

## **An Examination of Land-Based Taxation Practice for Land Instrument Registration in Anambra State**

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**ABSTRACT:** *Instrument registration is the process of registering an instrument with the appropriate local or state government agency. Taxation of instruments is the process of imposing a tax on instruments such as mortgages, deeds, and other documents. Taxation is typically done by the local or state government to generate revenue. It is important to note that taxation may vary by state or jurisdiction. This paper however examined land-based taxation practice for instrument registration on Anambra State. Findings indicated among others that that the land-based taxes levied for instrument registration were direct tax, capital gains tax and stamp duty. The study found out that the law provided that the basis of assessment on capital gains tax, is 10% of chargeable gains and the methods of assessment OGT Discount Method, Indexation Method and Other Method (where OGT Discount Method Indexation Method are not suitable). It noted that land and landed property is an undisputable as well as important base for mobilizing revenue to meeting the needs of the locals which Anambra State Government keyed into for revenue generation.*

**KEYWORDS:** land, land-based, instrument, registration, taxation

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### **INTRODUCTION**

There appears to be this ascertain that Nigeria's oil sector is fast depleting, a situation which seems worrisome and to many it is no longer a breaking news. More so, the decline in global oil prices as well as volume demanded by the users has in recent times made diversification of the Nigerian economy from her over-dependence on oil imperative. There also has been a call to make it a mandatory policy issue. Unfortunately, oil revenue dependence appears to have made the country unproductive and more of a consumer. Thus, the cost of running government has been escalated and seen as very high. To that effect the dwindling revenue no doubt has left various governments in Nigeria-Federal, State and Local Governments with no option than to adopt new strategies to improve their revenue base, (Okeke, 2017). It is important to state that one of these strategies of improving Nigeria's revenue base is via land based-taxation.

Land-based taxation is a form of taxation that is based on the value of land or on the ownership of land. It is most commonly used as a form of local taxation in many countries, but it can also be used at a national level. It is generally considered to be a more equitable form of taxation than other forms. Land-based taxation is typically used to fund local services such as schools, public transportation, and public safety. Taxation could be described as an avenue or means by which government or authority in charge of taxation imposes or levies a tax on its citizens including business entities. It could be expressed as a method by which the cost of government works apportioned.

Taxation is a fiscal policy instrument and very crucial. It is usually at the disposal of governments to seek for ways to raise revenue and ensure that there is desired economic growth and development. Taxation is believed to give government opportunity in designing and controlling their development agenda, and offers some greater flexibility in carrying out constructional duty as well as to improve their domestic economic policy environment; this is done by creating an enabling environment where foreign direct investments can thrive and ensure accountability between government and citizens (Odhiambo, 2018).

Land based taxes varies from country to another hence they of various designs which are adopted by respective governments throughout the world. Different versions of property or land-based taxes exist in about 130 countries, (IAAO, 2012). In terms of taxation objectives, Property tax or land tax is basically the same however, they differ in terms of base on which tax is levied. In some countries there is levy on property tax while others levy taxes, but there is has been this consensus in case of its motives which has remained the same (Igwe and Okagbue, 2021). Land based taxes include all dues, fines, fees, and charges that are tied to physical or financial attributes of land. It is a tax which is imposed on both developed or undeveloped land and payable to the governments to ensure redistribution of wealth and as more importantly as a form of government control over the use of land (Oyedele, 2017). Jackson (2009) observed that the land-based levies (fees) and taxes consist of three forms: property tax, land-use-based fees and value capture tax. In Nigeria, their exist land-based taxes which are: capital gains, value added, withholding, capital transfer, inheritance, personal income or company, and documentary or transfer, development levy, ground rents, stamp duties, premium, land use charge, etc. (Igwe, Emengini and Obodo, 2017), Igwe and Okagbue, 2021).

By the provisions of land instrument registration laws applicable at various states of the federation, land instrument is defined as “a document affecting land whereby one party (called the grantor) confers, transfers, limits charges or extinguishes in favour of another party (called the grantee) any right or title to or interest in land and includes a certificate of purchase and a power of attorney under which any instrument may be executed but does not include a will” (Cap 72 Laws of Eastern Nigeria; PTCLR, 20140). In the practice of land registration in Nigeria, the following have been treated as registrable land instrument: certificate of purchase, certificate of occupancy, deed of lease, deed of sublease, deed of under-lease, deed of sub-underlease, deed of assignment, power of attorney, deed of mortgage, deed of release, oil pipe line licence, deed of gift, vesting deed/vesting assent, court’s judgement, caveat (caution) placement and caveat (caution) vacation.

In Anambra State, the body charged with the responsibility of collecting revenues either solely or in collaboration with other agencies approved by the government is the Anambra State Board of Internal Revenue Service (ASIRS). It has collected about 70% of the State's total annual internally generated revenue (IGR) from the following revenue types: pools betting tax, pay as you earn (cash), pay as you earn, direct assessment tax (current), direct assessment tax (arrears), of all these taxes, the land-based taxes are direct assessment tax (current), direct assessment tax (arrears), stamp duty and capital gains tax. The Anambra State Ministry of Lands, Awka in conjunction with ASIRS collects direct assessment tax (current), direct assessment tax (arrears), stamp duty and capital gains tax from the citizens of Anambra State. In collecting the taxes in the process of registration of title documents, a lot of challenges are met. Such things like inequality in the method and or bases of assessment, bureaucracy in the treatment and movement of files from one table to another, determination of acquisition cost arising from lack of information, tax evasion falsification of purchase price, lack of qualified and experienced staff because of poor remuneration and condition of service, etc. This study examined the land-based taxation practice for land instrument registration in Anambra State with focus on the Anambra State Board of Internal Revenue.

