



FEDERAL INLAND REVENUE SERVICE

15, SOKODE CRESCENT, WUSE ZONE 5, P.M.B 33, GARKI, ABUJA, NIGERIA

INFORMATION CIRCULAR

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Subject: CLARIFICATION ON THE TAXATION OF SEAFARERS AND ONSHORE OR OFFSHORE PLATFORM WORKERS

This circular is issued for the information and guidance of the general public, taxpayers and tax practitioners in line with the provisions of the relevant tax laws. This instant circular replaces FIRS Information Circular 2020/12 of 24th September 2020.

1.0 Introduction:

This circular is issued to provide guidance on the taxation of Seafarers (resident or non-resident), and Platform Workers (Onshore or Offshore) employed in Nigeria.

2.0 Definition of Terms

• Seafarer:

A seafarer is a person who assists in the navigation and operation of a vessel at sea and includes officers and seamen (ratings).

• A Platform Worker:

Is a person engaged on any facility, installation, structure, ship or place used for any activity in connection with the exploration or exploitation of natural resources on Nigerian subsoil, seabed, territorial waters or continental shelf. It includes, but not limited to, workers engaged on onshore or offshore drilling rig, oil platform or any other non-oil onshore or offshore platforms.

□ Nigeria:

Nigeria means:

“the Federal Republic of Nigeria, and when used in a geographical sense, includes the territorial waters of the Federal Republic of Nigeria,

and any area outside the territorial waters, including the continental shelf, which in accordance with international law has been or may hereafter be designated, under the law of the Federal Republic of Nigeria, as an area within which the right of the Federal Republic of Nigeria with respect to the seabed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future”.

By this provision, the territory of Nigeria includes the riparian or littoral states (with boundaries ending at the seaward edge of the national or internal waters, otherwise referred to as the low water mark), as well as Nigeria’s territorial waters and the Economic Exclusive Zones which are outside the boundary and the jurisdiction of all the riparian or littoral states.

3.0 Taxation of income of Seafarers and offshore Platform Workers

The following rules are applicable to the taxation of the income of seafarers and offshore platform workers:

3.1 Nigerian Residents

An individual is a resident of Nigeria for tax purposes, if he or she:

- (i) has a permanent place available for his domestic use in any part of Nigeria;
- (ii) is in Nigeria for a period or periods amounting to an aggregate of 183 days (inclusive annual leave or temporary periods of absence) or more in any twelve-month period; or
- (iii) serves as a diplomat or diplomatic agent of Nigeria in another country.

Residence is a place available for an individual’s domestic use (in Nigeria) on a relevant day, and does not include any hotel, rest-house or other place at which he or she is temporarily lodging unless no permanent place is available for his or her use on that day.

A Seafarer or a platform worker is a Nigerian resident for tax purposes as long as he or she has a permanent place available for his domestic use in any part of Nigeria, even if he or she had not stayed in Nigeria for 183 days.

Note: A Nigerian resident is liable to tax in Nigeria on his worldwide income i.e. his income from all sources, irrespective of where the income had arisen.

3.2 Non-Resident Individuals

A non-resident individual is a person who:

- (i) does not have a permanent place available for his domestic use in any part of Nigeria;
- (ii) has not been in Nigeria for a period or periods in all amounting to an aggregate of 183 days or more in a 12-month period (inclusive of annual leave or temporary period of absence); or
- (iii) is not a diplomat or diplomatic agent of Nigeria in another country.

A non-resident individual is only liable to tax in Nigeria on his or her Nigeriasourced income. For example, a non-resident individual that earned employment income in Nigeria is liable to tax in Nigeria with respect to only the employment income he or she derived from Nigeria.

Seafarer:

By the provisions of Section 10(5) of the Personal Income Tax Act (PITA), the gains or profits of an individual from an employment as a seafarer, other than any such employment in the Nigerian Navy or the Nigerian Ports Authority, is derived from Nigeria only during any period in which the individual is serving under articles which he had signed in Nigeria or is performing stand-by duty on board a ship preparatory to his signing articles in Nigeria.

Accordingly, an individual (including a non-resident individual) who signs articles in the territory of Nigeria as a Seafarer, whether for a Nigerian or non-Nigerian vessel, is liable to income tax in Nigeria on the income derived under such articles.

Platform worker:

Employment income derived from Nigeria is wholly taxable in Nigeria in line with the provisions of PITA. The general rules (under PITA) is that employment income is derived from Nigeria where:

- a. the duties of the employment are wholly or partly performed in Nigeria, or
- b. the employer is in Nigeria or has a fixed base (permanent establishment) in Nigeria.

Consequently, the employment income of an individual (including a nonresident individual) working as a platform worker in Nigeria is liable to tax in Nigeria where **either**:

- (i) the duties of the employment of an individual, including a non-resident platform worker, is wholly or partly performed in Nigeria; or
- (ii) the employer is resident in Nigeria or has a fixed base of business in Nigeria.

NOTE:

For the purpose of (i) above, the income of an individual, being a platform worker whose work is wholly or partly performed in Nigeria, will not be taxed in Nigeria where:

- a) the duties are performed on behalf of an employer who is in a country other than Nigeria and the remuneration of the employee is not borne by a fixed base of the employer in Nigeria; and
- b) the employee is not in Nigeria for a period or periods amounting to an aggregate of 183 days inclusive annual leave or temporary period of absence or more in any twelve-month period commencing in a calendar year and ending either within that same year or the following year; and
- c) the remuneration of the employee is liable to tax in that other country under the provisions of the avoidance of double taxation treaty with that other country.

