



## Wage Withholding Tax

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## Introduction

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The Income Tax Law 2009 has changed some of the applications of the wage withholding tax. This guide will explain those changes and help you in complying with the law.

## Who must withhold?

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Legal persons and natural persons (individuals) with two or more employees during any month of the tax year are required to withhold tax from employees whose income exceeds the threshold, discussed later (Article 58 Income Tax Law). Legal persons include partnerships, corporations, limited liability companies, organizations, agencies, ministries and other national or local government agencies and departments, enterprises of the State and municipalities, and charitable institutions.

## What payments are subject to withholding?

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Payments to employees in the form of salaries and wages for work provided are subject to withholding. Salaries and wages include: regular pay for services, overtime pay, cash allowances provided by the employer to the employee (including, but not limited to, food allowances and transportation allowances), and non-cash payments for services. For more detailed information regarding which payments are subject to withholding, see Public Ruling 1384/6 posted on the Ministry of Finance website at <http://www.mof.gov.af> or on the Afghanistan Revenue Department website at <http://www.ard.gov.af>

## Who is subject to withholding?

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All resident and non-resident employees working in Afghanistan whose salaries and wages exceed the tax threshold of AFN 5000 (or equivalent in foreign currency) per month or equivalent pro-rated amounts for those paid on alternate payroll periods. Non-resident employees are

### Note

There are no fees or charges payable to the Ministry of Finance or its Revenue Department or the Mustufiat for any Tax Guides or Forms or at any stage of the tax assessment, collection or enforcement process.

exempt from withholding if their home country provides the same exemption to residents of Afghanistan. Resident and non-resident employees of foreign governments and international organizations are subject to tax based on existing agreements, treaties or protocols with the State.

### **Who is an employee? Who is an independent contractor?**

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It is important to distinguish between employees and independent contractors for tax purposes. Employees will be liable to wage withholding tax while independent contractors will not. Independent contractors will however still be liable to annual income tax.

The Income Tax Law 2009 does not provide a definition of employee or independent contractor. Instead, it is a question of fact decided on the basis of the nature and circumstances of the provision of an individual's services rather than solely on the contract itself or the terms used in a contract. Other factors taken into account include the degree of control over the manner of the work, the payment arrangement, flexibility of place of work, reporting, provision of tools and equipment, duration of relationship, etc.

For more detailed information regarding the determination of employee or independent contractor status for tax purposes, see Public Ruling 1385/5 posted on the Ministry of Finance website at <http://www.mofgov.af/tax> or the Afghanistan Revenue Department website at <http://www.ard.gov.af>.

### **Who is a resident? Who is a non-resident?**

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According to the Income Tax Law, a natural person is a resident of Afghanistan (Article 2) for the tax year if:

- 1) The person has his or her principal home in Afghanistan at any time during the year; or
- 2) The person is present in Afghanistan for a period of 183 days in the tax year; or
- 3) The person is an employee or an official of the Government of Afghanistan posted abroad at any time during the tax year.

Non-residents are those people who do not meet the above requirements. All Afghan-source income is taxable for non-residents. Afghan-source income is defined as any income directly produced in Afghanistan or paid for services provided in Afghanistan regardless of the period over which those services were provided.

*Example 1: Joe Brown is a resident of the United Kingdom where he maintains his principal home. He arrived in Kabul for a 12 month assignment working as an employee for a non-profit British aid organization. There is no agreement with the State in place to exempt employees of his organization from taxation in Afghanistan. He is paid in pounds sterling from his home office in London. The money is deposited directly into his British bank account. However, his wages are paid for services provided in Afghanistan, so they are considered Afghan-source income and would be subject to withholding tax in Afghanistan.*

*Example 2: Abdul Nasri is an Afghan national who lives in Dubai. He spent three months in Kabul working for the same British firm as Mr. Brown. Since he does not maintain his principal home in Afghanistan, was not in the country for at least 183 days, and is not an employee of the Afghan government, he is considered a non-resident. However, his wages for work in Afghanistan are considered Afghan-source income and subject to tax. The British firm is required to withhold tax on his wages and pay the tax to the Afghan government.*

### **Note**

Worldwide income is taxable in Afghanistan for all residents.

## What is the rate of withholding?

Effective as of 1 Hamal 1388, the new tax law reduced the monthly exemption from AFN 12,500 to AFN 5,000 (or pro-rated share for alternate payroll periods) per person. The tax law also added a 2 percent tax bracket. The Income Tax Law (Article 4) provides a monthly schedule of withholding rates.

### For monthly payrolls in AFN

Income more than	Income up to	Tax
0	5,000	0%
5,000	12,500	2% of amount over 5,000
12,500	100,000	150 + 10% of amount over 12,500
100,000		8,900 + 20% of the amount over 100,000

Employees paid on alternate payroll schedules (weekly, semi-monthly, etc.) are subject to withholding according to the following pro-rated schedules, which are based on the monthly schedule.

