



**ZAMBIA REVENUE AUTHORITY**

**DIRECT TAXES DIVISION**

**PRACTICE NOTE NO. 3/2003**

**WITHHOLDING TAXES**

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## **GENERAL**

This PRACTICE NOTE describes the provisions of Sections 81, 81A and 82A, which relate to the deduction of withholding tax from certain types of payments.

The commentary is for general guidance only and is not to be taken as an authority in any particular case.

Any inquiries may be made at the nearest office of the Zambia Revenue Authority, Direct Taxes offices or Advice Centers in Lusaka and Kitwe.

## **2.0 INTRODUCTION**

A withholding tax is deductible from a payment by the person who is liable to make the 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 (the date of accrual).

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, rents, commissions and payments to non-resident contractors.

## **3.0 DEFINITIONS**

In this Practice Note, the following words and expressions will have the following meaning:

### **3.1 Date of accrual**

The date on which the payee is legally entitled to claim payment whether paid or not. This is the date on which tax is deductible and determines the date by which the tax deductible is payable to the Zambia Revenue Authority.

### **3.2 Payee**

The person legally entitled to receive a payment.

### **3.3 Payer**

The person who is liable to make a payment and who is responsible for deducting and paying tax to the Zambia Revenue Authority.

#### **4.0 TYPES OF PAYMENTS WHICH ARE SUBJECT TO WITHHOLDING TAX UNDER SECTION 82A**

Withholding tax is deductible on the date of accrual of any amount due to a payee.

The amount from which tax is to be deducted is the total amount payable before any deduction whatsoever (gross).

#### **4.1 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:**

- a) The withholding tax rate on interest on government bonds is 15%.
- b) The withholding tax rate on bank and treasury bill interest is 25%. However, the first K300,000 per annum or K25,000 per month is exempt from tax.
- c) For any other interest (e.g from debt or money lent), the withholding tax rate is 25%.

In all the three cases above, 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 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 organisations:**

Effective 1<sup>st</sup> April 2003, interest on government bonds and treasury bills earned by exempt organisations will be subject to withholding tax at the rate of 15% and this will be the final tax.

### **4.2 Royalties**

Royalty is defined in the 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 rate of withholding tax on royalties is 15% for both residents and non-residents. However, in the case of non-residents, this is the final tax.

### **4.3 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 the 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.

#### **4.4 Management and Consultancy Fees**

Management or consultancy fee means “a payment in any form other than an emolument for or in respect of any managerial, administrative, technical, or consultative service or any service of a like manner”.

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.

The rate of withholding tax is 15%.

#### **4.5 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 on public entertainment fees was re-introduced on 1<sup>st</sup> April 2000.

The withholding tax is deductible from payments made to non-resident entertainers and sportsmen for performances within Zambia.

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

#### **4.6 Commissions**

Commissions for withholding tax purposes means any commission other than commission received by an individual whose income is from employment or office.

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

## **5.0 OTHER TYPES OF PAYMENTS**

### **5.1 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 incorporated in Zambia are required under this section to deduct withholding tax from payments of dividends other than dividends paid to the Government of the Republic of Zambia.

Tax is deductible on the date of accrual. 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 the future, then the dividend is deemed to accrue on that day.

The rate of withholding tax is 15% and it is the final tax for residents and non-residents.

### **5.2 Payments to Non- Resident Contractors – Section 81A**

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

Non – resident contractor means;

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

Construction operations include –

- i) The erection, alteration, maintenance, repair, extension, demolition or cleaning of any building or structure, whether permanent or not;
- ii) 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;
- iii) The painting or decoration of the internal or external face of any building or structure; and
- iv) Any operations which are an integral part of or prior to or to render complete the operations described in paragraphs (i) and (iii) above.



Haulage operations are defined in the Act as including the 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.

For further details please refer to Practice Note 2/98, which is available at the Direct Taxes Offices and the Advice Centres in Lusaka and Kitwe.

## **6.0 COMMISSIONER- GENERAL'S DIRECTION**

In certain cases, the payee happens to be in a country where there is a Double Taxation Agreement (DTA) with the Republic of Zambia. In such cases if withholding tax has already been deducted and paid, the payer could ask for a directive from the Commissioner- General to restrict the deduction of tax to the rate specified in the respective Double Taxation Agreement. Before a direction can be given, the Commissioner- General has to be satisfied that conditions as stipulated in the respective DTA are fulfilled.

