



Guide 04 Tax Overview for Businesses, Investors & Individuals



Introduction

This guide is intended to assist the taxpayer with self-assessment and compliance with tax obligations as provided by the Income Tax Law 2009. The guide provides information concerning common taxes that businesses are likely to encounter but it is not intended to substitute for technical or legal advice and should not be used as a legal reference.

Note

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

The Income Tax Law 2009 provides for a penalty if a taxpayer fails to submit a tax return. This applies even if no tax is due for the period covered by the return. To avoid being penalized taxpayers therefore should submit returns even if no tax is due and state on the return that none is due.

Taxpayer Identification Number (TIN)

In order to make tax administration more efficient and to ensure proper crediting of taxes paid to taxpayer accounts, the Ministry of Finance has implemented a unique taxpayer identification number (TIN) program. All individual persons, companies, and organizations which are, according to the Income Tax Law and Customs Law, required to pay taxes or customs duties, including social, non-profit and welfare organizations which are withholding taxes from the salaries of employees or from rental payments, are required to obtain a Taxpayer Identification Number. Persons who have or open an account with a bank or other financial institution are also required to have a Taxpayer Identification Number (Article 86). The Income Tax Law 2009 provides for additional taxes and penalties for persons who fail to apply for a TIN without reasonable cause (Article 105).



Taxpayer Identification Numbers, as well as information regarding TIN requirements and application forms, can be obtained in Kabul at the Afghanistan Revenue Department or at the Mustufiat offices in Herat, Kandahar, Kunduz, Jalalabad, and Mazar-e-Sharif. TIN application forms are also available online at <http://www.ard.gov.af>.

Note

Most businesses have a licensing or registration requirement with other government agencies. For import/ export businesses, please contact the Department of Licensing at the Ministry of Commerce in Kabul at +93 (0) 20 2103404. For investments, please contact the Afghan Investment Support Agency (AISA), located opposite the Ministry of Foreign Affairs in Kabul at +93 (0) 70 288 304. The web address for AISA is: <http://www.aisa.org.af>.

Confidentiality

All information provided in the tax returns or gathered by the Afghanistan Revenue Department through examination of books and records of the taxpayer, or a third party associated with the taxpayer, is confidential. Such information may not be disclosed to anyone outside the Ministry of Finance unless authorized by law (Article 91).

Any instance of a taxation officer disclosing confidential information or misusing their position in any unauthorized way for the purpose of direct or indirect benefit will be referred to the office of the Attorney General so that the matter can be dealt with accordingly (Article 106).

Requirements for books & records

The Income Tax Law 2009 requires taxpayers maintain and preserve business records (Article 36). All natural or legal persons with taxable income in a taxable year must keep records related to all transactions, all movable and immovable property, and all income necessary to prepare complete and accurate tax returns.

Records include ledgers, journals, vouchers, financial statements and accounts, and income tax records. They are to be supported by source documents.

Records normally summarize the information contained in the source documents. Source documents include sales invoices, purchase receipts, contracts, guarantees, bank deposits slips, cheques etc. They also include cash register slips and credit card receipts, purchase orders, work orders, import and export documents, delivery slips, e-mails and general correspondence in support of the transaction.

The Afghanistan Revenue Department does not specify the books and records you need to keep. You may choose a system of record keeping that is suited to the purpose and nature of your business. However, these records must clearly reflect your income and expenditure. Your records must be:

- Reliable and complete
- Provide the correct information necessary to calculate your tax obligations and entitlements
- Be supported by source documents to verify the information contained in the records
- Include other documents such as appointment books, logbooks, income tax returns, withholding tax returns, certain accountants' working papers, that assist in determining your obligations and entitlements

Note

Persons engaged in more than one business are required to keep separate records for each business.

Businesses also should retain documentation to support their transactions. International businesses especially should retain documentation related to transfer pricing policies

and documentation pertaining to any distribution of branch and subsidiary profits.

Method of accounting

Corporations and limited liability companies are required to compute their income using the accrual method of accounting which recognizes income and expenses when due (Article 37).

Taxation year

The taxable year is the solar year which starts from the first day of Hamal (21st March) and ends on the last day of Hoot (20th March) (Article 3).

