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Global Mobility Services: Taxation of International Assignees - Nigeria

Taxation issues & related matters for employers & employees 2018

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Country: Nigeria

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Introduction: International assignees working in the Nigeria

This Guide is intended to assist foreign nationals working in Nigeria with their tax compliance and planning. It gives a broad background to taxation in Nigeria and other important aspects to be considered by a foreign national working in Nigeria.

This Guide is not intended to be a comprehensive and exhaustive study of Nigerian tax law, but should be used as a guide to prepare for an assignment in Nigeria. Therefore, any decisions regarding an international assignment should be made only after obtaining professional advice.

This document reflects Nigerian tax law and practice as at June 2018 and tax rates, bands and allowances applying for the 2018 tax year.

Further information may be obtained from our contacts listed in Appendix F.

Step 1:
Understanding basic principles

The scope of taxation in Nigeria

1. Individuals are subject to tax on all income derived from Nigeria with specific exemptions. Tax is paid to the relevant states based on residency rules. All 36 States in Nigeria plus the Federal Capital Territory are responsible for collecting Personal Income Tax (PIT) from people resident in their state.

2. An Individual is subject to tax in Nigeria if he or she has a Nigerian employment or if the employment duties are wholly or partly performed in Nigeria.

3. Where the employment duties are partly or wholly performed in Nigeria the individual will be taxable in Nigeria unless:

   i. The duties are performed on behalf of an employer who is in a country other than Nigeria, and the remuneration of the employee in not borne by a fixed base of the employer in Nigeria; and

   ii. The employee is not in Nigeria for a period or periods amounting to an aggregate of 183 days or more inclusive of annual leave or temporary period of absence in any twelve month period; and

   iii. The remuneration of the employee is liable to tax in that other country under the provisions of the avoidance of double taxation treaty with that other country.

4. An individual has to meet all three requirements above to be exempted from income tax in Nigeria.

The tax year

5. The Nigerian tax year runs from 1 January to 31 December.

Methods of calculating tax

6. The PIT is levied on a graduated rate that ranges from 7% to 24%. After taking the tax exempt amount which is the Consolidated Relief Allowance (CRA) into account, the marginal rates range from 5.5% to 19.2%. Residents and nonresidents are taxed at the same rates.

7. The CRA is granted to all taxable individuals before tax is computed. The relief is 20% of gross income plus the higher of N200,000 (about USD 655) or 1% of gross income.

8. Additional allowances are also granted as a relief when the assignee files the appropriate return. The allowances include children allowance of N2,500 per annum for a maximum of 4 children and dependant relative allowance of N2,000 for a maximum of 2 dependants.

9. Tax is then computed on the taxable income which is Gross emolument minus allowable deductions, tax reliefs and allowances.

Residents and Non-residents

10. The Act does not define residents or nonresidents in Nigeria. However, places of residence are defined for the purpose of determining the taxing rights of states. In some instances, a resident person can be implied. A person is considered resident in Nigeria if he:

    a. lives in Nigeria; or

    b. serves as a diplomat or diplomatic agent of Nigeria in a country other than Nigeria.

11. An individual is resident from the first day of arrival into Nigeria, if the individual came in on a ‘subject to regularisation’ visa to occupy an expatriate quota position. This is because he has a

Nigerian employer and is peforming all or part of his duties in Nigeria.

12. Where Nigeria has a double tax treaty (DTA) with the Assignee's country, the provisions of the DTA take precedence.

Determination of taxability

13. An assignee is determined to be liable to tax in Nigeria on a case by case basis. Factors to consider include duration of the assignment, immigration status, nationality of the expatriate staff and whether the staff cost will be recharged to the Nigerian entity.

Employee stock option

14. There is no specific provision in the tax legislation regarding the taxation of stock options. However, under the tax law, all benefits derived from employment are taxable. Affected employers and their expatriates should consider the Nigerian tax implications as well as the home country tax implications before implementation. Planning should be implemented at the early stage to minimise the risk of double taxation.

15. The Lagos State Internal Revenue Service (LIRS) issued a guideline on taxable benefit on share options being the difference between the price paid for the shares and the value of the shares on the date of exercise.

16. We recommend that taxpayers seek professional advice prior to the exercise or vesting of any share options and/or the disposal of any shares acquired under an employee share option scheme.

