



## KEY THINGS YOU SHOULD KNOW ABOUT THE DEDUCTION AT SOURCE (WITHHOLDING) REGULATIONS 2024

### Background

Withholding Tax (WHT) was implemented as an advance payment of income tax and is deductible at source on payments made for certain transactions. It can be applied as a credit against income tax in most instances, except where the laws provide that the WHT is final tax.

This system aimed to provide the government with a steady revenue stream and reduce tax evasion. However, over time, it presented challenges for many businesses, particularly small and medium-sized enterprises (SMEs), adding financial pressure and compliance burdens.

Recently, the Federal Ministry of Finance issued the Deduction at Source (Withholding) Regulations 2024, which took effect on 1 July 2024 subject to changes from a gazetted version. These regulations introduced several changes to the withholding tax (WHT) regime in Nigeria. The new rules for the gaming sector will commence on 1 October 2024.

The key changes introduced are to address the identified challenges, and specifically include:

1. Exemption of small businesses from Withholding Tax compliance
2. Reduced rates for businesses with low margins
3. Exemptions for manufacturers and producers such as farmers
4. Measures to curb evasion and minimise tax avoidance
5. Ease of obtaining credit and utilisation of tax deducted at source

### Changes Introduced by the Regulations Effective 1st July 2024

- **Issuance Of WHT receipts by customers:**  
The Regulations provide that the customer (and not the tax authority) should issue a receipt of tax deducted to the vendor. The vendor can present this receipt to the relevant tax authority as evidence of WHT deducted and will get value, regardless of whether the WHT was remitted by the

customer or not. The receipt must detail the name, address, Tax Identification Number (TIN) of the supplier, nature of transaction, gross amount, amount deducted and payment month. Where customers issue receipts for deducted but unremitted WHT, the customer will be liable to the WHT as their tax liability, together with interest and penalty in line with the law.

- **Customers that pay vendors in full:** Customers that did not deduct WHT but paid their vendors in full will be subject to administrative penalty and a one-off interest, as opposed to the current practice of requiring such customers to also pay the WHT.
- **WHT on transactions with no identification number:** WHT will apply at twice the designated rate on trading income earned by vendors that do not provide a Taxpayers Identification Number (TIN).
- **Who should deduct WHT:** The Regulations clarify that other than individuals, virtually all businesses, organisations (including those exempt from tax), government ministries, departments and agencies and their payment agents are required to deduct WHT on eligible transactions.
- **Exemption of Small Businesses:** Small businesses and unincorporated entities (with turnover less than ₦25million per annum) are exempted from deducting WHT on transactions provided that the supplier has a valid TIN and the value of the transaction is ₦2,000,000 or less during the relevant calendar month.

This aims to reduce the compliance obligation burden on small companies.

- **Exemption for businesses in the Oil and gas/energy sector:** The Regulations stipulate that businesses in this sector are now exempt from WHT where such businesses supply energy (including electricity, gas and petroleum products). The Regulations also clarify that WHT does not apply on the sale of LPG, CNG, PMS, AGO, LPFO, DPK and JET-A1. This is expected to be well received by participants in this sector.



## Transactions exempt:

The Regulations include the following as WHT exempt (among others):

- Goods manufactured or materials produced by the person making the supply. The Regulations define manufacturing/production to include the production of energy, including electricity, gas and petroleum products.
- Across the counter transactions, i.e. transactions carried out between parties without established or prior contractual relationship and in which payment is made on the spot.
- Interest and fees paid to a Nigerian bank by way of direct debits to accounts in the bank.
- Out-of-pocket expenses normally expected to be incurred by the supplier distinguishable from contract fees.
- Insurance premium
- Supply of Liquefied Petroleum Gas, Compressed Natural Gas (CNG), Premium Motor Spirits (PMS), Automotive Gas Oil (AGO), Low Pour Fuel Oil (LPFO), Dual Purpose Kerosene (DPK) and JET-A1
- Commission retained by broker from monies collected on behalf of principal in line with the industry norm.
- Winnings from a game of chance or a reality show with contents designed to promote entrepreneurship, academics, technological or scientific innovation.



## ELIGIBLE TRANSACTIONS AND APPLICABLE RATES

Transactions					Remarks
	Corporate Recipients		Non-Corporate Recipients		
	Resident	Non-resident	Resident	Non-resident	
Commission, consultancy, technical, management, and professional fee	5%	10%	5%	10%	Higher rates for non residents to serve as final tax
Supply of goods other than by manufacturer	2%	N/A	2%	N/A	Simplified description and reduced rate to address low margin
Colocation and telecommunication tower services	2%	5%	2%	5%	Lower rate to reflect low industry margin
Supply or rendering of services other than those specifically stated	2%	5%	2%	5%	Simplified description and reduced rate
Construction of road, bridges, building 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
Directors' fees	N/A	N/A	15%	20%	Rates reflect marginal PIT rate for directors
Entertainment and sportspersons	N/A	15%	N/A	15%	Applies on amounts earned in Nigeria
Winnings from lottery, gaming, reality shows (other than those listed as exempt)	N/A	N/A	5%	15%	With effect from 1 October 2024



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