

GEMS 3

TAX TOOLKIT

IMPROVING STATE & LOCAL GOVERNMENT
TAX REVENUE PROCESSES



PART 3:

Tax for Service

LIST OF ABBREVIATIONS

AGM	Annual General Meeting
BIR	Board of Internal Revenue
BMO	Business Membership Organisation
CATU	Council and Traders Union
CBN	Central Bank of Nigeria
CRSG	Cross River State Government
CSO	Civil Society Organisation
DFID	UK Department for International Development
DPM	Director of Personnel Management
ENABLE2	Enhancing Nigerian Advocacy for a Better Business
EXCO	Executive Council
FIRS	Federal Inland Revenue Service
GBP	Great British Pounds
GEMS3	Growth and Employment in States 3
GIZ	Gesellschaft für Internationale Zusammenarbeit
IGR	Internally Generated Revenue
IMO	Interim Management Officer
JTB	Joint Tax Board
KACCIMA	Kano Chamber of Commerce, Industry, Mines and Agriculture
KASTU	Kano State Traders Union
LASAA	Lagos State Signage & Advertisement Agency
LCDA	Local Council Development Areas
LG	Local Government
LG&CA	Local Government and Chieftaincy Affairs
LGA	Local Government Area
LGC	Local Government Councils
LIRS	Lagos State Internal Revenue Service
LRC	Land Records Company, Lagos
M&E	Monitoring and Evaluation
MAN	Manufacturers' Association of Nigeria
MDA	Ministries, Departments and Agencies
MOA	Memorandum of Agreement
MoJ	Ministry of Justice
MoLG	Ministry of Local Government
MOU/MoU	Memorandum of Understanding
NASSI	Nigerian Association of Small Scale Industrialists
NGN	Nigerian Naira
NGO	Non-Governmental Organisation
NIBSS	Nigerian Inter-Bank Settlement System
NURTW	National Union of Road Transport Workers
OPS	Organised Private Sector
PAYE	Pay-As-You-Earn
PIN	Personal Identification Number
PIT	Personal Income Tax
POS	Point of Sales/Point of Service
PPD	Public Private Dialogue
PPEM	Public Private Engagement Mechanism
PT	Presumptive Tax
RCIU	Revenue Complaints and Information Unit
SAVI	State Accountability and Voice Initiative
SHoA	State House of Assembly
SME	Small and Medium Enterprise
SMS	Short Message Service
SOP	Standard Operating Procedures
SPARC	State Partnership for Accountability, Responsiveness and Capability
SWOT	Strengths, Weaknesses, Opportunities and Threats
TAT	Tax Appeal Tribunal
TIN	Taxpayer Identification Number
TNA	Training Needs Analysis
ToT	Training of Trainers
UK	United Kingdom
WEE	Women Economic Empowerment

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1. “TAX FOR SERVICE” AGREEMENTS - INTRODUCTION

1.1 What are “tax for service” agreements?

To overcome reluctance of market traders and motor park operators/users to pay local government taxes, levies and charges, where they have seen no direct result from such payments, local governments are being encouraged to enter into “tax for service” agreements with market and motor park owners (e.g. unions). Under these agreements, commitments are made by state or local governments to allocate a certain percentage of the taxes paid by market traders and motor park operators/users to agreed needed infrastructural improvements (e.g. building toilet blocks, providing overhead water tanks or boreholes, removing refuse, constructing drainage/road networks or providing security lighting) in their specific business areas.

1.2 Reasons for “tax for service” agreements

A tax for service agreement is an incentive for market traders and motor park operators/users to pay state or local government taxes, levies and charges legally and properly payable by them. A certain percentage, typically between 20% and 30%, of such payments are dedicated to be spent on infrastructural improvements in the markets/motor park and business areas of those who pay, with the balance of such payments going into the general LGA revenue “pool”.