## **REVIEW OF LITERATURE**

The Land Instrument Registration Law (1923) defined an instrument as a document affecting land whereby one party (called the grantor) confers, transfers, limits, charges or extinguishes in favour of another party (called the grantee) any right or title to or interest in land and includes a certificate of purchase or a power of attorney under which any instrument may be executed but does not include a will. Cap 72 Laws of Eastern Nigeria as applicable in Anambra State of Nigeria also defined an instrument in the light. The Land Instrument Registration Law (1924) which serves as the enabling law in the states of the Old Eastern Region has the provision for the existence of Land Registry and the position of Deeds Registrar. The Deeds Registrar under the law is charged with the responsibility of registering instruments affecting land in the state.

The history of land instrument registration in Nigeria has been highlighted by the Nigeria's Technical Committee on Land Reform (2014). Based on the Committee's presentation, registration of interest in land was first introduced in Lagos in 1883 by the Registration Ordinance of 1883. The initial land registry for land registration under this ordinance started in Ghana before it was moved to Lagos. In 1923, the Land Instrument Registration Ordinance was again passed for the purpose registration of interests in land in Lagos. Shortly after, in 1925, Land Instrument Registration Law was passed to extend beyond Lagos and have effect throughout Nigeria.

Before the Deeds Registrar can register any instrument, the important checks to be made, according to Akujuru and Durojaiye (2006) are as follows: -

- (a) That the instrument is registrable instrument under Section 2 of Cap 72, Laws of Eastern Nigeria.
- (b) That the instrument is well prepared and executed by the grantor and the grantee.

- (c) That the copy presented for registration is a true copy.
- (d) That Governor's consent is obtained if it's the one requiring content.
- (e) That registration fees as well as stamp duty fees are paid.
- (f) That the payment of capital gains tax is made where applicable.
- (g) That the instrument contains proper description of the parcel of land including survey plan.

The benefits of land instrument registration as highlighted by Onyike (2017) are that it: -

- (i) Enhances security of tenure and tenure rights.
- (ii) Leads to efficient land transfers.
- (iii) Improves acceptability of land as collateral
- (iv) Facilitates development control and public control of land markets and interventions.
- (v) An essential support for land and property taxation.
- (vi) Improves land use and management, including improved land information system for sustainable development, and
- (vii) Improved tax revenue.

The registrable instruments as noted by Madu (2017) are as follows:

1. **Building Certificate of Occupancy** (Statutory/Customary) for either state land or private land.
2. **Deed of Assignment:** In real property transactions, a deed of assignment is a legal document that transfers the interest of the owner of that interest to the person to whom it is assigned, the assignee. When ownership is transferred, the deed of assignment shows the new legal owner of the property (Sprintlaw, 2021).
3. **Deed of Sublease:** A deed of sublease could refer to a document by which a tenant or lessee sublets a part or all of leased premises to another person. The right of a tenant or lessee to sublet largely depends upon the terms of the original lease. If the lease is silent regarding the rights of the lessee or tenant to sublease, it is generally accepted that the tenant or lessee may sublease. However, if the terms of the original lease state that the premises may not be sublet then it cannot be (US Legal, 2021).
4. **Deed of Legal Mortgage:** Section 58 (a) of the Transfer of Property Act, 1882, defines mortgage as, "the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability. The transferor is called a mortgagor. The transferee is a mortgagee. The principal money and interest of which payment is secured for the time being are called the mortgage-money. (Legal Raj, 2021)

5. **Deed of Release:** A Deed of Lease is the formal document entered into for a commercial property by the tenant and landlord after an Agreement to Lease is signed. It is prepared based on the information contained in an Agreement to Lease after terms have been reached by the landlord and the tenant, whether orally or in writing (Fullam, 2018).
6. **Power of Attorney (Irrevocable and Revocable):** A power of attorney (POA) is a document that allows one to appoint a person or organization to manage his property, financial, or medical affairs if he becomes unable to do so. However, all POAs are not created equal. Each type gives the attorney (the person who will be making decisions on your behalf) a different level of control. A general power of attorney gives broad powers to a person or organization (known as an agent or attorney-in-fact) to act on behalf of the client. These powers include handling financial and business transactions, buying life insurance, settling claims, operating business interests, making gifts, and employing professional help. It is an effective tool for someone that intends to be out of the country and need someone to handle certain matters, or when he is physically or mentally incapable of managing his affairs. It is included in an estate plan in most cases to make sure someone can handle financial matters (Rice, 2021).
7. **Deed of Gift:** A Deed of Gift is a voluntary transfer of property from one party (the donor) to another (the donee) without consideration. By using this document, the donor transfers the legal ownership of their property to the donee by way of gift. In other words, the donor gifts the property to the donee, and the donee retains ownership of that property. A minor (person who is under the age of 18) does not have the legal capacity to grant gift, hence, cannot be a donor. However, a minor can accept gifts through their legal guardian. A deed of gift once delivered to the donee is irrevocable i.e., it cannot be changed or reversed except the donor does not have the legal capacity to grant the gift; the gift was given under duress, misrepresentation or mistake surrounding the circumstances; and the gift was transferred with an intention to evade tax or breach the law (Wonder. Legal, 2021).
8. **Deed of Vesting Assent:** A Deed of Assent is a document or instrument of the executor or legal administrator of an estate to transfer, pass over or vest a legal interest or title in a property of a deceased person to the named beneficiary in a will or any other third party. It grants the beneficiary legal ownership over a gift that has been given by a will. The **Administration of Estate Laws** of each State of the Federation governs and regulates the estates of a deceased person.

