

STATE OF OSUN
REVENUE
HARMONIZATION
BILL.

2017

ARRANGEMENT OF SECTIONS

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SCHEDULES

A BILL TO MAKE PROVISION FOR THE HARMONIZATION OF THE COLLECTION OF TAXES, CHARGES, LEVIES AND FEES AND FOR OTHER MATTERS CONNECTED THERETO.

THE HOUSE OF ASSEMBLY OF THE STATE OF OSUN ENACTS as follows:

1. This Bill may be cited as the State of Osun Revenue Harmonization Bill.
2. Subject to the powers of the State of Osun House of Assembly to make laws for the State of Osun, the Commissioner may, in conjunction with the Chairman of the Osun Internal Revenue Service, from time to time amend the First Schedule and the rates therein from time to time on the advice of the Revenue Committee.
3. Each MDA that has a responsibility for assessing any tax, levy, fee, charge or rate shall establish an information and complaints office to provide relevant information to taxpayers and listen to their complaints and a chart showing the approved list of all collectable revenue with applicable rates and the expected time of payment shall be displayed at a conspicuous place within the MDA.
4. (1) All Taxes, Levies, Fees, Charges or Rates shall be assessed and collected only by the relevant MDA but consultants may be engaged to provide other professional services such as training, capacity building and publicity.
(2) No other person or body, including an MDA or LGA shall mount a roadblock in any part of the State for the purpose of collecting any Tax, Levy, Fee, Charge or Rate.
5. (1) In the case of Taxes, Levies, Fees, Charges or Rates that require assessments, the Board or relevant MDAs shall serve notices of assessment by hand at the relevant address or sent by registered post or email to each person in whose name the assessment is made.
(2) The Board shall prepare a list of taxable persons assessed and served with notices, such a notice shall contain the name and address of the tax payer, type and amount of levy assessed, date of service and any other relevant information.
(3) The Board or relevant MDA shall allow until the 31st day of January of each

Citation and Commencement

Review of taxes, levies, fines, charges and rate

Information and complaints office

1. Assessment

2. Service of notice of assessment

year for taxpayers to pay voluntarily. The relevant Board shall proceed to assess every other person chargeable with payment of any levy after the 31st day of January. Notwithstanding the provisions of this section, the Board may assess and serve notice of assessment before the 31st day of January of each year if the Board considers the assessment to be necessary.

6. (1)The Board shall issue demand notice(s) in respect of taxes, levies, fees, charges and rates as listed in the First Schedule to this law.

Demand Notice

(2) Where a person is liable to two or more of the scheduled Taxes, Levies, Fees, Charges or Rates in any year of assessment, the Board shall serve a single demand notice indicating the amount due on each of the revenue items.

7. Any person served with a notice of assessment shall have the right of objection. Objection to an assessment shall be forwarded to the Board or the relevant MDA in writing within thirty days from the date of service of the notice of assessment stating precisely the grounds of objection to the assessment.

Objection to an assessment

8. The Board of the relevant MDA shall, within thirty days of the receipt of the notice of objection, revise the assessment and issue a notice of amended assessment or refuse to do so and issue a notice of refusal to amend the assessment as the circumstance(s) may warrant.

Revision in case of objection

9. Where no valid objection or appeal has been lodged within the time limited by section 7 of this law or where due notice has not been given of a further appeal against a decision of the Tribunal or a Judge, as the case may be, the assessment shall be final and conclusive.

Assessment to be final and conclusive

10.(1) The Board shall maintain an escrow float account equivalent to 5% of its revenue for the preceding month for the purpose of prompt settlement of refunds.

Refund of overpayment

(2)The Board shall upon the receipt of an application for refund cause an investigation to be made and confirm if any refund is due to the taxpayer and the

exact amount due to be refunded.

(3) The refund due shall be made within ninety (90) days from the date of the receipt of the application for refund.

(4) Where an application for refund is denied, same shall be communicated to the taxpayer within ninety (90) days from the date of receipt of the application.

(5) A tax payer, who has paid in excess of tax due, either on account of wrong assessment by the Board or on wrong self-assessment by the tax payer, shall have the right to apply for a refund.