Step 2:
Understanding the Nigeria tax system

Taxation of employment income

17. Employment income includes salaries, wages, fees, allowances or other gain or profit from employment including compensations, bonuses, premiums, benefit or other perquisites allowed. Employment income is subject to monthly Pay-As-You-Earn (PAYE) tax which is deducted by the employer and remitted to the relevant tax authorities on a monthly basis.

Benefits

18. Non-cash benefits received from employment are deemed to be part of the employee's gross emoluments thereby making them taxable in the hands of the employee.

19. Accommodation benefit provided by the employer is taxable in the hands of the employee regardless of whether the property is owned or rented by the employer. Based on the law, accommodation benefit is taxable based on annual values as determined for local rates purposes and in any other case as determined by the relevant tax authority.

    However in practice the annual value is usually lower than the rent paid. The LIRS also issued a guideline on valuation of accommodation provided by the employer.

20. The taxable benefit of an asset (other than accommodation) is 5% per annum of the cost where the asset is owned by the employer or the actual rent paid where the asset is leased by the employer.

21. Taxable benefit in all other cases is the annual amount expended by the employer for the benefit of the employee.

22. However the reimbursement of expenses incurred in the performance of employment duties is tax exempt.

23. Reasonable removal expenses, which may or may not include a temporary subsistence allowance, are not liable to tax. Where the employer bears all the cost of relocation, any payment of relocation allowance will be liable to tax. The LIRS issued a guideline on reasonable removal expense and requires companies to seek pre-approval of their removal expense as the removal expense may be subjective.

Deductions

24. The following deductions are tax exempt:

    a. National Housing Fund Contribution

    b. National Health Insurance Scheme

    c. Life Assurance Premium

    d. National Pension Scheme; and

    e. Gratuity.

Taxation of investment income

25. Interest income earned from debt instruments including treasury bills and corporate bonds are fully exempt while withholding tax at 10% is the final tax on dividend, royalties and other interest income.

26. Dividend, interest, rent, royalties, fee, commission earned from abroad and brought into Nigeria by a Nigerian resident is exempt from tax, provided that such income is brought in convertible currency and paid into a domiciliary account in a bank approved by the Government

Capital Gains Tax

27. Gains accruing to a chargeable person on the disposal of chargeable assets are subject to tax under the Capital Gains Tax Act at the rate of 10%. There is no distinction between long-term and short-term gains and no inflation adjustment to cost for CGT purposes.

28. All forms of assets, including options, debts, goodwill, and foreign currency, other than those specifically exempt, are liable for CGT. The gains on the disposal of shares are exempt from CGT.

29. For a person who is in Nigeria temporarily, but in the country for more than 183 days in the year, CGT is applicable on the chargeable gains received or brought into Nigeria in respect of assets situated outside Nigeria.

30. Capital losses are not allowed as an offset against chargeable gains accruing to a person from the disposal of any assets.

Foreign tax credit

31. Nigeria grants tax relief for foreign tax suffered on the same income or gains, either under its network of double taxation agreements or through unilateral tax relief. The credit is restricted to the lower of the foreign tax suffered and the Nigerian tax liability on the same income.

Double taxation agreements

32. Nigeria currently has in force 13 double taxation treaties. List of countries are in appendix c.

Social security contributions

33. Expatriate assignees are not expressly exempted from pension contribution under the Act. However, based on guidelines issued by the Pension Commission it is not compulsory for assignees to join the Nigerian pension scheme but may join at their discretion and with the agreement of their employees. The contribution is due not later than 7 working days from the day salary is paid.Contributions to foreign pension schemes are not tax deductible.

34. The employer is liable to social contributions on the assignees total payroll cost at 1% for Industrial Training Fund and Employee Compensation Scheme each.

Exchange Control

35. Exchange controls are regulated by the Foreign Exchange (Monitoring and Miscellaneous Provisions)

Act. Foregn currency can be purchased from authorised dealers for authorised transactions.

36. An employer can transfer the total salary to assignee's foreign bank accounts. However, funds for salary payment in foreign currency cannot be sourced from an authorised dealer in Nigeria. The funds can only be from the employer's domiciliary account or offshore sources.

37. An employer may pay the assignee in local currency and then the assignee can source foreign currency for transfer to a foreign account provided the relevant taxes have been paid. Remittances by resident foreign nationals/expatriates for the maintenance of dependents on their own accounts or for any purpose whatsoever are allowed up to 100% of their net income while physically resident in Nigeria.

