

TAXING TIMES: MASTERING EMPLOYER TAX DUTIES IN NIGERIA

- by Samuel Oyenitun

In Nigeria, the adherence to personal income tax obligations by employers is a cornerstone of corporate fiscal responsibility. This legal obligation as outlined in the Personal Income Tax Act (PITA) 2004 and its subsequent amendments, requires employers to undertake specific actions regarding the deduction and remittance of personal income tax for their employees. Compliance with these obligations not only fulfills statutory requirements but also mitigates potential legal consequences.

The key specific fiscal obligations of employers of labour in Nigeria are:

1. **Obligation to Register with Tax Authority:** The employer has a duty to register with the relevant tax authority to facilitate the remittance of income tax deducted from its employees' salaries and wages with or without notification of the tax authority.¹
2. **Acquisition and Verification of Tax Identification Number (TIN):** Employers should ensure that their employees have a valid Tax Identification Number (TIN) issued by the Federal Inland Revenue Service (FIRS) or a Payer Identity (Payer I.D) in certain states like Lagos. It is the employer's responsibility to request and verify the TIN of each employee and include it in the tax deduction and remittance process.
3. **Tax Deduction through PAYE Implementation:** Employers in Nigeria are required to deduct and withhold personal income tax from employees' salaries, wages, bonuses, and other forms of remuneration, as per the Pay As You Earn (PAYE) system outlined in Section 82 of the Personal Income Tax Act (PITA).² This system ensures the efficient remittance of the deducted taxes to the relevant tax authority based on the employees' residency. Embracing the principle of Convenience, a canon of taxation advocated by Adam Smith, the PAYE system aims to simplify the tax deduction process, making it less cumbersome for the taxpayer by delegating the responsibility to employers. The law mandates that employers commence these deductions within six months of their business operation or the act's enforcement. Failure to register with the tax authority within this stipulated timeframe results in legal consequences, including a fine of N25,000 and the liability for the unpaid tax.³

¹ Regulation 1 Operation of Pay As You Earn (PAYE) Regulations

² See also Regulation 2 Operation of Pay As You Earn (PAYE) Regulations.

³ Regulation 2(2) Operation of Pay As You Earn (PAYE) Regulations

4. **Mandatory Record-Keeping of Tax Deductions:** PITA makes it mandatory for an employer to maintain accurate records of tax deductions. These records, which may be kept on a deduction card or other forms specified by the tax authority, must detail the month of payment, the amount of emolument, contributions to pension by the employee, cumulative income, and the tax deducted on those dates.⁴ Failure to maintain proper records, collect, and remit taxes, or submit returns constitutes an offence, with offenders liable to a fine of N5,000 upon conviction.⁵
5. **Ascertainment of Cumulative Net Tax:** Employers are required to calculate the cumulative net emoluments, including take-home pay, deductions for approved pension funds, and cumulative taxable emoluments before disbursing payments to employees. This ensures accurate tax deduction and compliance with fiscal regulations.⁶
6. **Issuance of Deduction Certificates Post-Employment:** It is an employer's duty to issue a certificate of deduction in the prescribed form to employees upon the cessation of their employment. This certificate serves as a formal record of the tax deductions made during the employee's tenure.⁷
7. **Reporting the Death of an Employee:** Employers are also required to issue a certificate indicating the cessation of employment due to an employee's death. This action aids the tax authority in updating its records, thereby exempting the deceased employee from future tax obligations.⁸
8. **Obligation for Monthly Tax Remittance:** Employers are required to remit the deducted personal income tax monthly to the appropriate tax authority, usually the State Internal Revenue Service (SIRS) or the Federal Inland Revenue Service (FIRS), depending on the location of their business. According to PAYE Regulations, employers must ensure these remittances are made within ten days following the end of each month, specifically on or before the 10th day of the new month and must obtain a receipt for such remittances.⁹
9. **Obligation to file Annual Tax Returns:** Under the Personal Income Tax Act (PITA), Section 81(2), employers are mandated to file annual tax returns with the relevant tax authority. These returns must encapsulate the total income or emoluments paid to employees and

⁴ Regulation 3 Operation of Pay As You Earn (PAYE) Regulations.

⁵ Regulation 18 of the Operation of Pay As You Earn (PAYE) Regulations.

⁶ Regulation 4 Operation of Pay As You Earn (PAYE) Regulations

⁷ Regulation 5 Operation of Pay As You Earn (PAYE) Regulations.

⁸ Regulation 6 Operation of Pay As You Earn (PAYE) Regulations

⁹ Regulation 7 Operation of Pay As You Earn (PAYE) Regulations

the total personal income tax that has been deducted and remitted over the year. Employers must submit these returns in the prescribed format by the stipulated deadline, which is on or before January 31st each year.¹⁰ Additionally, in line with PAYE Regulations, employers are required to commence tax deductions from their employees within six months of the commencement of business.¹¹

10. **Duty to Produce records for Inspection:** Employers are duty-bound to ensure comprehensive records including all wages, tax deduction cards, vouchers, and other documents related to the emoluments paid to their employees are available for inspection at their premises. This requirement ensures transparency and facilitates regulatory compliance.¹²

Penalties for Non-Compliance

Non-adherence to these obligations leads to adverse legal consequences, which may include fines, interest on the unpaid tax, the payment of the tax due, or legal actions against the employer. Penalties can be levied for various forms of non-compliance, such as failing to deduct tax, late or non-remittance of taxes, failure to file annual returns, among others.

The Importance of Fulfilling Corporate Fiscal Responsibilities

Employers in Nigeria must navigate their corporate fiscal responsibilities with diligence and accuracy. It is equally vital for employees to understand their tax responsibilities and collaborate with their employers to ensure accurate tax deductions and remittances. Embracing your fiscal duties is more than just a legal requirement; it's an opportunity to reinforce your company's reputation, ensure employee satisfaction, and contribute positively to Nigeria's economy.

Supporting Businesses Through Tax Complexities

Understanding and adhering to the myriad of tax obligations can be a daunting task for employers in Nigeria, particularly given the variance in specific details and requirements across different states within Nigeria.

At SimmonsCooper Partners, we provide tax advisory services designed to navigate the complexities of Nigeria's tax environment - whether you're looking to streamline your tax

¹⁰ PITA, 2004 as amended.

¹¹ Regulation 10 of the Operation of Pay As You Earn (PAYE) Regulations.

¹² Regulation 11 of the Operation of Pay As You Earn (PAYE) Regulations.

processes, understand the specific tax obligations relevant to your business, or mitigate the risks associated with non-compliance.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.