxation of Nigeria (FCTI)*, since 2008, and was one-time *Vice Dean* of its *Indirect Tax Faculty*. Called to the *Nigerian Bar* in 1995, and starting his professional career as *Associate Counsel* with *Olaniwun Ajayi LP*, he briefly ran his earlier practice, *Stirling Lloyd* in 1998. He was variously *Senior Consultant, Manager and Senior Manager, Andersen/KPMG Professional Services (1998-2006)*; then *Tax & Regulatory Partner, Templars Barristers & Solicitors (2007 -2013)* and *General Counsel, African Capital Alliance (2013-2014)* before founding *LeLaw*. A widely published writer and presenter, he has been advising blue chip tax clients since 1995. His detailed professional profile is available at: <https://lelawlegal.com/index.php/page/teams/1>.

The Firm acknowledges the input and contribution of its Associates: *Gabriel Fatokunbo, Frank Okeke, Chuks Okoriekwe, Titilade Adelekun Ilesanmi, Oluwapelumi Odetoynbo, Omovefe Oghotomo, Blessing Agoruah, Gabriel Omoniyi, Eyimofe Ogunbiyi, Aamatulazeez Azeez and Sam Ngwu* to the making of this Booklet.