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Expatriates' Pension Benefits in Nigeria

INTRODUCTION

In addition to a monthly remuneration, there are other benefits that accrue to every employee in Nigeria, including expatriate employees. Some of these benefits include compensation under the Pension Reform Act, 2004 (as amended); the Employees' Compensation Act, 2010; the National Health Insurance Scheme Act, 1999; and the Insurance Act, 2003.

PENSION BENEFITS

Employees are described under the Nigerian Pension Law to be any individual, whether expatriate or Nigerian, engaged in any employment with a Nigerian domiciled company or organisation having at least five (5) employees resident in Nigeria.

In recognition of the advancements in global mobility of labour across multiple countries, at different times, there is in Nigeria a set of "*Guidelines for Cross-Border Arrangements under the Pension Reform Act*" ("Cross-Border Pension Guidelines").

The Cross-Border Pension Guidelines are intended to ensure that all employees do not lose their pension benefits during the period of changing employment in or between different countries. Nigerians in the Diaspora are also accommodated under these Guidelines.

The Cross-Border Pension Guidelines are also especially required in the light of the provisions of Section 1(1) of the Nigerian Pension Reform Act ("PRA"), 2004 (as amended), which provides that "there shall be established in the Federal Republic of Nigeria, a contributory pension scheme for the payment of retirement benefits to employees to whom this scheme applies".

EXPATRIATE EMPLOYEES

Guidelines 2.1.1 and 2.2.1 gives to foreign nationals working in Nigeria the discretion of whether to join the Nigerian

Contributory Pension Scheme, as required under the Nigerian PRA, 2004 (as amended), or to continue to contribute to some prior pension arrangement in another country, or to be a contributor to the Nigerian and Non-Nigerian Contributory Pension Schemes simultaneously.

Where a foreign or expatriate employee elects to join the Nigerian Contributory Pension Scheme, such foreign or expatriate employee shall inform his or her Nigerian employer of his or her intention to join the scheme and open a Retirement Savings Account ("RSA") with a Nigerian licensed Pension Fund Administrator ("PFA") of his or her choice.

In the event of future permanent relocation of the employee out of Nigeria, the expatriate employee shall serve a three (3) months prior notice of permanent relocation on his or her PFA. Accompanying the notice of relocation shall be the expatriate employer's letter confirming the employee's permanent relocation from Nigeria, so that the employee can access the balance amounts in his or her RSA.

NIGERIAN EXPATRIATES

A Nigerian working abroad, or moving overseas, is allowed to join, and or to continue to make voluntary pension contributions to his or her RSA. Where an existing contributor however prefers to temporarily suspend his pension contributions, he shall formally request his PFA to freeze his or her RSA until he or she returns to Nigeria to continue to make the pension contributions.

EXCHANGE RATE, TAXATION AND MONEY LAUNDERING RULES

All pension contributions to the RSAs shall be made in Nigerian Naira or at the prevailing exchange rate on the date that the contribution is remitted to a RSA in Nigeria. Any exchange rate, administrative and transfer charges shall be borne by the employee contributor.

Within Nigeria, all pension contributions and withdrawals are tax free.

Lastly, all offshore contributions must be made through licensed Banks who are subject to anti-money laundering regulations. A contribution in excess of ₦1Million must however be reported to the Nigerian Economic and Financial

Crimes Commission (“EFCC”) and the Nigerian Drug Law Enforcement Agency (“NDLEA”).

RATE OF CONTRIBUTION

Nigerian and foreign expatriates are allowed to make voluntary pension contributions at rates that they have predetermined. Such contribution must not however be less than the Naira equivalent of ₦5,000, per month.

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