



TANZANIA REVENUE AUTHORITY

ISO 9001:2015 Certified

UNDER INCOME TAX ACT, CAP 332.

PRACTICE NOTE
(Made under Section 9)

WITHHOLDING TAX ON GOODS, SERVICES FEES AND CONTRACT PAYMENTS

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1.0 TAX LAW

The Commissioner General is empowered under Section 9 of the Tax Administration Act, Cap. 438 to ensure consistency in the administration of tax laws and to provide guidance to persons affected by such laws accordingly. This practice note is issued in respect of taxation of income from an employment under the Income Tax Act, Cap 332.

2.0 PURPOSE OF THE PRACTICE NOTE

This Practice Note is issued for the purpose of providing guidance for the general public and officers of the Tanzania Revenue Authority in order to achieve consistence in interpretation of section 83 of the Act and administration of Withholding Tax (WHT) on services fees and contract payments as well as withholding tax on goods under section 83A. It explains the legal and administrative aspects including on whose burden the withholding obligation lies, payments and source of payments liable for withholding tax, procedures for treatment and basis for computations of withholding tax and rate applicable on withholding tax on service fees and contract payments.

3.0 INTERPRETATION

In this Practice Note, unless the context requires otherwise: -

Definitions and expressions used in this Practice Note that are used in the Act have, unless the context requires otherwise, the same meaning in this Note as they have in the Act.

“Act” means the Income Tax Act, Cap 332.

4.0 HOW THE LAW APPLIES

4.1 Types of Withholding Tax

- (a) **Final Withholding Taxes** are taxes in which the withholder cannot claim any tax credit when calculating the income tax payable for a year of income.
- (b) **Non-Final Withholding Taxes:** are taxes which the withholder is entitled for a tax credit being an amount equal to the tax treated as paid for the year of income in which the amount is derived.

4.2 Withholding Obligation

4.2.1 The law requires a resident person who makes payment for service fees and contracts to another resident or non-resident person to withhold a tax at the rates

specified under paragraph 4(c) of the First Schedule to the Act.

4.2.2 The law also requires any resident corporation which makes a payment in respect of goods supplied by a resident person in the course of conducting business shall withhold income tax at the rates specified under paragraph 4(c) of the first schedule. However, the Corporation that is making payment must be wholly or substantially financed by the Government budget subvention for it to be eligible to withhold income tax for goods.

4.3 Source of Payments Subject to Withholding Tax

4.3.1 All payments for service fees and contract which have a source in the United Republic, regardless of the place of payment shall be subjected to withholding tax.

(a) Payments for services fees, including service fees for service rendered or a forbearance from exercising employment or rendering service-

i) irrespective of the place of exercise, rendering or forbearance;

ii) regardless of the place of payment: Provided that, the services are consumed in the United Republic;

iii) where the payer is the Government of the United Republic, irrespective of the place of exercise, rendering or forbearance.

(b) Premiums for general insurance or re-insurance paid to, and proceeds from general insurance or re-insurance paid by a resident person in respect of the insurance or re-insurance of any risk in or outside the United Republic.

(c) Payments made by a resident corporation in respect of goods supplied by a resident person in the course of conducting business.

4.3.2 It should be noted that, any payment made to a non-resident as service fee is subject to withholding tax provided that such payment has source in United Republic of Tanzania as stipulated under **Section 83(1)(b) read together with Section 69(i) of the Act**. Under this rule it doesn't matter whether a service was rendered or payment was received in the United Republic or not. What matters is that, payment is flowing or originating from the United Republic to a payee outside the United Republic; that suffices for the purpose of withholding tax.

4.4 Payments Subject to Withholding Tax

4.4.1 Payments for Service fees:

- (i) Where a resident person pays a service fee to another resident person in respect of management or technical services provided wholly and exclusively for the business, where such resident person is conducting business of extractive industry in mining, oil or gas.
- (ii) Where a resident person pays to a non-resident a service fee with a source in the United Republic.
- (iii) Where a resident person pays to a resident person a service fee for provision of professional services.
- (iv) Where a resident person pays: -
 - money transfer commission to a Money Transfer Agent;
 - fee, commission or any other charge to a commercial bank agent; or
 - fee, commission or any other charge to a digital payment agent.

4.4.2 Contract payments

A resident person who makes a payment related to insurance premium under the contract of insurance with a source in the United Republic.

4.4.3 Payments in respect of Goods

Any resident corporation which makes payment in respect of goods supplied by a resident person in the course of conducting business.

4.5 Payments Not Subject to Withholding Tax

4.5.1 Under section 83(2) of the Act, the following payments are not liable for withholding tax: -

- i. Payments made by individuals, unless made in conducting a business.
- ii. Payments that are exempt amount.

NB: Payments are exempt amount where a law or an Order through Government Notice has exempted such amount from withholding tax.

4.6 Rates Applicable for Withholding Tax

4.6.1 Paragraph 4(c) of the First Schedule to the Act provides for rates applicable in withholding tax amount by the withholding agent in respect of services fees payments, payment in respect of goods and contract payments.