A legal person (but not a natural person) wishing to use a different taxation year may apply in writing to the Ministry of Finance explaining the reasons for the requested change. The Ministry of Finance may approve such an application but only where the application is justifiable. The Ministry will inform the legal person of this in writing, establishing the commencement date of the change and expected tax payment dates which will be determined by the Ministry. The Ministry decision will ensure that neither the taxpayer nor the Government of Afghanistan obtains an unduly favorable tax position as compared with payments by other taxpayers.

Availability of records

In order to confirm that a tax liability or refund has been properly established, or to estimate the income of a person, Ministry of Finance officers are entitled to have access to the business premises and to the inspection, examination and copying of books of account, papers, records etc. held by the person or by third parties (Article 91). Third parties may include business associates, customers, suppliers, financial institutions, other government departments etc.

Taxes

Income tax

Corporate (legal persons):

Corporate income tax is a flat tax of 20 percent (Article 4) of net taxable income. Net taxable income is computed by deducting all ordinary and necessary business expenses from gross income (Chapter 2). Corporate rates apply to legal entities such as corporations, limited liability companies, and other legal entities. The annual tax return is due and payable by the end of Jawza (3rd month) of the next fiscal year.

Personal (natural persons):

Resident natural persons are taxed on income from all sources worldwide,

including but not limited to wages, salaries, rents, certain types of partnership income, royalties, etc. Non-residents are taxed on all income with its source in Afghanistan. The annual tax rates are as follows (Article 4):

Income more than	Income not more than	Tax
0	AFN 60,000	0 percent
AFN 60,000	AFN 150,000	2 percent of amount over AFN 60,000
AFN 150,000	AFN 1,200,000	AFN 1,800 + 10 percent of amount over AFN 150,000
AFN 1,200,000		AFN 106,800 + 20 percent of the amount over AFN 1,200,000

Two aspects of personal income tax may have an impact on business owners. They are wage withholding and personal income tax for sole proprietors.

Wage withholding tax

Employers with two or more employees are required to withhold tax from their employees' salaries and wages based on the above rates (Article 58). There is a monthly exemption of AFN 5000 per person. Salaries and wages include: regular pay, overtime pay, cash allowances (e.g. food, transportation) and non-cash payments. These rates are pro-rated based on the frequency of payment (monthly, weekly, etc.).

Wage/salary earners with only one employer, who have tax withheld from their wages and have no other sources of income are not required to file an annual tax return. A wage earner who has more than one employer or additional sources of income must file an annual income tax declaration.

The employer is required to remit to the State the amount withheld no later than 10 days after the end of the month in which the amounts were withheld (Article 60). The remittance is made directly to a branch of Da Afghanistan Bank using the appropriate form.

There are annual reporting requirements for employers both to the employee and to the Ministry of Finance (Article 61).

For more information regarding the wage withholding tax, please refer to Guide 05, Wage Withholding Tax, available at the Afghanistan Revenue Department or online at <http://www.ard.gov.af>

Sole proprietors

Self-employed individuals must file a tax return and are allowed to deduct all ordinary and necessary business expenses against their income to compute net taxable income.

Tax is calculated on net taxable income using the same annual tax rates and thresholds as applies to other individuals (Article 4).

The annual tax return for a sole proprietor is due and payable by the end of Jawza (3rd month) of the next fiscal year.

Withholding tax on rental services (Article 59)

This is a pre-payment of landlords' income tax. Legal entity tenants and natural person tenants conducting business at the rented property, and paying more than AFN 10,000 per month in rent are required to withhold the tax (and are liable for the tax) at the time the rent is paid. The tax withheld is 10 percent of the rent payment for payments over AFN 10,000 per month but less than or equal to AFN 100,000 per month, and 15 percent of the rent payment for payments over AFN 100,000.

The landlord is responsible for reporting rental income on his annual income tax declaration and paying tax annually at appropriate rates depending on entity type (legal person or natural person). Ordinary and necessary expenses of maintaining a rental property are allowable as deductions against rental income. Tax withheld and paid by the tenant is allowed as a credit when the annual tax return is filed.

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

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. The payment is made at Da Afghanistan Bank no later than the 15th day following the end of the solar month in which the rent payment is due.

Business Receipts Tax (BRT) (Chapter 10)

A 2 percent business receipts tax is imposed on gross receipts of all types of income of corporations and limited liability companies and individuals whose income is more than AFN 750,000 per quarter, except for certain types of income described below where the BRT rate is 5 percent or 10 percent.