It is important to state that a will in itself cannot confer title or ownership on a beneficiary, it is just a legal document that expresses how the assets of a testator will be shared upon death. A deed of assent serves the purpose of conferring legal ownership of a gift in a will on the named beneficiaries or a third party by executors or administrators of an estate. Where a deed of assent has been duly executed in favour of the beneficiaries, a third party cannot

subsequently lay claims to the properties that have been dully passed to the intended beneficiaries (Resolution Law, 2021).

As noted by Agwubike (2021), the land instrument registration challenges may be examined from 5 perspectives, namely;

- a) **Registration Process Structure:** The registration process has a structure that is unnecessarily cumbersome and bureaucratic. This creates unnecessary bureaucratic bottlenecks that prolong processing time. Considering the instruments that pile up every month, the result is that most times, files are piled up, leading to registration delays.
- b) **Registration Process Period:** Corollary to the registration process as pointed out earlier; the time it takes from commencement to completion of registration of most types of instruments is unnecessarily long. This has some discouraging effects on the instrument registration applicants who are sometimes compelled by the circumstance to go and put in their personal influence to facilitate speedy registration or abandon going further in the registration process. This practice cannot be seen as acceptable standard and surely falls below international best practices.
- c) **Registration Requirement:** The registration requirements for some types of instruments are unnecessarily wide in coverage. For example, in the application for Certificate of Occupancy, there is this requirement of filling Affidavit of Honour form, which is also requires endorsement by the Court. This is clearly an unnecessary requirement since the Land Use Act provided for Land Use and Allocation Committee to advise the State Governor on Allocations.
- d) **Registration Charges/fees:** The totality of registration charges/fees is considered high by most land instrument registration applicants. For example, from commencement to completion of registration of Certificate of Occupancy of a parcel of land of approximately 1,000m<sup>2</sup> in Millennium City Layout, Awka for residential purpose may cost a person upward of #1,500,000 (one million five hundred thousand naira). This has a discouraging effect as some applicants do not come forward for the payment and therefore fail to have the instrument registered. This denies them the benefits of land instrument registration and sometimes gives room for litigation where a subsequent title document gets registered with the benefit of having priority when the issue of time of registration is in contest. By having discouraging effect to people on registration of instruments, it also indirectly reduces the total revenue generation by government from that source.
- e) **Working Equipment:** The Ministry is not well equipped for efficient and effective land administration. Although registration practice has been computerized to some extent, the computers are still insufficient in number. A good number of staffers do not have computers and accessories on their tables. Also, there is frequent power outage and the only one standby generator does not cover the entire office and many at times not put into use either because of saving fuel or its on repair/servicing. These have remained a

clog in the wheel of progress on digital instrument registration in the State. Furthermore, there is no motor vehicle assigned to the Department of Lands for field inspections which is part of the land instrument registration process.

- f) **Benefit Limitations:** Land instrument registration practice in Anambra State has limited benefits in the area of security of tenure and tenure rights, because it does not guarantee title. It only serves as a notice to the whole world of someone's interest in a piece of land which at best is evidence to prove title but never a proof of title. A document which falsely presents a person as holder of title may be registered in so far, the document as presented for registration is a registrable one. In instrument registration, the duty of government is merely to check whether the document presented for registration is a registrable and not to go and investigate the title before registering it. This explains why title registration rather than instrument registration is a preferred practice. In title registration, government before registration investigates the title to ensure the rightful title holder because government will be held liable for any registration of wrongful title.

## **RESEARCH METHODOLOGY**

Survey and case study research methods were used to obtain, measure and analyse data. To examine the land-based taxes levied for land instrument registration in Anambra state, questionnaires were administered on land agents in the Ministry of lands, Awka since they are involved in the assessment, collection and enforcement of the tax. They were interviewed to ascertain the taxes which land owners are required to pay on registration of their land instruments in the ministry and the basis and method of computing these taxes. Their opinions on the key challenges in the administration of these taxes and areas of possible remedial action by the state were also sampled with some open-ended questions in the questionnaire. A percentage of their responses to the questions were taken to measure the weight of their views. Also content or qualitative analysis of the appropriate tax laws was used. This was done by highlighting, analyzing and discussing the sections of the tax laws concerned with the study and comparing the contents or provisions of the tax laws with an international property tax diagnostic manual by (Kelly 2020). The different variables of the contributions of land-based taxes to the internally generated revenue of Anambra State for a period of ten years was run in statistical software (Spearman's correlation) to determine if its contribution is significant. Weighted mean, frequencies, and percentages on the opinions of the land officers in the Ministry of Lands Awka regarding the key challenges faced in administration of land-based taxes was used.