11. (1) The State of Osun Board of Internal Revenue shall be the sole authority to collect and account for all taxes, levies, fees, charges and rates in the State as listed in the First Schedule to this Law.

**Authority for
Collection**

(2) The Board shall make all necessary arrangements for the collection and accounting of taxes, levies, fees, charges and rates in all MDAs.

(3) The Board shall retain 5% of its own previous month's collection to finance salaries, allowances, bonuses, overheads and capital projects.

(4) All revenue generating MDAs shall retain not more than 5% of their previous month's total revenue contribution to cover operating costs with the priority application of such spending to maintain the revenue-generation capability of the MDA.

(5) The Board shall be autonomous and report directly to the Executive Governor.

12. (1) All persons to whom this law applies shall:

Payment system

(a) Within sixty (60) days after the service of an assessment/demand notice on him or her, in respect of amounts due to be paid annually;

(b) Within seven (7) days from the beginning of every month, in respect of amounts due to be paid monthly; and

(c) Immediately, in any other case. pay to the Tax/Revenue Collectors all taxes, levies, fees, charges and rates as prescribed in the First Schedule to this law.

(2) Payments of all revenue shall be through electronic payment and or direct bank

lodgments.

13. All revenue shall be paid directly into the State Government's consolidated revenue account.

Payment of revenue
into
consolidated revenue

14. All Federal, State, Local Governments, corporate and incorporated organizations shall demand from individuals a tax clearance certificate for the three years preceding the current year of assessment and the Taxpayer Identification Number from any individual and or organization that requires their services.

Tax clearance
certificate

(1) The provisions of subsection (1) of this section shall apply in relation to the transactions listed in the Second Schedule to this law.

15. (1) There shall be established a Committee to be known as the State Joint Revenue Committee.

Joint Revenue
Committee State

(2) The committee shall comprise of:

- (a) the Chairman of the State of Osun Internal Revenue Service as the Chairperson;
- (b) the Chairman of the Revenue Committee of each Local Government Area and Local Council Development Area;
- (c) the Chairman, Body of Local Government Council Managers/Head of Local Government Administration
- (d) the Chairman, Body of Local Government Heads of Finance & Accounts
- (e) the Chairman, Body of Local Government Head of Budget & Planning;
- (f) a representative (not below grade level 15) of the -
 - (i) Ministry of Local Government and Chieftaincy Affairs;
 - (ii) Lands Bureau;
 - (iii) Ministry of Environment and Sanitation; and
 - (iv) Ministry of Industries, Commerce and Cooperatives;

- (v) Ministry of Finance; and
- (vi) Ministry of Economic Planning and Budget;
- (g) The Legal Adviser of the State of Osun Internal Revenue Service who shall be the secretary of the Committee;
- (h) Two (2) persons representing interest of the private sector;
- (i) A representative of the Revenue Mobilisation, Allocation and Fiscal Commission as an observer; and
- (j) The sector Commander of the Federal Road Safety Corps as an observer

16. Functions of the Committee

The Committee shall:

- 1) advise the State Executive Council on tax policy, revenue collection and accounting in the State;
- 2) implement decisions of the State Executive Council on revenue collection and accounting;
- 3) harmonize revenue administration in the State;
- 4) review of taxes, rates, levies, fees and charges in due consultation with relevant MDAs;
- 5) resolve any disagreement on revenue arising between MDAs;
- 6) resolve any disagreement on revenue arising between MDAs and LGAs;
- 7) resolve the issue of reimbursement to MDAs that render essential services e.g. water supply, DRF etc;
- 8) carry out a periodic review of rates charged across the State and give such directives as may be necessary to ensure that the difference in amounts chargeable by MDAs and Local Government Authorities in respect of any scheduled levy, etc is minimized;
- 9) ensure monthly remittance of all levies collected and due to the Local Government Areas from any source;
- 10) ensure remittance within 48 hours of revenue generated by authorized MDAs listed in Schedule 3 to this Law through a contra account system;

Functions of the
Committee

- 11) enlighten members of the public generally on all revenue matters in the state;
 - 12) implement decisions of the Joint Tax Board;
 - 13) Advise the Joint Tax Board, the State and the Local Government Areas on revenue matters; and
 - 14) Carry out such other functions as may be assigned to it by the State Executive Council.
17. (1) There shall be established a Revenue Complaints Department in the Ministry of Justice with the overall responsibility to resolve complaints, without litigation, fairly and impartially to all parties and to promote voluntary compliance and public confidence in the integrity and efficiency of the revenue generating agencies.
- (2) The Department shall be headed by a Counsel of not less than 10(ten) years post call experience and versed in revenue matters.

