



## Guide 01

## Withholding Tax on Rental Services



### Introduction

This tax charged on rents or lease payments to 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. i.e., 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 (3), Income Tax Law 2009).

#### Note

**There are no fees or charges payable to the Ministry of Finance or its Revenue Department or the Mustufiat for any Tax Guides or Forms or at any stage of the tax assessment collection or enforcement processes.**

### 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 landlord's Taxpayer Identification Number (TIN).

### Tenants

Tenants are responsible for withholding the tax from their rental payments and making payment to the government with the correct 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 AFN 10,000 per month. If rental payments are less than or equal to AFN 10,000, then there is no withholding liability.

### Note

Where rental payments are not subject to withholdings under Article 59 because they fall at or below the AFN 10,000 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 to or for the benefit of 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 rates

Where the full rental payment is more than AFN 10,000 but less than or equal to AFN 100,000 per month, the tax is 10 percent of the full rental payment. Where the full rental payment is more than AFN 100,000 per month, the tax is 15 percent of the full rental payment.

## Tax calculation

For purposes of the above calculations, 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 Wahid. Ahmad pays AFN 20,000 per month in rent. Wahid had total expenses for repairs of AFN 5,000 for the month of Sunbala. Ahmad would calculate the tax as 10 percent of AFN 20,000, or AFN 2,000. Wahid would deduct the AFN 5,000 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 afghani at Da Afghanistan Bank no later than the 15th day (or next business day if the 15th falls on a non-business day) following the end of the solar month in which the rent payment is due. Tenants should ensure that the landlord's TIN is shown on the completed form.

### **Example:**

*Ahmad has calculated his rental tax obligation for the month of Jawza as AFN 2,000. His rental payment of AFN 20,000 is due to his landlord on 1st Jawza. He will withhold AFN 2,000, pay his landlord AFN 18,000, and pay the AFN 2,000 tax at the Da Afghanistan Bank no later than 15th Saratan. He will receive a receipt for payment which he will turn over to his landlord as proof of payment of the tax.*

### **Exchange rate for foreign currency**

Rental payments made in a foreign currency will be converted into afghanis using the mid-rate on the date of the payment.

### **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 14 and 16 of the Income Tax Law 2009 and include fines, penalties and referral to the Attorney General's office for prosecution.

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.

### **Note**

Afghanistan Revenue Department tax offices and Mustufiats provide forms, guides, and instructions to taxpayers free of charge, available both as printed and as downloadable versions from a new website <http://www.ard.gov.af>. The website also provides locations, contact numbers and hours of operation for Afghanistan Revenue Department tax offices and Mustufiats. Taxpayers also can download other useful information including various public announcements and rulings, questions & answers regarding wage withholding tax, the In-come Tax Law 2009, and an Income Tax Manual. The manual discusses separately each article of the law, along with relevant regulations, often with helpful examples.