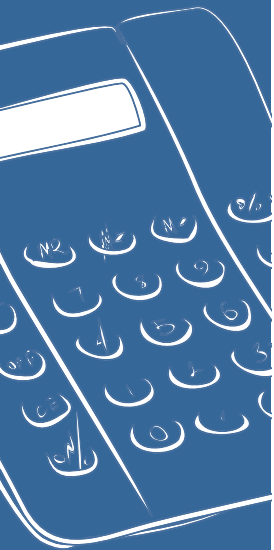
The obligations on states/LGAs under tax for service agreements are to collect only legally authorised harmonised rates and levies (which can be specified in a schedule to the MoU) in specific markets/motor parks and to commit to carrying out any such developmental projects or services to be agreed by both parties in the market/motor park that match a specified % of the total rates and levies collected from the market/motor park annually.

The obligations of stakeholders under tax for service agreements are to support the state or local government in making assessment for the collection of the presumptive tax or harmonised rates and levies by encouraging their members to pay their correct obligations and to appropriately sanction any of their members that default in paying his/her due after he/she has received the required assessment/demand notice.

They are a very visible sign of a direct benefit to market traders and motor park operators/users from the state or local government taxes, levies and charges they are required to pay. As such, tax for service agreements are an important element of market sensitisation efforts relating to the introduction of presumptive tax at state level and harmonised rates and levies at LGA level. The benefits not only directly impact on market traders and motor park operators, but also the buyers in the markets and the users of the motor parks due to the improved facilities that result. In both cases they are a highly visible sign of states and LGAs demonstrating accountability to, and reinforcing their social contract with, tax/levy/charge payers for the monies payable by them.

1.3 Implementation of “tax for service” agreements

A tax for service agreement is generally enshrined in a MoU between the public sector (the state or LGA) and the private sector (representatives of the market traders or motor park owners). It usually arises from a process of the private sector identifying and prioritising their infrastructural needs. It is potentially possible to have a separate MoU for each market and motor park in a state (especially in the state capital) or LGA territorial area.





While formal MoUs between states/LGAs and representatives of markets/motor parks to give effect to such agreements are encouraged (and are included as steps in this Activity Guide), there have been instances of LGAs implementing the tax for service agreement concept in the absence of formal written agreements and/or in advance of receiving payments of taxes, levies and charges from payers in order to fund infrastructural improvements. This is of course acceptable as the “tax for service” concept should be introduced as soon as possible; enshrining this in a MoU is however highly desirable.

Completion of implementation of the “tax for service” tax toolkit item does not require that agreements (whether documented in MoUs or not) have been entered into by all markets and motor parks within a LGA territorial area or by a state where state funding is involved. All that is needed is for confirmation that some agreements have been implemented and that there is an active process under way by a state or LGAs to explore further agreements in markets and motor parks where such agreements have not yet been implemented.

2 “TAX FOR SERVICE” AGREEMENT ACTIVITIES

2.1 Obtain state/LGA agreement to launch “tax for service”

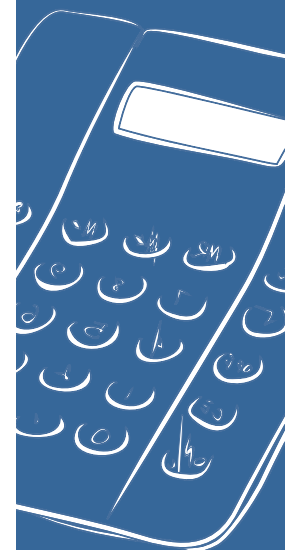
- a. Concept of “tax for service” mentioned during initial GEMS3 introductory meetings with Governor and State Government stakeholders and during initial PPEM meeting
- b. Tax for Service trial shortlist & priority order determined through PPD process for state / LGAs
- c. Negotiate with state or LGAs and relevant stakeholders for at least one trial

2.2 Agreement with stakeholders on “tax for service” projects

- a. Facilitate discussion between private and public sector stakeholders on concept of tax for service and on agreeing priority projects. Where this is to be formalised in a written agreement, take following steps:
- b. Propose and prepare draft MoU between LGA and stakeholder (refer to example attached as appendix 1)
- c. Distribute draft MoU to an MDA or LGA for their consideration
- d. Answer any MDA or LGA questions about the MoU and amend MoU as necessary
- e. Obtain MDA or LGA approval that draft can be forwarded to stakeholder
- f. Forward MoU to stakeholder for consideration
- g. Answer any stakeholder questions about the MoU and amend as necessary
- h. Co-ordinate as necessary between MDA or LGA and stakeholder until a version of the MoU is acceptable to both parties

