

[HB. 15.12.327]

**A BILL**

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE COMMUNICATION  
SERVICE TAX AND FOR MATTERS CONNECTED THEREWITH*Sponsored by HON. BEDE EKE UCHEMNA  
(Aboh Mbaise/Ngor Okpala Federal Constituency)*/ Commence-  
ment.BE IT ENACTED by the National Assembly of the Federal Republic  
of Nigeria as follows—1 1.—(1) There is hereby established a tax to be known as the  
2 Communication Service Tax.Establishment  
of the  
Communication  
Service Tax3 (2) As from the Commencement of this Act, there shall be  
4 imposed, charged, payable and  
5 collected a monthly Communication Service Tax which shall be  
6 assessed, collected and administered in accordance with the provision  
7 of this Act.8 2.—(1) There shall be imposed, charged and collected by this  
9 Act a tax to be known as Communication Service Tax to be levied on  
10 charges payable by a user of an Electronic Communication Service  
11 other than private Electronic Communication Services.Imposition  
of  
Communication  
Service Act.12 (2) The tax shall be levied on Electronic Communication Services  
13 supplied by Service Providers.14 (3) For the purpose of this section, the supply of any form of  
15 recharges shall be considered as a charge for usage of Electronic  
16 Communication Service.17 (4) The Tax shall be levied on the following Electronic  
18 Communication Services:

19 (a) Voice Calls;

20 (b) SMS;

- 1 (c) MMS;
- 2 (d) Data usage both from Telecommunication Services Providers
- 3 and Internet Service Providers;
- 4 (e) Pay per View TV Stations, etc.

Persons  
liable to pay  
the tax.

5 3.—(1) The tax shall be paid together with the Electronic  
6 Communication Service charge payable to the service provider by the  
7 user of the service.

8 (2) The tax is due and payable on any supply of Electronic  
9 Communication Service within the time period specified under  
10 subsection (5) of section 6 whether or not the person making the supply  
11 is permitted or authorized to under the Act 0 provide Electronic  
12 Communication Services.

Rate of the  
tax.

13 4. The rate of the tax is 9% of the charge for the use of the  
14 communication service.

Collection of  
the tax and  
payment into  
the  
Federation  
Account.

15 5.—(1) The Federal Inland Revenue Service (FIRS) established  
16 under section 1 of the Federal Inland Revenue Service (Establishment)  
17 Act, 2007 shall be responsible for collection and remittance of tax to  
18 the Federation Account. The Federal Government is therefore  
19 responsible for the administration and management of the funds  
20 accruing from the tax. The FIRS shall therefore collect the tax and  
21 any interest and penalty paid under this Act.

22 (2) The FIRS shall pay the tax collected together with any interest  
23 and penalty into the Federation Account.

Submission  
of tax return  
and time for  
payment of  
the tax.

24 6.—(1) All service providers shall file a tax return to account for  
25 the tax.

26 (2) The tax return shall be in a form prescribed by the FIRS and  
27 shall state the amount of tax payable for the period and any related  
28 matters that may be required.

29 (3) The FIRS may require persons to submit to the FIRS. In  
30 addition to the tax under subsection(1), a further tax return in a  
31 prescribed form.

1 (4) The request by the FIRS for a further tax return may be  
2 made to a person:

3 (a) on that person's own behalf; or

4 (b) as an agent or trustee of another person.

5 (5) The return and the tax due to the accounting period to which  
6 the tax return relates shall be submitted and paid to the FIRS not later  
7 than the last working day of the month immediately after the month to  
8 which the tax return and payment relates.

9 (6) On application in writing by a service provider, the FIRS  
10 may extend the period within which the tax return may be submitted  
11 and payment made, where good cause is shown by the applicant also  
12 in writing.

13 (7) The extension shall be communicated to the applicant in writing  
14 and shall state the date by which the tax return shall be submitted and  
15 the tax for the period paid.

16 (8) A service provider who without justification fails to submit to  
17 the FIRS the tax return by the date is liable to a pecuniary penalty of  
18 ₦50,000.00 and a further penalty of ₦10,000.00 for each  
19 day the return is not submitted.

20 7.—(1) Subject to section 6 (6) a service provider who fails to pay  
21 the tax by the due date shall pay monthly interest on the tax due at a rate of  
22 One hundred and Fifty per cent of the average of the prevailing commercial  
23 Banks lending rate as published by the Central Bank of Nigeria.

24 (2) For the purpose of subsection (1) any part of one month shall  
25 be deemed to be one month.

