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NIGERIA

Income Tax in Nigeria for Expats

OUTLINE

INTRODUCTION

Multinational companies often send employees to another country for business purposes. It could be a formal or an informal assignment. An example of an employee on formal assignment is an expatriate. An expatriate is a person residing in another (host) country for work reasons. The duration ranges from short-term, medium-term, and long-term. A company in Nigeria must get a permit from the Federal Ministry of Interior before hiring an expatriate.

In contrast, frequent business travelers is an example of an informal assignment. Business travelers are individuals who attend official events in a foreign country. Foreigners entering Nigeria must get a permit or visa from the Nigerian Immigration Service (NIS). Personal Income Tax (PIT) (Amendment) Act, 2011 ("PITAM") places other compliance requirements for taxation of non-resident employees and local employees.

RESIDENCY RULE FOR EXPATRIATES

An expatriate will be a tax resident in Nigeria unless the:

1. duration of stay is less than 183 days in 12 months including period of annual leave or temporary absence;
2. employer is not resident in Nigeria;
3. non-resident employer bears the employee cost; and
4. employee's income has been taxed in another country.

The Finance Act 2020 also introduced the significant economic presence rule for individuals. Expatriates placed on expatriate quota are liable to income tax in Nigeria; notwithstanding the duration of stay. An expatriate quota (EQ) is an approval issued by the Ministry of Interior to joint venture and foreign owned companies in Nigeria. Holding an EQ enables a company to employ expatriates for an initial period of three (3) years and renewable for two (2) years until the total duration of ten (10) years.

On the other hand, frequent business travelers are not confined to an assignment policy. It is difficult to calculate their duration of stay and ascertain when they trigger tax risk.

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CHARGEABLE INCOME FOR EXPATRIATE TAX IN NIGERIA

Non-resident employees pay income tax on their worldwide income. Worldwide income means income received within and outside Nigeria; including any salary, gain, profit, benefit, and allowance arising from employment. When an expatriate receives a non-cash benefit, for example, a car or accommodation, instead of a cash allowance, such item is a benefit-in-kind (BIK) and subject to personal income tax.

BIK for an asset is five percent (5%) of the cost of an asset otherwise market value if cost cannot be determined. Similarly, where an employer pays rent for the benefit of an expatriate, then the BIK is the actual rent paid.

Statutory tax allowances and reliefs available to reduce the chargeable income are:

- Consolidated relief allowance: the higher of NGN200,000 per annum or 1% of annual gross income, plus 20% of the annual gross income
- Premium on a life insurance policy for self or spouse
- Contribution(s) to an approved pension fund, National Health Insurance Scheme, National Housing Fund
- Gratuities

INCOME TAX RATE FOR EXPATS IN NIGERIA

There is no difference between the income tax rate for expats and local employees in Nigeria. Nigeria uses the Pay-As-You-Earn (PAYE) system to calculate personal income tax which is PAYE tax.

The annual PAYE tax rate progresses from seven percent (7%) to twenty-four percent (24%) of taxable income. The taxable income band is from NGN 300,000 to above NGN 3,200,000 in a year. However, a minimum tax of one percent (1%) of gross income applies where an individual has no taxable income or the PAYE tax is lower than the minimum tax. This rarely occurs for foreign employees.

STATUTORY PAYE TAX RETURNS

An employer is responsible for deducting monthly PAYE tax from employees' salaries and remitting the same to the relevant tax authority within 10 days of the next month. The two (2) annual PAYE tax returns that an employer must file are Form H1 and Form A.

- Form H1 shows the names, annual gross income, and PAYE taxes of employees in the preceding tax year. The due date for filing Form H1 is 31 January in the next year.

- 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.

EXPATRIATE EMPLOYMENT LEVY

Companies that hire expatriate employees in Nigeria are also required to pay the **expatriate employment levy (EEL).** The EEL card will serve as a passport for the lawful entry into and departure from Nigeria. The policy was introduced in February 2024. However, the Federal Government is yet to implement the EEL policy.

CONCLUSION

Employee movement usually creates compliance requirements for the individual in one or more countries. During tax audits, the tax authorities collaborate with the Nigerian Immigration Service to determine the days a non-resident stays in Nigeria.

Hence, employers may create measures to track the duration of stay of business travelers. Also, the nature of services that a non-resident employee renders in Nigeria should be analyzed cautiously to determine the tax residency status. HR professionals and non-resident employees must recognize the attendant risk of international assignment.

Therefore, companies should track assignees' income and determine the payroll reporting for home and host locations. Speaking with a mobility expert is essential. This is one of the benefits of assignment briefings.

Tax briefings are a positive, proactive, and useful tool to help employees overcome a tough time in a new country. Detailed advice will make the transition process easier.