Payroll Compliance

A short guide for payroll professionals navigating the latest employees' tax legislation.

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1. General Information

1.1 Currency

The official currency of Nigeria is Naira (NGN).

1.2 Tax year end

Nigeria tax year is January to December, ending on 31 December.

1.3 Revenue service

Each state in Nigeria has its own tax authority.

The Federal Inland Revenue Service, for Abuja. **www.firs.gov.ng**

2. Pay As You Earn (PAYE)

2.1 Administration and Compliance

Tax filing and payment of tax
Employers are required to deduct and account for personal income tax on the employment income of their employees through the PAYE system. The PAYE tax must be remitted on or before the 10th day of the following month following the payment of salary. PAYE deducted from the January Salary should be remitted by 10th of February.

Form H1 – PAYE Employer Annual Declaration and Certificate
This contains the names, gross income and taxes paid by employees who were in the Company's employment for the immediate preceding tax year. The tax authority relies on the information on this Form to determine if accurate taxes have been paid. Where the Revenue determines that taxes have been underpaid, additional assessment including penalty and interest of the amount underpaid will be raised. Until the underpayment is settled / resolved, the Company's employees will not be issued Tax Clearance Certificate.

Employer Annual Declaration Form H1 should be returned to the relevant tax authorities not later than January 31st of the next year

2.2 Tax Rates

PITA, Sixth Schedule (3)

After the relief allowance and exemptions had been granted, the balance of income is taxed as specified in the following tax table:

Annual Tax Tables for current tax year

Bands of taxable income		Rate
From (N)	To (N)	
0.00	300 000	7%
300 000.01	600 000	11%
600 000.01	1 100 000	15%
1 100 000.01	1 600 000	19%
1 600 000.01	3 200 000	21%
3 200 000.01	and above	24%

2.3 Minimum Tax

PITA, Section 37
Where after all deductions allowable under this Act the individual has no chargeable income or where the tax payable on the chargeable income of that individual is less than a 1% of the total income of that individual, the individual shall be charged to tax at the rate of a 1% of his total income.

With the exemption of the income earned by individuals with minimum wage or less, it is highly unlikely for the minimum tax to apply on the payroll.

3. Benefits-in-Kind (BIK)

PITA, Section 4
BIK provided to the employee by the employer are deemed to be part of such employee's gross emoluments and include:

3.1 Use of assets belonging to the employer

The taxable benefit is equal 5% of the amount expended in acquiring the asset, but if that amount cannot be ascertained, 5% per cent of the market value of the asset at the time of the acquisition.

3.2 Use of asset hired or rented by the employer

The taxable benefit is the amount paid to the property owner or the hirer.

3.3 Accommodation benefit

PITA, Section 5

The annual value of the premises as determined for purposes of annual rates or the amount determined by the relevant tax authorities, less the actual rent paid.

4. Exempt income

PITA, Third Schedule

The following income is not subject to tax:

4.1 Payment for business expenses

Expenses incurred in the performance of employment duties from which it is not intended that the employee should make any gain or profit.

4.2 Gratuity Income

Gratuities are exempt from tax.

The Enugu division of the Nigerian Tax Appeal Tribunal (TAT) delivered its judgment on 20 June 2019. Based on this judgment, employers should not be required to deduct and remit PIT on gratuity payments made to retired employees.

This ruling should put to rest the controversy on the public notices issued earlier by some state tax authorities (such as LIRS) regarding taxing gratuities for PIT purposes, as such regulations should no longer be valid considering that the TAT has affirmed that all gratuity payments to retired employees are tax exempt in line with the PITA. However, LIRS has not withdrawn their Public Notice regarding the taxation of gratuities.

4.3 Compensation for loss of employment

Exemt under PAYE.

Section 36(2) of CGTA

Income that qualifies as termination benefits (compensation for loss of office) in line with the Capital Gain Tax Act will be subject to CGT on the portion of the income above N10 000 000.

CGT is charged at a flat rate of 10% of chargeable gains.

4.4 Interest and dividend

Interest income earned from debt instruments including treasury bills and corporate bonds now fully exempt while withholding tax is the final tax on dividends.

Section 20 of the Labour Act briefly covers redundancy. However, the Nigerian labour law does not provide for the calculation of the actual severance pay earning.

In practice, the employment contract generally provides that in the event of a cessation of employment, employees will be entitled to certain payments and benefits. The determination of these benefits is generally the responsibility of the employer.

4.5 Exempt benefit in kind

PITA, Section 4(3)

- Provision of meals in any canteen in which meals are provided for the staff generally or non-transferable luncheon vouchers;
- Provision of uniform, overall or other protective clothing;
- Reasonable removal expenses which may or may not include a temporary subsistence allowance by reason of a change of the employee's employment which requires such employee to change his place of residence.

