



2024 Regulations on Deduction at Source (Withholding Tax)

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2024 Regulations on Deduction at Source (Withholding Tax)

The new circular on withholding tax issued by the Nigerian Minister of Finance outlines the rules for deducting tax from payments to taxable persons under various tax acts. Key highlights include reduced tax rates for eligible transactions and residents of treaty countries, a new tax rate for directors' fees, and the introduction of withholding tax on winnings from lottery, gaming, and reality shows. The circular also specifies the applicable persons, remittance requirements, tax receipt issuance, penalties, and exemptions from withholding tax.

The Minister of Finance and Coordinating Minister of the Economy on 1st July 2024 issued a new circular on withholding tax which sets out the rules for the deduction of tax from payments to taxable persons under the Capital Gains Tax Act, Companies Income Tax (CIT) Act, Petroleum Profits Tax (PPT) Act and Personal Income Tax (PIT).

The circular which is meant to replace all other regulations issued previously on withholding tax is summarized as follows:

The key highlights of the regulation are as follows:

1. Commencement date

Subject to modifications from a gazetted version, taxable persons must comply with the new regulations from July 1, 2024 except for withholding tax of 5% and 15% imposed on winnings from lottery, gaming and reality shows by resident and non-resident persons respectively which has a commencement date of 1st October 2024.

2. Transactions and applicable tax rates to be deducted at Source

The new withholding tax regulation is characterized by the following:

(a) Downward reduction in the rates for eligible transactions from the 5% in the old regulations to 2% depending on the nature of transaction, type of

entity and location of tax payer;

(b) Reduced tax rates for tax payers residing in treaty countries, as stipulated under a Double Taxation Treaty between Nigeria and other countries. However, these reduced rates are only valid if they are incorporated within the relevant Treaty or protocol, which must be duly ratified by the National Assembly. This provision aims to prevent double taxation, thereby fostering international economic cooperation and compliance with global tax standards.

The details of the transactions and applicable rates are as follows:

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Corporate recipients			Non-corporate recipients		
Transactions	Residents	Non-residents	Residents	Non-residents	Remarks
Dividend, Interest	10%	10%	10%	10%	Rates as specified in the law
Royalty	10%	10%	5%	5%	Rates as specified in the law
Rent, Hire, or Lease	10%	10%	10%	10%	Rates as specified in the law
Commission, consultancy, technical, management, and professional fees	5%	10%	5%	10%	Higher rates for non-residents to serve as final tax
Supply of goods other than by manufacturer or producer	2%	NA	2%	NA	Simplified description and reduced rate to address low margin
Co-location and telecommunication tower services	2%	5%	2%	5%	Lower rate to reflect low industry margin
Supply or rendering of services other than those specifically listed in this schedule	2%	5%	2%	5%	Simplified description and reduced rate
Construction of road, bridges, building and power plants	2%	5%	2%	5%	Further rate reduction to reflect lower margin
Any other form of construction and related activities	5%	10%	5%	10%	Amount due from non-resident is final
Brokerage fee	5%	10%	5%	10%	Subject to paragraph 7(2)

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Corporate recipients			Non-corporate recipients		
Transactions	Residents	Non-residents	Residents	Non-residents	Remarks
Directors' fees	N/A	N/A	15%	20%	Rates reflect marginal PIT rate for directors
Compensation for loss of employment	N/A	N/A	10%	10%	Section 36 of the CGT Act
Entertainment and sports persons	N/A	15%	NA	15%	Applies on amounts earned in Nigeria
Winnings from lottery, gaming, reality shows (other than those listed as exempt)	N/A	N/A	5%	15%	With effect from 1 October 2024

3. Applicable persons

The following persons are required to withhold tax at source on eligible transactions:

- (a) a body, corporate or unincorporated, other than an individual
- (b) a Government, Government Ministry, Department or Agency
- (c) a Statutory body
- (d) a Public authority
- (e) any other institution, organisation, establishment or enterprise including those exempt
- (f) a payment agent on behalf of any

person in (a-e) above

4. Remittance of tax deducted at source

Tax deducted from corporate entities must be remitted to the Federal Inland Revenue Service (FIRS), by the 21st of the month that follows the payment. While, tax deducted from individuals must be remitted to State Internal Revenue Service by the 10th day of the month that follows the payment. However, in the case of any other deductions, remittance must be submitted by the 30th of the month that follows the payment.

