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Rivers State Value Added Tax Law, No.4 of 2021 A1

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RIVERS STATE VALUE ADDED TAX LAW, NO.4 OF 2021**ARRANGEMENT OF SECTION**

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I assent.

(Signed).....

Nyesom Ezenwo Wike, CON, GSSRS

Executive Governor of Rivers State of Nigeria

Dated the 19th day of August, 2021.

Government of Rivers State of Nigeria



A Law to impose and charge Value Added Tax on certain goods and services provide for the administration of the tax and for connected matters.

*General
Statement of
purpose.*

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Commencement

ENACTED By the Rivers State House of Assembly of Nigeria as follows:

Enactment

PART I

- 1. Imposition of Value Added Tax**
There is imposed and charged the Value Added Tax (referred to as "the tax") which shall be administered in accordance with this Law.
- 2. Taxable goods and services**
The tax shall be charged and payable on the supply of goods and services (referred to as "taxable goods and services") except those goods and services listed in the Schedule.
- 3. Goods and services exempt**
The goods and services listed in the Schedule are exempt from the tax .
- 4. Rate of tax**
The tax shall be computed at the rate of 7.5 per cent on the value of goods and services as determined under sections 5 and 6, except the goods and services listed under Part III of the Schedule which shall be taxed at zero rates.
- 5. Value of taxable goods and services**
 - (1) The value of taxable goods and services shall be determined in the following ways:
 - (a) where the supply is for a money consideration, its value shall be deemed to be an amount which with the addition of the tax chargeable, is equal to the consideration; and
 - (b) where the supply is for a consideration not consisting of money, the value of the supply shall be deemed to be its market value.
 - (2) Where the supply of taxable goods or services is not the only matter to which consideration in money relates, the supply shall be deemed to be the part of the consideration as is properly attributed to it.
 - (3) The open market value of supply of taxable goods or services shall be the amount that would be taken as its value under subsection (1) (b) where the supply were for a consideration in money that could be payable by a person in an arm's length transaction.
- 6. Value of imported taxable goods**
The value of imported taxable goods is the amount which is equal to the price of the imported goods and includes all:
 - (a) taxes, duties and other charges levied outside or for importation into Nigeria, other than the tax imposed by this Law; and
 - (b) costs of commission, parking, transport and insurance up to the port or place of importation.
- 7. Administration of the Tax**
The Rivers State Board of Internal Revenue Service shall:
 - (a) administer and implement this Law;

- (b) do any other thing necessary and expedient for the assessment and collection of the tax; and
- (c) account for money collected in accordance with this Law.

8. Registration

- (1) A taxable person shall, within 6 months of the commencement of this Law or within 6 months of the commencement of business, whichever is earlier, register with the Board for the purpose of the tax.
- (2) A contractor transacting business with a Government ministry, statutory body or any other agency of the State or Local Government shall produce evidence of registration with the Board as a condition for obtaining a contract.
- (3) Without prejudice to section 27, a taxable person who fails or refuses to register with the Board within the time specified in subsection (1) is liable to pay as penalty an amount of:
 - (a) N50,000 for the first month in which the failure or refusal occurs; and
 - (b) N100,000 for each subsequent month in which the failure or refusal continues.

9. Registration by non-resident companies

- (1) A non-resident company that carries on business in the State shall register for the tax with the Board, giving the address of the person with whom it has a subsisting contract, as its address for purposes of correspondence relating to the tax.
- (2) A non-resident company shall include the tax in its invoice.
- (3) Pursuant to subsection (2), the person to whom the goods or services are supplied in the State shall remit the tax in the currency of the transaction.

10. Records and accounts

A person registered under this Law shall keep records and books of every transaction, operation, import and any other activity relating to taxable goods and services as are sufficient to determine the correct amount of tax due.

11. Payment of tax by taxable person

- (1) A taxable person shall pay to the supplier the tax on taxable goods and services purchased by or supplied to the person.
- (2) The tax paid by a taxable person under subsection (1) is known as input tax.