26 (3) Subject to section 6 (6) where the interest payable under  
27 subsection (1) is not paid within one month after the due date, interest  
28 shall be paid on the unpaid interest at the same rate and in the same  
29 manner on the unpaid tax.

30 8.—(1) A tax, penalty or interest due under this Act which  
31 remain unpaid after the due date

Payment of  
Interest and  
Outstanding  
tax.

Recovery of  
tax, interest  
or penalty  
due.

1 may be recovered by the FIRS as a debt.

2 (2) An amount shown as the tax on a bill or invoice for Electronic  
3 Communication Service usage is recoverable as tax from the person  
4 who issues the bill or invoice whether or not—

5 (a) Tax is chargeable on the Electronic Communication Service  
6 Usage; or

7 (b) The person who issues the bill or invoice is a person authorized  
8 to provide Electronic Communication Service under the Act.

9 (3) Where a body either corporate or unincorporated which is  
10 liable for the payment of the tax, of any penalty or interest that arises  
11 under the Act, defaults in payment, in whole or in part after written  
12 demand, the directors, partners and the person in control of the body  
13 are jointly and severally liable to pay the sum due.

14 (4) Where tax penalty or interest is payable and due under this  
15 Act the FIRS may apply to the Court for an order that compels an  
16 individual or business—

17 (a) from whom money is due or is accruing to the person required  
18 to apply the, interest or penalty, or

19 (b) who holds money for or on account of the person required to  
20 pay the tax interest or penalty to pay to the FIRS that money or so  
21 much of it as sufficient to discharge the tax interest or penalty  
22 payable and due.

Distrain for  
Liability.

23 9.—(1) Where tax, penalty or interest due under this Act remains  
24 unpaid after the time by which this Act required it to be paid, the FIRS  
25 may apply the court by motion on notice to the person from whom the  
26 payment is due for an order to levy distress:

27 (a) on the goods chattels and effects if that person; and

28 (b) on —

29 (i) the assets, property, building, factory, machinery, plant,  
30 tools, means of transport, accessories and all equipment used  
31 for the provision of communication service, by that person,

1           (ii) the commodity or items found in the premises or land owned  
2           by, in use or in possession of that person on behalf of or in trust  
3           for that person.

4           (2) The distress order issued in subsection (1) shall be executed  
5           on the assets of the person specified in the order and the FIRS shall  
6           take possession of the property specified (1) exclusion of all liabilities.

7           (3) In furtherance of the levy of distress, a person authorized in  
8           writing by the FIRS may execute the order of distress on the goods  
9           and assets specified under subsection (1) and where necessary, may  
10          break open any building or place in the daytime for the purpose.

11          (4) The authorized person may seek the assistance of a police  
12          officer shall assist in the execution of the order of distress.

13          (5) The property distrained shall be kept for Fourteen days at the  
14          cost of the owner and if the amount due in respect of the tax interest or  
15          penalties, cost and charges for and incidental to the distress are not  
16          paid, the property distrained may be sold on the orders of the court.

17          (6) Where distrained property is sold, there shall be paid out the  
18          proceed of the sale:

19          (a) The cost of charges of —

20           (i) the distress,

21           (ii) maintenance of the distress, and

22           (iii) the sale; and

23          (b) the amount due in respect of the tax, interest and penalties  
24          and any residue that remains after these payments shall be paid to  
25          the owner of the property but payment to the owner is subject to the  
26          prior interest of the FIRS which has precedence over the other  
27          interests (7) Where property seized in the execution of the distress  
28          warrant is under mortgage, bill of sale, charged by way of security  
29          for debt, or is in any way encumbered, the interest of the FIRS has  
30          precedence over all the interests.

Recovery in  
respect of  
person under  
liquidation.

1           **10.** Where tax, penalty or interest is due under the Act from a  
2 person who is subject to liquidation or bankruptcy proceedings, the  
3 liquidation, receiver or other persons responsible for winding up the  
4 affair of the debtor shall not distribute the assets until full payment has  
5 been made of the Tax penalty or interest due under this Act.

Records,  
related  
matters,  
offences and  
penalties.

6           **11.** Sections of the Value Added Tax act apply to the management  
7 of the Tax with the necessary modification.

Objections  
and Appeals.

8           **12.** Sections of the Value Added Tax Act apply in matters of  
9 objectives and appeals related to tax

Evidence in  
Proceedings.

10           **13.**—(1) A certificate issued by the FIRS that —

11           (a) a tax returns required by this Act has not been submitted or  
12 has not been returned as required by the AC has not been submitted  
13 on the specified date; or

14           (b) tax shown as due in any tax return or assessment made under  
15 this Act has not been paid, is sufficient evidence in civil or criminal  
16 proceedings of that fact unless the contrary is proved.