## **7.0 DUE DATES:**

The tax deducted must be remitted to the Zambia Revenue Authority by the fourteenth of the month following the month in which the deduction was made. For example, withholding tax, which was deducted in the month of December 2002, is due for payment on or before 14<sup>th</sup> of January 2003. Payments made after the 14<sup>th</sup>, will be regarded as late and attract interest and penalties.

## **8.0 PENALTIES**

A penalty of 5% of tax unpaid is payable for each month, or part thereof tax remains unpaid. In addition, interest is payable at Bank of Zambia discount rate plus 2%.

If tax is not remitted on time, a penalty of 5% per month or part thereof, of the unpaid amount is chargeable. Interest is also chargeable at 2% above the Bank of Zambia discount rate.

## 9.0 **FORMS IN USE:**

The forms provided in connection with withholding tax are as follows:

### **Certificates:**

✓ Form CF 82A/C:

The payer in respect of each payment of interest, rents, public entertainment fees, management and consultancy fees, commissions and royalties should complete the form.

✓ Form CF 81A/C: This form is to be completed by the payer in respect of each payment to a non- resident contractor.

✓ Form CF 81A: The form should be completed by the payer in respect of each payment of dividend to a shareholder.

On making a deduction for withholding tax, the payer is required to forward the original copy of the certificate to the payee indicating the gross amount of the payment made, the withholding tax deducted and the date of payment.

A copy of the certificate should accompany all remittances to the Zambia Revenue authority.

### **Returns:**

- ✓ A monthly return is a form on which the summary of all payments for the month is recorded.
- ✓ CF 82A/R – A summary of all payments of interest, rents, public entertainment fees, management and consultancy fees, commissions and royalties.
- ✓ CF 81A/R – A summary of all payments to non-resident contractors.
- ✓ CF 81A/R – A summary of all payments of dividends.

These forms are available at the Zambia Revenue Authority Direct taxes offices and Advice Centres in Lusaka and Kitwe.

## 10.0 CONTACT US:

If you have any problems concerning your taxes, please contact the Advice Centre or your nearest Direct Tax Office at the following addresses:

1. Advice Centre  
2<sup>nd</sup> Floor Revenue House  
Private Bag W136  
LUSAKA  
Tel: 226227/236227  
Fax 222717
2. Assistant Commissioner  
Lusaka "A" Tax Office  
P.O. Box 31026  
LUSAKA  
Tel: 221497
3. Assistant Commissioner  
Lusaka "B" Tax Office  
P.O. Box 31936  
LUSAKA  
Tel: 221496
4. Assistant Commissioner  
Lusaka "C" Tax Office  
P.O. Box 31988  
LUSAKA  
Telefax: 01-224935
5. Assistant Commissioner  
Ndola Tax Office  
P.O. Box 70181  
NDOLA  
Tel: 02- 614096  
Fax: 02-614694
6. Assistant Commissioner  
Kitwe Tax Office  
P.O. Box 20855  
KITWE  
Tel: 02-230362  
Fax:02-229942
7. Assistant Commissioner  
Lusaka Taxes Central Unit  
P.O Box 35710  
LUSAKA  
Telefax: 01-224935  
Fax: 02- 614096
8. Assistant Commissioner  
Direct Taxes Inv. Unit  
P.O. Box 35710  
LUSAKA  
Telefax: 01-235252
9. Senior Inspector  
Kabwe Tax Office  
P.O. Box 80909  
KABWE  
Telefax: 05-223642
10. Senior Inspector  
Chipata Tax Office  
P.O. Box 510632  
CHIPATA  
Telefax: 062- 21155
11. Senior Inspector  
Mongu Tax Office  
P.O. Box 910110  
MONGU  
Telefax: 07-221662

12. Senior Inspector  
Kasama Tax Office  
P.O. Box 410728  
KASAMA  
Telefax: 04 - 221810

13. Senior Inspector  
Mansa Tax Office  
P.O. Box 710112  
MANSA  
Telefax: 02-821147

14. Senior Inspector  
Solwezi Tax Office  
P.O. Box 110368  
SOLWEZI  
Telefax: 08-821633

15. Senior Inspector  
Livingstone Tax Office  
P.O. Box 60597  
LIVINGSTONE  
Telefax: 03-320772

16. Advice Centre  
Nchanga House  
P.o Box 20454  
Kitwe  
Telefax: 02-229301

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