### For semi-monthly payrolls in AFN

Income more than	Income up to	Tax
0	2,500	0%
2,500	6,250	2% of amount over 2,500
6,250	50,000	75 + 10% of amount over 6,250
50,000		4,450 + 20% of the amount over 50,000

## For bi-weekly payrolls in AFN

Income more than	Income up to	Tax
0	2,308	0%
2,308	5,769	2% of amount over 2,308
5,769	46,154	69 + 10% of amount over 5,769
46,154		4,108 + 20% of the amount over 46,154

## For weekly payrolls in AFN

Income more than	Income up to	Tax
0	1,154	0%
1,154	2,885	2% of amount over 1,154
2,885	23,077	35 + 10% of amount over 2,885
23,077		2,054 + 20% of the amount over 23,077

## For daily payrolls in AFN

Income more than	Income up to	Tax
0	164	0%
164	411	of amount over 164 2%
411	3,288	of amount over 411 10% + 5
3,288		of the amount over 20% + 293 3,288

## How is wage withholding tax calculated?

Wage withholding tax is calculated based on the above tables. Determine which payroll period you use. For each employee, look at the total salary (including taxable benefits). If it is in excess of the highest threshold (AFN 100,000 for monthly payroll, AFN 50,000 for semi-monthly payroll, etc.), use the fourth row of the appropriate schedule. If the total salary (including taxable benefits) is more than the next highest threshold (AFN 12,500 monthly, AFN 6,250 semi-monthly, etc.), but does not

exceed the highest threshold, use the third row of the appropriate schedule. If the total salary (including taxable benefits) is more than the lowest threshold (AFN 5,000 monthly, AFN 2,500, semi-monthly, etc.), but does not exceed the second lowest threshold, use the second row of the appropriate schedule. If the total salary is less than the lower threshold, there is no withholding requirement.

*Example 3: Abdullah earns AFN 20,000 per month. His monthly withholding rate would be AFN 900 based on the following calculation from the third row of the monthly payroll table:*

$$20,000 - 12,500 = 7,500$$

$$7,500 \times 10\% (0.1) = 750$$

$$750 + 150 = 900$$

*Example 4: Joe Brown from example 1 earns the equivalent of AFN 55,000 twice a month. His withholding rate would be AFN 5,450 on a semi-monthly basis based on the following calculation from the fourth row of the semi-monthly payroll table:*

$$55,000 - 50,000 = 5,000$$

$$5,000 \times 20\% (0.2) = 1,000$$

$$1,000 + 4,450 = 5,450$$

### **When does the tax withheld have to be paid?**

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The employer is required to remit to the State the amount withheld no later than 10 days after the end of the month in which the amounts were withheld (Article 60).

*Example 5: ABC Inc., a foreign firm, pays its foreign employees working in Afghanistan bi-weekly. However, the firm pays its local employees on a monthly basis. The firm would be required to withhold from each group of employees on each separate pay date, but file and pay the withheld tax within 10 days of the*

end of the month.

*Example 6: XYZ Inc., another foreign firm, pays its foreign employees semi-monthly and its local employees monthly. This firm would also have one filing requirement per month.*

### **How is wage withholding tax reported?**

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*Annual salary and tax statement:* The employer must give each employee an annual salary and tax statement showing the employer's name, address and employer Taxpayer Identification Number (TIN); the employee's name, address, and employee's TIN; and the amount of the employee's total salary or wage, as well as the amount withheld. A copy of this annual statement will be forwarded to the Ministry of Finance as well (Article 61).

*Annual summary report of tax withheld:* The employer will file an annual summary of all wages or salaries paid to all employees during the tax year and all taxes withheld (Article 61).

*Wage withholding report and deposit form:* This form must be completed and filed within 10 days of the end of the month in which the salaries were paid, reporting total wages or salaries paid for the month and taxes withheld. Payment is due in afghanis at Da Afghanistan Bank with the form (Article 60).

### **What is the employee's responsibility?**

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If the employee has only one job he/she has no further responsibility or filing requirements. The Ministry of Finance will receive the appropriate information through the employer's annual summary report filing.

If the employee has other income (including, but not limited to, another job, self-employment, dividends, rental income, etc.) he/she must file an individual income tax return and calculate his/her total tax for the year. He/she will be able to take credit for any tax withheld against his/her total tax liability (Article 63).



## Note

Afghanistan Revenue Department tax offices and Mustufiats provide forms, guides, and instructions to taxpayers free of charge, available both as printed and as downloadable versions from a new website <http://www.ard.gov.af>. The website also provides locations, contact numbers and hours of operation for Afghanistan Revenue Department tax offices and Mustufiats. Taxpayers also can download other useful information including various public announcements and rulings, questions & answers regarding wage withholding tax, the Income Tax Law 2009, and an Income Tax Manual. The manual discusses separately each article of the law, along with relevant regulations, often with helpful examples.

## Talking to your employees about withholding tax

Changes to the tax law and tax rates have resulted in higher amounts of withheld tax for many employees, and new withholding requirements for many more. It is important to explain to employees that the income tax requirement has been a part of Afghan tax law for years, and that compliance with the withholding tax is a legal requirement under the Income Tax Law 2009.

If your employees have questions regarding the wage withholding specifically, or income tax filing in general, please direct them to contact the Afghanistan Revenue Department. If you would prefer to have a representative of the Afghanistan Revenue Department come to your place of business to address your employees regarding these or other tax issues, please contact the Afghanistan Revenue Department or your Mustufiat to arrange a convenient time.

## Enforcement provisions

Failure to comply with the requirements of the Income Tax Law may result in the Ministry of Finance using administrative powers within the tax law to ensure compliance. These provisions are contained in Chapters 14 and 16 of the Income Tax Law and include fines, penalties and referral to the Attorney General's office for prosecution.

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