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**A Simplified Guide on**

# **WITHHOLDING TAX**

## WHAT IS WITHHOLDING TAX?

Withholding tax (WHT) is a form of income tax that is withheld at source by one person (withholding agent) upon making payment to another person (payee). This tax is deducted at source and remitted to **URA** in advance by the withholding agent.

The law stipulates the persons who are required to withhold the tax and the persons from whom the tax is withheld. This depends on the nature and the circumstances of the transaction.

## KEY DEFINITIONS

**Withholding agent:** A withholding agent also known as a player is a person legally obliged to withhold tax on payment.

**A payee:** A payee is a person from whom tax is withheld before being paid.

**A person:** A person includes an individual, a partnership, a trust, a company, a retirement fund, a Government, a political subdivision of government and a listed institution

## WHO QUALIFIES TO WITHHOLD?

A withholding agent is a person legally obliged to withhold tax on payment. To become a withholding agent one must;

- Be on the list of selected / designated withholding agents published by the Minister of finance in a gazette or
- Be making a payment on a transaction that is subject to WHT by law.

**NOTE:** Withholding taxes may be final or creditable;

**Final:** Under the final withholding tax system, the amount of income tax withheld by the withholding agent is constituted as a full and final payment of the income tax due from the payee on the said income and

- a) The payee will not be subjected to further tax on such income
- b) The payee is not required to file an income tax return for the particular income that has faced final withholding tax
- c) That income is not aggregated with the other income of the taxpayer for the purposes of ascertaining chargeable income;
- d) No deduction is allowed for any expenditure or losses incurred in deriving the income and;
- e) No refund of tax shall be made in respect of the income.

**Creditable:** Under the creditable withholding tax system, taxes withheld on certain income payments are advance tax payments which are offset against a final tax liability in an assessment for a particular year of income. The payee may be required to file an income tax return to report the income and/or pay the difference between the tax withheld and the tax due on the income.

## WHEN SHOULD TAX BE WITHHELD?

Withholding tax may apply when making the following payments:

- Employment income (PAYE)
- Goods and Services
- Imports
- Professionals fees
- Interest/Dividends
- Rent
- Natural resource payments
- Royalty
- Management charge
- Ugandan-source services contract
- 10% should be withheld by Resident persons who purchase assets from non-resident persons
- 10% Commission on mobile money
- 2% non-resident transporters
- 5% non-resident internet service providers

### a. Withholding tax on employment income

Employment income consists of salary, allowances and benefits in kind. Income tax on employment income (commonly known as Pay As You Earn) is deducted by the employer from the employment income of every qualifying employee on a monthly basis and remitted to Uganda Revenue Authority.

The tax for resident persons is calculated as follows:

MONTHLY CHARGEABLE INCOME	RATE OF TAX
Not exceeding Shs. 235,000	Nil
Exceeding Shs. 235,000 but not exceeding Shs. 335,000	10% of the amount by which chargeable income exceeds Shs. 235,000 per month
Exceeding shs.335,000 but not exceeding Shs. 410,000	Shs. 10,000 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Exceeding Shs. 410,000	a) Shs. 25,000 plus 30% of the amount by which chargeable income exceeds Shs. 410,000 ;and b) Where the chargeable income of an individual exceeds Shs 10,000,000 per month, an additional 10% is charged on the amount by which

	the chargeable income exceeds Shs. 10,000,000 per month
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For non-resident persons, the tax is calculated as follows:

MONTHLY CHARGEABLE INCOME	RATE OF TAX
Not exceeding Shs. 335,000	10%
Exceeding Shs. 335,000 but not exceeding Shs. 410,000	Shs. 33,500 plus 20% of the amount by which chargeable income exceeds Shs. 335,000
Exceeding Shs. 410,000	(a) Shs. 48,500 plus 30% of the amount by which chargeable income exceeds Shs. 410,000 ;and  (b) Where the chargeable income of an individual exceeds Shs 10,000,000 per month, an additional 10% is charged on the amount by which the chargeable income exceeds Shs. 10,000,000 per month

**b. Withholding tax on professional fees**

A resident person who pays management or professional fees to a resident person is required to withhold tax at a rate of 6% of the gross amount of the payment.

**c. Withholding tax on winnings of sports or pool betting**

A person who makes payments for winnings of sports betting or pool betting shall withhold tax on gross amount of the payment at a rate of 15%

**d. Withholding tax on goods and services**

Where Government of Uganda; a Government institution; a local authority; a company in which Government has interest or any person designated in a notice issued by the Minister of Finance, pays amounts in aggregate exceeding one million shillings to any person in Uganda for the supply of goods, materials of any kind or services, the payer is required to withhold tax at a rate of 6 percent of the gross amount paid.

It is important to note that this tax is imposed on any part payments for the contract if all payments for this contract when aggregated exceeds the threshold of one million shillings

**e. Withholding tax on imports**

Every person who imports goods into Uganda is liable to pay withholding tax at the time of importation on the Customs Value of the goods at 6% except supplies &

imports by organizations or persons exempt from income tax

#### **f. Withholding tax on interest payments**

A resident person who pays interest to another resident person is required to withhold tax at 15% of the gross amount of the interest paid. This withholding tax is not applicable where:

- Interest is paid by a natural person
- Interest, other than interest from government securities, paid to a
- Interest is paid by a company to an associated company.
- Interest paid is exempt from tax in the hands of the recipient.

