



DELTA STATE BOARD OF INTERNAL REVENUE

Corporate Head Office: Revenue House,
105 Airport Road, Opposite Total Filling Station, Warri, Delta State.
Website: www.deltablir.com

PUBLIC NOTICE

The attention of the general public, particularly corporate organizations and individuals resident and doing business in Delta State, is hereby drawn to Paragraph 26 of the Third Schedule to the Personal Income Tax Act (PITA), 2011 as amended which exempts "any compensation for loss of employment" from tax under PITA. This provision of the extant law has been found to be ambiguous to the extent that it fails to define what constitutes loss of employment.

In view of the foregoing, the Delta State Board of Internal Revenue hereby issue this public notice with the intention to provide a general guide to corporate organizations, tax professionals, Individuals and other stakeholders operating in Delta State on the subject matter as indicated hereunder:

Terminal Benefit vs. Termination Benefit

Compensation for loss of office can be in the form of a Terminal Benefit or a Termination Benefit. Whereas Terminal Benefit is a retirement or resignation lump sum payment such as gratuity and pension usually based on predefined terms and satisfactory performance of employment duties. Termination Benefit, on the other hand, is a redundancy lump sum accruable on premature termination of employment or contract, which benefit may not be fully tied to the employment duties performed. Therefore, Terminal Benefits are revenue in nature while Termination Benefits are capital in nature.

Compliance Requirements

It is pertinent to state that compensation for loss of employment will qualify for exemption under PITA if the amount paid is not pre-agreed. However, such payments are liable to Capital Gains Tax (CGT) by virtue of section (6)(1a) of the Capital Gains Tax Act. Accordingly, the Delta State Board of Internal Revenue holds the view that all pre-agreed payments are taxable under PITA.

Gratuities

All payments of gratuity under the Pension Reform Act or a scheme approved by the National Pension Commission are tax deductible while those paid outside such schemes are conditionally taxable as provided under Paragraph 18 of the Third Schedule, that is, subject to applicable minimum periods of service and prescribed maximum amounts (N1,000.00 per annum or total gratuity of N100,000 as the case may be).

Reporting Obligations

Employers are required to provide a breakdown of severance payments and notify the Delta State Board of Internal Revenue of any payment for loss of employment stating the recipients to enable the Board determine the correct tax treatment.

Agent of Collection

An employer shall serve as Collection Agent to the Board of Internal Revenue and shall be required to make deductions from amounts on account of income paid to an employee as termination payments at the applicable rate of 10% for Capital Gains Tax in line with section 2(1) of the Act. Such employer shall also account to the Board within seven (7) days of such deductions with a schedule detailing the sum paid to the employee, Capital Gains Tax deducted thereto and evidence of remittance.

The Delta State Board of Internal Revenue hopes that the above general guide will greatly minimize uncertainties and allow both employers and employees in the State to plan effectively.

PAY YOUR TAX

To build a **STRONGER DELTA**

Signed:

Sir Monday John Onyeme, FCA, FCTI, FNIM
Executive Chairman
Delta State Board of Internal Revenue