17           (2) A photocopy of a document furnished to the FIRS or an officer  
18 NCC under the requirement of this Act and certified by the FIRS is  
19 admissible as evidence in civil or criminal proceedings to the same  
20 extent as the original

21           (3) A statement or other information contained in a document  
22 produced by a computer is admissible as evidence in civil or criminal  
23 proceedings if it is certified as correct by the FIRS unless the contrary  
24 is proved.

Jurisdiction.

25           **14.** The Federal High Court shall have jurisdiction to try offenders  
26 under this Act.

Directive  
and powers  
of the  
Minister and  
the FIRS.

27           **15.**—(1) The Minister and the FIRS may make policy directives  
28 that the FIRS considers necessary  
29 for the effective implementation of this Act.

30           (2) Subject to the Provisions of this Act the FIRS may in writing

1 give administrative directive that the FIRS considers necessary to the  
2 implementation of this Act.

3 (3) The Minister and the FIRS may request any person in writing  
4 to provide security that the FIRS considers adequate for the protection  
5 of the revenue.

6 (4) The Minister and the FIRS in collaboration with the Ministry  
7 of Communication and the Nigeria Communication Commission shall  
8 —

9 (a) appoint an agent who will establish both electronic and  
10 physical monitoring mechanisms to monitor, analyse, verify, save  
11 all necessary data and information, both electronic and physical  
12 (Soft copies and hard copies from the electronic and physical  
13 platforms of all the communication service providers for the purpose  
14 of accurate computation of taxes due the government);

15 (b) ensure at all times that the FIRS, the ministry of  
16 communication, NCC and the agents appointed to monitor the  
17 communication service provider are given unfettered physical and  
18 electronic access to the network nodes of the service provider  
19 network at an equivalent point in the network where the network  
20 provides billing systems are connected;

21 (c) ensure that the monitoring agent appointed by the government  
22 links their electronic systems, devices, software's, hardware's to  
23 the electronic system devices, software, hardware, etc. of the  
24 communication service providers at the point in their network  
25 systems where the billing systems are connected for real time and  
26 accurate analysis and data collection for correct computing of actual  
27 tax due the government;

28 (d) ensures that the agent appointed by the government to monitor  
29 the service providers uses a common platform for the purpose of  
30 monitoring revenues under this act as well as revenues accruing  
31 from levies.

1 (5) A service provider who refuses to provide access to its  
2 relevant network for Government or its appointed agent as specified  
3 in subsection (4) (b) and (c) commits an offence and is liable to pay a  
4 penalty of five per cent of the annual gross revenue of the last admitted  
5 financial statement of the service, provider after the first thirty days  
6 and if the situation persists after ninety days, the NCC may revoke the  
7 operating licence of that service provider.

8 (6) The Monitoring mechanisms referred to in subsection (4) (a)  
9 shall not be operated or attached in such locations or points in the  
10 service providers network where it will be capable to actively passively  
11 record, monitor, or tap into the content of any incoming or outgoing  
12 electronic communication traffic, including voice, video or data existing  
13 discreetly or on a converged platform whether local or international.

14 (7) A service provider who has an objection to a request for the  
15 introduction of an equipment or software to the physical node of its  
16 network as provided under subsection (4) (b) and (c) shall within seven  
17 days of receipt of the request, report same in writing stating reasons  
18 for the objection to the report to the FIRS, Ministry of communication,  
19 NCC and the government appointed agent, if after 14 days settlement  
20 period from the date of the report made by the service provider, the  
21 arising issues are not amicably resolved by the joint meeting of the  
22 FIRS, ministry of communication, Nee, the government appointed  
23 agent and the service provider, the service' provider shall within seven  
24 days of the expiration of the approved 14 days settlement period i.e.  
25 21 days from the date of receipt of the request apply to the High court  
26 for a determination of the objective stating reasons for the objection,  
27 to the request. If the High court upholds the request for the introduction  
28 of an equipment to the physical node of the service providers network.

29 (8) The service providers will be deemed as having refused to  
30 provide access to its network for government or its appointed agent as  
31 specified in subsection (4) (b) and (c), and has therefore committed an



1 offence and is liable to pay a penalty of five percent of the annual  
2 gross revenue of the last audited financial statement of the service  
3 provider after the first 30 days and if the penalty is not paid after  
4 ninety days the NCC may revoke the operating licence of that service  
5 provider.