Please note that withholding tax on interest is a FINAL TAX where it has been withheld on: -

- i. Payments of interest on treasury bills or other government securities by the Bank of Uganda to any person
- ii. institution (e.g Bank) to a resident individual other than in the capacity of trustee
- iii. institution (e.g Bank) to a resident retirement Fund
- iv. institution (e.g a Bank) to an expected Organization.

#### **g. Withholding tax on dividends**

A resident Company which pays a dividend to a resident shareholder is required to withhold tax at 15% of the gross amount of the dividend paid, except where the dividend income is exempt from tax in the hands of the shareholder. Where the shareholder is a natural person (resident individual), the tax withheld on such dividend income is final

#### **h. Withholding tax on international payments**

Tax is imposed on every non-resident person who derives any dividend, interest, royalty, rent, natural resource payment or management charge from sources in Uganda. The tax is withheld by the payer at a rate of 15% of the gross amount before payment/ remittance of the amount is made. However, this does not apply to amounts from activities of a Ugandan branch of the Non-Resident interest paid abroad by a resident person is exempt from tax if:

- i. Borrowing is through debentures which were widely issued for purposes of raising loan capital to carry out business in Uganda; and
- ii. Borrowing is made from a financial institution of a public character
- iii. Debenture interest is paid outside Uganda

#### **i. Withholding tax on payments to non – resident entertainers or sports persons**

Tax is imposed on the income derived in Uganda by every non-resident entertainer, sports person, or theatrical, musical or other related groups of entertainers. The tax is

charged at a rate of 15% of the gross amount of the remuneration derived by the public entertainer/sports person. Where the tax is levied on a group, every member of the group is jointly and severally liable for payment of the tax.

The obligation to withhold the tax under this provision is placed with the person making the payment e.g. promoter, agent, or such similar person. The tax is payable before the person leaves the country.

### **Withholding tax on payments to non-resident contractors or professionals**

Withholding tax is also imposed on every non-resident person deriving income under a Ugandan - source service contract. This is a contract under which the principle purpose is the performance of services which gives rise to income sourced in Uganda, and any goods supplied under the contract are only incidental to the purpose. A Ugandan-sourced service contract does not include an employment contract. The tax is charged at a rate of 15% of the gross amount of any payment to the non-resident under the Ugandan sourced service contract.

Any person who enters into any service contract with a non-resident is required, within 30 days of entering into the contract, to notify the Commissioner of the nature and duration of the service contract, and disclose the particulars of the non-resident to whom the payment is to be made, as well as the full contract value. Basing on this, the Commissioner may require the payer to withhold the relevant tax at a rate specified in a notice by the commissioner.

Note that failure to notify the Commissioner makes that person personally liable to pay the tax that should have been paid by the non- resident person. And the person is entitled to recover this amount from the non-resident.

### **k. Withholding tax on payments of re-insurance premiums**

A resident person who makes a payment of a premium for re-insurance services to a no-resident person shall withhold 10% on the gross amount of the payment in accordance with the provisions of part X1 of the third schedule of the Income Tax Act.

### **l. Withholding tax on payments of commission to mobile money dealers**

The Tax policy changes for fiscal year 2018/2019 introduced ten percent Withholding tax on commission given to mobile money dealers. It is a final tax.

### **m. Withholding tax on commissions to insurance and advertising agents**

The Tax policy changes for the FY 2020/2021 increased the withholding tax rate on commission paid to insurance and advertising agents from 6% to 10%. Therefore, withholding agents shall file a return not later than the 15<sup>th</sup> day of the following month.

### **n. Withholding VAT**

Withholding VAT is a tax mechanism that requires designated(selected) VAT

registered taxpayers to withhold 6% of the taxable value on all payments made to VAT registered suppliers or to persons who are not VAT registered but making a supply for an amount equivalent to or higher than Ushs 37,500,000 (one quarter of the annual VAT registration threshold).

### **PROVISIONS RELATING TO ACCOUNTABILITY FOR WITHHOLDING TAX**

The withholding agent is required by law to remit to URA the tax withheld (or that should have been withheld), within 15 days after the end of the month in which the payment was made. Where tax is withheld from non- resident entertainers/sports person, the promoter/agent/similar person shall remit the money to URA within five days of the performance or by the day before the date the non-resident leaves Uganda, whichever is earlier.

The agent is further required to maintain and keep available for inspection by URA records of all payments to the payee(s) and the corresponding tax withheld for 5 years after the end of the year of income to which such records relate. Except where it is a final tax, tax withheld against the tax assessed on the payee for the year of income in which the payment is made. Please note that the tax credit certificates will not be issued where tax withheld is a final tax.

### **FAILURE TO WITHHOLD AND/ OR REMIT THE TAX WITH HELD**

A withholding agent who fails to withhold tax is personally liable to pay to the Commissioner the amount of tax which has not been withheld and/or remitted to URA. The agent, however, is entitled to recover the amount from the payee thereafter.

### **PRIORITY OF TAX**

Like any other Government tax, the tax withheld is held by a withholding agent in trust for the Government of Uganda. It is therefore not subject to attachment in respect of a personal debt or liability of the agent and it does not form part of the estate of the agent in event of liquidation or bankruptcy and the Commissioner have a first claim before any distribution of property is made.

#### **Disclaimer**

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