There is also a 2 percent BRT on imports, payable to the Customs House where and when the customs duty is paid. This BRT is treated as an advance payment of the quarterly BRT assessment.

10% BRT is payable on gross receipts from provision of the following services:

- International passenger airline services
- Telecommunications services, including Internet services
- Hotels providing superior services

- Restaurants providing superior services

Other hotels and restaurants with income of AFN 750,000 or more per quarter and clubs and halls (event venues) pay 5 percent BRT.

The business receipts tax paid is deductible from gross income in arriving at taxable income for income tax purposes (Article 67)

Tax forms and payments are due on a quarterly basis using the solar calendar. Tax payments are made at Da Afghanistan Bank no later than the 15th day following the end of the solar quarter in which the sales were made (Article 88).

For more information regarding the business receipts tax, please refer to Guide 03 - Business Receipts Tax on Services and Guide 12 - Airlines (available online at <http://www.ard.gov.af>).

Fixed taxes (Chapter 11)

There are fixed taxes in lieu of income tax imposed on certain business and transaction types. In some cases the fixed tax is a prepayment of income tax but does not relieve the taxpayer from the need to file an income and/or business receipts tax return. The following fixed taxes are addressed by

Chapter 11:

- Fixed tax on imports
- Fixed tax on the transport of goods or passengers for business purposes
- Fixed tax of contractors
- Fixed tax on exhibitions
- Fixed tax on small businesses

Fixed tax on imports (Article 70)

Persons who import goods are subject to a fixed tax on the cost, including customs duties, of the imported goods.

Persons with a current business license are subject to a 2 percent fixed tax. The tax paid is allowed as a credit in the income tax assessment for the year in which it is paid. Persons without a business license are subject to a 3 percent fixed tax which is payable instead of income tax.

The fixed tax on imports is paid where and when the customs duties on the imported goods are paid.

Fixed Tax on the Transport of Goods or Passengers for Business Purposes (Article 71)

Persons who transport passengers or goods for business purposes are required to pay an annual fixed tax before renewal of their vehicle registration.

Fixed Tax on Contractors (Article 72)

Persons who, without a business license, provide supplies, materials, services and/or construction under contract to government agencies, municipalities, state entities, private sector business and organizations, and other persons, are subject to a 7 percent fixed tax in lieu of income tax.

Persons carrying business licenses providing the above services to the mentioned entities are subject to 2 percent contractor tax. This tax is creditable against subsequent tax liabilities.

This tax is withheld from the gross amount payable to the contractor.

Fixed Tax on Exhibitions (Article 73)

The fixed tax on exhibitions applies to natural persons who are residents of Afghanistan and to non-resident natural and legal persons who provide entertainment such as theatre, cinema, radio, television, music, or sport in Afghanistan. Income from these businesses is subject to a fixed tax of 10 percent of receipts from sale of admission or tickets. The fixed tax is imposed in lieu of income tax and business receipts tax. The fixed tax is due on a monthly basis and must be paid no later than the 15th day of the next month. If the shows are not continuous, the tax must be paid at the

end of each show.

Other persons who provide entertainment and recreational services are subject to income tax and business receipts tax.

Fixed tax on small businesses (Article 74 and 75)

Shopkeepers and other small businesses that do not keep detailed records are classified according to amount of gross income received and pay a prescribed fixed tax accordingly.

Note

Articles 71 (Fixed Tax on Exports), 75 (Fixed Tax on Grain and Processing Mills, Cane and Seed Oil Machinery), 78 (Fixed Tax on Physicians), 80 (Fixed Tax on Persons without a Fixed Place of Business), and 81 (Fixed Tax on Brokers and Commissioners) from the Income Tax Law 2005 have been repealed. Taxpayers affected by this change will now be subject to annual income tax or the Fixed Tax on Small Business.

For more information regarding fixed taxes, see Guide 19 – Fixed Taxes on Commercial Activities or contact the Afghanistan Revenue Department or

your local Mustufiat Office.

Other fees

The Ministry of Finance administers a fee that is not contained in the Income Tax Law 2009. This is the Airport Departure Fee of AFN 500 for international departures and AFN 50 for domestic departures.