**FINDINGS AN DISCUSSIONS****Table 1: Demographic Profile of the Respondents (n = 50)**

S/N	Characteristics	Response	Percentages
1	Ministry of Land		
2	Lands Department	50	100%
3	<b>Departments:</b> Lands Department Deeds Unit	44 6	88% 12%
4	<b>Designation/Position:</b> Senior Estate Officer Estate Surveyor Assistant Registrar Deeds Higher Lands Officer Lands Officer	20 8 6 6 6 10	40% 16% 12% 12% 20%
5	<b>Sex:</b> Male Female	14 36	28% 72%
6	<b>Marital Status:</b> Married Single	44 6	88% 12%

The Table 1 represents the profile of the respondents of the questionnaire. It shows that all of the respondents were staff of the Ministry of Lands, Anambra State. 88% of the respondents were from Lands Department while 12% were from Deeds Unit. 40% of the respondents were Senior Estate Officers, while 16% were Estate Officers, 12% responded as Assistant Registrar Deeds, another 12% responded as Senior Lands Officer and 20% responded as Lands Officer. While 72% of the respondents were female, and 28% were male. Majority of the respondents were married representing 88% and 12% of them were singles. In terms of in designation, majority of the respondents are Senior Estate Officers with 40% respondent rate followed by 20% of which were Lands Officers.

**Table 2: Analyses of Respondents' Opinions**

Respondents answered a number of questions to gauge their knowledge about land-based taxation practice for land instrument registration in Anambra state. They ranged from basic questions on land taxation/instrument registration within Anambra state. The numbers of responses are summarized in the following Tables.



**Table 3: Land-Based Taxes/Levies Practiced in Establishments**

Practices	Response	Percentage
Direct Tax (PAYE)	50	100%
Capital Gains Tax	50	100%
Custom and Excise Duty	Nil	Nil
Stamp Duty	50	100%
Value Added Tax	Nil	Nil
Withholding Tax	Nil	Nil
Education Tax	Nil	Nil
Others, specify	Nil	Nil

Table 3 above is the respondents' opinion on the land-based taxes/levies practiced in the Ministry. The all acknowledged that the Ministry collects Direct Tax, Capital Gains Tax and Stamp Duty from its applicants. They also acknowledged that these taxes were collected from applicants in processing their registrable instruments.

**Table 4: Registration Instruments Dealt with in the Ministry**

Registration Instruments	Frequency	Response	Percentage
Irrevocable power of attorney	50	Yes	100%
	0	No	0%
Building certificate of occupancy	50	Yes	100%
	0	No	0%
Customary right of occupancy	50	Yes	100%
	0	No	0%
Temporary occupation license	50	Yes	100%
	0	No	0%
Exchange letter	50	Yes	100%
	0	No	0%
Deeds of assignment	50	Yes	100%
	0	No	0%
Deeds of legal mortgage	50	Yes	100%
	0	No	0%
Others	0	Yes	0%
	50	No	100%

Table 4 shows the registrable instruments that the respondents deal with in their Ministry. 100% of them agreed that they deal with irrevocable power of attorney in their Ministry, building certificate of occupancy, customary right of occupancy, temporary occupation license, exchange letter, deed of assignment and deed of legal mortgage.

**Table 5: Persons that Register Land Instrument in Anambra State**

Persons	Frequency	Response	Percentage
The land owner	50	Yes	100%
	0	No	0%
Next of kin to the land owner	0	Yes	0%
	50	No	100%
Others, please specify	0	Yes	0%
	50	No	100%

Table 5 is the respondent's opinion on who can register land instrument in Anambra state. 100% of the respondents agreed that it was land owners that register land instrument in Anambra state.

**Table 6: Period it Take to Process Land Instrument in Establishments**

S/N	Registrable instrument	Below 1 year	1 year	1-2 years	2-3 years	3 years and above
1	Irrevocable Power of Attorney	50 (100%)	Nil	Nil	Nil	Nil
2	Building Certificate of Occupancy	20 (40%)	5 (10%)	5 (10%)	10 (20%)	10 (20%)
3	Customary Right of Occupancy	50 (100%)	Nil	Nil	Nil	Nil
4	Temporary Occupation License	50 (100%)	Nil	Nil	Nil	Nil
5	Exchange Letter	40 (80%)	5 (10%)	Nil	Nil	5 (10%)
6	Deed of Assignment	20 (40%)	4 (8%)	6 (12 %)	5 (10%)	15 (30%)
7	Deed of Legal Mortgage	46 (91.1%)	4 (8.9%)	Nil	Nil	Nil

Table 6 shows how long it takes to process land instrument in the establishment of the respondents. 100% of the respondents agreed that Irrevocable Power of Attorney, Customary Right of Occupancy and Temporary Occupation Licence are processed within one year. On Building Certificate of Occupancy, majority of the respondents (representing 40%) agreed that it is processed in less than one year or one year (as represented 10% of the respondents) if the land in question is a private land. It can also be processed between one and two years (as represented by 10% of the respondents), two to three years (as represented 20% of the respondents) and three years and above (as represented by another 20% of the respondents). For Exchange Letter, 40 persons representing 80% agreed that it was processed in less than one year, 5 persons representing 10% of the respondents noted that it was processed in one and another 5 persons representing 10% of the respondents observed that it may take more than three years to process. For Deed of Assignment, majority of the respondents (representing 40%) agreed that it was processed in less than one year. It can also be processed in one year (as represented 8% of the respondents). 12% of the respondents were of the view that it can be processed in two years, 10% opined that it can be processed in three years and 30% agreed that

it lasts more than three years to process. For Deed of Legal Mortgage, it could be processed within one year as noted by the respondents representing 91.1% and 8.9%. By oral interview, the respondent noted that the registrable instruments that take beyond one to process had to do with government land as it is the Governor that normally signs the documents.