12. Remittance of tax

- (1) Every ministry, statutory body or other agency of Government shall, at the time of making payment to a contractor, remit the tax charged on the contract to the Board.
- (2) The Board shall, by notice, direct the companies operating in the oil and gas sector to remit the tax charged on taxable goods and services and deducted at source to the Board.
- (3) The remittance shall be accompanied with a schedule showing the:
 - (a) name and address of the company;
 - (b) invoice number;
 - (c) gross amount of invoice;
 - (d) amount of tax; and
 - (e) month of return.

13. Tax invoice

- (1) A taxable person who makes a taxable supply shall, in respect of the supply, furnish the purchaser with a tax invoice containing:
 - (a) tax payer's identification number;
 - (b) name and address;
 - (c) VAT registration number;
 - (d) date of supply;
 - (e) name of purchaser or client;
 - (f) gross amount of transaction; and
 - (g) tax charged and rated supplied.
- (2) A tax invoice shall be issued on supply whether or not payment is made at the time of supply.

14. Collection of tax by taxable person

- (1) A taxable person shall, when supplying taxable goods or services to his accredited distributor, agent, client or consumer, collect the tax on those goods or services at the rate specified in section 2 of this Law.
- (2) The Tax collected by a taxable person under subsection (1) is known as output tax.

15. Taxable person to render returns

- (1) A taxable person shall render to the Board, on or before the 21st day of the succeeding month, a return of taxable goods and services purchased or supplied by him during the preceding month in the manner specified by the Board.

- (2) A person who imports taxable goods into the State shall render to the Board, returns on the taxable goods imported by him into the State.

16. Remittance of excess tax

- (1) Where a taxable person renders a return under section 15 (1), he shall, where the:
 - (a) output tax exceeds the input tax, remit the excess to the Board; or
 - (b) input tax exceeds the output tax, be entitled to a refund of the excess tax from the Board on production of the documents the Board may require.
- (2) An importer of taxable goods shall pay to the Board the tax on the goods before clearing the goods.

17. Allowable Input Tax, Etc.

- (1) Pursuant to section 11, the input tax allowed as a deduction from output tax shall be limited to the tax on goods purchased or imported directly for resale and goods which form the stock-in-trade used for the direct production of any new product on which the output tax is charged.
- (2) Input tax shall not be allowed as a deduction from output tax on any:
 - (a) overhead, service and general administration of any business which can be expended through the income statement; and
 - (b) capital item and asset which is to be capitalized along with cost of the capital item and asset.

18. Effect of failure to render returns

Where a taxable person fails to render returns or renders an incomplete or inaccurate returns, the Board shall assess, to the best of its judgment, the amount of tax due on the taxable goods and services purchased or supplied by the taxable person.

19. Effect of non-remittance of tax

- (1) Where a taxable person does not remit the tax within the time specified in section 15, a sum equal to 5 per cent per annum, plus interest at the commercial rate, of the amount of tax remittable shall be added. to the tax, and the provisions of this Law relating to collection and recovery of unremitted tax, penalty and interest shall apply.
- (2) The Board shall give notice in writing to a taxable person or his agent of the tax due, penalty and interest, and where payment is not made within 30 days of the notice, the Board may proceed to enforce payment in accordance with this Law.

20. Recovery of Tax

- (1) A taxable person aggrieved by an assessment made on him may file an objection to the Board.
- (2) The Board shall determine the objection filed within 30 days.
- (3) Where the taxable person is dissatisfied with the decision of the Board, he shall appeal to the Tax Appeal Commission.
- (4) The Board may, through proceedings in the Tax Appeal Commission, recover any tax, penalty or interest which remains unpaid after the period specified for payment.
- (5) An appeal on the decision of the Tax Appeal Commission shall be made to the State High Court.

