



## WHAT IS TENEMENT RATE?

Tenement rate is a fee, levy, or tax charged and collected on a developed and occupied property by local government or Area Council authorities. In other words, it is a rate or tax levied upon the owners or occupiers of property. Tenement rate is not levied or charged on an empty, unoccupied or undeveloped land. Usually, the tax or rate is



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levied on property which is not government or public owned.

Examples of property on which tenement rate is not levied by local authority includes; all land and buildings used exclusively for public worship, cemeteries and burial ground, property of recognized and registered public institutions certified for not profit making, all palaces of recognized traditional rulers etc. From an economic point of view, tenement

rates form a source of revenue for the local government authority.

## WHO HAS THE POWER TO COLLECT TENEMENT RATE?

The power to collect tenement rate is vested in the local government authorities across various states in Nigeria including the Area Councils in the Federal Capital Territory.



The power of each Local Government/Area Council authority to collect tenement rate is however limited to the area of jurisdiction of the local government authority. Therefore, a Local Government or Area Council authority can only collect tenement rate on property lying and situate within the domain of its area of authority and cannot collect tenement rates on property outside the domain of its authority.

## WHERE DO LOCAL GOVERNMENT/AREA COUNCIL AUTHORITIES DERIVE THE POWER TO COLLECT TENEMENT RATE?

The power of the Local Government or Area Council authorities to collect tenement rate is derived variously from section 7(5) and 1(f) of the 4<sup>th</sup> Schedule to the Constitution of the

Federal Republic of Nigeria, 1999. The Taxes and Levies (Approved List of Collection) Act,



Tenement Rate Laws of the various states,

Bye-Laws of the various Local Government or Area Council authorities. For instance, the combined effects of sections 55 - 58 Local Government Act of 1976 and Tenement Rate Collection Bye-law (No. 20) 2016 and Abuja Municipal Area Council, Tenement Rate Collection Bye-Law (No. 22) 2012 give the Abuja Municipal Area Council (AMAC) and Bwari Area Council (BAC) the power to collect tenement rate on property within their respective domains.

In Kano for instance, in line with section 7(5) and 1(f) of the 4<sup>th</sup> Schedule to the Constitution of the Federal Republic of Nigeria, section 76 of Kano State Local Government Edit 5 (now Law) of 1977 empowers the Local Government Authorities in Kano to make collect tenement rate through the instrumentality of their various bye-laws. In Lagos, the Local Government Authorities are empowered to collect tenement rates by virtue of Tenement Rate Laws of Lagos State through the instrumentality of the various Bye-Laws of the local government authorities concerned in line with section 7(5) and 1(f) of the 4<sup>th</sup> Schedule to the Constitution of the Federal Republic of Nigeria.



## HAS THE COURT SAID ANYTHING ABOUT THE POWER OF THE L.G. TO COLLECT TENEMENT RATE?

There are many judicial authorities in which the various courts in Nigeria have pronounced on the power of the Local Government or Area Council authorities to collect tenement rate. Examples of such cases are *Abuja Municipal Council v. Planned Shelter Ltd & 5 Ors Suit No. CA/A/536/2018*; *Next Level Resort vs Abuja Municipal Area Council & Anor Suit No. FCT/HC/CV/1072/2011*.

In the aforementioned cases, the court held that the concerned Area Council has the power to collect tenement rate within its domain of authority.

Also in *Knight Frank & Rutley (Nig.) & Anor vs A.G. Kano State Suit No. SC 218/1991*, the Court held that the power to collect tenement rate in Kano is vested in the Local Government Authorities in Kano and not on the Kano State Government Authority.

## WHO PAYS TENEMENT RATE, TENANT OR LANDLORD?



The liability to pay tenement rate is placed primarily on the occupier of the property. Most times, the occupier of the property is usually the tenant except where the landlord or the owner of the property is himself the occupier

of the property. See for instance **section 27 (a) of the Bwari Area Council (Tenement Rate Collection) Bye-Law (No. 20) 2016** which provides that the occupier or subsequent purchaser of a tenement shall be primarily liable while owners of such tenement or his agent shall secondarily be liable for the payment of rate except in cases where the owner also resides in the premises and in such cases the owner become primarily liable.

Other Local Government Area Council authorities Bye-Law or state laws on liability to pay tenement rate have similar provisions. For example **section 36 of the Tenement Rates Law of Lagos State** provides similar to the above provision of Bwari Area Council's Bye-law.

However, the rule that the tenement rate should be paid by the occupier of the property is not absolute. Thus, if the rating authority believes that the collection of tenement rate from occupier of a property in multi-occupation will present problems or it is uneconomical to bill individual tenants, the rating authority may then make the owner of the property primarily liable.

### **IS IT NECESSARY TO SPECIFY WHO PAYS TENEMENT RATE IN THE TENANCY AGREEMENT?**

As a matter of practice, the liability to pay tenement rate and other rates, bills or charges is usually placed on the shoulder of the tenant in the tenancy agreement. Most tenancy agreements usually make provisions to the effect that the tenants shall be liable to pay the tenement rate, bills and other levies or charges

on the property which may become due during the subsistence of the tenancy. Thus, in



situation like this, it becomes clear from the beginning of the tenancy relationship whose responsibility it is to pay tenement and other rates.

However, even where such responsibility or liability to pay tenement rate is not clearly stated on the face of the tenancy agreement, by operation of law, the occupier of the property, usually the tenant is primarily liable to pay the tenement rate regardless of whether it is specified in the tenancy agreement or not.

### **HOW DOES THE RATING AUTHORITY ARRIVE AT THE AMOUNT FOR TENEMENT RATE?**

Most bye-laws have provisions on the basis of valuation and method of assessment of tenement rate. Most times the basis of



valuation is based on the gross value while the rentable value is arrived at by deducting an amount from the gross value. In

assessing the tenement rate, the relevant authority is expected to take into

consideration, in determining the gross value, the actual rent passing on the property within the vicinity. However, in calculating the tenement rate, each local government authority has its method and procedure of arriving at the rate to be paid by the occupier of the property

as the tenement rate. For example, the Bwari Area Council's tenement rate is provided to be at uniform rate of

4k per Naira of the calculated assessed value (annual value) and such uniform rate per Naira 'shall be for the time being charges at the rate of 4% per Naira.' It is advisable you check the Bye-law of the relevant Local Government/Area Council Authority to be acquainted with its method and procedure.

### HOW CAN ONE OBJECT TO THE ASSESSED TENEMENT RATE?

There may be instances where the rating authority would bring an exorbitant bill as tenement rate to be paid by the occupier of the property. Most bye-laws of the Local Government/Area Council authorities usually have provisions on the procedure of objecting to the valuation of the tenement used in arriving at the tenement rate. Thus, any owner or occupier of the relevant property who

wishes to dispute or object to such tenement rate can lodge a complaint in form of a Notice of Objection with the Head of the Valuation.

Such Notice of Objection is mostly required to state the grounds of such objection. What is

however common as part of the procedure is that the person filing the objection is mostly required to deposit with the Head of Valuation a sum equal to 50% of the amount of the tenement rate being disputed or objected to pending the hearing and final determination of the objection. Thus, depending on the outcome of the objection, the 50% deposited may eventually be used to offset a part or the whole of the tenement rate due.

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