Important tax compliance dates to remember

38. Employers are required to remit taxes deducted from employees on a monthly basis on or before 10th of the following month.

39. Employers are required to file a return of all emoluments paid to employees in the previous year not later that 31st January of every year.

40. Income Tax Form for Return of Income and Claims for Allowances and Reliefs should be done before 31 March of the year.

Step 3

What to do before you arrive in Nigeria

Work Permit

41. Unless you are a national of the Economic Countries of West African States (ECOWAS), you may require immigration permission before you can begin your assignment in Nigeria.

ECOWAS Nationals

42. National from an ECOWAS country will be entitled to a residence card without the employer having expatriate quota positions as long as the assignee has valid Nigerian employment or sponsor. The cards are valid for five years and establish residency rights and business rights in Nigeria and other ECOWAS member states.

Non-ECOWAS Nationals

43. Assignees coming to Nigeria to work need a valid work permit. Assignees on a short period of ninety days or less require a Temporary Work Permit (TWP) which allows an assignee to work on projects or special assignments undertaken by a Nigerian subsidiary or business partner. It is a single journey entry visa issued by the Nigerian embassy or high commission abroad for a period of 2 months. The process for a TWP visa commences in Nigeria, where the Nigeria Immigration Service (NIS) issues a cablegram that is to serve as the authority to issue the visa by the Nigerian Embassy or High Commission in the home country or country of legal residence.

44. The assignee cannot apply for a business visa without a sponsor in Nigeria. All work permits and business visas need a Nigerian sponsor or Employer.

Immigration regularization

45. Assignees coming to Nigeria for a long term assignment are required to come in on an expatriate quota. The Assignee will come into Nigeria on a "Subject to Regularization (STR)" visa. Upon arrival, the employer will apply for resident permit known as Combined Expatriate Resident Permit and Alien Card (CERPAC). This is valid for 1 year. Re-entry Visas are no longer required.

Employment contracts

46. If you have a Nigerian employment, your employer is required to give you a written statement of specified terms and conditions of your employment.

Step 4:
What to do when you arrive in Nigeria

Tax Entry Briefing

47. An entry briefing with a PwC specialist on arrival in Nigeria will enable all Nigerian Tax Issues to be identified and tax planning opportunities can be identified at the early stages of an assignment.

Registration

48. An assignee working in Nigeria may be required to register as a taxpayer with the State Internal Revenue Service (SIRS). This depends on the state where the assignee is resident. However, all employers are required to register for personal income tax remittance for its employees.

PAYE Tax

49. Nigeria operates a PAYE system. Under the system employers are required to deduct on a monthly basis and account for Personal Income Tax on the employment income of their employees. Tax is deducted from the first month of employment. The tax deducted must be remitted to the relevant tax authority on or before the 10th day of the month following the payment of Salary.

Step 5:

What to do at the end of the year

Tax Returns

50. **Employers** are required to file the following annual returns with the relevant Internal Revenue Service:

    a. **Form H1** The employer's annual declaration, which shows the income of the employees in the preceding year, taxes deducted and remitted to the tax authority from such income. The due date for filing this return is 31 January.

    b. **Form G -** The employer's remittance card which shows the monthly remittance made to the relevant authority during a year of assessment and tax reference number on the receipt issued by the authority. Copies of the receipt are to accompany the Form G.

51. Upon filing of (a) & (b) above, employers are required to apply to the tax authority for the processing of individual tax clearance certificates for their employees in respect of taxes remitted to the tax authority in the preceding year.

52. **Individuals** including expatriate staff, local employees and self-employed persons are required to file self-assessment tax returns on or before 31 March. The returns should contain detailed information about all income including non-employment income and evidence of remittance of the tax due.

Relief and allowance claim

53. Individuals are expected to file their Income Tax Form for Return of Income and Claims for Allowances and Reliefs (Form A) in order to get the following reliefs:

    a. **Child allowance**: Individuals that have children get an allowance of N2,500 per annum for a maximum of 4 children.

    b. **Dependent relative allowance:** Individuals that have dependent relatives get dependent relatives relief of N2,000 per annum for a maximum of 2 dependents.

    c. **Interest on mortgage:** Interest paid on Nigerian mortgage loan in the prior year is granted as a relief in the current year. The individual is required to provide a copy of their bank statement to claim this relief.

    d. **Life assurance premium:** Life assurance premium paid in the prior year is granted as a relief in the current year. The individual is required to provide a copy of the payment receipt to claim this relief.

