

# **ICPAK's TAX MANAGEMENT FOR PBOs WORKSHOP**

## **WITHHOLDING VAT (WHVAT)**

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# PRESENTATION OUTLINE

- Introduction
- Supporting Legal framework
- Guidelines

# INTRODUCTION

- Withholding VAT is not a new Tax.
- It is a system to enhance collection of Value Added Tax which is one of the taxes administered by KRA
- VAT is a consumption Tax levied on applicable goods and services by authorised Agents and is borne by the final consumer.
- Withholding VAT was first introduced in 2003, suspended in 2011 and re-introduced in 2014

# LEGAL FRAMEWORK

- Section 26 of the Finance Act 2014 amended VAT Act 2013 by inserting a new section 25 A which re-introduced Withholding VAT(WHVAT) system at the **rate of 6%** with effect from 19<sup>th</sup> Sept. 2014 but restricted it to Government Ministries, Departments and Agencies.
- Finance Act 2015 amended section 25 A to allow the Commissioner appoint any other person as a withholding VAT Agent.
- Further the Finance Act 2016 amended the Tax Procedures Act by inserting a section 42A, which reinstated the powers to allow the Commissioner to appoint any other person as a withholding VAT Agent effective 19<sup>th</sup> January 2016.

# LEGAL FRAMEWORK

- The section now requires all Government Ministries, Departments and agencies or any other person appointed by the Commissioner on purchasing taxable supplies to withhold 6% of the taxable value thereon at the time of paying for the supplies and remit the same directly to the Commissioner'
- On the basis of this amendment , the Commissioner has appointed Withholding VAT Agents from the private sector.

# WITHHOLDING VAT GUIDELINES

- A Withholding VAT Agent means all Government Ministries at the National and County levels, Departments, Agencies and any other person appointed by the Commissioner as provided for under Section 42A of the Tax Procedures Act 2016.
- The Agents are registered for withholding VAT on the iTax online platform and their registration status can be verified using the Withholding VAT Agents checker on the KRA Portal at [www.kra.go.ke](http://www.kra.go.ke).

# WITHHOLDING VAT GUIDELINES

- A supplier in this context means a person/entity that makes a taxable supply (supply subject to VAT charge) to a Withholding VAT Agent.
- The Supplier who makes taxable supplies shall issue a valid tax invoice / fee note clearly showing the value of taxable supply (exclusive of VAT), rate of VAT, amount of VAT charged, value of other category of supplies which are not subject to VAT charge at 16% and the total invoice amount as illustrated below

# WITHHOLDING VAT GUIDELINES

- Value of taxable supplies -----100,000
- VAT @ 16%----- 16,000
- Value of zero-rated supplies----- 50,000
- VAT @ 0% ----- 0
- Value of Exempt supplies----- 20,000
- VAT on Exempt supplies----- Nil
- Total invoice value-----186,000



# WITHHOLDING VAT GUIDELINES

- The withholding of VAT by a withholding VAT Agent shall NOT relieve the supplier (Taxable person) of the obligation to charge VAT at 16% and file monthly returns in accordance with the relevant provisions of the VAT Act 2013.
- Suppliers who are NOT registered for VAT should NOT charge VAT on their supplies hence their invoices / fee notes should not bear VAT.

# WITHHOLDING VAT GUIDELINES

- The PIN Certificates for VAT registered persons indicate VAT as one of the Tax obligations. The PIN checker available on the KRA portal may be used to confirm the validity and genuineness of the PIN or a copy of iTax generated PIN certificate provided by the supplier.

# WITHHOLDING VAT GUIDELINES

- Withholding VAT shall be operated at the rate of 6% of the taxable value at the point of payment by the Withholding VAT Agent. In the case of the above hypothetical invoice, withholding VAT would be computed as hereunder:
  - Taxable value (16%) ----- 100,000
  - Withholding VAT( 6% of taxable value----- 6,000

# WITHHOLDING VAT GUIDELINES

- Withholding VAT is NOT applicable to payments on Zero-rated, Exempt supplies and Taxable supplies made to Official Aid- Funded Projects.
- The Agent shall upon processing of the payment, withhold 6 % of the taxable value, pay the supplier less the amount withheld and pay the latter to the Commissioner immediately upon payment to the supplier.
- The Agent shall pay the VAT withheld at any of the iTax integrated banks after registering the payment for each invoice / fee note and obtaining a PRN (Payment Registration Number) on the withholding VAT module which is part of the iTax online services platform.

# WITHHOLDING VAT GUIDELINES

- Withholding VAT certificates which are invoice / fee note based shall be issued by the iTax system upon receipt (crediting of iTax account) of withheld amounts by the Agent.
- An electronic notification thereof shall be sent to the suppliers and the Agent through their official iTax registered email addresses. Subsequently, the certificates shall be available for download by both parties from the KRA portal.
- The supplier shall upon receipt of the certificate declare amounts withheld as a credit in the next VAT online return. This credit shall decrease the suppliers VAT liability for the tax period in which it is declared.

# WITHHOLDING VAT GUIDELINES

- The suppliers should be registered in iTax to facilitate generation of payment registration number (PRN) by the Agents, crediting of accounts upon receipt of payments, delivery of withholding VAT certificates and offsetting of the withholding VAT credits in the online VAT return.
- Withholding VAT Agents in government should note and ensure compliance with the requirement of Public Procurement and Disposals Act that all suppliers to the government and government agencies are compliant with all tax requirements.
- It is therefore imperative to confirm that the suppliers are Tax compliant by requesting them to produce a valid Tax Compliance Certificate (TCC) at the point of quotation / tendering. TCC checker available on the KRA portal should be used to confirm the validity and genuineness of the Tax Compliance Certificates.

# WITHHOLDING VAT GUIDELINES

- Attention of ALL Withholding VAT Agents is drawn to the relevant provisions of the VAT Act 2013 which provides for the turnover threshold of five million (5,000,000) per year as the qualifying basis for registration of VAT payers. In this regard, **NOT** all suppliers may be registered for VAT and therefore should not be locked out of business/disqualified for not having VAT as a tax obligation.
- For purposes of obtaining full information in respect of accounting for VAT, the Commissioner may require any person to produce for examination, at such time and place as the commissioner may specify, books of accounts, documents and other records relating to withholding of VAT, payments and declarations in respect of any period specified by the Commissioner.

# WITHHOLDING VAT GUIDELINES

- To ensure compliance with the withholding VAT system requirements, Domestic Taxes Department of KRA shall undertake continuous training of the Agents and Suppliers.
- Failure by the Appointed Agent to withhold VAT on applicable payments constitutes an offence under the Tax Procedures ACT 2015

**NB: Revised Guidelines 2015**



# **THANK YOU FOR YOUR ATTENTION**