



# GMS Flash Alert

## Immigration Edition

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## Nigeria - Expatriates Required to Prove Payment of Tax for Permits Renewals

The Comptroller General of the Nigeria Immigration Service, Mr. Muhammad Babandede, (CGNIS) has directed that effective from 1 April 2021, all expatriates, including nationals of the Economic Community of West African States, must present evidence of having made a tax payment in order to renew their resident and work permits by the Nigeria Immigration Service (NIS).<sup>1</sup> This directive is in the exercise of the powers conferred on him by Sections 37 and 39 of the Immigration Act, 2015.

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### WHY THIS MATTERS

Employers of foreign nationals coming to work in Nigeria, their global mobility managers, and immigration counsel should be aware that all applications for renewal of residence and work permits, in addition to other requirements, must include copies of valid tax clearance certificates (TCCs), Personal Income Tax (PIT) remittance schedules, and evidence of payment of PIT due before the application can be processed. This could mean additional steps and documentation-gathering and coordination for those employers, employees, global mobility managers, and immigration counsel.

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### KPMG NOTE

The CGNIS' decision to include submission of evidence of tax payments as part of the requirements for renewal of residence and work permits of expatriates working in Nigeria aligns with the government's drive for tax compliance in Nigeria.

The new directive may affect the R11 Temporary Work Permit (TWP) visa which allows foreign nationals to reside and work in Nigeria temporarily for up to six months. Although the process for the issuance of this category of visa is yet to commence at the Nigerian Missions Abroad, we expect the NIS to issue further clarification in this regard.

Meanwhile, the NIS may need to review its directive to ascertain consistency with Section 10(1) of the Personal Income Tax Act (PITA), as amended, which exempts the income of an expatriate, who is employed temporarily in Nigeria (i.e., under a TWP), from tax where:

- the duties of his employment are performed on behalf of a nonresident employer and his remuneration is not charged to the fixed base of the company in Nigeria;
- he is not in Nigeria for an aggregate of 183 days or more in any 12-month period; and
- his income is taxable in the country of his employer.

Consequently, such expatriates who are eligible for income tax exemption under Section 10(1) of the PIT Act should not be required to present evidence of tax payments when renewing their TWP. Otherwise, the NIS will be imposing a tax obligation where none exists in the tax law.

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## FOOTNOTE:

1 This development was announced in a press briefing in Abuja on 31 March 2021, with remarks from Comptroller General of the Nigeria Immigration Service, Mr. Muhammad Babandede. For an additional report, see M. Olugbode, "No Renewal of Resident Permit without Proof of Tax Payment, Says NIS Boss," *This Day* (online), 1 April 2021 (<https://www.thisdaylive.com/index.php/2021/04/01/no-renewal-of-resident-permit-without-proof-of-tax-payment-says-nis-boss/>). (Note that this is a 3<sup>rd</sup> party (non-governmental, non-KPMG) website. Providing this link does not represent an endorsement of this website by KPMG.)

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