

# PAYE tax in Nigeria: A guide to taxation of employees

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Personal Income Tax is the charge on the income of individuals, trustees, and executors. In Nigeria, the two key legislation are the Personal Income Tax Amendment Act 2011 (PITAM) and Finance Act 2020. The effective date of the Finance Act 2020 is 1 January 2021. This article provides a guide on the taxation of employees in Nigeria.

## Basis of taxation

Employees pay tax based on residency. Thus, an employee will be a tax resident if the;

1. employee works fully (or partially) in Nigeria or
2. employer is in Nigeria or
3. employer has a fixed base in Nigeria.

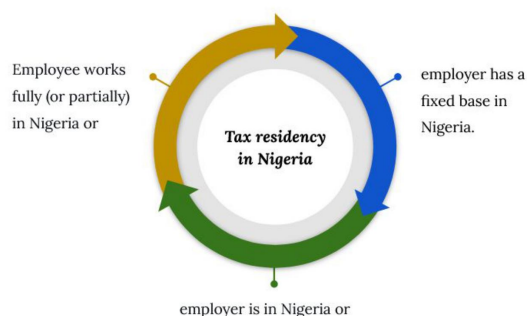


Fig 1: Three conditions for residency

Also, an expatriate employee may be liable to tax in Nigeria unless the;

1. employee stayed less than 183 days in any period of 12-months;
2. employer is not resident in Nigeria;
3. non-resident employer bears the employee cost; and
4. employee has paid tax in another country.



Fig 2: Conditions for exempting non-resident individuals

Notwithstanding the four conditions for taxation of foreign employees in Nigeria, the Finance Act (FA) 2020 introduced the significant economic presence rule for personal income tax (PIT). The gains or profits of the trade or business will be taxable in Nigeria when an individual, executor, or trustee outside Nigeria provides technical, management, consultancy, or professional services to a person resident in Nigeria.

The withholding tax (WHT) on such income will be the final tax. Currently, the WHT rate for transactions of this nature is 5%. As SEP considers cross border activities, a non-resident person (NRP) may seek tax relief under a double tax treaty. Furthermore, the Minister of Finance may issue an Order to define the activities that constitute a significant economic presence under PIT.

## Chargeable income

Once an employee is a tax-resident in Nigeria, income tax will be payable on the worldwide income. Worldwide income refers to income received within and outside Nigeria. Meanwhile, income chargeable to PIT includes income from all sources minus all non-taxable income, income on which no further tax is payable, tax-exempt items, allowable business expenses, and capital allowance. In other words, the gross income of an employee who earns only emoluments will be as follows;

- ❖ Employment income less non-taxable income, income on which no further tax is payable, and tax-exempt items.

The statutory tax allowances and reliefs are:

1. Premium paid in the prior year for a life insurance policy of a person or a spouse.
2. Contribution(s) to an approved pension fund, National Health Insurance Scheme, and National Housing Fund
3. Gratuities
4. Consolidated relief allowance or CRA; that is the higher of NGN200,000 per annum or 1% of annual gross income, plus 20% of the gross income per annum. Note that the new definition of gross income is gross emoluments minus all statutory reliefs.

## Tax rates, Returns, and Due dates

### Rates

Nigeria adopts a Pay-As-You-Earn (PAYE) system to calculate the personal income tax of employees. It is called PAYE tax. This tax rate progresses from 7 percent to 24 percent of taxable income. The taxable income band ranges from NGN300,000 to above NGN3.2 million in a year.

Annual taxable income (NGN)	Rate	Tax payable per annum (NGN)
First NGN300,00	7%	21,000
Next NGN300,000	11%	33,000
Next NGN500,000	15%	75,000
Next NGN500,000	19%	95,000
Next NGN1,600,000	21%	336,000
Above NGN3,200,000	24%	Multiply only the excess amount over NGN3.2 million by 24%. For example, an annual taxable income of NGN5 million is (5-3.2) million * 24% = NGN432,000

Table 1 showing the personal income tax rate in Nigeria

A minimum tax of 1 percent of gross income will apply where an individual has no taxable income or where the PAYE tax is less than the minimum tax. However, a low-income earner is exempt from minimum tax in Nigeria. The Finance Act 2020 defines a low-income earner as a person who earns the National Minimum Wage or less. At the moment, the threshold in Nigeria stands NGN30,000 per month or NGN360,000 per annum.

### Due date for monthly returns

Furthermore, an employer will deduct monthly PAYE tax from employees' salary and remit the tax to the relevant tax authority through designated banks. The due date is within ten (10) days of the next month.

### Annual Returns

There are two annual PAYE tax returns that an employer should file on behalf of an employee. They are Form H1 and Form A. Another name for the Form H1 return is an annual employer's tax return. It shows the name, gross income per annum, and PAYE taxes of employees in the preceding tax year. In practice, a taxpayer files Form G alongside Form H1.

Form G shows details of the annual PAYE tax paid and the corresponding receipts. The due date for filing Form H1 is 31 January of the following year.

On the other hand, Form A is an annual declaration of individual income and claims for allowances and reliefs form. 31 March of the current year is the due date for filing Form A.


### Conclusion


Changes in the PIT law will affect the calculation and report. Employers and persons in a management capacity should assess the impact of the new law on their employees. For specific guidance, BRC can assist with a customized payroll tax solution.





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