



LAGOS STATE GOVERNMENT

PUBLIC NOTICE



PAY AS YOU EARN ON EMPLOYEE OUTSOURCING ARRANGEMENTS

The Lagos State Internal Revenue Service (LIRS) is issuing this public notice to all employers, company owners or their representatives, employees, high net worth individuals and other members of the public.

Definition

In an employee outsourcing arrangement, workers who are not part of the ultimate employer's regular work force, may be employed through an outsourcing firm or labour broker. In this regard, the employees will be legal employees of the outsourcing firm or labour broker but economically employed by the ultimate employer. The employees remain on the payroll of the outsourcing firm. The ultimate employer pays the outsourcing firm a fee for procuring the staff on its behalf, while the outsourcing firm pays the staff salaries. The employees perform services under the primary direction and control of the ultimate employer; and may work on a part time to full time basis for the ultimate employer.

Legal Basis

Under Section 81 and 82 of PITA, employees have an income tax obligation to be deducted from their emoluments; and employers are required to file a return with the relevant tax authorities. An employer is required to make the income tax deductions from emoluments paid to employees, and is subject to penalties for failure to deduct, or improper accounting for deductions. There is no definition of employer in the PITA, but LIRS adopted/official position is that the employer referred to in the PITA is the economic employer (i.e. the ultimate employer), under whom the employees perform services and receive primary direction and control.

Under paragraph 2(3) of the Operation of Pay As You Earn Regulations, where a person other than the employer manages the staff e.g. administers the legal documentation and payroll of the staff, that company or enterprise would be required to provide information of the staff to the tax authorities and also deduct the applicable PAYE.

Compliance Requirements

1. Deduction of PAYE: The administrative obligation for the deduction of PAYE, and filing of the return for employee emolument lies with the outsourcing firm, i.e. the company who retains the employees on their payroll. Therefore, the outsourcing firm shall deduct PAYE (and not withholding taxes) with respect to the employees. As long as the individuals are deemed to be employees in providing services to the ultimate employer, they would be liable to PAYE and not withholding tax.
2. Exposure: The LIRS does not limit the exposure for improper deductions or failure to deduct to the outsourcing company. The service recipient also maintains an obligation, by the substance of its arrangement, to ensure that PAYE is deducted from employee emoluments. In line with the PITA, the ultimate employer shall also be considered liable for the PAYE of the staff as the PAYE Regulation does not extinguish this obligation. However, if full PAYE can be substantiated for the various staff, both parties shall be absolved from further obligations.

For further enquiries, please call **0700-CALLLIRS (0700 2255 5477)** or visit **www.lirs.gov.ng**

Thank You

Signed

Ayodele Subair

Executive Chairman

Lagos Internal Revenue Service

Lagos State Internal Revenue Service

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