**Table 7: Level of Land-Based Taxes/Levies Dealt with in Establishments**

Land-based Taxes/Levies	Frequency	Response	Percentage
land value tax	0	Yes	0%
	50	No	100%
Capital Tax Gain	50	Yes	100%
	0	No	0%
Premium	0	Yes	0%
	50	No	100%
Ground Rent (land rates)	0	Yes	0%
	50	No	100%
Stamp Duty	50	Yes	100%
	0	No	0%
Direct Tax	50	Yes	100%
	0	No	0%
Withholding Tax	0	Yes	0%
	50	No	100%
Road tax	0	Yes	0%
	50	No	100%

Table 7 shows the various land-based taxes/levies collected in the Ministry of Lands Awka. When registering land instruments. All the respondents acknowledged that the Ministry of lands, collects Direct Tax, Capital Gains Tax and Stamp Duty from its applicants. They also acknowledged that these taxes were collected from applicants in processing their registrable instruments. This is grossly inadequate as literature review revealed that further taxes can be levied on land instrument registration. However, it is not yet being practiced in the state.

#### **Analysis of Provisions of the Law Governing the Basis and Methods of Assessment of Various Land-Based Tax in the State Compared with the Provisions of the Property Tax Diagnostic Framework by Kelly, 2020**

In principle, there are two major types of land-based taxes collected on land instrument registration in Anambra State and they include:

- (a) Capital Gains Tax; and
- (b) Stamp Duty.

The provisions of the laws governing these taxes on its method and basis of assessment, valuation and computation will be analysed and compared with a property tax diagnostic framework by Kelly, 2020.

**Provisions of The Capital Gains Tax:** the capital gains tax is a tax on profit when you sell or dispose of something that's increased in value. It was introduced in Nigeria by the promulgation of Decree No.44 called the Capital gain Tax Decree 1967 on the 19<sup>th</sup> of October 1967.

**Section 1** of the Act provides that “subject to the provisions of this act there shall be charged a tax to be called capital gains tax for the year of assessment 1967-68 and for subsequent years of assessment in respect of any capital gains, that is to say, gains accruing to any person on or after 1967 on a disposal of assets”. This simply implies that there shall be a tax charged in respect of any gains or profit on disposal of an asset.

Section 3 of the Act, defined the chargeable assets to include but not limited to “any forms of property created by the person disposing of it or otherwise coming to be owned without being acquired. By this, any transaction which involves the sale of property for a consideration is liable to tax on the Capital Gains Act.

**Section 2** defines the method of its assessment. It states in its subsection (1) that the rate of capital gains tax shall be 10%. Whereas in **subsection 2** it made mention of allowances for deductions on expenditure. It states that “capital gains shall be chargeable at the rate made mention in sub section 1 of this section on the total amount of chargeable gains according to any person in a year of assessment after making such deductions as may be allowed under this act in the computation of such gains”. This simply means that the amount to be taxed at 10% is gotten after making deductions of the expenses incurred as allowed by the act in its acquisition or disposal. These permitted deductions, according to **Section 13 (1)** are:

**A** “the amount or value of the consideration, in money or money's worth given by him or on his behalf wholly, exclusively and necessarily for the acquisition of the asset, together with the incidental costs to him of the acquisition or, if the 8 Capital Gain Tax Act asset was not acquired by him, any expenditure wholly, exclusively and necessarily incurred by him in providing the asset;” That is to say any expenses together with incidental cost wholly or exclusively incurred while trying to acquire the land/property himself or by anyone acting on his behalf.

**B** “any amount of an expenditure wholly, exclusively and necessarily incurred on the asset by him or on his behalf for the purposes of enhancing the value of the asset being expenditure reflected in the state or nature of the asset at the time of the disposal;”. Meaning any expenses wholly, exclusively or necessarily incurred in trying to improve the value of the asset/s at the time of the disposal.

**C** “the amount of any expenditure wholly, exclusively and necessarily incurred on the asset by him or on his behalf in establishing, preserving or defending his title to, or a right over, the asset; and”

**D** any incidental cost to him of making the disposal.

**Section 13 (2)** went further to list this incidental cost to consist of any expenditure wholly, exclusively or necessarily incurred for the purpose of acquisition or as the case may be, the disposal being fees, commission or remuneration paid for the professional services of any Surveyor and Valuer or auctioneer, or accountant, or agent or legal adviser and cost of transfer or conveyance (including stamp duties)

**Section 11** provides for the computation of capital gains tax. According to the section, In the computation of any chargeable gains under the Act, such gains as may be chargeable to tax shall, be the difference between the consideration accruing to any person on a disposal of assets and any sum to be excluded from that consideration, and there shall be added to that sum the amount of the value of any expenditure allowable to such person on such disposal by virtue of this Act.

**Section 21 (1)** stipulates the value to be used for valuation of assets for the purpose of computing capital gains tax to be “market value”. It went further in its subsection 3 to explain that in a situation where the market value exceeds the consideration actually paid by the acquirer, the asset shall be deemed to have been acquired for the amount actually paid by the acquirer.

