

No 3% withholding tax on retentions

A retention is basically an amount kept or withheld to serve as security or insurance against substandard services or other irregularities. Such retentions are most common in payments related to construction contracts and related services. On the other hand, arrangements involving rental of buildings may also require tenants to pay a certain fee that would be retained by the landlord as security against any damages on the property. It is key that we understand that withholding taxes are not applicable on such amounts until their actual date of payment, as we will elaborate below.

As alluded to above, retentions generally serve as some form of security. Essentially, this means the money is kept and only utilised when the actual need arises. Accordingly, any withholding taxes applicable should be deducted on the net amount after excluding the retention. This is predominately based on the fact that a retention is essentially a capital amount held to hedge against defaults. For clarity, Tiro, a customer, may be required to exclude P10,000 retention when paying an invoice of P100,000 to XYZ (Pty) Ltd for construction services. In this case, it is key to note that Tiro will be required to deduct withholding tax on the net amount after deducting the retention i.e., withholding tax will apply on P90,000. Withholding tax on the retained amount will be considered at the time when actual payment is done. This actually means Tiro will with then apply the withholding tax on retention i.e., the P10,000, when he actually pays it to the said company

Whilst retentions do not trigger the 3% tax, the gross amount before excluding retention must be used for VAT, i.e. P100,000 in our example above. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax Articles' tab.

This article is of a general nature and is not meant to address particular matters of any person. Please contact us on +267 71815836 +267 3939435 or jhore@aupracontax.co.bw for tax consulting or to join our free Tax WhatsApp group or to know about our 9 Tax e-books