3) The functions of the Department shall be to:

- (i) Receive complaints in respect of all levies, rates, charges etc demanded by any LG/LCDA or MDA throughout the State;
 - (ii) Specify and continuously review complaints channels including written letters, telephone calls, electronic mail and any other channel that the Solicitor General and Permanent Secretary may at any time deem acceptable;
 - (iii) Resolve such complaints within 90 (ninety) days of receipt and advise the parties accordingly;
 - (iv) Request the person giving the notice to provide such particulars and documents that may be deemed necessary; and
 - (v) Summon, where it deems it necessary, any person who may be able to give additional information, orally or in writing, that is material to the determination of the objection, to attend for further examination of such objection.
18. (i) For the purpose of this law, a Revenue Collector means a duly authorized official of the State Board of Internal Revenue or any other MDA authorized to

assist the Board to collect any tax, levy, fee, charge or rate.

(ii) Tax/Revenue collectors shall carry a certificate issued by the Board or authorized MDA, setting out his/her full name, and stating that he/she is authorized to exercise the functions of a Tax/Revenue collector and this shall be sufficient evidence that the revenue collector is duly authorized for the purpose of this law.

19. (1) Whenever it is necessary for the purpose of obtaining information in relation to any individual who is or may be liable to any tax, levy, fee, charge or rate imposed by this law, or for the purpose of collecting any revenue due to the Government, a Revenue Collector may enter into any house or premises between the hours of 8 in the morning and 6 in the fore noon between Monday and Saturday (except on public holidays) provided that he/she does so without damage to the house or premises, and request a person found therein to give all the information required.

Power to enter and request for information

(2) In the event of premises that are not open to the public, the consent of the owner of such premises must be sought and obtained.

(3) Where such consent is unreasonably withheld by the owner of the premises, the Collector shall obtain an order of court to gain access to the premises.

20.

1) Where an assessment has become final and conclusive and payment has not been made within the stipulated time, the Board may, in the prescribed form, for the purpose of enforcing payment of the amount due –

Power to distain for non-payment of Tax

(i) Distrain, based on a valid court order, the taxpayer by his/her goods or other chattels, bonds or other securities;

(ii) Distrain upon any land, premises, or place in respect of which that taxpayer is the owner, and recover the amount due by sale of anything so distrained.

2) The authority to distrain under this section shall be in such form as the Court may direct, and that authority shall be sufficient warrant to levy by distress

the amount due.

3) For the purpose of levying a distress under this section, an officer authorized in writing by the Board may execute a warrant of distress and if necessary, break open any building or place between 8 am and 6 pm from Monday to Saturday (except on public holidays).

4) For the purpose of levying the distress he or she may call to his/her assistance any police officer and it shall be the duty of that police officer when so required to aid and assist in the execution of the warrant and in levying the distress.

5) Things distrained under this section may, at the cost of the taxpayer, be kept for fourteen days and at the end of that time, if the amount due remains unpaid, subject to fourteen days notice being given to the taxpayer, the distrained property may be sold at any time thereafter.

6) Notwithstanding the provisions of subsection (5) of this Section, the time of sale of perishable items shall be subject to the discretion of the Board or any MDA so authorized by the Board.

7) The costs and charges incidental to the sale shall be the first charge on the proceeds and then the tax, levy fee, charge or rate, including penalty and interest shall be the second charge. The balance (if any) shall be payable to the person whose property is the subject of distraint.

8) The order of a High court in such form as may be prescribed by the rules of court must be obtained for the sale of immovable property.

21. No suit shall be commenced against any State official until the normal appeal process has been exhausted by the intending plaintiff or his/her agent.