**Section 26** made provisions for bodies or organisations that are exempted from this tax. They include:

- A an ecclesiastical, charitable or educational institution of a public character;
- (b) Any statutory or registered friendly society;
- (c) Any co-operative society registered under the Co-operative Societies Law of any State; or
- (d) Any trade union registered under the Trade Unions Act

**Table 8: Capital Gains Tax for Residential or Commercial Purpose Private Lands on Building Certificate of Occupancy**

S/N	Area/m <sup>2</sup>	Rural (₦)	Urban (₦)
1.	1-1,000	50,000.00	80,000.00
2.	1,001-2,000	70,000.00	1000,000.00
3	2,001-3,000	90,000.00	120,000.00
4.	3,001-4,000	110,000.00	140,000.00
5.	4,001-5,000	130,000.00	160,000.00

Source: Ministry of Lands, Awka.

**Table 9: Capital Gains Tax for Agricultural Purpose on Private Lands on Building Certificate of Occupancy**

S/N	Area/m <sup>2</sup>	Amount Payable (₦)
1	1-1,000	50,000.00
2	1,001-2,000	70,000.00
3	2,001-3,000	90,000.00
4	3,001-4,000	110,000.00
5	4,001-5,000	130,000.00
6	5,001-1 Hectare	150,000.00
7	2 hectares-10 Hectares	200,000.00
8	11 hectares-20 Hectares	300,000.00
9	21 hectares-30 Hectares	500,000.00
10	31 hectares-40 Hectares	1,000,000.00
11	41 hectares-50 Hectares	1,500,000.00
12	50 hectares-100 Hectares	2,000,000.00
13	100 Hectares and above	5,000,000.00

Source: Ministry of Lands, Awka.

**Provisions of the Stamp Duty:** The Anambra State Gazette No.7, Vol. 28 of July, 2018 provided guidelines for the operation of stamp duties in the State. With special reference to Section 163 of 199 Constitution of the Federal Republic of Nigeria sections 3, 4(2), 7(3), 23(9), 91, 92, 113, 114 and 115 of the Stamp Duty Act, LFN 2004, the Act provided for levying of stamp duty on the following items:

**Table 10: Stamp Duty Flat Rate Charges**

S/N	Type of Instrument	Stamp Duty Rate
1	Guarantor's forms, scholarship bond, sealed agreement, partnership agreement, guarantee of bank facilities, trust deeds, memorandum, articles of association, admission form in French, articles of clerkship, trustee, fidelity bond, sealed declaration, protest on bill of exchange, maturity claim, forms for insurance company, memorandum of reports, deed of appointment, ordinary receipts, protest of will, dividend warrant, proxy cards.	N500 for original copy and N50 per counterpart.
2.	Ordinary or open agreement under articles.	N500 for original copy and N50 for extra copy
3	Appointment of trustee or of Attorney	N2,500 for original copy and N50 for extra copy
4	Affidavit affirmation, statutory declaration, agreement (memo) of (handwritten) ordinary	N2,500 for original copy and N50 for extra copy

<b>5</b>	Oath and other affiliate bodies relating to the above	N2,500 for original copy and N50 for extra copy
<b>6</b>	Certificate of Occupancy, Partnership	N2,500 for original copy and N50 for extra copy
<b>7</b>	Will	N2,500 for original copy and N50 for extra copy
<b>8</b>	Notaries Act	N2,500 for original copy and N50 for extra copy
<b>9</b>	Bank cheque per leaflet	N1.00 per leaflet (Premium)
<b>10</b>	Letter or Power of Attorney	N2,500 for original copy and N50 for extra copy

Source: Anambra State Board of Internal Revenue Service

<b>B</b>	<b>Advalorem Charges</b>	<b>Stamp Duties Rate</b>	<b>Percentage</b>	<b>LFN Third Schedule</b>
<b>1.</b>	Insurance Policy/ Policies	N1.50k on every N2,000	0.075%	S8-50
<b>2.</b>	Share capital and share capital increase (TCC required)	N1.50k on N200	0.75%	S8---45
<b>3.</b>	Mortgage or insurance and or debenture in-debenture and their up stamping equitable mortgage (e.g., deposit)	Debenture 75k on every N200 Legal Mortgage 75k on every N200	0.375% 0.75%	S8-49
<b>4.</b>	Bill of sale	75k on every N50	2%	S8-43 &45
<b>5.</b>	Assignment from bank (Amount written on top corner), discharge from insurance company, indemnity or lease of mortgage.	75k on every N50 on transfer 75k on every N50 on mortgage	2% 0.375%	S8-42&49
<b>6.</b>	Discharge or release	15k on every N200	0.375%	S8-50
<b>7.</b>	Loan capital or agreement	15k on every N200	0.125%	S8-34
<b>8.</b>	Surrender, Bills of Exchange	15k on every N200	0.1%	S8-42
<b>9.</b>	Promissory notes of ordinary documents/ LOU	15k on every N200	0.1%	S8-41&42
<b>10.</b>	Lease agreement on plant and machinery	15k on every N200	0.78%	S8-47
<b>11.</b>	Goodwill debenture settlements	15k on every N200	0.375%	S8-52
<b>12.</b>	Contract Agreement	15k on every N200	1%	See S8 of STD Act

