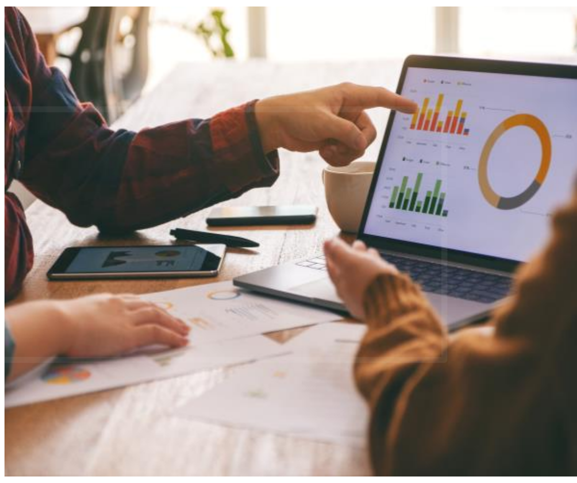
Tax Alert

The Federal Government of Nigeria introduces the Expatriate Employment Levy



Background

On 27 February 2024, the Federal Government of Nigeria introduced the Expatriate Employment Levy ("EEL" or the "levy"). The levy is a mandatory contribution imposed on employers that hire foreign workers in Nigeria.

It aims to balance the benefits of expatriate employment with the protection of local labour markets and resources, promote skill transfer and knowledge sharing, enhance collaboration between public and private sectors, and address demographic shifts.

Key Features

- **Eligibility:** The EEL applies to the private sector operators who utilise foreign workforce or rely on expatriate labour.
- **Scope:** The EEL applies to expatriate workers who occupy quota positions, are engaged on a temporary work permit or who stay or work in Nigeria for 183 days or more within a year.
- **Exemptions:** The EEL does not apply to all accredited staff of Diplomatic Missions, government officials, international agencies and their dependents unless they are engaged in any employment in Nigeria. Employers can reallocate positions of employees who have left the company to new employees without any charge till the end of the existing EEL validation.
- **Rates:** The EEL is payable annually and the rates are USD 15,000 for Directors and USD 10,000 for other categories.
- **Compliance:** The payment deadline is the last day of February of the following year. The EEL is to be paid through an online portal and payment receipt serves as a prerequisite for the issuance or renewal of work or residence permits.
- **Reporting:** Employers are required to maintain comprehensive records, report expatriate employment details or changes and comply with the filing deadlines. Expatriates are expected to provide accurate information and cooperate with their employers and government agencies. The Nigeria Immigration Service (NIS) is responsible for verifying information and documents submitted by expatriates and employers. Failure to comply with the EEL regulations attracts penalties as high as NGN3,000,000, imprisonment or revocation of work permits.

Global Comparatives

The EEL is not a unique policy in the global context of foreign workers employment. Several countries such as Malaysia, Singapore, and Saudi Arabia have implemented similar levies to regulate and manage their expatriate workforce. These countries have adopted different approaches and rates for their levies, depending on their economic and social objectives, labour market conditions, and industry needs. Some of the best practices of these levies include:

- Aligning the levy with the national vision and strategy for human capital development and economic diversification.
- Setting the initial levy at a reasonable and competitive level that reflects the current demand and supply of expatriate labour and the value of local skills.
- Providing exemptions or incentives for certain sectors, occupations, or categories of expatriates that are critical for the country's development or have high skill transfer potential.
- Reviewing and adjusting the levy periodically based on the changing labour market dynamics and feedback from stakeholders.
- Ensuring transparency and accountability with the use of revenue generated for the benefit of the local workforce and the economy.

Key Takeaway

The EEL may incentivise employers to invest in local talent development but it raises more concerns such as the increased cost of doing business, reduced Foreign Direct Investments (FDI) and uncertainties with the employment of a diverse workforce which includes skilled foreigners.

The requirement to pay the levy in foreign exchange will increase pressure on the already devalued Naira. This is contrary to the quick wins announced late last year by the Presidential Fiscal Policy and Tax Reforms Committee which permitted the payment of taxes on foreign currency denominated transactions in Naira for Nigerian businesses. Companies will need to do an impact assessment to quantify the added costs of employing foreigners given the effects of the naira devaluation.

There are some grey areas to be addressed on the implementation of the programme. Although not clearly addressed, the offence section in the EEL handbook presupposes that employees should be registered or EELs filed and renewed within 30 days. It is not clear when the day count commences. The Ministry of Interior could also clarify how this will apply to expatriates who are already in the country.

There are other unintended effects to consider such as the reduction in earning power of individuals as companies resort to alternative strategies to address impacts on their profit margins. This also has an effect on state and federal governments tax earnings, where there is a decline in business activities. We recommend that a more holistic approach is considered in reviewing the framework of the EEL and in particular the timing of its introduction. The process of obtaining work visas in Nigeria still has some way to go with digitising, reducing bureaucracies with visa applications and unexpected costs.

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