5. Issuance of Tax Receipts to Facilitate Credit Utilization

The new Regulation require the person who deducts taxes from any payment to present the supplier with a tax receipt for the amount withheld. The receipt must contain details of the supplier's name, address, Tax Identification Number (TIN), kind of transaction, gross amount, amount deducted, and month of payment as the tax authorities will give credit to the supplier withholding tax has not been remitted.

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6. Offences

The new regulation has set an administrative penalty and one-off annual interest on the amount not deducted at source for tax payers that fail to deduct tax at source. This is distinct from prior treatment where the taxpayer that fails to deduct was required to remit the amount they failed to deduct with the applicable interest and penalty.

7. Deduction at source

The obligation to deduct at source shall arise at the earlier of when:

- (a) payment is made, or
- (b) the amount due is otherwise settled.

However, in the case of a payment due between related parties, deduction shall be made at the time of payment or when the liability is recognised, whichever is earlier.

8. Exemptions from withholding tax

- Small company with annual turnover of below N25million and unincorporated body of equivalent attributes are exempted from deducting tax at source from any transaction where the value is N2,000,000 or less during the relevant month, provided that it has a valid Tax Identification Number.
- Compensating payments under a Registered Securities Lending Transaction.
- Any distribution or dividend payment to a Real Estate Investment Trust or Real Estate Investment Company.

- Across-the-counter transactions.
- Interest and fees paid to a Nigerian bank by way of direct debit of the funds that are domiciled with the bank.
- Goods manufactured or materials produced by the person making the supply.
- Imported goods where the transaction does not create a taxable presence in Nigeria for the foreign supplier.
- Any payment in respect of income or profit which is exempt from tax.
- Out-of-pocket expense that is normally expected to be incurred directly by the supplier and is distinguishable from the contract fees.
- Insurance premium.
- Supply of" Liquefied Petroleum Gas (LPG), Compressed Natural Gas (CNG), Premium Motor Spirits (PMS), Automotive Gas Oil (AGO), Low Pour Fuel Oil (LPFO), Dual Purpose Kerosene (DPK), and JET-AI.
- Commission retained by a broker from monies collected on behalf of the principal.

Conclusion

We have interpreted the provisions of the new withholding tax regulation as follows:

- (i) The implementation of withholding tax on winnings from lottery, gaming and reality shows by resident and non-resident persons respectively will not commencement Until 1st

October 2024;

- (ii) WHT rate has reduced from 2.5% to 2% for Construction of road, bridges, building and power plants and 5% ;
- (iii) WHT rate for any other form of construction and related activities remains 5%;
- (iv) WHT rate has reduced from 5% to 2% for all forms of supply contracts other than manufacturers or producers with co-location and telecommunication tower services;
- (v) WHT rate has reduced from 10% to 5% for corporate taxpayers on commission, consultancy, technical, management, and professional fees;
- (vi) WHT has been imposed on brokerage fee at the rate of 5% for corporate tax payers;
- (vii) WHT rate on Director's fee has been increased from 10% to 15% for individual tax payers;
- (viii) WHT has been imposed on compensation for loss of office at the rate of 10% for individual tax payers;
- (ix) WHT has been imposed on winnings from gaming and lotteries at the rate of 5% for individual tax payers. However, this will take effect from 1 October 2024.

We therefore advise you to take advantage of the new rates offered by the new withholding tax regulation to save your company's tax.