

BASIC STEPS IN THE EMPLOYMENT OF EXPATRIATES

Expatriate Quota

The Nigerian Immigration Act Cap 171, LFN 2004 and the Immigration Regulations made thereunder contain provisions for the employment of expatriates in Nigeria. Section 8 of the Immigration Act provides that any foreigner seeking employment or work permit in Nigeria must obtain the consent of the Comptroller General of Immigration. This consent is issued in the form of an Expatriate Quota (EQ). The EQ permits companies to employ expatriates to specifically approved job designations, and also specifies the duration of such employment. Below are some frequently asked questions with respect to EQ and answers thereto.

Q: What is an Expatriate Quota?

A: It is a form of approval granted to companies and registered firms to employ the services of expatriates with relevant competences, with a view to training Nigerian understudies and transferring the requisite skills during the period of employment. An EQ states the allowable number of foreigners to be employed by business organizations operating or wishing to operate in Nigeria.

Q: What is the rationale behind the grant of EQ?

A: The EQ scheme is designed to prevent the indiscriminate employment of expatriates where there are qualified Nigerians to fill those positions. The Expatriate Quota is also a means of securing the transfer of requisite technology to Nigerians.

Q: Who can benefit from the grant of an EQ?

A: Any Company, Firm or Organization duly registered in Nigeria and licensed to carry out business operations or approved activity, which meets the basic requirements can apply for and be granted an EQ.

Q: Can an un-registered entity benefit from the grant of an EQ?

A: Registration with the Corporate Affairs Commission or a duly authorized government agency is a mandatory requirement for the grant of EQ.

Q: Can Expatriate Quota slots be granted to a Company or Firm fully owned by Nigerians?

A: Expatriate Quota slots can be granted to any qualifying Company, Firm or Organization irrespective of the ownership structure. EQ can also be granted to companies with 100% foreign ownership.

Q: What are the Documentary Requirements for the grant of EQ?

A: The under-listed documents would be required:

- Registration (Incorporation) documents
- Business Permit (not applicable to companies with 100% indigenous ownership)
- Current Tax Clearance Certificate
- Lease Agreement or Certificate of Occupancy in respect of business premises
- Feasibility Study Report
- Evidence of Imported Machinery
- License/Permit/Certificate from relevant government agencies where the company is engaged in oil services, health services, fishing, mining or Construction.
- Evidence of work at hand and value attached to the contract(s) if the company is engaged in building, civil, engineering, construction.
- Proposed annual salaries to be paid to the expatriates to be employed indicating their job designations, names, and qualifications.
- Detailed Training Programs for Nigerian understudies.
- Certificate of Capital Importation (not applicable to companies with 100% indigenous equity holding)
- Bank Reference Letter
- Completed Immigration Form T1
- Evidence of online registration with the Federal Ministry of Interior.
- Letter of No Objection from the Nigerian Content Monitoring Board for companies operating in the oil and gas sector.

Q:When should an application for EQ be made?

A: An application for EQ could be made at the immediately after incorporation, , upon the commencement of business operations or any other time thereafter as required.

Q: Who approves an Expatriate Quota Certificate?

A: The responsibility for approving an EQ rests with the Minister of Interior Affairs, working in consonance with the Citizens and Business Department of the Ministry.

Q:Are there other Agencies with responsibility for advising on the grant of EQ?

A: Other Agencies charged with the task of overseeing the EQ regime include the Nigerian Investment Promotion Commission, the Nigerian Immigration Service, the Nigerian Local Content Board amongst others.

Q: Are there pre-conditions for companies operating in the oil and gas sector?

A: Yes. The Nigerian Content Development Board established under the Local Content Act is charged with the responsibility of regulating the employment of expatriates in the oil and gas sector. Applicants are required to obtain the approval of the Board (in the form of a “Certificate of No Objection”) before their application for EQ can be considered by the Minister.

Q: What is the validity period of an EQ?

A: An Expatriate Quota is granted for an initial period of 3 years. It can however be renewed for further periods of two years each subject to a cap of 10 years within which time the relevant skills comprised in the position ought to have been transferred to qualified Nigerian Understudies.

Q: What is the timeline for processing EQ?

A: It takes approximately 20 working days to process an EQ.

Q: How many quota slots can a Company be granted?

A: Consideration for approval of slots is based on the genuine need for skills that are not available locally. There is no limit to the number of EQ slots that can be granted although due consideration is always had to the employment of Nigerians where those skills exist locally.

Q: Are there different types of EQ?

A: Yes. There are two forms of EQ viz. the Temporary EQ and Permanent Until Reviewed (PUR).

Q: What is the difference between these two classes of EQ?

A: A PUR is granted on a more permanent basis. It is usually granted to the very top management of a Company and reserved for the position of the Chairman or the Managing Director. A PUR is granted to ensure that the interest of the investors are protected. A Temporary EQ is reserved for positions that would be occupied on a temporary basis and are applicable to other designations in a Company.

Q: Are there Post Approval Compliance Requirements?

A: Yes. Beneficiaries of EQ approvals are required to employ 2 Nigerian Understudies for each approved position and to render Monthly Immigration Returns to the Ministry of Interior and the Nigerian Immigration Service.

Q: What is an Immigration Return and who is obliged to render it?

A: It is a compilation of information relating to the utilization of approved EQ positions rendered by a corporate beneficiary of the EQ to the Federal Ministry of Interior and the Nigerian Immigration Service.

Q: Can an Approved EQ Position be re-designated?

A: An approved position can be re-designated where the need arises and particularly in situations where it is impossible to find suitable expertise for earlier approved positions.

Q: Can an EQ Lapse?

A: An Expatriate Quota approval may lapse where the benefiting company fails to utilize the approved positions during the approved period or such further period as may be specified by the Minister. However, a lapsed EQ can be restored.

Q: Can an approved EQ be renewed.

A: An approved EQ can be renewed upon expiration of the initial period stated on the Certificate. Applications for renewal of EQ are considered by the Citizens and Business Department of the Ministry of Interior.

Q: What is the timeline for processing renewal of EQ?

A: It takes approximately 10 working days to renew an EQ.

Q: Can a corporate beneficiary apply for additional EQ after the initial grant?

A: Yes, a firm could apply for additional expatriate quota after the initial grant where there is verifiable need to employ additional expatriates by the company and an appropriate application is lodged to that effect.

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