<b>13.</b>	Deed of Assignment, Confirmation	15k on every N200	2%	S8-46
<b>14.</b>	Deed of Gift (land)	15k on every N200	2%	See S63 of STD Act
<b>15.</b>	Deeds on Conveyance or Transfer on sale of property	15k on every N200		S8-46
<b>16</b>	Lease Agreement or rent agreement i. If the term is less than one year ii. 1-7years iii. 7-21 years iv. 21-99 years	0-7years 39k on every N50 1-7years 39k on every N50 7-21 yrs. N1.50k on every N50 21 yrs. above N6 on every N100	0.78% 0.78% 3% 6%	S8-47
<b>17.</b>	Marketable securities transferable by delivery	45k on every N20	2.25%	S8-49
<b>18.</b>	Contract note	16k on every N200	1%	S8-45
<b>19.</b>	Settlement of any instrument	75k on every N200	0.375%	S8-52
<b>20.</b>	Appraisalment or valuation of property	N3.00 on every N200	2%	S8-41
<b>21.</b>	Bond (see mortgages)	75k on every N200	0.375%	S8-44
<b>22.</b>	Power of Attorney (Irrevocable/land related)	75k on every N50	20%	S8-46
<b>C.</b>	<b>Non-Chargeable Instruments</b>			
<b>1.</b>	Transfer of shares (Government or Legislative Stock)	Free	N/A	
<b>2.</b>	Shipping agreement	Free	N/A	
<b>3.</b>	Documents from Ministries and Parastatals (letter from legal adviser of the Ministry of Parastatals required)	Free	N/A	

Source: Anambra State Board of Internal Revenue Service

In practice in relation to the tables above, the rate for stamp duty on building certificate of occupancy is 3% of whatever is paid as premium. For irrevocable power of attorney, a flat rate of 5000 naira is paid as stamp duty if there is no consideration in the document and 3% if there is consideration. For deed of legal Mortgage, is 3% of consideration or a flat rate of 5000 naira if there is no consideration. Same goes for deed of assignment, deed of gifts, deed of conveyance.



**Table 11: Comparison between the Various Land-Based Taxes on Registration of Land Instruments and the Property Tax Diagnostic Framework by Kelly (2020)**

<b>S/N</b>	<b>Policies/ Standards of the Property Tax Diagnostic Manual</b>	<b>Provisions in the Capital Gains Tax Regulation</b>	<b>Provisions in the Stamp Duty Regulation.</b>
<b>1</b>	<b>Tax Base Definition</b> <ul style="list-style-type: none"> <li>• Definition of the tax base. (Identifying what is to be included in the tax base i.e., land or land with buildings.)</li> <li>• Definition of the tax subject i.e., where legal responsibility of tax payment lies- is it with land or building.</li> </ul>	<b>Present</b>  <b>present</b>	<b>present</b>  <b>present</b>
<b>2</b>	<b>Tax Exemptions</b> <ul style="list-style-type: none"> <li>• Definition of what is to be excluded in tax base. E.g., Religious properties, government properties.</li> <li>• Define of type of exemption i.e., full or partial exemption</li> </ul>	<b>Present</b> <b>Nil</b>	<b>Nil</b> <b>Nil</b>
<b>3</b>	<b>Tax Base Assessment Basis</b> <ul style="list-style-type: none"> <li>• Definition of the assessment basis to be used i.e. it's value or area</li> <li>• If value based, identify if the capital or rental value approach will be used</li> <li>• Identify if values are based on notional or market-based value</li> <li>• Define the valuation standard been used i.e., current use or highest and best use.</li> <li>• Prescribe the interval between valuations.</li> </ul>	<b>Present</b> <b>Present</b> <b>Present</b> <b>Nil</b> <b>present</b>	<b>Nil</b> <b>Nil</b>  <b>Nil</b> <b>Nil</b>
<b>4</b>	<b>tax rates</b> <ul style="list-style-type: none"> <li>• Define the arm of government responsible for setting rates</li> <li>• Define the tax rate system to be adopted</li> <li>• Prescribe a minimum or maximum tax rate</li> </ul>	<b>Present</b> <b>Present</b> <b>Present</b>	<b>Present</b> <b>Present</b> <b>Present</b>

The provisions of the law governing the land-based taxes levied on registration of land instruments meets all the criteria's of the property tax Diagnostic Manual by Kelly (2020) except in the following:

### Tax Exemptions

The capital gains tax did not include the type of exemption whether it is partial or full exemption. In practice, the present Government through the ministry of lands do not grant any exemptions from capital gains tax to any persons, organisations or societies. The stamp duty act simply mentioned the instruments or documents which are liable to be stamped. It did not make mention of any exemptions be it partial or full.

### Tax Base Assessment Basis

The capital gains Act, did not define the valuation standards to be used i.e. current use or highest and best use. It simply said that the value to be used is its market value.

### Extent Land Based Tax has contributed to the State Internally Generated Revenue

**Table 12: Annual Contribution of Land-Based Revenue (LBR) to IGR of Anambra State, from 2006 to 2019**

Year	Actual LBR (₦)	Annual Actual IGR (₦)
2006	65,236,129.19	4,660,276,868.72
2007	187,610,978.23	6,023,865,075.31
2008	176,442,196.97	6,063,449,455.57
2009	174,760,363.85	6,512,614,019.31
2010	168,173,010.54	7,725,561,681.53
2011	285,021,778.43	6,815,179,492.64
2012	165,054,697.27	7,523,633,009.42
2013	460,741,997.81	8,701,031,064.39
2014	469,362,308.52	12,862,094,088.40
2015	633,963,875.22	13,383,351,271.09
2016	2,035,362,783.00	14,862,633,724.94
2017	1,827,729,114.09	18,197,787,013.29
2018	1,914,826,432.04	17,161,534,822.13
2019	3,657,455,281.53	25,183,562,969.89

