

ELECTRONIC MONEY TRANSFER LEVY REGULATIONS 2022: WHAT TAXPAYERS NEED TO KNOW



“Failure to collect the EMT levy attracts a penalty equal to 150% of the uncollected Levy”

Introduction

The Electronic Money Transfer Levy Regulations (“EMT Levy Regulations”) was recently issued by the Honourable Minister of Finance, Budget and National Planning, pursuant to the powers conferred on her by virtue of section 89A (3) of the Stamp Duties Act (as amended by the Finance Act, 2020). The law provides for the charge of EMT Levy on electronic transfers of money in the sum of ₦10,000 and above. The EMT Levy Regulations have now been issued to provide clarity and aid compliance to the provision in the Stamp Duties Act, given the controversial issues regarding the administration of the levy.

Highlights of the EMT Levy Regulations

- The commencement date of the Regulations is set at 15 June 2022.
- For the EMT Levy, the Regulations defined banks to include 'all banks and other financial institutions' as defined by BOFIA 2020.
- The singular and one-off ₦50 charge on qualifying transactions is to be imposed on the account receiving the money.
- The receiving bank has the responsibility to collect and remit the EMT Levy.
- Transfers of currencies other than the Naira are also subject

to the EMT Levy charge at an exchange rate to be determined by the Central Bank of Nigeria.

- Only the Federal Inland Revenue Service (FIRS) is authorized to administer the EMT Levy by assessing, collecting, and giving account of the Levy.
- In case of walk-in customers who are the beneficiaries of transfers but have no account with the receiving bank, the Levy is to be collected from the amount payable to the receiver and remitted to FIRS.
- Banks are now saddled with the responsibility of maintaining a daily detailed



Fidelis Chukwu

Senior Manager
fchukwu@pedabo.com



Oluwasanmi Ogunsanwo

Manager
oogunsanwo@pedabo.com

Lagos Office:
67, Norman Williams Street
South West, Ikoyi
Lagos, Nigeria
Tel: 01-2919041; 0808 820 8747
info@pedabo.com
www.pedabo.com

Abuja Office:
4th Floor, Grand Square
Mohammed Buhari Road
Central Business District,
Abuja
Tel: 09-8707692

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list of cancelled and reversed transactions on which EMT Levy had been charged for the purpose of reconciliation and ultimate refund to the customer.

- Banks are also now expected to file a monthly report, not later than the 21st day of the month following the month of the qualifying transactions on which EMT Levy had been collected.
- All records relating to electronic money transfers including reversals and cancellations are to be kept by the banks for at least seven (7) years from the date the transactions occurred.
- The Regulations imposed the following penalties on defaulting banks:
 - Failure to collect the EMT levy attracts a penalty equal to 150% of the uncollected Levy
 - Failure to remit within the specified period attracts 100% of the amount collected but

not remitted, plus a penalty of 50% of the unremitted levy, and interest at the prevailing rate.

- Failure to render returns or rendering incorrect returns attracts a penalty equal to 10% of the amount for which the returns were not rendered or incorrectly rendered.

**OUR
COMMENTS**

The issuance of the EMT Levy Regulations is a long-awaited development because the levy was introduced via Finance Act 2020 which became operational on 1 January 2021. We commend the Honourable Minister of Finance for providing the Regulations as they have clarified some lacunae in the phrasing of Section 89A of the SDA which had hitherto led to subjective interpretations.

A major clarification that the Regulations have made is with respect to the party responsible for bearing the burden of the EMT Levy, as well as the compliance obligations of the banks in this regard.

It is also worthy to note that the responsibility to collect this Levy is not imposed only on deposit money banks, which was the initial understanding in certain quarters. Going forward, all financial institutions, including digital payment platforms, are now agents of collection on behalf of the FIRS.

While we expect that the penalties specified in the Regulations will not be imposed on any acts of non-compliance (especially by other financial institutions) that predate the issuance of the regulations, we also expect that all financial institutions covered will immediately put in place the systems and logistics required to ensure strict compliance. It is hoped that such organizations will seek professional advice where any doubts still exist as to their obligations under the Regulations.



Lagos Office:
67, Norman Williams Street
South West, Ikoyi
Lagos, Nigeria
Tel: 01-2919041; 0808 820 8747
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