

# Deduction At Source (Withholding) Regulations 2024

TAX CLIENT ALERT

JULY 2024

It is no longer news that the Minister of Finance and Coordinating Minister of the Economy, Mr. Adebayo Olawale Edun, recently issued new regulations governing the deduction of tax at source from payments made to taxable persons under the Capital Gains Tax Act (CGTA), the Companies Income Tax Act (CITA), the Petroleum Profits Tax Act (PPTA), and the Personal Income Tax Act (PITA) (the Regulations). We have simplified in bullet points, the impact of this Regulations on relevant sectors and individual taxpayers.



## COMMENCEMENT

The Regulations generally commenced on 01 July 2024. However, the impact of the Regulations on gaming business will commence 01 October 2024.



## WHO IS TO DEDUCT & COMPLY

All persons (excluding individuals), including government agencies, statutory bodies and government institutions, persons exempted from taxes as well as agents acting on behalf of these persons .



## IMPACT OF THE REGULATIONS ON RELEVANT BUSINESS ACTIVITIES

### Broker & Commission Agents:

The commission retained by brokers and commission agent in line with industry practice will not be impacted by the withholding tax (WHT) deduction. This lays to rest long aged controversies in this regard, and may render inapplicable, the decision of the TAT in SVG v Ekiti State Internal Revenue Service.

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### Gaming Business:

Commencing 1st October 2024, gaming businesses are now required to deduct WHT at the rate of 5% and 15% on net payouts to individual resident and non resident non-corporate entities respectively. Further regulations may be required to give more clarity on this.

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### Oil and Gas:

WHT does not apply to the supply of LPG, PMS, CNG, AGO, DPK, Jet A-1, and LPFO

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### Power:

WHT shall not be deducted with respect to sale of generated and distributed energy or electricity by the producer.

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### Colocation and Telecommunication Tower Services:

WHT with respect to this industry has been reduced to 2% for corporate and individual residents, and 5% for corporate and individual non residents.

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### Pioneer Industry/ Profit Exempt:

Any payment with respect to which profit is exempt will not suffer WHT. Thus, companies making payments to pioneer businesses, need not deduct WHT from payment due.

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### Insurance:

Insurance premium is not liable to WHT

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### Manufacturing:

Sales of good manufactured and produced by the person making the supply shall not be liable to WHT deduction.



## COMPLIANCE REQUIREMENTS

### Timing of Deduction:

Generally, WHT should be deducted/remitted at the earlier of when; (a) payment is made; or (b) the amount due is settled. However, between related parties, the WHT should be deducted/remitted at the earlier of payment or recognition in the books.



### Timing of Remittance/Payment:

Payment shall be due on or before (a) 21st day of the following month for payment due to the FIRS; or (b) 30th day of the following month for payment due to the SIRS; and (c) 10th day of the following month for capital gains deductions and Pay-As-You-Earn.



### Evidence of WHT Deduction:

Taxpayers are now required to issue receipt evidencing deduction of WHT on payment due to a transacting counter part. The requirement is similar to the practice in the oil and gas sector where entities issue payment advise to their vendors evidencing the deduction of WHT and VAT at source.



### Exemption from Deduction:

Small companies are exempt from deduction if the transaction value is less than two million Naira, and the vendor has a valid tax identification number (TIN).





## CONSEQUENCE OF NON-COMPLIANCE

### Failure to have a TIN:

A customer with no TIN will be charged double the prescribed WHT rate under the First Schedule.

### Failure to Deduct:

The Regulations suggest that where a person fails to deduct WHT as prescribed in the Regulations, such person will be subject to an administrative penalty, and a one-off penalty only.

### Failure to remit after deduction:

Where a person fails to remit upon deduction, such person will be subject to pay an administrative penalty, as well as the amount not remitted and an annual interest.



## OTHER REQUIREMENTS TO NOTE

- Imported goods are exempted from the application of WHT where the vendor does not have a taxable presence.
- Payment of out-of-pocket expenses will not be subject to WHT deduction
- Winnings from a game of chance or reality show designed to promote entrepreneurship, academics, technology and scientific innovation will not be subject to WHT deduction.
- Transactions across the counter are not subject to WHT deduction.

## CONCLUSION

In precis, the wholesale overhaul of the erstwhile WHT regulations which had been severally amended is a welcome development. With changes such as the exemption of small businesses from WHT obligations subject to certain provisos, reduced rates for businesses with low margins, exemptions for manufacturers and producers, to mention a few, the Regulations raise the compliance standards for taxpayers. The changes introduced by the Regulations further offer a transparent and enhanced revenue base for the government in line with global best practices.

Business owners and administrators will need to review the direct impact of the Regulations on its business operations particularly in the light of the tax reporting requirements to the tax authority.

## ELIGIBLE TRANSACTIONS AND APPLICABLE RATES

TRANSACTIONS	CORPORATE RECIPIENTS		NON-CORPORATE RECIPIENTS		REMARKS
	Resident	Non-Resident	Resident	Non-Resident	
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 rate for non-residents to serve as final tax.
Supply of goods or other materials other than by the manufacturer or producer	2%	N/A	2%	N/A	Simplified description and reduced rate to address low margin.
Collocation and telecommunication tower services	2%	5%	2%	5%	Lower rate to reflect low industry margins.
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, buildings 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 Para 7(11).
Director's 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 CGT Act.
Entertainers and sportspersons.	N/A	15%	N/A	15%	Applies on amounts earned in Nigeria.
Winnings from lottery, gaming, reality shows.	N/A	N/A	5%	15%	With effect from October 2024.

### TEMPLATE RECEIPT FOR TAX DEDUCTED AT SOURCE

Serial No. of Receipt: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Payer: \_\_\_\_\_

TIN of Payer: \_\_\_\_\_

Name of Beneficiary: \_\_\_\_\_

TIN of Beneficiary: \_\_\_\_\_

Month Covered: \_\_\_\_\_

Amount Deducted: \_\_\_\_\_

Date of Remittance to Relevant Tax Authority: \_\_\_\_\_

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