Highlights of the Expatriate Employment Levy Handbook

On 27th February 2024, the Federal Government of Nigeria (FGN) launched the Expatriate Employment Levy Handbook ('the Handbook') which introduced the Expatriate Employment Levy ('the Levy'), a mandatory contribution levied on employers of expats in Nigeria. According to the Handbook, the FGN aims, by the introduction of the Levy, to balance the benefits of expatriate employment with the protection of Nigeria's local labor. This document provides a highlight of significant provisions of the Handbook.

Objectives

Primarily, the Levy aims to protect, develop, and strengthen the domestic workforce. The Levy has four primary objectives as follows:

- To promote knowledge sharing and skill transfer from expatriates to local employees. The view of the government is that the Levy would encourage employers to actively engage in training and mentorship programs for the development and strengthening of the domestic workforce.
- To provide a balance between economic growth through foreign direct investments and safeguarding the interests of local workers. Hence, while expatriates contribute to economic development, the rights and opportunities of local employees are not compromised.
- To encourage collaboration between government entities, industry associations, and other business stake other while entrenching continuous dialogue between the public and private sectors with a view to utilize policymaking to address the needs of various sectors and fulfilling broader national goals.
- To address demographic changes such as shortage of skilled labor and aging population thereby encouraging businesses to prioritize local talent acquisition and invest in workforce development initiatives. Thereby safeguarding Nigeria's economic prosperity.

Eligibility, Scope, and Exemptions

All companies/organizations, who engage the services of expatriate workers – i.e., non-Nigerian citizens or individuals on specific types of work permits, visas or other temporary residency arrangements employed within Nigeria – for a minimum of 183 days annually are eligible, subject, and liable to remit the Levy as the levy covers all private sector industries that utilizes foreign workforce or on expatriate labor. These industries include the construction, information, and communication technology (ICT), agriculture, manufacturing, oil & gas, telecommunication, services, etc.

Notably, the issuance of work/resident permits, renewal of employment contracts, or the change of an expatriate's status from visitor to employee may warrant the application of the Levy. It is worth noting that where expatriates temporarily work in a foreign country, as in the case of a cross – border assignment or secondment, the employer will be liable to pay the Levy where the expatriate involved occupies a Quota Position in a Company operating in Nigeria.

Also, persons who have obtained temporary work permits to work in Nigeria on a Seasonal and Short-Term Employment shall be liable/eligible to pay the levy if they spend an aggregate of 183days or more in one fiscal year in Nigeria.

The following persons are however exempted from the Levy:

1. All accredited staff and dependents of diplomatic missions and government officials – excluding dependents engaged in any employment in Nigeria.
2. Expatriates that have entered to work in Nigeria on a seasonal and short-term employment for different companies except where they have spent an aggregate of 183days within a fiscal year in Nigeria while working for different companies – in which case, the last employer which bears immigration responsibility on behalf of such expatriate shall be liable for the payment of the EEL once due.

The following points/responsibilities are worth highlighting:

- All eligible companies/organizations are required to pay (USD) 15,000 for Expatriates who are directors and (USD) 10,000 for other categories of expatriates on an annual basis.
- Relevant government agencies may conduct compliance audits to verify the accuracy of compliance audits to verify the accuracy of reported information. They may also verify reported information with data from other sources, such as immigration records and tax filings.
- Eligible entities are required to maintain a comprehensive record – which may include employment contracts, salary details, work permits, and other relevant documentation – of its expatriate employees.
- Eligible entities are also required to provide timely and up-to-date information to government agencies within specified timeframes.
- Eligible entities are to promptly notify relevant government agencies of any changes, such as job roles, salary, etc., in expatriate employment circumstances as these may impact the levy calculation.
- Expatriates are encouraged to ensure that their personal information and employment details are accurately reported to employers and government agencies.
- Significantly, eligible entities may reallocate positions of employees who have left the company/organization to new employees without any charge until the existing Levy validation.

Offences and Sanctions/Penalties

The Handbook further makes provisions for offences, sanctions, and penalties. Notably, inaccurate, or incomplete reporting can lead to penalties. Hence, in compliance with the provisions of the Immigration Act 2015, where a company or person knowingly provides inaccurate or incomplete information, such company or person shall be liable to imprisonment for a term of five (5) years or a fine of ₦1,000,000.00 or both.

Further, where a company/organization fails to file the levy or register new employees or renew the levy, within thirty (30) days or where it provides forged information or falsified information it shall be liable to a fine of three million naira (₦3,000,000.00)

Conclusion

Notably, the introduction of the Levy has the good intention of protecting local employees and is achieving economic growth for Nigeria, by incentivizing knowledge transfer and the engagement of local talent. Hence, eligible companies are encouraged to adhere to the provisions of the Handbook to avoid sanctions for non-compliance.