4.6 Minimum wage

PITA, Section 37 and para 33 of the Third Schedule of PITA

The income of a person from an employment where such person earns gross income of National Minimum Wage or less from such employment; is exempt from tax.

5. Tax Reliefs and Deductions

5.1 Consolidated Relief Allowance

PITA, Section 33
A consolidation relief allowance of N200 000 subject to a minimum of 1 % of gross income whichever is higher plus 20 % of the gross income.

For the purposes of Section 33 above, “gross income” means income from all sources less all non-taxable income, income on which no further tax is payable, tax-exempt items listed in paragraph (2) of the Sixth Schedule.

5.2 Life Insurance

PITA, Section 33 (3)
There shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse, or of a contract for deferred annuity on his own life or the life of his spouse.

5.3 Allowed tax deductions

PITA, Sixth Schedule (2)
The following deductions are tax exempt:

- Pension/Provident fund contribution
- Tax relief(deduction) for pension contributions is limited only to schemes, provident or retirement benefits fund that are recognised under the Pension Reform Act (PRA) 2014.
- National Housing fund contribution
- Life assurance premium.
- Limited to employee and spouse.
- Contributions to the National Health Insurance Scheme

PITA, Section 20(1)(b)

- Interest on Loan for developing an owner-occupied residential house.

Note that only the employee’s contribution towards the above-mentioned is tax deductible.

6. National Housing Fund

(NHF)

National Housing Fund Act

Any employee earning the national minimum wage and above in the:

(a) public sector in Nigeria shall contribute 2.5% of his monthly income to the Fund ; or

(b) private sector in Nigeria may contribute 2.5% of his monthly income to the Fund.

Employers are required by law to deduct the housing contribution from their employees' monthly wages and ensure that such deductions are remitted to the NHF via the FMBN within one month of making such deduction.

Contributions under the NHF and refunds of any such contributions under the NHF Act are exempted from the payment of any form of income tax, on such contribution or refund.

On the attainment of the age of 60 years old or upon been retired from employment, any contributor to the NHF that becomes incapable of continuing to make contributions to the Fund, shall be eligible to a refund of his contributions to the fund within 3 months of his application to the Minister of Housing provided that such a contributor has not obtained a housing loan under the Fund which loan remains unliquidated.

Contributions to the National Housing Fund are statutorily required to be managed and administered by the Federal Mortgage Bank of Nigeria.

7. National Health Insurance Scheme (NHIS)

The NHIS Act is the statutory authority for the Scheme's benefits programmes as well sets the general rules and guidelines for the operation of the Scheme.

The National Health Insurance Scheme is used mainly by the employees in the public sector; participation or contribution to the NHIS is not mandatory for employees in the private sector.

Should and employee elect to contribute towards the NHIS, the employer pays 10% while the employee pays 5% representing 15% of the employee's basic salary.

According to the NHIS Act, all employees must have health insurance. The Act does not dictate the contribution ratio for employees and employers in the private sector.

The NHIS Scheme is not the only available health insurance scheme as there are various approved Health Maintenance Organization (HMO). HMO'S are basically health insurance schemes. Employees are free to elect an HMO of their choice. Employers should make sure that they engage the services of a registered HMO, approved by NHIS.

If an employee is already a beneficiary on another HMO, for example a spouse, then he/she is not expected to make a contribution on the payroll.

Only the employee's contribution towards health insurance is tax deductible.

For more information on the NHIS visit http://www.nhis.gov.ng/

8. Pension

The Pension Reform Act requires every employer to take out life insurance cover for its employees.

The sum assured should be three times each employee's annual remuneration. The insurance cost is to be borne solely by the employer.

8.1 Application

The Scheme applies to two categories of employees: these include all employees in the public sector and employees of private organisations in which there are 3 or more employees.

The Act also provides that in the case of private organisations with less than 3 employees participation in the Scheme would be governed by guidelines issued by the National Pension Commission (PenCom).

8.2 Rate of contribution

Employers are required to contribute a minimum of 10% of their employees' monthly emoluments while the employees are to contribute not less than 8%.

The employer and/or the employee may make additional voluntary contribution.

Where an employer decides to solely contribute to the scheme, the contribution shall not be less than 20% of the employee's monthly emolument.

8.3 Monthly Emoluments

"Monthly emoluments" means total emoluments as may be defined in the employee's contract of employment but shall not be less than a total sum of basic salary, housing allowance and transport allowance.

In other words, the basis for the contribution is the higher of sum of basic salary, housing allowance and transport allowance and income according to the employment contract.

8.4 Expatriate

Expatriate employees are not expressly exempted from pension contribution under the Act.