**Action
against
State
Officials**

22.(1) Any person or agency appointed for the due administration of this Law who-

(a) attempts to charge or collect any Tax, Levy, Fee, Charge or Rate that are not listed in the First Schedule hereto;

(b) attempts to charge or collect any Taxes, Levy, Fee, Charge, Rate or penalty without due authority and identification;

**Offences
and
penalties**

- (c) demands from anyone an amount in excess of authorized assessment;
 - (d) fails to remit as and when due, revenues collected;
 - (e) withholds for his or her own use or otherwise any portion of the revenue collected;
- (f) Renders a false return, whether orally or in writing of the amount of revenue collected or received by him or her;
- (g) defrauds any person, embezzles any money or otherwise uses his or her position to deal wrongfully with a MDA or any member of the public; or
 - (h) Compromises on the assessment or collection of any tax, levy, fee, charge or rate commits an offence and shall be liable upon conviction to a fine equivalent to 500% of the sum in question and or imprisonment for a term of up to three years.

(2) Any person or representative MDA or LGA who mounts road blocks for the purpose of collecting any Tax, Levy, Fee, Charge or Rate commits an offence and shall be liable upon conviction to a fine of fifty thousand (~~N~~50,000.00) or 3 years imprisonment or both.

(3) Any person who steals or misuses any MDA document normally employed for revenue administration purposes shall be liable upon conviction to punishments in line with extant public service rules.

(4) Any person who aids or abets one or more persons for the purpose of contravening any of the provisions of this law commits an offence and shall be liable upon conviction to a forfeiture of the amount involved in addition to a fine of two hundred and fifty thousand Naira (~~N~~250,000.00) or imprisonment for three (3) years.

(5) Any person, not being an authorized officer, who assumes the name or designation or impersonates the character of an authorized officer shall, in addition to any other punishment to which he or she may be liable, shall

upon conviction be liable to a fine of five hundred thousand naira (₦500,000.00) or imprisonment for a term of three (3) years or both.

23. Where an offence has been committed under this law by an incorporated or unincorporated organization, every director, manager or other employee of the organization who is responsible for the default also commits an offence and shall be liable upon conviction to a fine of fifty thousand naira (₦50,000.00) or imprisonment for a term of six months or to both.

Liability of Defaulters, Directors, Manager or Employees

24. Any person who –

(a) having been required to give information under the provisions of section 21 of this law, willfully obstructs a Revenue Collector in the performance of his or her duties by neglecting or refusing to give such information; or

(b) Otherwise obstructs or willfully misleads or attempts to mislead a Revenue Collector in the performance of his or her duties under this law -

Obstruction as an offence

Is guilty of an offence under and shall be liable on conviction to a fine of fifty thousand naira (₦50,000.00) or imprisonment for a term of three (3) months or both.

25. In this Law, unless the context otherwise requires:

“Agent”	includes chartered tax practitioners, chartered accountants, legal practitioners, and other consultants;
“Board”	means the State of Osun Board of Internal Revenue;
“Commissioner”	means the Commissioner for Finance or any member of the State of Osun Executive Council for the time being in charge of Finance;
“LGA”	means any Local Government Area of Local Council Development Area in the State;
“MDA”	means any Ministry, Department or Agency in the State
“Revenue Committee”	means the State Joint Revenue Committee established under section 22 of this law;
“Secretary”	means the secretary to the Revenue Committee;
“State”	means the State of Osun of Nigeria;
“State officials”	include the Chief Executive Officers, officers and other employees of a Ministry, Department or Agency;
“Tax/Revenue	means staff of the Board or any other MDA authorized by the

Interpretation

Collector”	Board duly authorized to collect any Tax, Levy, Fee, Charge or Rate;
“Taxpayer”	means anybody who is engaged in any taxable business or enterprise, enjoys any chargeable government service within the State;
“Tribunal”	means the State of Osun Revenue Appeal Tribunal established under section 11 of this law

FIRST SCHEDULE

- Government loan for industry or business
- Registration of motor vehicle
- Firearms license
- Foreign exchange or exchange control permission to remit funds outside Nigeria
 - Award of contracts by Government, its agencies and registered companies
 - Application for and processing of certificate of occupancy
 - Registration of mortgage on property
 - Stamping of powers of attorney
 - Approval of building plans
 - Trade license
 - Transfer of real property
 - Import or export license
 - Agent license
 - Registration as a contractor
 - Distributorship
- Confirmation of appointment by Government as chairman or member of public board, institution, commission, company or to any other similar position made by the Government
- Stamping of guarantor's form for the Nigerian Passport
- Registration of a limited liability or of a business name

