



# WITHHOLDING TAX UNDER THE INCOME TAX ACT, CAP 340

## What is withholding tax?

Withholding tax is a form of income tax. This tax is deducted at source by one person upon effecting payment to another person. The person making payment and hence, withholding the tax is defined as the withholding agent and the recipient of the payment after tax is the payee. The law specifies the persons who are required to withhold the tax as well as those upon whom the tax should be imposed. This depends on the nature of transaction.

For ease of understanding, withholding tax is discussed in the following three broad categories.

- o Withholding tax on employment income.
- o Withholding tax on gross payments/earnings other than employment earnings
- o Withholding tax on imports

### *Withholding Tax On Employment Income (Section 116)*

This tax is deducted by the employer from the employment earnings of every liable employee on a monthly basis under the system of pay as you earn (PAYE). In this edition the focus is on withholding tax other than PAYE as outlined below:

### **Payments to Non- Resident Person**

#### *Withholding tax on international payments (Section 83)*

Tax is imposed on every non-resident person who derives any dividend, interest, royalty, natural resource payment or management charge from sources from Uganda. The tax is withheld by the payer at 15 percent of the gross amount before payment/remittance of the amount is effected (section 121)

However interest paid abroad by a resident person in respect of debentures which were issued by a foreign company for purposes of raising loan capital to carry out business in Uganda is exempt.

#### ***Withholding tax on payments to public entertainers and sports persons (Section 84)***

Tax is imposed on every non-resident public entertainer or sports person who derives income from any performance in Uganda. The tax is charged at 15 percent of the gross amount of the remuneration derived by a public entertainer/sports person or receipts derived by any theatrical, musical or other group of public entertainers/sports persons. The tax is levied on the group in this case but every member of the group is jointly and severally liable for payment of the tax.

The obligation to withhold the tax is placed with the person making the payment e.g. promoter, agent, or such similar person (Section 121)

#### ***Withholding tax on payments to Contractors or Professionals (Section 85)***

The tax is also imposed on every non-resident person deriving income under a Ugandan - source service contract.

This is a contract under which the principle purpose is the performance of services which gives rise to income sourced in Uganda, and any goods supplied under the contract are only incidental to the purpose. For purposes of this tax, Ugandan-sourced service contract does not include an employment contract. The tax is charged at 15 percent of the gross amount of payment and the person making the payment should withhold the relevant tax before effecting payment (Section 121). Any person who enters into any service, contract with a non-resident is required to notify the Commissioner General of the nature and duration of the service contract, and disclose the particulars of the non-resident to whom the payment is to be made, as well as the full contract value. Basing on this, the Commissioner General may require the payer to withhold the relevant tax at a rate specified in the Commissioner General's notice (Section 122).

***Withholding tax imposed in the above categories of payments under Section 84, 85 and 86 is a final tax and the liability of the payee is settled if the tax is withheld and paid to Uganda Revenue Authority.***



## Payments to Resident Persons

### *Withholding tax on interest payments (Section 117)*

A resident person who pays interest to another resident person is required to withhold tax at 15% of the gross amount of the interest paid. However withholding tax is not applicable where interest is:-

- paid by a natural person (individual)
- paid to a financial institution.
- paid by a company to an associated company.
- exempt from tax in the hands of the recipient.

Where applicable in this case, the tax is charged at 15 percent of the gross amount. It is a final tax where it is withheld by a financial Institution (e.g. a Bank) on interest paid to a resident individual.

### *Withholding tax on dividends (Section 118)*

A resident Company which pays a dividend to a resident shareholder is required to withhold tax at 15% of the gross amount of the dividend paid, except where the dividend income is exempt from tax in the hands of the shareholder. Where the shareholder is a natural person (resident individual), the tax withheld on such dividend income is final and not refundable.

## Withholding Tax on Supplies and Imports

### *Withholding tax on Goods and Services (Section 119)*

Where Government of Uganda, a Government institution, a local authority, a company in which Government has interest or any person designated in a notice issued by the Ministry of Finance pays amounts in aggregate exceeding one million shillings to any person in Uganda for the supply of goods, materials of any kind or services, the payer is required to withhold 6 percent of the gross amount. The threshold of one million shillings is in respect of the **total contract** value, implying that separate supplies which constitute one contract are subject to the 6 percent withholding tax regardless of the amount paid per supply or transaction.



### ***Withholding tax on professional fees (Section 119A)***

With effect from 1st July 2001, a resident person who pays management or professional fees to a resident professional is required to withhold tax at 6 percent of the gross amount of payment. Excluded from this provision are professionals whom the Commissioner General is satisfied they have regularly complied with the obligations imposed by the Income Tax Act, and those professionals ordinarily engaged as payroll employees.

### ***Withholding Tax on Imports***

Every person who imports goods into Uganda is liable to pay withholding tax, at the time of importation, at 6 percent based on **Customs Value** in Uganda. This provision does not apply to the following categories of imports:-

- petroleum or petroleum products including furnace oil, lubricants other than cosmetics and fabrics or yarn manufactured out of petroleum products,
- plant and machinery,
- human and animal drugs
- scholastic materials
- imports of exempt organizations/persons
- raw materials imported by a manufacturer solely for generating finished products
- an importer who the Commissioner General is satisfied has regularly complied with the Income tax obligations.

## **PROVISIONS RELATING TO ACCOUNTABILITY FOR WITHHOLDING TAX**

### ***Accountability for withholding tax (Section 125 & 126)***

The withholding agent is required by law to remit to URA the tax withheld (or that should have been withheld), within 15 days after the end of the month in which the payment was made. In the case of a person about to leave Uganda, the tax should be withheld and remitted before the payee leaves.

The agent is further required to maintain and keep available for inspection by URA records of all payments to the payee(s) and the corresponding tax withheld for 5 years after the end of the year of income to which such records relate.

Except where it is a final tax, tax withheld is a credit against the tax assessed on the payee for the year of income in which the payment is made.



Upon receiving the payment of tax, URA should issue, to the payee a Tax Credit Certificate, setting out the tax withheld. The withholding agent is required to obtain from URA and deliver the tax credit certificate to the payee.

#### ***Failure to withhold and/or remit the tax (Section 124)***

A withholding agent who fails to withhold tax is personally liable to pay to URA the tax which has not been withheld and/or remitted. The agent, however, is entitled to recover the amount from the payee thereafter. URA is mandated to recover the tax from the agent as though it were tax due from such agent together with the accrued interest.

#### ***Priority of tax withheld (Section 127)***

Like any other Government tax, the tax withheld is held by a withholding agent in trust for the Government of Uganda. It is therefore not subject to attachment in respect of a personal debt or liability of the agent and it does not form part of the estate of the agent in event of liquidation or bankruptcy.

#### **IMPORTANT NOTE**

**Every person who files a return of income, in which the gross income includes amounts that were subjected to withholding tax, is required to attach to the return the relevant tax credit certificate(s). Every payee should always demand for the tax credit certificate(s) from the withholding agent for every transaction to which the tax is applied as evidence against the claim for the tax credit.**

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***Disclaimer:*** This Information is strictly for purposes of guidance to our clientele and is subject to change on amendment of tax legislations & any other regulations that govern tax administration.