



Guide 01

Withholding Tax on Rental Services



Introduction

This tax charged on rents or lease payments received by a landlord is a part of the landlord's income tax obligation, but is payable through withholding by the tenant. Only those rents paid by tenants who are legal persons (businesses, organizations, foundations, etc. – an entity other than a natural person) or natural persons using the rented property for business purposes are subject to the tax. The landlord will take a credit of paid tax against his income tax liability when he files his return. (Article 59 Income Tax Law 2005)

Effective Date

This tax applies to all rental agreements in effect 1 Hamal 1383 or later.

Landlords

Landlords are responsible for providing their tenants with accurate copies of their rental or lease agreements, as well as the landlords Taxpayer Identification Number (TIN).

Tenants

Tenants are responsible for withholding the tax from their rental payments and making payment to the government with the proper form to properly credit the landlord's account.

If the tax withheld by the tenant is paid after the due date the tenant is liable for any additional tax, penalties or fines that may be payable under the law.

When is there a Tax Liability?

There is a tax liability if the gross rent for the property is more than 15,000 Afghanis per month. If

rental payments are 15,000Afs or less than, then there is no withholding liability.

Note: Where rental payments are not taxed under Article 59, because they fall at or below the 15,000Afs threshold or for any other reason (for example where the tenant is a natural person who is not using the property in the course of a business), then the income remains subject to taxation under the Income Tax Law.

What Qualifies as Rental Payments?

Rental payments include all amounts paid directly to the landlord for rental services in the form of money, goods, or services, as well as the cost of any repairs, renovations, or improvements made by the tenant or paid for by the tenant. The reason for the inclusion of goods and services in the definition is the recognition that many tenancy agreements are based on lower rents in return for the tenant paying for repairs and renovations that will be enjoyed by the property owner after the end of the lease.

Tax Rate

The tax rate is 20% of the full rental payment.

Tax Calculation

Landlords may not be credited for actual expenses for repairs and maintenance on the withholding tax. Instead, landlords will take a deduction for the cost of repairs, renovations and improvements on their annual income tax return.

Example:

Ahmad runs a restaurant in space that he rents from Waheed. Ahmad pays 20,000 Afghanis per month in rent. Waheed had total expenses for repairs of 5,000Afs for the month of Sunbala. Ahmad would calculate the tax as 20% of 20,000Afs, or 4,000Afs. Waheed would include the 5,000Afs in expenses, along with any other ordinary and necessary expenses for maintaining the rental property, when calculating his annual income tax.

How is the Tax Paid?

Taxes are generally due on a monthly basis. However, if the rental agreement specifies a different rental payment schedule (e.g. bi-monthly, quarterly etc.) the tax withholding and payment should follow the rental schedule. Tax payment should be made in Afghanis at Da Afghanistan Bank no later than the fifteenth day (or next business day if the fifteenth

falls on a non-business day) following the end of the solar month in which the rent payment is due.

Example:

Ahmad has calculated his rental tax obligation for the month of Jawza as 4,000 Afghanis. His rental payment of 20,000Afs is due to his landlord on the first day of Jawza. He will withhold 4,000Afs, pay his landlord 16,000Afs, and pay the 4,000Afs tax at the Da Afghanistan Bank no later than 15 Saratan. He will receive a receipt for payment, which he will turn over to his landlord as proof of payment of the tax.



Apportionment of Prepaid Rent

If you are a landlord and received prepaid rent for months affected by this law before its enactment, you will still have a tax liability for those months covered under this law. The tax must be apportioned as shown in the following example:

On 15 Sunbala 1382 Samir enters into an agreement to rent his property to a legal person and receives 840,000 Afghanis for one year's rent. The rental agreement is to begin on 1 Mizan 1382. The Rental Service Tax became effective 1 Hamal 1383. Samir will calculate his rental tax obligation as follows:

Monthly rent

$840,000 \div 12 = 70,000\text{Afs per month}$

Number of months covered by the tax law

1 Hamal 1383 through 31 Sunbala 1383 = 6 months.
The tax payable would be 6 months of rent at 70,000Afs/month = 420,000Afs x 20% = 84,000Afs.
The 84,000Afs would be due by 15 Mizan 1383.

The tenant is still responsible for this payment, which would normally be withheld from the subsequent rental payment along with the new liability.

Exchange Rate for Foreign Currency

Rental payments made in a foreign currency will be converted into Afghanis. The rate of conversion shall be the average of free rates used by Da Afghanistan Bank to purchase such foreign money at the end of each month. (Article 4)

Tax Forms and Information

Tax forms, guides and assistance are available from the Ministry of Finance, Afghanistan Revenue Department, Business Receipts Tax Unit or phone 0799 406 050. Also, additional information and a copy of the Income Tax Law is available on the Ministry of Finance "Tax Information Page" at – www.mof.gov.af/tax

Note: The "Tax Information Page" website also contains a copy of the Income Tax Law, Income Tax Manual, various public rulings, announcements, press releases, forms, Questions & Answers regarding the wage withholding tax, 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 of the Income Tax Law 2005 and include fines, penalties and imprisonment.

Article 59 also provides the Ministry of Finance with additional collection authority where the rent payments are less than fair market value or where the tax has not been paid within the appropriate timeframes.

1385
Ministry of Finance
Afghanistan Revenue Department



Islamic Republic of Afghanistan