

SUBJECT: GUIDELINES ON THE COLLECTION PROCEDURE FOR WITHHOLDING TAX (WT) AND VALUE ADDED TAX (VAT) BY MINISTRIES, PARASTATALS AND OTHER AGENCIES OF GOVERNMENT

The purpose of this circular is to draw the attention of the general public, ministries, parastatals and other agencies of government at Federal, State and Local government on the government policy on the collection procedures for Withholding Tax (WT) and the Value Added Tax (VAT) by government and related establishments. The circular aims to clear some doubts and misgivings about the status scope, nature and objectives of the two tax concepts. It also spells out the guidelines on the collection procedures for the two tax regimes. This information circular is a review of the information circular No. 9502 of 20th February, 1995: The purpose of the review is to update the content of the circular to meet current practices and changes in rates of withholding tax.

Highlights:

The following facts are emphasised in this circular about collection of VAT and WT from ministries, parastatals and other agencies of government.

- (i) Withholding tax is not a separate type of tax but a payment on account of income tax and it is available as set-off against tax assessment of relevant periods;
- (ii) Ministries, parastatals and agencies of government do not bear the burden of WT but they merely act as agents of collection of the tax;
- (iii) Value Added Tax is a tax on consumption of VAT able goods and services;
- (iv) As consumers of goods and services, ministries, parastatals and other agencies of government pay VAT on their consumption in addition to the contract price of the item consumed by them and, for the contractor to render monthly returns, Government agencies must obtain receipts from FIRS for the VAT paid on behalf of the contractors. The FIRS' will issue the receipt in the name of the government agency which will in turn issue its own receipt along with photocopy of receipt received from FIRS to the contractor;
- (v) The VAT receipt is used by the contractor to make his monthly output and input tax return;
- (vi) **Applicable rates:**

(a) For withholding tax:

<u>Types of payment</u>	<u>WT Rate For Companies</u>	<u>WT Rates For Individuals 10%</u>
* Dividend, Interest & Rent	10%	10%
* Royalties	15%	15%
* Commissions, Consultancy, Professional, Technical & Management Fees	10%	5%
* Building, Construction & related activities	5%	5%
* Contract of Supplies & Agency arrangements	5%	5%
* Directors' Fees	10%	5%

(b) For VAT

5% for all VATable items of goods and services except where they are specifically exempted by the VAT Decree. For details of exemption, see FIRS Information Circular on 'items exempted from VAT.

2. Withholding Tax and Value Added Tax

There is need to draw attention to the fundamental differences between Withholding Tax and Value Added Tax so that the mechanics of the two tax concepts can be clearly understood.

Withholding Tax is an advance payment of income tax and the purpose is to bring the prospective taxpayer to the tax-net, thereby widening the income tax base. In other words, the withholding tax system is used to track down taxpayers and the incomes which may otherwise not be reported by them.

When the income on which withholding tax is deducted at source is finally brought to the notice of the tax authority and appropriate tax is computed, credit is given for the withholding tax deducted at source on the presentation of the original withholding tax receipts (Credit Notes). The taxpayer will be required to pay only the balance of the tax due after the final determination of the tax liability and the grant of credit for the withholding tax suffered at Source. Withholding tax is therefore nothing more than a collection machinery to curb tax evasion. It is not a separate tax on its own.

In contrast, Value Added Tax is a separate type of tax. VAT is a consumption tax payable on the goods and services consumed by any person whether government agencies, business organisations or individuals. The target of VAT is consumption of goods and services and unless an item is specifically exempted by law, the consumer is liable to the tax.

Therefore, all agencies of government, organisations and persons that are normally exempted from income tax are expected to pay VAT on the goods and services consumed by them.

3. Collection Arrangement by Government Agencies:

a) Withholding Tax:

- (i) The rate at which tax is to be withheld on payments for contract of supplies, construction and allied services has been increased from 2.5% to 5% with effect from 1st January 1995 for Limited Liability Companies, individuals and non-corporate bodies.
- (ii) The withholding tax on consultancy fees, technical fees, management fees, directors fees, commission and all service fees other than those mentioned in sub-paragraph (i) above remains at 10% when payable to limited liability companies. The applicable rate for such types of payment to individuals and non-corporate bodies is 5%.
- (iii) Withholding tax rate for dividend, interest and rent whether paid to companies or individuals is 10% the applicable rate on royalties remains at 15%. The withholding tax on dividend is now the final tax when paid.
- (iv) Withholding taxes on individuals who are non-resident in Nigeria, residents of Federal Capital Territory of Abuja, members of the Police & Armed Forces and Foreign Officers are payable to the FIRS while withholding taxes on other individuals are payable to the tax authority of the state (State Internal Revenue Service) where the individuals reside.
- (v) The term "contract and agency arrangements" covers all forms of supplies, deliveries or the like through competitive bidding, tenders, LPOs or other similar arrangements whether oral or written. The term does not cover across-the-counter cash sales or supplies in the ordinary course of business.
- (vi) The currency in which the tax is to be paid is the currency the contract was awarded and in which the tax was deducted.