Large Taxpayer Office (LTO)

The Large Taxpayer Office serves as a one-stop office for a select number of large taxpayers. Criteria for inclusion in this program include annual turnover, risk to Ministry revenues, specialized industry type, and amount of capital investment.

The LTO program offers many benefits to the taxpayer. The higher ratio of Afghanistan Revenue Department employees to taxpayer allows for service tailored to large taxpayer needs, multi-lingual communication (Dari, Pashto, and English) and frequent contact via telephone, e-mail, and personal visits.

The LTO program also features personalized information and education programs for taxpayers and their employees related to specialized business or industry/sectors concerns.

The LTO program includes special selection of Afghanistan Revenue Department employees and training which emphasizes responsiveness,

courtesy, and professionalism when dealing with taxpayers.

LTOs currently are co-located at the Afghanistan Revenue Department in Kabul, and with Mustufiat in Herat and Balkh. The Afghanistan Revenue Department plans to expand this program to Jalalabad, Kunduz and Nimroz.

Medium Taxpayer Office (MTO)

The criteria for inclusion of taxpayers in this category are very similar to those for the LTO but, in general, with a lower level of turnover. The following categories are included.

- A business with income or invested capital sufficient to qualify for LTO treatment but income is exempt or largely exempt.
- Business entities required to prepare balance sheets.
- Diplomatic or international representations.
- Educational or health institutions outside the state system.
- Foreign owned businesses.
- Unregistered sole proprietors or legal entities whose annual gross income does not exceed AFN 5 million or with initial capital of AFN15 million.

The intention is to extend the same level of service provided by the LTO to a much greater number of taxpayers and

at the same time significantly improve the flow of revenue to the Government.

The MTO in Kabul is co-located with the Millie Bus Depot, and a second MTO is co-located with the Mustufiat in Herat. The Afghanistan Revenue Department plans to add MTOs in other provinces in response to needs.

Tax forms and instructions

Examples of tax returns, instructions for completing tax returns and miscellaneous guides can be found on line at <http://www.ard.gov.af>. Tax returns are available at the Large Taxpayer Office and the Medium Taxpayer office.

Audit of taxpayers' records

The Afghanistan Revenue Department regularly conducts audits of taxpayer records to assure accuracy of filings and correct payments based on the self assessment methods prescribed by the Income Tax Law 2009.

Audit frequency depends on a number of factors. Audits generally will be arranged in advance at times mutually convenient to the taxpayer and revenue officials so as to minimize disturbance to the taxpayer's business. Any errors and necessary corrections discovered will be discussed and agreed to at the end of the audit visit.

Enforcement provisions (Chapters 14 & 16)

The Afghanistan Revenue Department is obliged by law to determine and collect from each taxpayer only the correct amount of tax that is due to the Government.

The Afghanistan Revenue Department officers and staff are representatives of the Minister of Finance and in that capacity must ensure that the tax laws are administered correctly and fairly so that no one is prejudiced or favored above the rest.

The Income Tax Law 2009 provides the Ministry of Finance with all of the enforcement powers necessary to collect the taxes that are rightfully due.

- Assessments – the Ministry of Finance may amend tax assessments (or tax shown on tax returns) to correct intentional or inadvertent errors. The Ministry may also raise an assessment for tax based on estimated income where no return has been filed.
- Property actions – The Ministry of Finance may place restrictions on the sale of movable and immovable property, place liens or encumbrances on property or seize property for the purpose of sale. These actions may be taken upon approval of the courts.
- Director and shareholder liability – The Ministry may under certain conditions collect the tax debt of the company from its directors, certain shareholders and third parties who have received assets from the debtor company.
- Collection from third parties – The Ministry has the power to issue a garnishee order to collect amounts owed to the tax debtor by third parties. These third parties could include customers, financial institutions, employers, tenants, etc.
- Departure Prevention Order – This is an order to the appropriate authorities to restrict or prevent an individual (including an assessed director, shareholder or third party) who has unpaid taxes of more than AFN 20,000 from leaving the country.
- Temporary business closure – When a person fails to file a tax return, fails to pay tax liabilities on the due date or fails to withhold (rent, wages, dividends etc.) and pay tax, that person may be the subject of an order to close the business until the taxes are paid.
- Non-issuance of licenses – When persons have not paid the taxes due, the Ministry of Finance may inform other government ministries, agencies and departments which have the authority to issue licenses, not to renew those licenses. Other ministries and government agencies

are to issue licenses only when they have such documents from the Ministry of Finance to indicate that the business has fulfilled its tax obligations.