3.3 Where there is Avoidance of Double Taxation Agreement

In the case where the individual working as a seafarer or platform worker is a resident of a country with which Nigeria has a Double Taxation Agreement (DTA), the income of the individual platform worker will be taxed in line with the provisions of the relevant DTA. The general approach that will apply is as follows:

- a) Determination of the country of residence of the seafarer or platform worker as provided in the Article on "Resident".

- b) The taxing right on the employment income as provided in the Article on “Income from Employment” or “Dependent Personal Services”, as the case may be.

4.0 Relevant Tax Authority

- a. **Residents:** The worldwide income of any seafarer or offshore platform worker, who is a resident of Nigeria, will be subject to tax by the Tax Authority of the State of which he is a resident.
- b. **Itinerant worker:** In the case of an itinerant seafarer or platform worker who has spent 183 days in Nigeria or who is otherwise liable to income tax in Nigeria but does not have a place of residence in Nigeria, or otherwise not a resident of a territory (State) in Nigeria, the income of such a person will be subject to tax in accordance with the provisions of paragraph 4 of the First Schedule of PITA as follows:
- i. where the employer is in Nigeria, he shall be taxed in the State in which the principal office of the employer is located in Nigeria;
 - ii. where the employer is not in Nigeria, he shall be taxed by FIRS in accordance with the provisions of section 2(1)(b) of PITA.

Illustration 1

Mr. X is a platform worker who has been in Nigeria for over 183 days working for KYZ Nigeria Oil Field Company, on its Floating, Production, Storage and Offloading (FPSO) platform located within Nigeria’s Exclusive Economic Zone (EEZ). KYZ Nigeria Oil Field Company has its head office in Port Harcourt, Rivers State, Nigeria. Mr. X does not have a place of residence in any state in Nigeria as he lives and works on the FPSO platform within the EEZ.

Treatment

In line with paragraph 4 of the First schedule of PITA, Mr. X would be deemed to hold a foreign employment and would be liable to tax in Nigeria. Mr. X will be deemed to be a resident of the state in which the principal office of his employer is located, which is Rivers State. His tax will therefore be payable to the relevant tax authority in Rivers State.

Illustration 2

Mr. Y is a platform worker who has been in Nigeria for over 183 days and works for ABC Oil Field Company, which is an International Oil Company

incorporated in Country Z. Mr. Y's employment is exercised on a FPSO platform, owned by ABC Oil Field Company and located within Nigerian territorial waters. Mr. Y does not have a place of residence in any state in Nigeria as he lives and works on the FPSO platform.

Treatment

In line with paragraph 4 of the First schedule of PITA and given that ABC Oil Field Company, which is Mr. Y's employer, is not a resident of Nigeria, and also that Mr. Y does not have a place of residence in any state in Nigeria; Mr. Y would be taxed by FIRS in accordance with section 2(1)(b) of PITA as a non-resident individual who derives income or profit from Nigeria. In this instance, Mr. Y shall compute and pay his income tax to FIRS in accordance with the law.

Illustration 3

Mr. K is a platform worker who has been in Nigeria for over 183 days. He is an employee of BCD Oil Servicing Company, which is an International Oil Servicing Company, incorporated in Country T. ADT Nigeria Oil Ltd owned a FPSO platform located within Nigeria's Exclusive Economic Zone and has an oil servicing contract with BCD Oil Servicing Company to maintain the FPSO platform. Mr. K exercised his employment on the FPSO platform and does not have a place of residence in any state in Nigeria, as he lives and works on the FPSO platform.

Treatment

In line with paragraph 4 of the First schedule of PITA and given that BCD Oil Servicing Company, which is Mr. K's employer, is not a resident of Nigeria and that Mr. K does not have a place of residence in any state in Nigeria; Mr. K's tax is due to the FIRS in accordance with subsection (1)(b) of section 2 of PITA as a non-resident individual who derives income or profit from Nigeria. In this instance, Mr. K shall compute and pay his income tax to FIRS in accordance with the law.

NOTE:

1. the boundaries of each riparian or littoral state and its jurisdiction to tax, based on residence, ends at the seaward edge of the national or internal waters, otherwise referred to as the low water mark.

2. territorial waters and the Economic Exclusive Zones are outside the boundary and the jurisdiction of all the riparian or littoral states and is subject to exclusive jurisdiction of the Federal Government.

c. Non-Residents:

In line with sections 2(1)(b)(iv) and 2(2) of PITA, the tax on the income of non-resident seafarer and platform workers shall be collected by the Federal Inland Revenue Service.

5.0 Amendment or Revision of the Circular

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

6.0 Enquiries

Any request for further information or clarifications on this Information Circular should be directed to the:

Executive Chairman,
Federal Inland Revenue Service,
Revenue House, 15,
Sokode Crescent,
Wuse Zone 5, Abuja.

Or

Director, Tax Policy and Advisory Department,
Federal Inland Revenue Service ,
Revenue House Annex 4,
12, Sokode Crescent, Wuse
Zone 5, Abuja.

Or

Email: tpld@firs.gov.ng