

IMPOSITION OF LEVY ON EXPATRIATE WORKERS IN NIGERIA

IMMIGRATION NEWSLETTER



On Tuesday 27th of February 2024, the President of the Federal Republic of Nigeria, His Excellency, Bola Ahmed Tinubu made a significant announcement regarding the imposition of a levy on expatriate workers in Nigeria. The Expatriate Employment Levy (EEL) is a compulsory contribution required by the government from employers with expatriate staff and it is expected to come into force with immediate effect. However, details of a specific start date is yet to be communicated to the public.

The Minister of Interior, Honourable Olubunmi Tunji-Ojo, explained that the project would be operated and implemented through the Federal Ministry of Interior and the Nigeria Immigration Service.

KEY OBJECTIVES

The EEL has the following objectives:

1. Promoting transfer of skills and training local skills
2. Balancing economic growth
3. Protecting the country's local market resources and social equity
4. Increasing collaboration between the public and private sectors
5. Balancing labor and employment demographics in the country.

SECTORS IMPACTED BY THE EEL

The imposed levy primarily focuses on the private sector that employ foreign workforce across diverse businesses, including but not limited to; Construction, Manufacturing, Information and Communication Technology (ICT), Agriculture, Oil & Gas, Telecommunication, Services, Banking and Finance, Maritime and Shipping, and Healthcare. Succinctly, any company that engages expatriates is subject and liable to pay the Expatriates Employment Levy.

THE APPLICABILITY OF THE EEL

The categories of expatriates envisaged by the EEL are foreigners employed within Nigeria, or individuals on specific types of work permits/visas.

In essence, the EEL only applies to expatriate who have been employed in Nigeria on a long term work visa (also called "Combined Expatriate Residence Permit And Aliens Card or CERPAC") and who currently occupy a position on a company's expatriate quota, or expatriates who have been employed in

Nigeria for an aggregate of one hundred and eighty three (183) days or more within a fiscal year. The last employer shall be the one to bear the responsibility of paying the EEL when it becomes due.

Expatriates that have only come into Nigeria to carry out a seasonal or short-term employment are exempted from the payment of EEL if they have not stayed for an aggregate period of 183 days within a fiscal year.

It is pertinent to note that all accredited staff of Diplomatic Missions, Government Officials, and dependants of all the categories of expatriates in Nigeria who are not engaged in any employment while resident in Nigeria are exempted from the EEL.

THE APPLICABILITY OF THE EEL

The Nigerian Immigration service has been given the mandate to determine which expatriate falls within the purview of the EEL.

RELEVANT FEES/PAYMENTS

Employers of Expatriates who fall under the EEL are required to pay \$15,000 (USD) for expatriates who are occupying the position of a “Director” on the company’s expatriate quota and \$10,000 (USD) for other categories of expatriates payable annually.

OBLIGATIONS OF EMPLOYERS AND EXPATRIATES

Employers shall be responsible for:

- a. maintaining comprehensive records such as employment contracts, work permits and salary details.
- b. providing a timely and accurate report of employment details to ensure an appropriate calculation of the levy.
- c. promptly notifying relevant Government agencies of any changes in expatriate employment circumstances such as change in job roles, salary employment duration etc.
- d. providing training for their staff especially the Human resources person to ensure they are well updated about the EEL reporting requirements and compliance measures.

Expatriates have the sole responsibility to ensure that they supply accurate personal information to their employers.

MODE OF FILING

All filings shall be submitted by the employer through a dedicated portal of the FMI. Payments will also be made via the portal.

OFFENCES AND PENALTIES

To ensure adherence, the EEL provided penalties for certain offences including; deliberately reporting false or inchoate information so as to avoid the payment of the levy.

The EEL handbook prescribes a fine of Three Million Naira (NGN3,000,000) respectively for; failure to file the EEL within 30 days, or to register new employees within 30 days; submitting forged information on the EEL platform and failure of a corporate entity to renew EEL within 30 days after its expiration.

On the other hand, Section 56 (5) of the Immigration Act, 2015, provides that *“any person (individual or corporate entity) who makes or causes to be made to an Immigration Officer, any return, statement or representation which he knows to be false or does not believe to be true shall be liable to imprisonment for a term of five (5) years or a fine of N1,000,000 or both.”*

It is worthy to note that due to the disparity between the fine outlined in the EEL handbook and the Immigration Act, and the EEL handbook, the Nigerian Immigration Service may lean more towards the fine of Three Million Naira (NGN3,000,000) where the employers are in breach of any of their obligations under the EEL.

CONCLUSION

In conclusion, from the government’s perspective, the Employment of Expatriates Levy (EEL) serves as a pivotal framework, fostering the engagement of foreign workers while bolstering the economic prosperity of the nation. On the other hand, employers may see it as a revenue drive and indirect multiple taxation.

It is interesting to note that the EEL is silent on expatriates who are from ECOWAS countries and hold ECOWAS permits to work in Nigeria as well as expatriates who are married to Nigerian citizens and hold either the Naija Wife Permits or Special Immigrant Status.

As we navigate the evolving landscape, the days and months ahead are sure to elicit reactions and the profound implications of this levy will gradually unfold.

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