21. Furnishing of false document

A person who:

- (a) produces, furnishes or makes use of a false document; or
- (b) makes a false statement while furnishing an information to the Board, commits an offence and is liable on conviction to a fine of twice the amount under declared.

22. Evasion of tax

A person who:

- (a) participates in; or
- (b) takes steps to evade tax for himself or any other person, commits an offence and is liable on conviction to twice the amount of the tax evaded. or to imprisonment for a term not exceeding 3 years.

23. Failure to notify change of address

A person who fails to notify the Board in writing of any change of address within one month of the change, is liable to pay a penalty of N5,000.

24. Failure to issue tax invoice

A person who fails to issue a tax invoice for any good sold or service rendered, commits an offence and is liable on conviction to a fine of 50 per cent of the cost of the good or service for which the invoice was not issued.

25. Resisting an authorised officer

- (1) No person shall resist, obstruct or attempt to resist or obstruct an authorised officer while in the performance of his functions under this Law.
- (2) A person who contravenes subsection (1), commits an offence and is liable on conviction to imprisonment for a term of 6 months or a fine of N10,000, or both.

26. Issuing of tax invoice by an unauthorised person

An unregistered or unauthorised person, who issues an invoice purporting to be attributable to tax, commits an offence and is liable on conviction to imprisonment for a term of 6 months or a fine of N10,000.

27. Failure to register

- (1) A taxable person who fails or refuses to register with the Board within the specified time commits an offence and is liable on conviction to a fine of:
 - (a) N20,000 for the first month in which the failure or refusal occurs; and
 - (b) N10,000 for each subsequent month in which the failure or refusal continues.
- (2) Where, after 3 months, the person is not registered, the premises where the business is carried on shall be sealed up.

28. Failure to keep proper records and accounts

A taxable person who fails to keep records and accounts of his business transactions to allow for the correct ascertainment of tax and filing of returns, commits an offence and is liable on conviction to pay a penalty of N5,000 for every month the failure continues.

29. Failure to collect tax

A taxable person who fails to collect tax under this Law, commits an offence and is liable on conviction to pay a penalty of 150 per cent of the amount not collected, plus 5 per cent interest above the Central Bank of Nigeria rediscount rate.

30. Failure to submit returns

A taxable person who fails to submit returns to the Board, commits an offence and is liable on conviction to a fine of N5,000 for every month the failure continues.

31. Offences by Corporate Bodies

- (1) Where an offence is committed by a corporate body or firm, or other association of individuals, every:
 - (a) director, manager, secretary or other similar officer of the body corporate;
 - (b) partner or officer of the firm;
 - (c) person concerned in the management of the association;or
- (d) person purporting to act in a capacity as mentioned, commits that offence and is liable as if he had himself committed that offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

- 32. Aiding and abetting commission of offence**
An officer of the Board or any other person who aids or abets the commission of any offence under this Law, commits an offence and is liable on conviction to imprisonment for a term of 5 years or a fine of N50,000.
- 33. Powers of the Governor to vary Schedule**
The Governor may subject to the approval of the Rivers State House of Assembly amend the:
- (a) rate of tax chargeable; and
 - (b) list set out in the Schedule.
- 34. Power of inspection**
An authorised officer may enter, at any time and without a warrant, any premises on which he has reasonable grounds to believe that a taxable person is evading tax.
- 35. Distribution of revenue**
Notwithstanding any formula that may be prescribed by any other law, the revenue accruing by virtue of the operation of this Law shall be distributed as follows:
- (a) 70% to the State Government; and
 - (b) 30% to the Local Government.
- 36. Forms**
The Board shall specify the forms, statements and notices to be used under this Law.
- 37. Regulations**
The Board may, with the consent of the Governor and the approval of the Rivers State House of Assembly, make regulations for the effective implementation of this Law.
- 38. Interpretation**
In this Law:
- | | |
|-----------------------------|---|
| "authorised officer" | means an officer who has been authorised by the Board to perform any function under this Law; |
| "Board" | means the Rivers State Board of Internal Revenue; |
| "business" | includes any trade, commerce or any concern in the nature of trade or commerce; |
| "Chairman" | means the Chairman of the Rivers State Board of Internal Revenue; |
| "company" | means a company as defined under the Companies and Allied Matters Act and a corporate body that may be formed under any other written law, and includes any association, whether incorporated in or outside Nigeria; [No.3 of 2020] |