2.3 Consider holding public forum initiating “tax for service”

- a. Decide with stakeholders if appropriate to hold public forum initiating tax for service. Where it is decided to do so, take following steps:
- b. Design publicity campaign for announcing tax for service and/or signing of tax for service MoU
- c. Discuss publicity campaign with MDA or LGA and identify date(s) for public forum
- d. Confirm details and date with stakeholder
- e. If a written agreement such as a MoU, confirm signatories for MDA (e.g. Commissioner, Permanent Secretary, Executive Secretary) or LGA (e.g. LGA Chairperson, IMO and / or DPM) and stakeholder



f. Make arrangements for public forum

- Confirm venue for public forum
 - Ensure invitations are issued to key stakeholders, including women's groups
 - Conduct publicity for general public
 - Arrange media attendance
 - Design and prepare publicity materials (e.g. banners, hand-outs)
 - Prepare GEMS3 presentation and where appropriate final copies of MoU for signing
- g. GEMS3 presentation and where appropriate formal signing of MoU at public forum
- h. Post public forum publicity

2.4. Ensure “tax for service” projects being implemented

- a. Follow up with LGA or the relevant MDA to ensure work on “tax for service” implementation has commenced
- b. Monitor progress on implementation of initial “tax for service” project(s)
- c. Record (photograph) results of initial “tax for service” projects
- d. Follow up with LGA or the relevant MDA to ensure additional “tax for service” projects (either additional projects in the same market/motor park and/or projects in different markets/motor parks) have been identified and initial work on their implementation has commenced
- e. If satisfied “tax for service” process can continue without further GEMS3 involvement, record milestone (ensure “tax for service” projects being implemented) as having been met





APPENDIX 1 – “TAX FOR SERVICE” MOU EXAMPLE – FAGGE LGA, KANO

MEMORANDUM OF UNDERSTANDING
BETWEEN
FAGGE LOCAL GOVERNMENT COUNCIL
AND
KANO STATE TRADERS UNION (KASTU)

THIS MOU is made day of 2013 between FAGGE LOCAL GOVERNMENT COUNCIL OF KANO STATE OF NIGERIA (hereinafter referred to as “the Local Government” which expression shall where the context so admits include its successors in title and assigns), having its principal place of business at Muhammad Vice Adamu Secretariat Fagge Local Government of Kano State of Nigeria of the first part;

AND

Kano State Traders Union (hereinafter referred to as “the traders union” which expression shall where the context so admits include its successors in title and assigns), having its principal place of business at No. ...Gidan Bature Abdulazeez opposite Gidan Ibrahimawa Kwari Market Fagge Local Government Area of Kano State of Nigeria of the second part.

The Local government and the traders union shall be collectively referred to as the “Parties” and individually called “Party”.

WHEREAS:

1. The Local Government is established for the administration of business activities within its territorial jurisdiction.
2. The local government is responsible for the collection of rates and taxes from businesses and markets within its territorial jurisdiction
3. The Kano State Traders Union (KASTU) is the umbrella organization of all traders carrying out businesses in Kwari market in particular and Kano State in general.
4. All members of the Kano State Traders Union (KASTU) are liable to pay taxes and rates to Fagge local government as contained in the Bye Law of the local government.

In consideration of the covenants, terms and conditions set forth herein, the Parties agree as follows:

1. OBLIGATIONS OF FAGGE LOCAL GOVERNMENT:

- 1.1. The local government hereby agrees to concentrate on the collection the taxes and rates stipulated in the schedule to this MoU within its area of operations in Kwari market pending the passage of the Kano State Local Governments Harmonized Taxes and Rates Law 2013
- 1.2. The local government shall be responsible the collection of refuse at the refuse dumping sites of the market at mini motor park popularly known as “Filin parking” along Ibrahim Taiwo Road Kano and also beside Sheikh Ahmadu Tijjani Mosque by IBB Way Kano
- 1.3. The local government agrees to carry out any such developmental project or service to be agreed by both parties in Kwari market that does not exceed 20% of the total income received from the market per annum.

