

NIGERIA WITHHOLDING TAX REFORMS: KEY CHANGES AND IMPLICATIONS

Nigeria has recently undertaken significant reforms to its withholding tax (WHT) system with the introduction of the Deduction of Tax at Source (Withholding) Regulations 2024. This overhaul, signed into law by the Minister of Finance, marks a pivotal shift in the administration of WHT, which has been in place for nearly fifty years. The new regulations are set to take effect from July 1, 2024, and aim to streamline tax compliance while promoting a more equitable tax environment.

Overview of Key Changes

- **Reduction in Withholding Tax Rates:** The new regulations introduce several reductions in WHT rates across various sectors.
- **Professional Services:** The WHT rate for payments to Nigerian companies for professional, management, technical, and consultancy services has been halved from 10% to 5%. However, payments made to non-resident companies will still incur a 10% rate.
- **General Services and Goods:** For payments to Nigerian residents for services not classified under professional categories and for the supply of goods or materials, the WHT rate is reduced from 5% to 2%. Notably, this excludes transactions classified as "over-the-counter" sales.
- **Construction Payments:** The WHT applicable to construction services provided by Nigerian residents has been reduced from 2.5% to 2%.
- **Telecommunication Services:** Similar reductions apply to co-location and telecommunication tower services, where the rate is also lowered from 5% to 2%.

New Withholding Tax Rates

Conversely, certain categories have seen an increase in WHT rates:

- **Non-Resident Entertainers and Sportspeople:** Earnings from non-resident entertainers and sportspeople will now attract a WHT of 15%, which is considered final tax.

- **Lottery and Gaming Winnings:** Starting October 1, 2024, winnings from lotteries and similar activities will incur a WHT of 5% for residents and 15% for non-residents.
- **Construction Payments to Non-Residents:** The rate for payments made to non-residents for construction services has increased from 2.5% to 5%.
- ***Directors' Fees:** The WHT on directors' fees has risen significantly—from 10% to 15% for residents and from 15% to 20% for non-residents.

Exemptions and Administrative Changes

The new regulations also introduce several exemptions aimed at easing the burden on small businesses:

- **Small Business Exemption:** Companies with an annual turnover of N25 million or less are exempt from deducting WHT on transactions up to N2 million if the supplier possesses a Tax Identification Number (TIN).
- **Double Rate Penalty:** Non-registered recipients of non-passive income will face double the standard WHT rate.
- **Payment Agents:** The responsibility for deducting and remitting WHT now extends to payment agents handling transactions subject to withholding tax.

Timing and Compliance

One of the notable changes is in the timing of WHT deductions. The obligation now arises at the earlier of payment or settlement rather than at payment or accrual as was previously mandated. This aims to simplify compliance processes for businesses.

Additionally, those who deduct withholding tax are required to issue receipts that enable recipients to claim tax credits for withheld amounts, regardless of whether these amounts have been remitted to tax authorities.

Implications of the Reforms

These reforms are expected to have broad implications for both taxpayers and businesses in Nigeria:

1. **Improved Compliance:** By lowering rates for specific sectors, particularly those with low profit margins like small businesses, the government aims to enhance compliance and reduce financial strain.
2. **Legal Considerations:** Existing contracts may need reassessment due to changes in tax obligations. Businesses must consider potential legal implications stemming from these adjustments.
3. **Economic Impact:** The reforms are designed not only to improve revenue collection but also to foster a more business-friendly environment during challenging economic times.
4. **Potential Disputes:** As businesses adapt to these changes, disputes may arise over contract terms that do not account for new withholding tax obligations.

In conclusion, while the Deduction of Tax at Source (Withholding) Regulations 2024 introduce significant changes aimed at creating a fairer tax landscape in Nigeria, they also necessitate careful consideration by businesses regarding compliance and contract management. As these regulations come into effect, stakeholders will need to navigate this new landscape effectively to mitigate risks and capitalize on potential benefits.