Source: Nwafor & Egolum (2021): An analysis on contribution of land-based taxes to Internally Generated Revenue of Anambra State, Nigeria (2021)

Table 12 displays the annual contribution of land-based revenue to internally generated revenue of Anambra state starting from 2006 to 2019 as presented by Nwafor & Egolum (2021): *An analysis on contribution of land-based taxes to internally generated revenue of Anambra state, Nigeria.*

**Table 13: Contribution of Land-Based Tax to State Internally Generated Revenue Using Spearman's Correlations**

		Actual LBR	Annual Actual IGR
Spearman's rho	Correlation Coefficient	1.000	.859
	Sig. (2-tailed)	.	.000
	N	14	14
	Correlation Coefficient	.859	1.000
Annual Actual IGR	Sig. (2-tailed)	.000	.
	N	14	14

The finding from the Table 13 revealed that the correlation between land-based tax and annual internally generated revenue of Anambra state is 0.859 which indicate a strong and positive relationship between the two.

**Table 14: Key Challenges and Areas of Possible Remedial Action in the State**

S/N	Registrable instrument	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Mean	Std. Dev
1	High Cost of official made to the government	6 (12%)	6 (12%)	=====	22 (44%)	16 (32%)	3.720	1.356
2	Long processing time due to delay on a particular desk for many days or weeks by land staff for unofficial payment as tips before they do the needful.	16 (32%)	6 (32%)	4 (8%)	14 (28%)	=====	3.600	1.245
3	Inefficient administrative structure due to analogue system of operation system, use of analogue filling and record keeping.	4 (8%)	=====	=====	20 (40%)	26 (52%)	4.280	1.089
4	Non application of geographic information system and land information system in land administration.	4 (8%)	12 (24%)	10 (20%)	=====	24 (48%)	3.560	1.487
5	Double or multiple allocation of the same plot of land to different persons.	4 (8%)	=====	10 (20%)	22 (44%)	14 (28%)	3.840	1.095
6	Poor working materials and facilities	=====	=====	=====	20 (40%)	30 (60%)	4.600	0.495

<b>7</b>	Irregular electric supply	=====	4 (8%)	4 (8%)	20 (40%)	22 (44%)	4.200	0.904
<b>8</b>	Poor Funding	=====	8 (16%)	4 (8%)	20 (40%)	18 (36%)	3.960	1.049
<b>9</b>	Inappropriate land policy	=====	14 (28%)	12 (24%)	12 (24%)	12 (24%)	3.440	1.146
<b>10</b>	Political Instability	=====	14 (28%)	4 (8%)	14 (28%)	18 (36%)	3.720	1.230
<b>11</b>	Lack of on the training/poorly trained staff	4 (8%)	8 (16%)	10 (20%)	12 (24%)	16 (32%)	3.560	1.312
<b>Aggregate Mean</b>							<b>3.862</b>	<b>1.128</b>

The findings from the Table 14 revealed analysis of the respondents on the key challenges and areas of possible remedial action in the state. The descriptions in the Table shows the mean and standard deviation generated for all the statements on the questionnaire. Results indicated that majority of the respondents are of the opinion that these factors are the key challenges and areas of possible remedial action within the state of Anambra. This is based on the aggregate mean score 3.862 and 1.128 standard deviations which is above the minimum acceptance mean of 3.0.

## SUMMARY OF FINDINGS AND CONCLUSION

This work which concentrated on the examination of the land-based taxation practice for land instrument registration in Anambra State, highlights the major findings as obtained from the analysis of the result are as follows:

It found that the land-based taxes levied for instrument registration were direct tax, capital gains tax and stamp duty.

The study found that the law provided that the basis of assessment on capital gains tax, is 10% of chargeable gains and the methods of assessment OGT Discount Method, Indexation Method and Other Method (where OGT Discount Method Indexation Method are not suitable). In practice at Ministry of Lands, Awka, it is based on size of land. On stamp duty, in relation to building certificate of occupancy the stamp duty rate is 3% of whatever is paid as premium. For irrevocable power of attorney, a flat rate of 5000 naira is paid as stamp duty if there is no consideration in the document and 3% if there is consideration. For deed of legal Mortgage, is 3% of consideration or a flat rate of 5000 naira if there is no consideration. Same goes for deed of assignment, deed of gifts, and deed of conveyance.

It was also found that the provisions of the Capital Gains Act met the required standards except in the areas of a well-defined type of exemption, the valuation standard to be used.

The key challenges include: high cost of official fees made to the government, long processing time due to delay on a particular desk for many days or weeks by land staff for unofficial

payment as tips before they do the needful., inefficient administrative structure due to analogue system of operation system, use of analogue filling and record keeping, non-application of geographic information system and land information system in land administration. double or multiple allocation of the same plot of land to different persons, poor working materials and facilities, irregular electric supply, poor funding, inappropriate land policy, political instability and lack of on-the-job training or poorly trained staff.

Land and landed property no doubt is an undisputable as well as important base for mobilizing revenue to meeting the needs of the locals. Anambra State Government keyed into this all-important source of taxation with the aim of meeting the objective, which is revenue generation for the state. It is interesting to note that land-based system is expected to reflect and be sensitive to the accepted institutions and traditions related to land and property rights.

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