- Allocation of market stalls
- Appointment or election into public office
- Enrolment of pupils into public schools

SECOND SCHEDULE

Taxes, Levies, Fees, Charges and Rates to be collected by the State Government

(1) Personal Income Tax – collectable by BIR

(a) Direct taxation (self-assessment)

Payable annually on chargeable income (total income less allowable deductions) at the rates listed in the Sixth Schedule of the Personal Income Tax Amendment Act 2011, which currently are:

Income to be taxed	Rate of tax	%
first N300,000		7
Next N300,000		11
Next N500,000		15
Next N500,000		19
Next N1,600,000		21
Above N3,200,000		24

(b) PAYE (Pay-As-You-Earn):

Payable by employers in respect of deductions from emoluments paid to employees at rates specified by the State Board of Internal Revenue that are designed to ensure that the aggregate amount of such deductions during a year equates with the annual amount payable using the rates specified in (a) above – section 81 of the Personal Income Tax Amendment Act 2011 and the Operation of the Pay As You Earn (PAYE) Scheme Regulations refer

(2) Withholding Tax (individuals only) – collectable by BIR

(a) Withholding Tax on Rents:

Payable by organisations paying rent to individuals at the rate specified in section 69(2) of the Personal Income Tax Amendment Act 2011, currently 10% of gross rents

(b) Withholding Tax on Interest:

Payable by organisations paying interest to individuals at the rate specified in section 70(2) of the Personal Income Tax Amendment Act 2011, currently 10% of gross interest, this being the final liability for personal income tax on that income

(c) Withholding Tax on Royalties:

Payable by organisations paying royalties to individuals at the rate specified in section 70(2) of the Personal Income Tax Amendment Act 2011, currently 5% of gross royalties, this being the final liability for personal income tax on that income

(d) Withholding Tax on Dividends:

Payable by companies paying dividends to individuals at the rate specified in section 71(2) of the Personal Income Tax Amendment Act 2011, currently 10%, this being the final liability for personal income tax on that income

(e) Withholding Tax on Director's Fees:

Payable by payers of director's fees at the rate specified in section 72(2) of the Personal Income Tax Amendment Act 2011, currently 10%

(f) Withholding Tax on Payments in relation to Selected Activities, Services and Commissions:

Payable on certain payments under the Personal Income Tax (Rate, etc., of Tax Deducted at Source (Withholding Tax)) Regulations 1997 as follows:

Payments in respect of Rate at which tax is to be deducted:

1. All aspects of building, construction and related activities.... 5%
2. All types of contracts and agency arrangements, other than sales in the ordinary course of business 5%
3. Consultancy and professional services5%
4. Management services5%
5. Technical services5%
6. Commissions5%

(3) Capital Gains Tax (individuals only) – collectable by BIR

Payable on individuals making chargeable gains (after allowable deductions) at the rate specified in section 2(1) of the Capital Gains Tax Act 1967, currently 10%

(4) Stamp Duties on Instruments Executed by Individuals – collectable by BIR

Payable on selected instruments listed, and using the rates shown, in the Schedule to the Stamp Duties Act 1939

(5) Road Taxes – collectable by BIR

(a) Private Vehicles:

- For vehicles over 3.0cc, N 25,625 at registration (covers cost of plate number, vehicle registration, vehicle license and cost of registration book) with N 6,250 for annual renewal of registration
- For vehicles over 2.0cc and up to 3.0cc, N 25,000 at registration with N 6,250 for annual renewal of registration
- For vehicles from 1.7cc up to 2.0cc, N 21,250 at registration with N 3,125 for annual renewal of registration

- For vehicles up to 1.6cc, N 20,625 at registration with N 3,125 for annual renewal of registration

(b) Commercial Vehicles:

- For trailers, thirty one thousand two hundred and fifty N31,250.00 at registration (covers cost of plate number, vehicle registration, vehicle license, cost of registration book and cost of sticker) with N 5,000 for annual renewal of registration
- For tankers and trucks, N 30,250 at registration with N 6,250 for annual renewal of registration
- For tippers and lorries, N 27,250 at registration with N 6,250 for annual renewal of registration
- For buses and pick-ups, N 26,625 at registration with N 6,250 for annual renewal of registration
- For taxis, N 21,125 at registration with N 3,125 for annual renewal of registration