The law also provides for the imposition of additional taxes, penalties and fines. These sanctions may be imposed under several circumstances including:

- Failure to maintain and to provide access to books and records (Article 101)
- Failure to file a tax return (Article 102)
- Failure to withhold tax as required – rent, dividends, interest, royalties, wages, salaries, commissions etc. (Article 103)
- Failure to pay the taxes due (Article 104)
- Failure to apply for a Tax Identification Number (TIN) (Article 105)
- Evasion of income tax (Article 98)
- Offenses committed by taxation officers pertaining to disclosure of confidential information and misuse of their position. (Article 106)

Late payment charge

When a taxpayer has failed to pay his/her tax liability by the due date, the person is subject to additional income

tax of 0.10 percent of the tax due, per day (Article 100).

Overpayment of tax

If the Ministry of Finance finds, upon examination of a return, refund claim, overpayment claim or court judgment that the tax paid is in excess of the amount due, the Afghanistan Revenue Department official in charge of the taxpayer's file will contact the Customs Department to confirm that the taxpayer does not have any outstanding liability for customs duties. The official will also investigate if any other taxes remain unpaid. Any overpayment will be first applied against unpaid taxes or customs duties and the excess held in credit for the taxpayer (Article 90).

Objections and appeals

The Income Tax Law 2009 provides a formal administrative dispute resolution process for any person who is dissatisfied with an income tax assessment (Article 89). This process can involve three steps. First, a person may request an amendment to his/her income tax assessment. Second, if a person is dissatisfied with the decision on his/her request for an amendment, he/she may lodge an objection which is reviewed by an independent review panel. Third, and finally, a person who is dissatisfied with the decision of the review panel may appeal to a court of competent jurisdiction.

More detailed information concerning the objections and appeal process can be obtained from the Appeals Unit, the Large Taxpayer Office or the Case Management Team of the Medium Taxpayer Office at the Afghanistan Revenue Department, at your local Mustufiat Office, or by visiting the tax information website at <http://www.ard.gov.af>.

The website provides access to the appropriate objection/appeal forms, the tax law, the tax manual and Guide 11 – Disputing the Amount of Income Tax Payable in an Income Tax Assessment.

Electronic funds transfer

It is now possible to pay your taxes using electronic funds transfer. The process is simple and should make compliance easier, especially for those businesses and organizations with accounting and payment offices outside of Afghanistan.

For additional information on electronic funds transfers please refer to Guide 06 – Paying Your Tax by Electronic Funds Transfer at <http://www.ard.gov.af>. You may also visit the Afghanistan Revenue Department, Taxpayer Assistance Team at the Ministry of Finance in Kabul.

Customs duties

Import and export businesses, as well as those businesses that must

import goods and materials for use in their business should contact the appropriate customs house regarding their customs affairs.

Tax administration reform

In order to promote voluntary compliance with Afghanistan's tax laws, the Ministry of Finance is working to reform the Afghanistan Revenue Department and other Ministry offices in order to create a more efficient and effective tax administration. The new organization will be more service-oriented, realizing that education and information are the foundations for compliance. At the same time, the organization will be developing modern enforcement programs consistent with international standards and a transparent administration free of corruption, and conducive to a business climate changing for the better.

Corporate tax reform

The government is committed to making Afghanistan attractive to investors and has continued to reform corporate taxation consistent with international standards and best practice. The Income Tax Law 2009 includes provisions for accelerated depreciation (over four years for buildings and two years for other assets) and the ability to carry losses forward for an unlimited period until fully recouped.

Other corporate tax reform measures which have been implemented include:

- Taxing branches of foreign companies on the same basis as subsidiaries of foreign companies.
- Tax incentives for extractive industries
- Extending the 20 percent withholding on dividends to include withholding for interest, royalties and other similar payments
- Deductions allowed on the basis of attribution of actual expenses between the branch and the non-resident person
- Ensuring 'arm's length' pricing between associated entities
- Implementing general anti-avoidance rules to address tax avoidance practices
- Quarantining foreign losses against foreign income
- Allowing legal persons to apply for a fiscal year that is other than the solar year.

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 Income 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.