



Withholding Tax on Contractor Services

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Introduction

According to Article 72 of the Income Tax Law 2009, legal and natural persons who provide supplies, materials, services and construction under contract are subject to tax withholding from the gross amount payable to the contractor. Natural persons, who earn taxable salaries according to provision of Article 17 (1) of this law, are excluded from this provision. They are treated as employees and subject to ordinary wage withholding (See Guide 05 – Wage Withholding Tax for more information).

What is a contract?

A contract is an agreement between two or more parties which is enforceable by law. A business transaction to buy and sell goods and services is a contract between the buyer and seller. An offer and acceptance of business transactions or sale and supply of goods and services constitutes a contractual arrangement. Such contractual arrangement may be in writing or verbal and the mode of payment in cash or on credit. The transaction is a contract and withholding provisions of Article 72 of the Income Tax Law 2009 shall apply.

Is there any threshold for withholding tax?

A minimum threshold for withholding tax under Article 72 is AFN 500,000. Transactions below this threshold are not subject to withholding income tax. However if the aggregate of payments to a legal or natural person in a fiscal year exceed or is likely to exceed this threshold, the tax shall have to be withheld from all payments.

Who must withhold?

According to Article 72 of the Income Tax Law 2009, government agencies, municipalities, state entities, private

Note

Under this provision, contractors must provide a signed copy of the contract to the Afghanistan Revenue Department or their local Mustufiat office not later than 15 days from the signing of the contract.

sector businesses and organizations, and other persons are required to withhold from any legal or natural persons who provide supplies, materials, services and construction under contract.

What is the withholding rate?

Contractors with business licences

If the Contractor has a business licence, the withholding rate is two percent (.02) of the gross payment to the Contractor. Contractors with business licences will take credit for the withholding as an advance payment on their annual income tax returns for the tax period in which they were paid.

Example: Afghan Handicrafts Corporation entered into a contract with Sabir Construction to have a room added onto one of their factories for AFN 50,000. Sabir Construction is registered and has a business licence. When Afghan Handicrafts Corporation pays Sabir Construction, they will withhold 2 percent of AFN 50,000 ($50,000 \times .02 = 1000$). They will pay Sabir Construction AFN 49,000 and deposit AFN 1000 as withheld tax. Sabir Construction will take a credit for the AFN 1000 as an advance payment of income tax when the company files its income tax return for 1389.

Contractors without business licences

If the Contractor does not have a business licence, the withholding rate is seven percent (.07) of the gross payment to the Contractor. Contractors without business licences will treat the withholding as a final tax.

Example: Afghan Handicrafts Corporation also entered into a contract to have its headquarters painted for AFN 5000. The painting company did not have a licence. Afghan Handicrafts Corporation must withhold 7

percent of AFN 5000 ($5000 \times .07 = 350$). They will pay the painting company AFN 4650 and deposit AFN 350 as withheld tax. The painting company will treat this as a final tax. They cannot take credit for the withholding as an advance payment of income tax even if they file an income tax return.

When is the tax due?

Withheld taxes from payments made to Contractors during a month must be reported and remitted to relevant government account no later than 10th of the next following month.

Example: Afghan Handicrafts Corporation pays Sabir Construction on 15 Jowza 1390. Afghan Handicrafts must file their calculation form and make the deposit for the withholding no later than 10th of Saratan 1390.

What if you do not file and pay on time?

The Income Tax Law 2009 provides for penalties for late filing and late payment. These rates vary depending on taxpayer type and circumstance. See Guide 22 – Additional Tax and Penalties for more information.

What if you do not withhold?

The Income Tax Law 2009 provides for an additional tax of at least 10 percent of the amount that should have been withheld. In cases where there is an intention to evade tax by not withholding, the taxpayer also may be prosecuted by the Attorney General's Office and may be subject to a fine and/or imprisonment. See Guide 22 – Additional Tax and Penalties for more information.

Where should you file and pay?

You must file this form and make your payment at Da Afghanistan Bank. The cashier will keep two copies of the form (white and green) and give you two copies (yellow and blue). You should keep the yellow copy for your records and give the blue copy to the contractor.

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.

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