4.7 Withholding Tax to Particular Types of Persons

4.7.1 The withholding tax deduction applies to payments made by a resident person including a domestic permanent establishment of a non- resident person to a resident person. The tax withholding is non-final when the payment is made to a resident person. The withholder shall be entitled to a tax credit in an amount equal to the tax deducted as paid in the year of income. The tax deducted on a payment made to a partnership shall be allocated to the partners, proportionately to each partner's share and treated as having paid by the partners for the year of income.

5.0 BASIS FOR CALCULATION OF THE WITHHOLDING PAYMENTS

5.1 Withholding Tax Base

- i. Tax shall be calculated on the gross amount paid without deduction of expenses or allowances.
- ii. Withholding Tax shall be computed on the amount exclusive of VAT.

Illustration 1:

ATC Mining (Tanzania) Limited ("**AMTL**"), a company incorporated under the laws of Tanzania recruited KIM Consulting Limited ("**KCL**"), a Tanzanian resident to provide technical services in relation to extraction of Gas at the AMTL's gas operating plant in Mtwara region. At the end of services, KCL raised an invoice to AMTL as follows:

DESCRIPTION	AMOUNT IN TZS
Value of work done	400,000,000
VAT	72,000,000
Total payments	472,000,000

Withholding tax (WHT) will be charged on TZS 400,000,000

Rate is 5%

WHT will be $5\% \times 400,000,000 = 20,000,000/=$

5.2 Inclusion of Value of Benefits and Facilities for Withholding Purposes

Where services are provided and payments are made to the withholder of cash plus provision of benefit and facilities, the withholding tax base shall include the amount paid for the benefits or facilities. Where the benefits were not paid for, they shall be quantified at a market value at the time of payment. Furthermore, where services are provided and payments are made to the withholder in form of service fee and reimbursements then the withholding tax base will be the full amount that is service fee plus reimbursement amount.

Illustration 2:

FLG Consultants were hired by Kinondoni District Council to carry consultancy work. The contract terms involved payment of reimbursement expenses which were used for accommodation in a 5-star hotel for 4 staff of FLG for 20 days by the client. The contract price was quoted at Tsh 150,000,000/= plus reimbursements. The Client paid a total of Tsh 16,000,000/= as reimbursement expenses for accommodation of FLG staff.

DESCRIPTION	AMOUNT (TZS)
Consultancy Fee	150,000,000/=
Reimbursements	16,000,000/=
Total	166,000,000/=

W/Tax Base

Consultancy fee 150,000,000/=

Reimbursements 16,000,000/=

W/Tax Base = 166,000,000/=

Withholding tax Computation = 166,000,000*5%

WHT = 8,300,000/=

5.3 Withholding Tax Base On Insurance Contract

5.3.1 Where a resident person pays to a non-resident an insurance premium with a source in the United Republic, the withholding tax base shall be on the premium amount (value).

Illustration:

Kayla Wang Plc is an insurance company resident of Rwanda which was contracted by Mwalimu Co. Limited (MICO), a Tanzanian private company for provision of insurance cover in respect residential house owned by MICO in Tanzania. The premium cover was valued at TZS. 590,000,000. Compute the Withholding tax that Mwalimu Co. Limited will be required to withhold from such payments to Kayla Wang Plc.

Solution:

WHT. Value of premium is 590,000,000/=

WHT will be calculated from Premium Value

Therefore, Premium value = 590,000,000/=.

WHT = 5% X 590,000,000/=

WHT = 29,500,000/=

5.4 Withholding Tax Base for Construction Works

- i. Section 83(4) of the Act provides for apportionment of construction works when determining the base for withholding tax.
- ii. If payment involves Construction Works, the payment subject to withholding tax shall be based on the ratio of 3:2 for Materials and Services respectively.

Illustration 4:

Mgeni Contractors were awarded a contract to construct a new office for Ministry of Finance in Dodoma (Budget wholly financed by Government subvention). One of the invoice raised based on percentage of completion had the following amount:

DESCRIPTION	AMOUNT (TZS)
Value of work	600,000,000/=
VAT	108,000,000/=
Total	708,000,000/=

WHT Computation based on Construction Work Ratios

Material	Services
(Ratio) 3	2
$3/5 * 600,000,000/=$	$2/5 * 600,000,000/=$
360,000,000/=	240,000,000/=

W/Tax on Goods - $(2\% * 360,000,000/=)$

WHT = 7,200,000/=

W/Tax on Services - $(5\% * 240,000,000/=)$

Withholding Tax = TZS 12,000,000/=

Note:

6.0 REVOCATION

Pursuant to the provisions of Section 10(1) of the Tax Administration Act, Cap 438 the Practice Note Number 1/2019 issued on February 2019 is hereby revoked **in whole** in respect of Withholding Tax on payment for Goods and Services.

Signed *Phetch*

Commissioner General

November, 2022.