

Deduct 10% commission, always!

In some instances, business operators engage agents to perform certain assignments that they either lack the time or expertise to do for themselves. In turn, the agents or agencies are paid a fee in the form of commission for their services. Accordingly, it is at this point that such payments trigger a withholding tax which is required to be deducted and remitted to BURS by the customer i.e., the payer. It is also key to note that commission payments may be embedded in a service fee within a contract between principal and agent which makes it easily forgotten when it comes to tax deductions. Allow us to help you understand the commission tax as we discuss the withholding taxes surrounding commission payments. In this article, words importing the masculine shall be deemed to include the feminine.

Enter commission

Generally, a commission resembles a fee paid to a person upon completion of a specific task with the fee having a direct correlation with a quantifiable element of the task or assignment. Commissions are generally paid as the sole compensation for performing a certain service whereas on other terms, it is paid as a bonus for having to complete or attain a specific target or milestone. For clarity, Company X may engage sales agents (not employees) to sell its products and in return the company pays the agents a fee of 5% of the sales attained. On the other hand, the same company may pay the sales agents a standard fee of P10,000 to sell its goods and an additional 2% if they sell say, 500 products in a month. As you can see, the former scenario resembles that of a commission payment being the outright payment for the services whereas the latter is that of a commission being a bonus or added fee. Let us now have a look at what the law prescribes regarding these commissions.

The law

The Income Tax Act prescribes that Withholding tax on commission is deducted at the rate of 10% from the gross amount of the commission paid in respect of the procurement of goods or services. The Act doesn't further define the phrase 'procurement of goods or services.' However, commission is generally construed to be a payment which is based on the quantum of goods, services or reaching a sales target. The procurement of goods or services generally includes, among others, insurance brokers, financial services brokers, debt collectors and sales agents such as auctioneers & lawyers etc. The tax must still be deducted even when say an insurance broker collects premiums on behalf of an insurer and pays themselves through self-deduction at source. For example, an insurance broker who collects P10m in premiums and earns P2m as commission must not pay P8m to the insurer but P8.2m (P8m plus 10% of the P2m).

However, the Act provides that withholding tax is not deductible on commission payments that are less than P 48 000 per tax year i.e., P4 000 per month. In cases where the commission is paid quarterly, the determinant threshold is simply P 12 000 i.e., P4,000 x 3months. Further, it is crucial to note that the said withholding tax is technically an advance payment of Income Tax therefore the payee can claim such tax withheld as credit when they file their annual income tax return. Consequently, this entails that the withholding tax is not deductible in instances where the commission is payable to a person who is exempt from income tax.

Conclusion

Business operators need to take cognisance of the 10% withholding tax on commission and comply with provisions of the tax laws to avoid penalties. Commission deducted should be remitted to BURS on or before the 15th day of the month following payment. It should also be

noted that commission paid to employees technically constitute employees' remuneration and is therefore, liable to PAYE where the aggregate of salary, employment benefits and commission exceeds P48,000 in a tax year.

Well folks, we hope that was insightful. As us the two Yours Truly say goodbye, remember to pay to Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send us a text on the cell number below. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.