(c) Motor Cycles:

- N7,225 at registration (covers cost of plate number, vehicle registration, vehicle license, cost of registration book, cost of sticker, learner's permit and reflective jacket) with N 1,250 for annual renewal of registration

(d) Other Number Plates and Number Plates Revalidation:

For other number plate costs (fancy number plates, government fancy number plates, government/official number plates, motor dealers number plates, out-of-series number plates, replacement of missing

number plates, and revalidation of number plates for private vehicles, commercial vehicles and motor cycles), rates and fees approved by the Joint Tax Board

(e) Change of Ownership:

- For motor vehicles, N 2,500
- For motor cycles, N 625

(f) Driver's Licences:

- For motor vehicles, N 6,000 every 3 years
- For motor cycles, N 3,000 every 3 years
- Learner's permits, N 250

(6) Business Premises Registration Fees – assessable by Ministry of Commerce & Industry

- Registration of business premises in city – 7 categories with cost ranging from N 5,000 to N 30,000 with annual renewal ranging from N 1,000 to N 20,000
- Registration of business premises in Urban Areas – 7 categories with cost ranging from N 2,500 to N 15,000 with annual renewal ranging from N 500 to N 10,000
- Registration of business premises elsewhere in State of Osun – 7 categories with cost ranging from N 350 to N 10,000 with annual renewal ranging from N 250 to N 5,000

(7) Naming of Street Registration Fees in the State Capital – assessable by Osun Capital Development Board/State of Osun Urban Development Board

(To be advised)

(8) Right of Occupancy Fees on Lands Owned by the State Government – assessable by Ministry of Lands, Surveys and Country Planning

- Ground rents – residential property – urban N500 per square metre; Urban areas N250 per sqm; Urban areas N150 per sqm; other LGAs N100 per sqm
- Ground rents – commercial and industrial property – urban N 750 per square metre; Urban areas N300 per sqm; Urban areas N200 per sqm; other LGAs N125 per sqm
- Ground rents – religious property – urban N 100 per square metre; Urban areas N75 per sqm; Urban areas N50 per sqm; other LGAs N75 per sqm
- Farmland – farms over 100 hectares N120,000; farms 50 to 100 HA N180,000; farms 10 to 50 HA N120,000; farms up to 10 HA N60,000
- Certificate of Occupancy fees – residential N 50,000; commercial N200,000; industrial N300,000; other N20,000 with other charges for temporary, supplemental and surrendered C of Os

(9) Market Taxes and Levies where State Finance is Involved – assessable by State of Osun Markets Development Company

(To be advised)

(10) Land use charge – assessable by Ministry of Lands, Surveys and Country Planning

- Subdivision fees – residential N 150,000; commercial N 200,000; industrial N 300,000 with N 30,000 for the application form
- Merger fees – residential N 200,000; commercial N 300,000 with N 30,000 for the application form

(11) Hotel/Restaurant/Event centre consumption tax – assessable by Ministry for Culture and Tourism

- Hotel/artists registration – N 5,000
- Tourism development levy – 2% of hotel room rates

(12) Environmental (Ecological) fee/levy – assessable by JISEPA (State of Osun Environmental Protection Authority)

- Environmental sanitation – ranges from N 100 to N 2,000

- Landfill disposal – N 5,000
- Public toilet block annual fees – ranges from N 60,000 to N 150,000
- Environmental assessment impact reports – ranges from N 1,000 to N 100,000
- **(13) Mining and quarrying fee – assessable by Ministry of Lands, Surveys and Country Planning**
 - Registration of mining title – N 20,000
 - Execution of mining title – N 100,000
 - Assignment, surrender and revocation of mining title – N 50,000
 - Quarry fee – with machine – N 1,100,000
 - Quarry fee – manual – N 20,000

(14) Produce Sales tax – assessable by Ministry of Agriculture

(To be advised)

(15) Slaughter/Abattoir fees for State-built abattoirs– collectable by Ministry of Agriculture

- Abattoir slaughter fees – N 200 per animal

(16) Fire Service charge – assessable by SEMA (State Emergency Management Agency)

- Issue of safety certificates for petrol stations – ranges from N 5,000 to N 25,000
- Premise inspection fees – ranges from N 5,000 (bakeries, filling station sites) to N 500,000 (assembly plant inspections)
- Fire safety certification for employees – N 5,000

(17) Property tax – assessable by Ministry of Lands, Surveys and Country Planning

(To be advised)

(18) Economic development levy – collectable by BIR (suspended)

(19) Levies, rates and Fines collectable by the Ministry of Health.