"import"	means bringing in goods and services from another country or from an export processing zone;
"importer"	means a person who imports taxable goods;
"input tax"	has the meaning assigned to it in section 17
"invoice"	means a document issued as an evidence of demand for payment;
"manufacturer"	means a person who engages in the manufacturing of goods and includes a person who has manufactured for him or on his behalf by others, goods made to his specification or design;
"manufacturing"	means the process by which a commodity is finally produced, including assembling, bottling, repacking, mixing, blending, grinding, cutting, bending, twisting and joining or any other similar activity;
"output tax"	has the meaning assigned to in section 14
"registered person"	means any person registered under section 8 of this Law;
"supplies"	means any transaction, whether it is the sale of goods or the performance of a service, for a consideration, that is, for money or money's worth;
"supply of goods"	means any transaction where the whole property in the goods is transferred or where the agreement expressly contemplates that it will, and includes the sale and delivery of taxable goods or services used outside the business, the letting out of taxable goods on hire or leasing, and any disposal of taxable goods;
"supply of services"	means any service provided for a consideration;
"tax"	means the Value Added Tax imposed and charged under section 1;
"tax period"	means one calendar month commencing from the beginning of the month to the end of that month;
"taxable goods and services"	means the goods and services not listed in the Schedule;
"taxable person"	includes: <ul style="list-style-type: none">(a) an individual or body of individuals;(b) family;(c) corporation sole;(d) trustee or executor;

- (e) a person who carries out in a place an economic activity; or
- (f) a person exploiting tangible or intangible property for the purpose of obtaining income by way of trade or business, or a person or agency of Government acting in that capacity;

"transaction at arm's length" means a transaction on normal open market commercial terms;

"vehicle" includes every description of conveyance for the transportation by land of human beings or goods.

39. Citation

This Law may be cited as the Rivers State Value Added Tax Law, 2021.

SCHEDULE

Goods and services exempt
[sections 2 and 3]

PART I*Goods exempt*

1. All medical and pharmaceutical products
2. Basic food items.
3. Books and educational materials
4. Baby products.
5. Fertilizer, locally produced agricultural and veterinary medicine, farming machinery and farming transportation equipment.
6. All exports.
7. Plant, machinery and goods imported for use in the export processing zone or free trade zone,

Provided that 100 per cent productions of the company are for export, otherwise tax shall accrue proportionately on the profits of the company.
8. Plant, machinery and equipment purchased for utilization of gas in down-stream petroleum operations.
9. Tractors, ploughs and agricultural equipment and implements purchased for agricultural purposes.

PART II

Services exempt

1. Medical services
2. Services rendered by Community Banks, Micro Finance Banks and Mortgage Institutions.
3. Plays and performance conducted by educational institutions as part of learning.
4. All exported services.

PART III

Zero-rated goods and services

1. Non-oil exports
2. Goods and services purchased by diplomats
3. Goods purchased for use in humanitarian donor funded projects

"Humanitarian donor funded projects" include projects undertaken by Non-Governmental Organisations, religious and social clubs or societies recognised by law whose activities are in the public interest, and not for profit.

This printed impression has been carefully compared by me with the Rivers State Value Added Tax Bill (CHA.5) of 2021, which has been passed by the Rivers State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.

RT. HON. IKUINYI-OWAJI IBANI DSSRS
SPEAKER
RIVERS STATE HOUSE OF ASSEMBLY

STANFORD I. OBA
CLERK
RIVERS STATE HOUSE OF ASSEMBLY