(vii) Payments of withholding taxes are to be made through designated banks. The Tellers must be made payable to:

"The Federal Government of Nigeria -FIRS - Withholding Tax Account"

(viii) (a) The payment should be accompanied with a schedule showing the following details:-

taxpayer.

- * Name and address of each contractor/taxpayer
- * The registration number or the FIRS file reference number of each contractor

- * The value of the contract; and
- * The amount of tax withheld.

(b) In addition, obligations of the Agent of deduction include: -"

amount

- * Deduction of the tax when payment is credited or paid, whichever comes first;
- * The application of the correct rate to each deduction;
- * The payment of the tax to the relevant designated bank within 30 days;
- * The issuance of receipt to the person who suffered the deduction to cover the

deducted;

- Submission to the relevant tax authority of a schedule showing details in (viii a) above.

(ix) In the case of individuals, sole proprietorships, partnerships and other business enterprises which fall within the tax jurisdiction of State" Governments, payments should be made to the States concerned.

(x) The time within which the withholding tax is to be remitted to the FIRS is 30 days from the date the tax is withheld or the date the duty to deduct arises, whichever is earlier.

(xi) Any default in the implementation of the tax carries heavy penalties. Failure to deduct withholding taxes and failure to remit taxes withheld are punishable on conviction by a fine of 200% of the tax not withheld or remitted.

(xii) Government will not condone any lapses in the implementation of these directives. It is important to clarify that statutory sanctions will be invoked where any agency of government fails to deduct or deducts at less than the applicable rate or, having deducted, fails to remit the withholding tax within the statutory time limit. Such sanctions include the imposition of penalty and interest at commercial rate on the amount not withheld, under-deducted or not remitted, as the case may be. The FIRS has the statutory power to authorize the Accountant-General of the Federation to withhold such amount together with the accruing penalty and interest from any allocation due to such government ministry or agency.

(b) Value Added Tax;

- (i) All government agencies are now to register as VAT agents. They are to make necessary provisions for the payment of VAT in their award of contract. The amount of the VAT should be remitted to the FIRS at the same time the contract payment is being made to the contractor.
- (ii) The submission of evidence of VAT registration by a contractor is now a requirement for being allowed to bid for a contract with ministries, parastatals and agencies of government at all levels.

- (iii) Payment for VAT are to be made through designated banks with instruments/tellers payable to:
"The Federal Government of Nigeria - FIRS - VAT Account".

The payment documents should be sent to the nearest Local VAT Office accompanied with a schedule showing the following details:

- name, address and VAT registration number for each contractor/taxpayer
- the month of transaction; and
- the VAT payable

All contractors are still to render VAT returns to the FIRS on the contracts awarded to them by government agencies and necessary adjustments will be made for the output tax collected from the source to arrive at a net VAT payable or refund due - see box 13 of the appendix.

The agencies of government referred to in this circular include a ministry, a department, a parastatal, an institution or any other agencies of the Federal, State or Local Government.

4. Dual Tax Roles of Ministries and Other Government Agencies:

For the avoidance of doubt, it is necessary to clarify that the new policy of government imposes tax roles on any agency awarding contracts. Such an agency is to act as:

- (i) agent of government for the deduction and remittance of withholding tax; and
- (ii) agent of government for the collection and remittance of VAT.

This implies that two (2) separate cheques - one for the payment of a withholding tax and the other for the payment of VAT - are now to be issued monthly by each agency in respect of contract payments. The FIRS is most grateful to each agency for the additional responsibility.

For administrative convenience, the cheques are to be forwarded to the offices of FIRS nearest to a particular agency latest by the 1st day of every month. Accredited officials of the FIRS will also be going round to enforce compliance.

5. The FIRS is using this medium to solicit for your maximum co-operation in the new spirit of the drive of government for a more buoyant revenue. All government agencies should ensure that they compel the heads of their accounts departments, the offices of the Sub-Treasurers of the Federation and Federal Pay Offices to enforce compliance with the provisions of this Information Circular.
6. For any further information or clarification's please direct your enquiries to:

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