



Standard Operating Procedures Manual SOPs

Finance

“Wage Withholding Tax”

Presented to:

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1. Objective and Scope

This SOP is established for the purpose of tax calculation.

Tax is a compulsory payment collected from natural and legal persons in accordance with the provisions of this Income Tax Law for the purposes of financing of government and social welfare without the taxpayer receiving any direct goods or services from the government.

Any tax deducted or collected by the government or non-government agencies in accordance with the provisions of Income Tax Law shall be paid to a specific government (Ministry of Finance) bank account.

It covers the following areas:

- Wage Withholding Tax
- Withholding Tax on Contractor Services

2. Terms, Definitions & Abbreviations

Tax: Tax is a compulsory payment collected from natural and legal persons for the purposes of financing of government and social welfare without the taxpayer receiving any direct goods or services from the government.

Tax (Fiscal Year): The tax year is the solar (Hejiri Shamsi) year which starts on the first day of Jadi mostly (22 Dec) and ends on the last day of Qaws (20 Dec) of that year.

CEO: Chief Executive Officer

IEC: Independent Election Commission of afghanisan

SOP: Standard Operating Procedure

MOF: Ministry Of Finance

GoIRA: Government of Islamic Republic of Afghanistan

CoA: Chart of Accounts

GOCA: General Officer of Cash Accounting

ARD: Afghanistan Revenue Department

AFMIS: Afghanistan Financial Management Information System

DAB: Da Afghanistan Bank (Central Bank of Afghanistan)

3. Tasks, Responsibilities and Accountability

Task	Authorized	Responsible
Deduct and pay Wage withholding Tax	CEO	GOCA, Accountant, Cashier
Deduct and pay Withholding Tax on contractor services	CEO	GOCA, Accountant, Cashier

4. Operating procedure

a) Wage Withholding procedure

1. The Income Tax Law states that the taxable income of a person is the total of all receipts less those deductions authorized by the law (Article 13).
Further, the law provides that receipts subject to income tax include salary, wages, fees and commissions, whether received in cash or otherwise (Article 14). However, salary or wages will be exempt from income tax in certain limited circumstances. For example, the salary or wages of an employee of a foreign government or international organization will be exempt from income tax where the exemption is specifically provided for in a treaty or agreement with the government of Afghanistan.
2. It is the responsibility of persons who pay salary or wages to withhold tax from the salary or wages paid and to pay the amount withheld to the Government account (Article 63). Where tax has been correctly withheld from an employee's salary or wages and the employee has no other source of income, the employee then has no other income tax liability in respect of that salary or wages (Article 68). If tax has not been correctly withheld from an employee's salary or wages, the employee will be required to file an annual income tax form and declare income from all sources including the salary or wages from which tax has not been correctly withheld. In that case, the employee may claim a credit for any tax that has been deducted from salary or wages and paid to the Government account

Who must withhold?

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?

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

Who is subject to withholding?

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 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 a resident? Who is a nonresident?

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.

Worldwide income is taxable in Afghanistan for all residents.

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. It is important to distinguish between employees and independent contractors for tax purposes.

Who is an employee? Who is an independent contractor?

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.

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 XIV & XVI and include fines, penalties and imprisonment.

Income Tax calculation

- (1) The income tax of legal persons shall be 20 percent of taxable income for the tax year.

- (2) Income in foreign currency shall be converted to Afghani's for purposes of taxation. The rate of conversion shall be the average of open (current) rates used by Da Afghanistan Bank to purchase such foreign money at the end of each month.
- (2) The income tax of natural persons shall be the amount calculated in accordance with the following schedule:

When does the tax withheld have to be paid?

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).

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 5000 (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:

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.

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

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 2% 164
411	3,288	of amount 10% + 5 over 411
3,288		of the 20% + 293 amount over 3,288

b) Withholding Tax on Contractor Services

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

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.

Who must withhold?

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

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.

What is the withholding rate?

- (1) Persons who, without a business license or contrary to approved by- law, provide supplies, materials, construction and services under contract to government agencies, municipalities, state entities, private entities and other persons shall be subject to 7% percent fixed tax in lieu of income tax. This tax is withheld from the gross amount payable to the contractor.
- (2) Persons who have a business license and provide the services and other activities mentioned in paragraph (1) of this Article to the specified entities shall be subject to 4% percent contractor tax which is recently increased from 2% (Refer to Recent Changes¹ for more detail) the tax levied by this paragraph is creditable against subsequent tax liabilities.

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.

¹Recent Changes in Para 2 of Article #72 of withholding Tax on Contractor services explained above

According to the decision of Council of Ministers based on enactment (Musawaba) number 15, dated 03/Asad/1394 of GoIRA the Withholding Tax on contractor increased from 2% to 4% and will be effective from 01/06/1394.

5. Related Documents

The Government Agencies deduct Income tax from all M16 Payment orders directly, So no need to this agency to process it further because MOF is dealing and as well no forms required/ related to that process,
Only the deduction process is related to the organization which is briefly explained above

6. References

- Income Tax Law 2009
- Income Tax Manual May 2010
- Official Gazette 976
- Income Tax Public Ruling 1384/6
- ARD Tax Guide 05
- ARD Tax Guide 21
- ARD Tax Guide 22

7. Attachments

- No forms for attachment as the issue cleared in Section 5. Related documents