6 16. The Minister and the FIRS may by legislative instrument Regulations,  
7 make regulations for the purpose of giving effect to the provisions of  
8 this Act and may in particular make regulations to prescribe:

9 (a) the form of the tax return and;

10 (b) the records to be kept in respect of the tax.

11 17. In this Act unless the context otherwise requires: Interpretation

12 "Accounting period" means one calendar month;

13 "Charge of electronic communication service usage" means:

14 (a) the amount chargeable by a service provider for electronic  
15 communication service usage other than the amount for Value Added  
16 Tax, National Health Insurance Levy;

17 (b) when the charge for electronic communication service usage  
18 is for money consideration, the open market value excluding the  
19 Value Added tax and the National Health Insurance Levy;

20 (c) where the charge for electronic communication service usage  
21 is partly for money consideration, the open market value excluding  
22 the value added tax and the National Health Insurance Levy;

23 (d) in the case of promotion, protocol, personal use, bonus, gift  
24 and similar supplies. The charge shall be the open market value  
25 excluding VAT and National Health Insurance;

26 "electronic communication services" includes a service providing  
27 electronic communication, a close user group service, a private  
28 electronic communication service, a radio communication service,  
29 and a value added service";

30 "Service provider" means a person permitted or authorised under  
31 the NCC to provide electronic Communication services";

1 "Closed user group service" means electronic Communications  
2 Service, used by a closed user group, operated without  
3 interconnection to a public electronic communications network  
4 enabling electronic communications to persons other than the  
5 members of that group":

6 "Federal Inland Revenue Service (FIRS)" means chairman of  
7 FIRS or any officer, staff, persons, personnel of the FIRS designated  
8 or appointed by the FIRS and acting for or on behalf of the FIRS

9 "Federal Ministry of Communication" means the minister of  
10 communication or any officers, staff or personnel of the Federal  
11 Ministry of Communication or person(s) designated or appointed  
12 by the Federal Ministry of communication and acting for or on  
13 behalf of the Ministry of communication:

14 "The Nigerian Communication Commission (NCC)" means the  
15 Director General of NCC or any officer, staff or personnel of the  
16 NCC or personnel designated or approved by NCC and acting for  
17 or on behalf of the NCC:

18 "Agent appointed by Government, Organization or company  
19 appointed by the government to establish a monitoring mechanism  
20 and monitor the communication service providers for the purpose  
21 of computing taxes due the government under this Act;

22 "Court" means the District, Circuit or High Court;

23 "Prescribed" means by regulations made under this Act;

24 "Service" Means Communication Service;

25 "Tax return" means the records kept and required to be submitted  
26 to the FIRS to account for the Communication Service Tax imposed  
27 under Section 1 of this Act;

28 "Electronic Communication" means any communication through  
29 the use of Wire, radios, optical or electromagnetic transmission  
30 emissions or receiving system or any part of these and includes  
31 interconnection;

1 “electronic connection Network” means any wire, radio, optical  
2 or electromagnetic transmission emission or receiving system, or  
3 any part of these, used for the provision of electronic communication  
4 services; and

5 “Interconnection” means the linking of public electronic  
6 communications network and services to allow the users of one  
7 public electronic communications service to communicate with users  
8 of another public electronic communication service”

9 “Open market value” means the value of a supply of electronic  
10 Communication service determined under paragraph (a) of the  
11 interpretation of “charge payable for electronic communications  
12 service usage” if the supplier, user or any other person concerned  
13 in the transaction were completely independent of each other and  
14 did not in any way influence the transaction”;

15 “private electronic Communication service” means electronic  
16 communication service used with one enterprise or anybody  
17 corporate with which it is affiliated, to satisfy its internal needs and  
18 operated without interconnection to a public electronic  
19 ‘communication’ to persons other than within the enterprise or the  
20 body corporate; and

21 “Recharge” includes any plan scheme or form by which users  
22 receive additional electronic communication services from service  
23 providers;

24 “Supply” means any means by which a user receives electronic  
25 communication services from a service provider”;

26 “User” means a customer or a subscriber of electronic  
27 communication network or service or broadcasting service and  
28 includes a customer that is an operator or provider of electronic  
29 communications network or service; and

30 “Value added tax” includes a service that combines applications  
31 provided to users with telecommunications but does not include any

1 public electronic communication services.  
Short Title: 2 **18.** This Bill may be cited as the Communication Service Tax  
3 Bill, 2015.

EXPLANATORY MEMORANDUM

The Bill seeks to establish Communication Service Tax and other matters connected with it in order to enhance the revenue generation base of the government.