54. This return is in respect of the previous year and must be filed within 90 days of the tax year

Step 6:
What to do when you leave Nigeria

Immigration deletion

55. The employer is required to apply for immigration deletion upon completion of an expatriate's assignment/final departure from Nigeria. This process relieves the employer of all immigration formalities. The employer is required to submit original resident permit known as CERPAC and departure ticket along with the application for deletion.

Tax departure meeting

56. A meeting with a PwC Tax specialist prior to departure from Nigeria will enable all the relevant tax issues to be identified and the appropriate actions taken.

Step 7:
Other matters requiring consideration

Immigration

57. The Nigerian immigration system was created in such a way that an individual cannot work in Nigeria longer than 180 days for a nonresident company. The movement of persons in and out of Nigeria is regulated by the Nigerian Immigration laws. Under the laws a foreigner working in Nigeria must have a valid work permit.

Long term assignments

58. A Nigerian company which intends to employ expatriates must apply for and obtain expatriate quota positions (EQPs) from the Ministry of Interior (MoI) before it can employ an expatriate staff on a permanent basis. EQPs contain the designations and description of the assignee's work in Nigeria. An EQP is tied to academic or professional qualifications and the expatriates to occupy the EQP will be required to provide the relevant qualifications.

59. Where an employer has available EQPs, the expatriate would have to apply for a Subject to Regularization (STR) visa at the Nigerian Embassy or High Commission in the home country or country of legal residence. Upon entry into Nigeria on the STR visa, arrangements will be made to process the Combined Expatriate Residence Permit and Alien Card (CERPAC). The CERPAC allows the expatriate to live and work in Nigeria as well as re-entry into Nigeria within its validity.

Short term assignments

60. These assignments are usually within ninety (90) days and the visa facilities granted under this category are explained below:

    a. **Business Visa** - This visa is issued for brief business meetings in the country. This visa type cannot be used to hold any form of employment in Nigeria. This can be a single or multiple journey visa and is issued by the Nigerian Embassy or High Commission in the home country or country of legal residence. Business Visas can also be obtained on arrival. An application for visa on arrival should be submitted to the comptroller general and approval must be obtained before arrival into Nigeria.

    b. **Temporary Work Permit (TWP)** - This visa allows an expatriate to work on projects or special assignments undertaken by a Nigerian subsidiary or business partner. It is a single journey entry visa issued by the Nigerian Embassy or High Commission abroad for a period of 2 months. The process for a TWP visa commences in Nigeria, where the Nigeria Immigration Service (NIS) issues a pre-approval letter that is to serve as the authority to issue the visa by the Nigerian Embassy or High Commission in the home country or country of legal residence.

c. **Tourist visa** - This visa is issued to foreigners visiting Nigeria for non-business related (tourist) engagements. It is also used by dependents of resident expatriates in the country. It is issued by the Nigerian Embassy or High Commission in the home country or country of legal residence. It can be issued on arrival by the Nigerian based sponsor applying in advance and the confirmation being sent to the traveler before he leaves his home country so that he can collect the visa on arrival.

Appendix A:

Overview of personal tax reliefs and income tax rates

61. Personal Income Tax (PIT) is a tax levied on individuals including employees, partnership and unincorporated trust, joint ventures, families and communities.

62. The legal framework for the imposition and administration of PIT is the Personal Income Tax Act (PITA), as amended. It is administered by the State Internal Revenue Services (SIRS) or Federal Inland Revenue Service (FIRS) as the case may be.

63. Personal income tax on employment income is accounted for under the pay-as-you-earn (PAYE) system. Under the scheme, employers act as unpaid agent of the government for the purpose of deducting and remitting tax. Employers are obliged to make deductions from emoluments paid to their employees

64. In computing the tax liability, a Consolidated Relief Allowance (CRA) is granted. The CRA is the higher of N200, 000 or 1% of gross income plus 20% of gross income. Gross emolument is defined as wages, salaries allowances (including benefits in kind), gratuities, superannuation, and any other income derived solely by reason of employment.

