

# Manage your Withholding Tax compliance risk

## Common pitfalls in compliance!

The Zambia Revenue Authority (ZRA) are currently undertaking desktop audits focusing on comparing gross payments in the Withholding Tax (WHT) returns against payments declared in the Corporate Income Tax (CIT) returns. We share in this alert some of the common pitfalls in WHT compliance and how you can better manage your WHT compliance risk.

The Income Tax Act provides that WHT shall be deducted by a person making any of the following payments from a source within or deemed to be within Zambia, irrespective of whether the payment is made outside Zambia:

- Dividends.
- Management and consultancy fees.
- Interest.
- Royalties.
- Rent.
- Commission.
- Payment to non-resident hauliers and contractors.
- Winnings from gaming, lotteries and betting.
- Public entertainment fees to non-resident entertainers and sports persons.
- Branch profits.

Any person or partnership making any of the payments outlined above must withhold tax at the prescribed rate and remit this to the ZRA.

### What are the common pitfalls in WHT compliance?

**Variances between payments declared in the WHT return and the CIT return/ financial statements**

- WHT returns, CIT returns and financial statements should all be aligned in respect of costs incurred by the company in a specific financial year.
- In the instance that there are positive variances between amounts declared in the CIT return/ financial statements and the WHT return, the ZRA will levy WHT on the variance on the assumption that tax has been under-declared. It is therefore important that you undertake routine reconciliations internally between WHT returns and financial statements to ensure there is no under-declaration of tax.

### Lapses in compliance on accruals

- WHT is due/payable to the ZRA earlier of accrual or payment. Consequently, when a payment that attracts WHT is accrued in the accounts, WHT becomes due/payable in the month of accrual irrespective of whether the payment is actually made.



## Lapses in compliance on sub-lease agreements

- Depending on the specific circumstances, please note that WHT is generally considered to apply on sub-lease payments regardless of whether the sub-lessor applies a mark-up or not on the rentals.

## Lapses in compliance on royalties and management/consultancy fees

- The Act provides very wide definitions of what constitutes royalties and consultancy fees. It is important that you consult when in doubt about whether WHT applies on a particular payment.

## Undeclared payments due to Limited Deduction Direction (LDD)

- An LDD letter from the ZRA provides a taxpayer with the authority to benefit from a reduced rate of WHT available under a specific tax treaty.
- In the instance that a taxpayer has an LDD that provides for 0% WHT on a particular type of payment, some taxpayers do not declare such payments in the WHT returns (in view of the fact that no tax is payable) leading to variances between the returns and financial statements. It is therefore important that all payments are declared in the return.

## Gross rental payments to landlord without official basis

- The responsibility to deduct and remit WHT on rental payments lies with the tenant.

- In the event that a rental agreement provides that the tenant is required to make gross rental payments (i.e. inclusive of WHT) to the landlord, it is important that the landlord provides the tenant with official correspondence from the ZRA confirming this arrangement least you be subjected to penalties if the tax is not remitted to the ZRA by the landlord.

## How can BDO help?

BDO can assist your organisation effectively navigate the pitfalls in compliance with various taxes. Get in touch with us if you have any concerns around any of your tax compliance matters.

Lets talk!

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