- 1.4. The local government would adhere to the procedure of collection of taxes and rates from the market operators in accordance with its bye law.
- 1.5. The local government shall carryout such other duties as they may be necessary in the discharge of its obligations in this MOU.

2. OBLIGATIONS OF KASTU:

- 2.1. The officials of KASTU would support the local government in making assessment for the collection of the agreed taxes and rates contained in the schedule to this MoU.
- 2.2. The officials of KASTU shall support the local government in the collection the agreed taxes and rates contained in the schedule to this MoU.
- 2.3. The officials of KASTU shall on their part appropriately sanction any of their members that default in paying his/her due after he/she has received the required demand notice
- 2.4. The officials of KASTU shall carryout such other duties as they may be necessary in the discharge of its obligations in this MOU.

3. EFFECTIVE DATE:

The term of this MOU shall begin on the effective date which is the date of the execution of this MOU and continue until terminated by either Party subject to the provision of Paragraph of this MOU.

4. FORCE MAJEURE:

The obligations of either of the Parties prevented from, or delayed in, complying with its obligations, in whole or in part, by Force Majeure shall to the extent that such obligations are affected by such Force Majeure, be suspended during the continuance of any inability so caused. The Party so affected shall use all reasonable diligence to remove or remedy the Force Majeure situation with all reasonable dispatch in an economic manner; provided, however, that the settlement of labour disputes, including strikes or lockouts, shall, subject to the other terms of this MOU, be entirely within the discretion of the Party having the difficulty.

5. AMENDMENT:

This MOU contains the entire understanding of the Parties and may not be amended, modified, superseded or canceled except in writing signed by both parties. This provision is without prejudice to any rights, which may have already accrued under prior understandings or written or oral agreements.

6. SEVERABILITY:

Each provision of this MOU constitutes a separate and distinct undertaking, covenant and/or provision hereof. If any provision(s) of this MOU shall be adjudged by any court or arbitration panel of any competent jurisdiction to be unenforceable or invalid, such provision(s) shall be limited or eliminated to the minimum extent necessary so that this MOU shall otherwise remain in full force and effect and enforceable.

7. GOVERNING LAW:

This MOU and all the rights and duties of the Parties arising from or relating in any way to the subject matter of this MOU or the transactions contemplated by it shall be governed by and construed and enforced in accordance with the laws of Nigeria.

**8. DISPUTE RESOLUTION:**

- 8.1. Any dispute or differences arising in connection with this MOU, which the Parties have not been able to resolve by dialogue, shall be referred to an arbitrator jointly appointed by the Parties who shall act in accordance with the provisions of the Arbitration and Conciliation Act, Cap. A18, Laws of the Federation of Nigeria 2004.
- 8.2. Any claim, action, dispute or controversy of any kind arising out of or relating to this MOU or concerning any aspect of performance by any Party under the terms of this MOU (a 'Dispute') shall be resolved by final and binding arbitration administered pursuant to the provisions of the Arbitration and Conciliation Act, Cap. A18, Laws of the Federation of Nigeria, 2004. The fact that arbitration is or may be allowed will not impair the exercise of any termination rights under this MOU or rights to seek injunctive or other equitable relief.

IN WITNESS WHEREOF the parties have caused their seals to be hereto affixed the day aforementioned.

The Common Seal of the within named
FAGGE LOCAL GOVERNMENT COUNCIL

was hereto affixed in the presence of:

DIRECTOR PERSONNEL MANAGEMENT

TREASURER

The Common Seal of the within named

INCORPORATED TRUSTEES OF KANO STATE TRADERS UNION,

was hereto affixed in the presence of:

CHAIRMAN

SECRETARY

SCHEDULE

	Description	Amount
1	Tenement rate	
2	Loading and uploading	
3	Shop/Kiosk rates	
4	Sanitation charges	



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