65. PIT rate is then applied on a graduated scale on taxable annual income as set out below:

Tax Band	Rate
Taxable Pay ₦	%
First 300,000	7
Next 300,000	11
Next 500,000	15
Next 500,000	19
Next 1,600,000	21
Above 3,200,000	24

Note:

Individuals earning above N20m (about $65,500), will be subject to a marginal tax rate of 18.96% as only 79% of income is taxed at 24% while the marginal tax rate for individuals earning N20m or less is 19.2% as 80% of income is taxed at 24%.

Appendix B:
Typical tax computation

Sample tax calculation for the year 2018

Facts and assumptions

66. The Individual is resident for the whole year, has 4 children and 2 dependents and has filed the income tax relief form. The Individual is provided with accommodation, a domestic help and a car.

Tax computation	₦	₦
Basic Salary	32,000,000	
Cost of Living Allowance	8,000,000	
Bonus	10,000,000	
Total Cash Emolument		**50,000,000**
Benefits:		
Car	250,000	
Accommodation	750,000	
Domestic help	240,000	
Child's Education	3,250,000	
		4,490,000
Gross Salary		**54,490,000**
Consolidated Relief Allowance	(11,442,900)	
Children Allowance (4 Children)	(10,000)	
Dependent Allowance (2 Dependents)	(4,000)	
		(11,456,900)
Taxable Income		**43,033,100**
Development levy*		(100)
Tax Payable		**(10,119,944)**

(*) Development levy varies per state

Appendix C:
Double-taxation agreements

Countries with which Nigeria currently has in force double-taxation agreements:

Belgium	France	Kenya**
Canada	Netherlands	Mauritius**
China	Pakistan	Poland**
Romania	South Africa	South Korea**
Slovakia	United Kingdom	Sweden**
Czech Republic	Philippines	Qatar**
Spain	Italy***	UAE**

Note:

(**) The double tax agreement between Nigeria and these countries have not been ratified by the Nigerian National Assembly hence they are not yet in force. However ratification process has commenced for South Korea and Sweden.

(***) There is a shipping and air transport double taxation agreement with Italy.

Appendix D:
Employee and employer social contributions

Contributions to social security system 2018

Pension

67. The Pension Reform Act 2014 as amended requires every company with fifteen or more employees to make mandatory contributions to a retirement savings account (RSA), in favour of the employees. However, a company with less than three employees can make voluntary contributions to the scheme. A minimum contribution of 18% of monthly emoluments (minimum of 10% by the employer and 8% by the employee) is required. Monthly emolument for this purpose is the aggregate of all monthly recurring payments.

68. Pension contribution is voluntary for expatriates.

Employee Compensation Scheme (ECS)

69. The Employees' Compensation Act (ECA) 2010 makes comprehensive provisions for the payment of compensation to employees who suffer from occupational diseases or sustain injuries arising from accident at workplace or in the course of employment. The Nigeria Social Insurance Trust Fund (NSITF) administers the ECS. The rate of contribution is currently 1% of total monthly payroll cost.

70. ECS is an Employer only contribution scheme.

Industrial Training Fund (ITF)

71. The ITF was set-up to promote and encourage the acquisition of skills in industry or commerce with a view to generating a pool of indigenous manpower sufficient to meet the needs of the economy. A company with at least 5 employees is required to contribute to the Fund or if it has a minimum turnover of N50 million per annum. The rate of contribution is 1% of total annual payroll. A maximum refund of 50% of contributions made may be granted to an employer who trains its employees subject to proper documentation and pre-approval from the ITF.

72. ITF is an Employer only contribution scheme.

National Housing Fund (NHF)

73. The NHF Act makes it mandatory for any Nigerian earning an income of N3,000 and above per annum in both the public and the private sectors of the economy to contribute 2.5% of their monthly basic salary to the Fund. The main purpose of the Fund is to provide loan facility for the construction of owner-occupied houses to participating employees.

74. NHF is for Nigerians only.

Appendix E:
Visa issues

Countries whose citizens require/do not require visas to enter Nigeria

Require Visas	Do not Require Visa	Free Visa
Non-ECOWAS countries	Benin	Afghanistan
	Burkina Faso	Barbados
	Cameroun	Macedonia
	Cape Verde	Trinidad and Tobago
	Chad	Singapore
	Gambia	Georgia (Single entry)
	Ghana	
	Guinea	
	Guinea Bissau	
	Ivory Coast	
	Liberia	
	Mali	
	Morocco	
	Niger	
	Senegal	
	Seychelles	
	Sierra Leone	
	Togo	

Appendix F:
Contacts and Offices

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