State of Osun Revenue Complaints & Information Department

1. Interpretation

In this Schedule, unless where the context otherwise requires-

“Agent”	includes chartered tax practitioners, chartered accountants, legal practitioners, and other consultants
“Board”	means the State Board of Internal Revenue
“Chairman”	means the Chairman of the Tribunal
“Commissioner”	means the Commissioner for Finance or any member of the State of Osun Executive Council for the time being in charge of Finance
“LGA”	means any Local Government Council in the State
“Member”	means a member of the Tribunal
“MDA”	means any Ministry, Department or Agency in the State
“Secretary”	means the Secretary of the Tribunal
“State”	means the State of Osun
“Taxpayer”	means anybody who is engaged in any taxable business or enterprise, enjoys any chargeable government service within the State
“Tribunal”	means the State of Osun Revenue Appeal Tribunal established under section 11 of this law

2. Appointment of Members

Members of the Tribunal shall be appointed by the Commissioner, by notice in the State Gazette, and the Tribunal shall consist of a Chairman, and Members, one drawn from each senatorial district among persons appearing to him to have had experience and shown capacity in the management of a substantial trade or business or the exercise of the profession of law, accountancy or taxation in Nigeria.

3. The Chairman and Members of the Tribunal

The Chairman and Members of the Tribunal –

- 1) Shall, hold office on part time basis for a period of four years renewable once only;
- 2) May at any time resign as a Member by notice in writing addressed to the Executive Governor;
- 3) The Commissioner shall designate an officer not below the rank of a Director from the Board to be the Secretary to the Tribunal and the official address of the Secretary shall be published in the State Gazette.

4. Time limit for appeal

A taxpayer aggrieved by an assessment made upon him or her, having failed to

agree with the relevant MDA/LGA in accordance with the provisions of sections 7, 8, 9 and 10 of this law may appeal against the assessment within thirty days after the date of service of notice of the refusal of the relevant MDA/LGA to amend the assessment as desired.

5. Notice to be given to relevant MDA/LGA

(1) A notice of appeal shall be given in writing to the relevant MDA/LGA and shall set out:

- a) The name and address of the applicant;
- b) The official number and the date of the relevant notice of assessment;
- c) The amount assessed/charged;
- d) The precise grounds of appeal;
- e) The address for service of any notice or other documents to be given to the applicant;
- f) The date on which the applicant was served with notice of refusal by the relevant MDA/LGA to amend the assessment as desired.

(2) After receipt of notice of appeal, the Secretary shall immediately deliver a copy thereof to the relevant MDA/LGA and the appeal shall thereupon be listed by the Secretary for hearing accordingly.

(3) A notice or other documents to be given to the Tribunal shall be addressed to the Secretary and be delivered at or sent by registered post to his official address or by email.

(4) A taxpayer may discontinue an appeal under this section by giving notice to the Secretary in writing any time before the hearing of the appeal.

(5) Notwithstanding that notice of appeal against an assessment has been given by a taxpayer under this section, the relevant MDA/LGA may revise the assessment in agreement with the taxpayer, and a notice of the

agreement shall be given in writing by the relevant MDA/LGA to the secretary at any time before the hearing of the appeal, and the appeal shall be treated as being discontinued.

(6) On the discontinuance of an appeal under the provisions of this section, the amount or revised amount of the assessment, as the case may be, shall be deemed to have been agreed between the MDA/LGA and the taxpayer.

6. Procedure before The Tribunal

(1) The Tribunal shall, as often as may be necessary, meet to hear appeals in any town it may designate and in an office of the Board or relevant MDA/LGA.

