

Current Developments on the Expatriate Quota (EQ) policy in Nigeria

Newsletter

Introduction

The government, in its quest for transfer of specialized skills and knowledge to Nigerians, has made provision for employment of highly skilled foreigners through the issuance of Expatriate Quota (EQ) approvals. Companies and other organisations that require expatriate manpower to support their business operations can apply to the Federal Ministry of Interiors (FMI), Abuja to obtain the required EQ positions.

This newsletter focuses on the current developments with respect to the EQ policy, challenges and practicable solutions that would enable relevant stakeholders (including Global Mobility Coordinators and other Human Resource Practitioners) to better maximize its provision.

What is an Expatriate Quota Approval?

Expatriate Quota approval is an authorization issued in a form of a letter by the FMI, Abuja to companies that have met the criteria for engaging the services of expatriates on a long term basis. It is a pre-requisite for facilitating long-term employment of expatriate manpower.

To facilitate the approval process, some key documentation must accompany the application letter. This includes incorporation documents of the requesting organization, proposed EQ positions and corresponding job titles, Tax Clearance Certificate and proposed training programme for Nigerian employees. After submission, a designated briefing officer would vet the documents presented and make necessary recommendation to the Honorable Minister of Interior (HMI). The HMI can either reject, query or give his consent for approval. Where the approval is granted, necessary statutory payments must be made before the approval letter would be released to the company. The EQ approval letter usually contains information on the job titles, number of positions (this determines the number of foreign nationals that may be employed) and the validity of the quota slots.

The first EQ approval issued to an organization is known as the Establishment Grant and typically valid for an initial period of three years, and thereafter renewable every two years. However, based on FMI's practice, the lifespan of an

EQ position may be limited to ten years. There is a provision for certain quota slots, such as the Managing Director or Executive Director position, to be upgraded to a Permanent Until Reviewed (PUR) status. EQ slots on PUR status are not required to be renewed every two years but may be revalidated every ten years.

Current Challenges

The EQ platform has reportedly been subjected to various forms of abuse over the years. The most prevalent is the employment of unskilled foreigners to the detriment of qualified Nigerians. Many observers have noted that the unmitigated influx of unqualified expatriates, and their placement on EQ slots for which there are adequate local manpower resources, has contributed greatly to the rising unemployment figures in Nigeria.

Another major abuse of the EQ provision is the issue of 'Quota Trafficking'. This usually occurs when an organization utilizes its approved quota slot in such a way that an expatriate personnel is assigned to a position that does not align to his internal role or job designation. An example is when a company employs an expatriate with a background in Accounting and places him or her on an EQ slot allocated to an Engineer.

Quota trafficking also occurs when an expatriate is allocated an EQ position without the requisite academic qualifications as specified on the EQ approval letter issued by FMI.

There have also been reports of companies utilizing occupied slots to employ more expatriates, and this will usually lead to quota over-placement.

The Way Forward

Even though the expatriate quota policy may have been abused, it has also provided a platform for the transfer of valuable knowledge, skills and technical know-how to Nigerians. However, there is an urgent need for a more robust implementation strategy by the government and other stakeholders to ensure that the various forms of abuse are addressed. This is the only way the objectives of the EQ policy can be achieved.

The FMI would need to ensure that all EQ applications are thoroughly reviewed and approvals granted to organizations that can demonstrate the implementation of a clear succession plan which will enable Nigerians take up the roles previously occupied by expatriates. The FMI must satisfy itself that an applicant has properly utilized an existing position before approving a request for new quota positions.

The Nigerian Missions abroad also need to ensure that applications for STR visas are thoroughly reviewed such that only qualified experts whose qualifications and experience align with their assigned quota slots are granted STR visas. Where there is greater scrutiny in the issuance of the visa, this would discourage the submission of applications that do not fulfil all the requirements guiding the visa issuance.

The Nigerian Immigration Service (NIS) should continue in its role as the enforcer of all immigration laws and regulations guiding expatriates employment in the country. Applications for regularization of expatriates should be thoroughly scrutinized and where any applicant is not qualified to occupy an EQ position, necessary measures should be put in place to facilitate the exit from the country within a stipulated time. The NIS should also engage, on a periodic basis, with the relevant tax authorities to ensure that the number and the designations of expatriates reported for tax purposes by organisations are consistent with the approved quota positions, subject to the Manager concept under the 2002 PAYE Regulations.

The Nigerian Immigration Service (NIS) should continue in its role as the enforcer of all immigration laws and regulations guiding expatriates employment in the country.

The NIS should also put in place measures to check the indiscriminate movement of expatriates through the various borders and points of entry.

Human Resource Practitioners, Global Mobility Coordinators and other relevant stakeholders should comply with the regulations regarding the employment of expatriates. They must engage in practices that are in conformity with the guidelines for the utilization of the expatriate quota and other immigration facilities to avoid unnecessary sanctions and disruptions to their business.

In addition, they must put in place an effective expatriate manpower mobility plan. This will enable organizations make appropriate projections for the recruitment of expatriates, their Understudies and effective succession plan. When an appropriate mobility plan is in place, organizations can anticipate ahead of time their expatriate manpower needs and proactively obtain relevant quota approvals to meet these needs.



Conclusion

Expatriate mobility is a global phenomenon and Nigeria, as part of the global community, will continue to witness frequent movement of expatriates. However, it is critical for companies to partner with professionals that are knowledgeable about immigration processes and procedures, to enable them make informed decisions and protect their brand. These professionals are best placed to provide requisite advice on the use of the expatriate quota, appropriate guidance on immigration-related matters and ensure compliance with statutory requirements on expatriate employment in Nigeria.

The government, through the FMI and the NIS, should device an appropriate mechanism to monitor the movement of expatriates in and out of the country and ensure that only those with appropriate skills, education and documentation are allowed to live and work in Nigeria. With the right measures in place and the willingness on the part of relevant stakeholders to make the EQ policy work, the economy and the Nigerian citizenry would be better for it.

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