

WITHHOLDING TAXES

Introduction

Withholding Tax was first introduced in Zambia on Interest, Management and Consultancy Fees, Royalties and Public Entertainment Fees in 1971. The Withholding Tax has over the years been extended to Dividends, Rent, Commissions and Payments to Non – Resident Contractors.

What is Withholding Tax?

Withholding Tax is not a tax **but** a means of collecting that tax. Withholding Tax is deductible from a payment by the person who is liable to make payment (the payer) at the point in time the person to whom it is due to be made (the payee) becomes legally entitled to it (date of accrual). The payer is required to pay the tax deductible to the Zambia Revenue Authority by reference to the date of accrual no matter how, when or where payment is made.

What payments will be subject to Withholding Tax under Section 81, 81A and 82A?

Dividends – Section 81

Dividend means any amount distributed or credited by a company to its shareholders, or any amount deemed to have been distributed.

All companies registered in Zambia are required under this section to deduct Withholding Tax (WHT) from payments of dividends other than dividends paid to the government of the Republic of Zambia.

Dividends accrue on the day of the resolution provided that where the resolution states that the dividend is to be paid to share or stockholders registered on a day in future, then the dividend is deemed to accrue on that day.

The rate of WHT on dividends is 15% and it is the final tax for residents and non – residents.

WHT on dividends for Companies carrying on mining is 0%.

Payments to Non – Resident Contractors – Section 81A

These are payments made to non – resident contractors who are engaged in construction and haulage operations.

Who is a Non – Resident Contractor?

Non – resident Contractor means;

- An individual who is neither resident nor ordinarily resident in Zambia;
- Or
- Any other person or partnership who is not resident in Zambia and does not have a permanent establishment in Zambia.

Construction Operations include: –

1. The erection, alteration, maintenance, repair, extension, demolition or cleaning of any building or structure, whether permanent or not;
2. The installation in any building or structure of heating, lighting, lift, air conditioning, ventilation, power, drainage, sanitation, water, fire protection or like supplies or services;
3. The painting or decoration of the internal or external face of any building or structure;
4. Any operations which are an integral part of or prior to or to render complete the operations described in (1) and (2).

Haulage Operations include: -

Transportation by land, water or air of persons, or produce of a like nature or ores and minerals, food stuffs and merchandise.

The Withholding Tax rate is 15% and is not the final tax.

Payments under Section 82A

Interest

Interest is not defined in the Income Tax Act, but it is to be taken as an amount calculated according to a fixed ratio on debt or money lent.

Interest can be earned on savings or deposit accounts, treasury bills, government bonds or any other financial instruments, or on debt or money lent.

Individuals:

The Withholding Tax Rate on interest earned on government bonds, bank savings, treasury bills and any other interest (e.g. from debt or money lent) is 15%.

Withholding Tax is the final tax.

Persons other than individuals:

The Withholding Tax Rate is 15%.

However, this is not the final tax. At the end of the charge year, the taxpayer will be required to submit an Income Tax Return containing all sources of income, including income from interest. The final tax will be determined through an assessment. The Withholding Tax deducted is taken into account before arriving at the final tax.

The Withholding Tax for non – residents is the final tax.

Charities and other Exempt organizations:

The Withholding Tax Rate for interest earned on Government Bonds and Treasury Bills by exempt organizations and charities is 15% and it is the final tax.

Royalties

A Royalty is defined in Income Tax Act as meaning a payment in any form received as a consideration for the use of, or the right to use, any copy right of literary, artistic, or scientific work (including cinematograph films and Tapes for radio or television broadcasting), any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

The Withholding Tax Rate for Royalties is 15% for both residents and non – residents. However, in the case of non – residents, this is the final tax.

Rents

Rent means “ a payment in any form including a fine, premium or any like amount, made as a consideration for the use or occupation of or the right to use or occupy any real property including personal property directly connected with the use or occupation or the right to use or occupy such real property”. It is important to note that the property from whose rentals the Withholding Tax is deducted must be situated in Zambia.

The rate of Withholding Tax is 15%.

The payer (tenant) is responsible for deducting Withholding Tax from gross rentals on the date of accrual of any amount due to the payee (landlord).

The tenant should remit the amount so deducted to the Zambia Revenue Authority.

However, this is not the final tax. At the end of year, the taxpayer will be required to submit an Income Tax Return containing all sources of income, including rental income. The final tax will be determined through an assessment. The Withholding Tax deducted is taken into account before arriving at the final tax.

Management Consultancy Fees

Management and Consultancy Fees means “ a payment in any form other than an emolument to, on behalf, or in respect of any person or persons in partnership, including theatre, motion picture, radio or television artists, musicians, athletes or sports persons, in respect of those persons’ personal activities in any entertainment

It should be noted that Withholding Tax is deductible from a payee who is not in business in Zambia but renders a service to a person carrying on business in Zambia.

Public Entertainment Fees

Public Entertainment Fee means “ a payment in any form other than an emolument to, on behalf of, or in respect of, any person or persons in partnership, including theatre, motion picture, radio or television artists, musicians, athletes or sports persons, in respect of those persons’ personal activities in any entertainment, competition or similar activity within the Republic”.

The Withholding Tax is deductible from payments made to non – resident entertainers and sportsmen for performances within Zambia.

The WHT rate is 15% and is the final tax.

Commissions

Commissions for Withholding Tax purposes means any Commission other than Commission received by an individual whose income is from employment or office.

The WHT rate for both residents and non – residents is 15% and it is not the final tax.