At any such meeting :

- a) Any three or more of the Members may hear and decide an appeal; and
- b) Where the Chairman is unavoidably absent, the members present shall elect one of them to be the Chairman for the meeting.

(2) A Member who has a direct or indirect financial interest in a taxpayer or being a relative of a person having such an interest, and having knowledge thereof, shall, when any appeal by such taxpayer is pending before the Tribunal, declare such interest to the other members and give notice to the relevant MDA/LGA in writing of such interest/relationship, and he/she shall not sit at any meeting for the hearing of that appeal.

(3) The provisions of subsection (2) of this section shall also apply where a member is a legal practitioner or an accountant, and the taxpayer is or has been a client of that Member.

(4) The Secretary shall give seven clear days' notice to the relevant MDA/LGA and to the applicant of the date and place fixed for the hearing of an appeal except in respect of an adjourned hearing for which the Tribunal has fixed a date at their previous hearing.

(5) All notices, precepts and documents, other than decisions of the Tribunal may be signified under the hand of the Secretary.

(6) A taxpayer who appeals against an assessment shall be entitled to be represented at the hearing of the appeal provided that, if the person intended by the taxpayer to be his or her representative in an appeal is unable for good cause to attend the hearing thereof, the Tribunal may adjourn the hearing for such reasonable time as it thinks fit, or admit the appeal to be made by some other person or by way of written statement.

(7) The onus of proving that the assessment complained of is excessive, shall be on the appellant.

(8) At the hearing of an appeal, if the representative of the relevant MDA/LGA proves to the satisfaction of the Tribunal that:

(a) The appellant has, contrary to the provision of any section of this law or any other law of the State, for the year of assessment concerned, failed to prepare and deliver to the relevant MDA/LGA the statement mentioned in section 25 of this law; or

(b) The appeal is frivolous or vexatious or is an abuse of the appeal process; or

(c) If the appellant fails to comply with an order under any section of this law or any other law of the State -the assessment against which he/she has appealed shall be confirmed and the appellant shall have no further right of appeal whatsoever with respect to that assessment.

(9) The Tribunal may confirm, reduce, increase or annul the assessment or make such order thereon as they see fit.

(10) A decision of the Tribunal shall be recorded in writing by the

Chairman and a certified copy of the decision shall be supplied to the appellant and the relevant MDA by the Secretary within one month of the decision.

- (11) Where on the hearing of an appeal –
- (a) No accounts, books or relevant records were produced by or on behalf of the appellant;
 - (b) Those accounts, books or relevant records so produced, but the Tribunal rejected the same on the ground that they have been shown to the satisfaction of the Tribunal that they were incomplete or unsatisfactory;
 - (c) The appellant or his or her representative, at the hearing of the appeal has neglected or refused to comply with a precept delivered or sent to him or her by the Secretary to the Tribunal without showing reasonable excuse; or
 - (d) The appellant or a person employed, whether confidentially or otherwise, by the appellant or his or her agent (other than his or her legal practitioner or accountant acting for him or her in connection with his or her liability to tax) has refused to answer any question put to him or her by the Tribunal, without showing any reasonable cause -the Chairman of the Tribunal shall record particulars of the same in his or her written decision.

(12) The Commissioner may make rules prescribing the procedure to be followed in the conduct of appeal before the Tribunal.

7. Procedure for allowing decision of Appeal

(1) Notice of the amount payable as determined by the Tribunal shall be served by the relevant MDA/LGA on the taxpayer or on the person in whose name the taxpayer is chargeable.

(2) Notwithstanding that a further appeal is pending, the amount as determined shall be paid in accordance with the decision of the Tribunal within one month

of notification, and if it is not so paid, with or without applying the provisions of this law as the relevant MDA/LGA thinks fit, proceedings may be taken for its recovery as a civil liability.

8. Appeal to court

(1) A taxpayer who, having appealed against an assessment made on him or her to the Tribunal under the provisions of this law is aggrieved by the decision of the Tribunal, may appeal against the decision to the High Court of the State on giving a notice in writing to the relevant MDA/LGA within thirty days after the date on which the decision was given.

(2) If the relevant MDA/LGA is dissatisfied with a decision of the Tribunal, it may appeal against that decision to the High Court of the State by appealing and giving notice in writing to the other party to the appeal within thirty days after the date on which decision was given.