

# WHEN DOES A GRATUITY QUALIFY FOR TAX EXEMPTION UNDER NIGERIA'S TAX REGIME?

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## Introduction

The enactment of the Nigeria Tax Act, 2025 ("NTA") has introduced a unified framework for several tax rules previously dispersed across multiple statutes. Among the provisions attracting increasing attention from employers, employees, tax advisers and retirement scheme administrators is the exemption granted to pensions, gratuities and other retirement benefits.

At first glance, the position appears straightforward. Section 162 of the NTA exempts certain retirement-related benefits, including gratuities, from tax. The immediate assumption for many readers is therefore simple: if a payment is described as a gratuity, it should automatically enjoy tax exemption.

The reality may be more nuanced.

The language adopted by the legislature raises an important question that could have significant implications for employers and retirees alike:

**Does every gratuity payment qualify for exemption merely because it is called a gratuity, or must the payment satisfy certain conditions before the exemption becomes available?**

## Looking Beyond the Label

Section 162(1)(h) of the NTA exempts pensions, gratuities and other retirement benefits granted to an individual "in line with" the Pension Reform Act, 2014 ("PRA").

The significance of this wording should not be overlooked.

The legislature did not simply exempt all gratuities and retirement benefits. Instead, it attached a qualifying condition by requiring that the benefit be granted in line with the PRA.

This raises an interpretative challenge.

What exactly does it mean for a gratuity to be granted "in line with" the PRA?

Neither the NTA nor the PRA provides a direct definition of the phrase. At present, there also appears to be no judicial authority or published administrative guidance offering a definitive interpretation.

As a result, taxpayers and advisers must rely on statutory interpretation principles and the broader objectives of the pension framework.

## The Narrow Interpretation

One possible view is that the exemption should apply only where the gratuity arises from a retirement arrangement that is expressly regulated, approved or supervised under the PRA.

Under this approach, the gratuity would enjoy exemption only if it possesses a direct regulatory connection to a system administered by the National Pension Commission (PenCom).

While attractive from a compliance perspective, this interpretation presents practical difficulties.

Unlike pension contributions under the Contributory Pension Scheme (CPS), gratuity arrangements are not currently governed by a comprehensive mandatory framework under the PRA. In practice, most gratuity schemes are established through employment contracts, collective bargaining agreements, staff handbooks, conditions of service and other employer-driven arrangements.

If the exemption were limited only to gratuity benefits administered under a specifically regulated PRA framework, the legislature's express reference to gratuities could be rendered largely ineffective.

## The Broader Interpretation

A more commercially realistic interpretation may be that the phrase "in line with the PRA" was intended to distinguish genuine retirement benefits from ordinary employment-related payments.

Under this view, the focus shifts from regulatory form to substantive character.

The relevant question becomes whether the payment genuinely arises from a bona fide retirement arrangement that is consistent with the objectives of the PRA.

Several indicators may support this position:

- the benefit is genuinely retirement-related;
- the benefit arises under a documented employment or retirement arrangement;
- the arrangement does not replace or undermine the employer's mandatory CPS obligations;
- the payment is made in accordance with established scheme rules; and
- the arrangement is generally consistent with the objectives of the pension framework.

This approach arguably gives meaningful effect to the legislature's decision to separately mention gratuities and other retirement benefits alongside pensions.

## Why Documentation Matters

Perhaps the most important practical lesson from the NTA is that the tax treatment of a retirement benefit may depend less on what the payment is called and more on the evidence supporting its character.

A payment described as a "gratuity" may not necessarily qualify for exemption if there is no documented retirement arrangement supporting it.

Conversely, a benefit paid pursuant to a clearly documented retirement scheme may have a stronger basis for claiming exemption, even where the arrangement operates outside a PenCom-approved structure.

For employers, this highlights the importance of maintaining:

- properly documented gratuity schemes;
- retirement benefit policies;
- employment contracts and conditions of service; and
- records demonstrating that payments are retirement-related and coexist with CPS compliance obligations.

## Our Concluding Thoughts

The most interesting aspect of section 162 (h) may not be whether gratuities are exempt from tax.

Rather, it is whether the exemption turns on the existence of a genuine retirement arrangement that aligns with the objectives of the PRA.

Until the courts, the Nigeria Revenue Service or PenCom provide further guidance, some degree of uncertainty will remain.

However, the stronger view appears to be that the exemption is not limited solely to benefits paid under arrangements expressly regulated by PenCom. Instead, the more relevant enquiry is whether the benefit forms part of a legitimate retirement framework that is properly documented, genuinely retirement-related and consistent with the broader objectives of the PRA.

In other words, the NTA prioritizes substance over form: the critical issue is not whether a payment is labeled a 'gratuity,' but whether it genuinely functions as a retirement benefit.

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