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GMS Flash Alert

2018-016 | January 19, 2018

Ghana - Authorities Provide Clarity on Expatriates' Participation in Social Security System

The KPMG International member firm in Ghana has obtained further clarity from the National Pensions Regulatory Authority ("NPRA") concerning the NPRA's March 2017 guidelines on expatriates' registration for and participation in Ghana's pension scheme. The response from the NPRA sheds light on the exemption allowed for certain expatriate employees from contributing to the scheme.

WHY THIS MATTERS

It is mandatory for every employer to make pension contributions on behalf of their expatriate employees in Ghana.

Expatriates are guaranteed recovery of their contributions once they demonstrate that they are emigrating permanently from Ghana whether the minimum pension contribution of 15 years is met or not.

Exemption from participation/contributions is available to expatriates who are on a short-term contract (not more than 36 months) and can prove that they are making similar contributions in their home countries.

Background

The NPRA was established by the National Pensions Act, 2008 (Act 766) to oversee the administration and management of registered pension schemes and trustees of registered schemes. A person employed in Ghana is required to make monthly pension contributions to a pension scheme on or before the 14th day of the month following the month in which the deductions are made.

Contributing to a Three-Tier Pension Scheme

Act 766 established a contributory three-tier pension scheme consisting of:

a) A mandatory Basic National Social Security scheme, managed by the Social Security and National Insurance Trust (SSNIT) – Tier 1;

b) A mandatory fully-funded and privately-managed occupational pension scheme – Tier 2;

c) A voluntary fully-funded and privately-managed provident fund and personal pension scheme – Tier 3.

Employers are required to remit a total of 18.5 percent made up of 13 percent from the employer and 5.5 percent from the employee on the salary (base pay) of the employee, irrespective of whether the salary is actually paid to the employee. The amount is remitted into the Tier 1 and Tier 2 schemes. At the point of payment into the respective schemes, the total of 18.5 percent is split into:

- 13.5 percent to Tier 1 where SSNIT ultimately retains 11 percent and remits 2.5 percent to the National Health Insurance Authority as National Health Insurance Levy; and
- the remaining 5 percent into the Tier 2 scheme.

With regards to the voluntary fully-funded and privately-managed provident fund and personal pension scheme (Tier 3), contributions can be made by the employer only, or the employee alone, or jointly by both the employer and employee at a maximum contribution of 16.5 percent of the employee's base pay.

According to Section 58(1) of Act 766, mandatory social security contributions are required to be made by every employer and each worker (including an expatriate).

Ability of Expatriates to Recover Paid-in Contributions upon Departure from Ghana

In the past, expatriates who had completed their assignments in Ghana found it difficult to recover their pension contributions, as many of them emigrated from Ghana before meeting the minimum contribution period of 15 years, as specified by Act 766, to be entitled to benefits.

To address this, the NPRA, on 18 June 2013, issued a publication[1] that directed that the total of the expatriate's social security contributions be made into Tier 2 in order to make the pension fund easily accessible by the expatriates when their assignments in Ghana end.

KPMG NOTE

This position did not sit well with most employers and, so, it was deliberated with the Regulator over the course of a few years which led in practice to non-adherence by some employers.

Given the operational challenges under the terms of Act 766 on the accessibility of expatriates to their contributions, the National Pensions (Amendment) Act, 2014 (Act 883) was passed to provide guidance on payment of benefits to expatriates who satisfy SSNIT that they are emigrating or have permanently emigrated from Ghana. Section 4 of Act 883 provides that an expatriate who is emigrating permanently will receive a lump-sum payment from SSNIT. It further clarifies that any expatriate who meets the conditions for payment of the mandatory pension contributions will be paid the present value of the contributions as a lump-sum benefit.

On the other hand, any expatriate emigrating from Ghana who does not qualify for the payment of the mandatory pension contribution will be paid his or her contribution, with interest. The interest rate will be determined at 75 percent of the interest on the 91-day government treasury bill. Where the expatriate has contributed only to Tier 2 and Tier 3 schemes, he or she would be entitled to the entire benefits upon emigration.

The coming into effect of Act 883, therefore, supersedes NPRA's publication[2] requesting expatriates to contribute their entire contributions to the Tier 2 scheme. Hence, employers are required to contribute to both Tier 1 and Tier 2 schemes for their expatriate employees. Expatriates who are above 45 years of age, however, are required to make the entire contribution into the Tier 2 scheme.

New Guidelines in March 2017 and Exemptions for Expatriates

The NPRA in March 2017 issued new guidelines[3] which became effective from 7 April 2017. The guidelines sought to provide direction on expatriates' registration for the pension scheme in Ghana. The guidelines provide, amongst other things, an exemption for the expatriate from contributions to the pension scheme in Ghana if he or she resides and is employed in Ghana for a period not exceeding 36 months and has shown proof of membership of a pension scheme of another country.

Where an Exemption Is Granted ·

The NPRA shall issue an exemption certificate for a Tier 2 scheme (managed by private fund managers) to an expatriate worker who has demonstrable evidence of belonging to a pension scheme in his or her home country and is on a short contract of employment in Ghana. The SSNIT, the entity responsible for the management of the Tier 1 scheme, shall issue an exemption certificate to an expatriate worker permitting him or her not to contribute to the Basic National Social Security scheme.

Further clarity was obtained by KPMG in Ghana on some provisions concerning the exemption available to expatriates and a summary of the responses received from the NPRA are as follows: ·

- The contract of employment will be used as the base for the determination of the 36 months in granting the exemption.
- The guidelines do not take retrospective effect.
- Where the expatriate is exempted from the contribution by virtue of the assignment contract that is not expected to exceed 36 months but is subsequently extended, the assignee would be required to make contributions retrospectively and pay a penalty of 3 percent.

FOOTNOTES:

1 With reference number NPRA/SSNIT/14/13/12 – Payment of Contribution by Expatriate Staff.

2 Ibid.

3 With reference number NPRA/GD/RGEX/01/17 - Guidelines for the Registration of Expatriate (Foreign) Workers.

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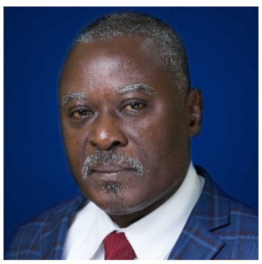
Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Ghana:



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The information contained in this newsletter was submitted by the KPMG International member firm in Ghana.

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