However, the Guidelines on Cross Border Arrangements issued by the Pension Commission specifically states that it is not compulsory for expatriates to join the Nigerian pension scheme but such employees may join at their discretion and with the agreement of their employers.

8.5 Reporting

The employer is obliged to make monthly deductions at source from the employee's emoluments and remit to the Pension Fund Custodian (PFC) specified by the employee's Pension Fund Administrator (PFA) not later than 7 working days after the payment of the employee's salary.

Nigerian employers are required to submit payments and schedules to their respective registered Pension Funds through this new Electronic Pension Contribution Collection System (EPCCOS) on the Nigeria Inter-Bank Settlement System (NIBSS) platform.

For more information on the National Pension visit http://www.pencom.gov.ng/

9. Employee Compensation Scheme (NSITF)

All employers, including individuals, are required to register with the Nigeria Social Insurance Trust Fund (NSITF) and contribute to the scheme.

9.1 Rate of contribution

The employers' rate of contribution is **1%** of total *monthly payroll as per the Employee's Compensation Act, 2010. Payroll is not defined in the Act. However, there is a definition of remuneration.

"*Remuneration*" according to legislation, means basic wages, salaries or earnings designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by law which are payable by an employer to an employee for work done or to be done or services rendered or to be rendered: and allowances which include rental, transport, meals and utility or other allowances as may be determined by the Board, from time to time.

Basically, the contribution is based on the total cash earnings of the employee.

Only the employer makes the contributions.

NECA and NSITF Agreement

The Nigerian Employers' Consultative Association (NECA) and the NSITF have signed a Memorandum of Understanding that gives, among other things, an acceptable definition of payroll. The definition of remuneration provided in the Act will be applied in the place of "payroll".

It was agreed upon that the definition of remuneration provided above excludes the following income:

- Pension contributions
- Bonuses – performance related payments
- Overtime payments
- Irregular once off payments

The Agreement is available on the Compliance SharePoint.

Payroll systems should provide employers who are covered by the NECA and NSITF Agreement with the option to change the basis of the NSITF contribution to the one stipulated above.

We have received feedback from a client that was inspected by the NSITF and they demanded that the NSITF contribution should be based on the "total gross emolument".

9.2 Employers' obligation

Employers are required to make monthly contributions to the NSITF not later than the last day of the month.

Employers are also required to file statements of actual earnings of their employees for the preceding year and budgeted earnings for the current year not later than 28 February of every year.

An employer who has just commenced a business, recommences or ceases to be an employer is required to provide the statements within 30 days of commencement, recommencement or cessation as the case may be.

Employee - means a person employed by an employer under oral or written contract of employment whether continuous, part-time, and temporary, apprenticeship or casual basis and includes a domestic servant who is not a member of the family of the employer.

For more information on the Employee Compensation Scheme visit www.nsitf.net

10. Industrial Training Fund (ITF)

10.1 Background

The Industrial Training Fund Act (ITFA) came into effect on 8 October 1971. The purpose of the Act was to establish a Fund – The Industrial Training Fund (ITF) - to be utilized to promote and encourage the acquisition of skills in industry or commerce in Nigeria with a view to generating a pool of indigenous trained manpower sufficient to meet the needs of the economy.

An employer could get up to 50% refund of contributions made if adequate (documented) training courses were provided to the employees

10.2 When to contribute

Applicable to employers with 5 or more employees or less than 5 employees but a turnover of N50 million and above per annum/

10.3 Contribution

1% of annual payroll cost.

The contribution is recoverable at any time within 6 years from the due date.

10.4 Definitions

Employees mean all persons whether or not they are Nigerians employed in any establishment in return for salary, wages or other consideration, and whether employed full-time or part-time and includes temporary employees who work for periods of not less than 30 days in a year.

Payroll means the sum total of all basic pay, allowances and other entitlements (including fringe benefits and company contributions) payable within and outside Nigeria to any employee in an establishment, public or private.

It is our interpretation that the statutory contributions made by the employer are not entitlements which are payable to the employee. They are the employer's obligation.

10.5 Due date for payment

1st of April every year.

For more information on the ITF visit **www.itf.gov.ng**

11. Development Levy

Part II(8) of the Taxes and Levies Act includes the Development Levy in the approved list of taxes and levies to be collected by the State Government.

Every taxable individual should contribute a fixed amount of N100 annually.

All employers are required to make a payment to the relevant tax authority not later than 31st January of every year in respect of all employees who were employed in the preceding year.

There is no specific return for this levy. However, every employer should keep a schedule of all the employees who made a contribution towards this levy.

In practice, payment is made in January but the actual deduction of the N100 is done upon termination (if terminated during the tax year) or in December for the remaining active employees.

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Sage Johannesburg
6th Floor, Gateway West
22 Magwa Cresent
Waterfall 5-lr
Midrand
2066
sage.com/en-za

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