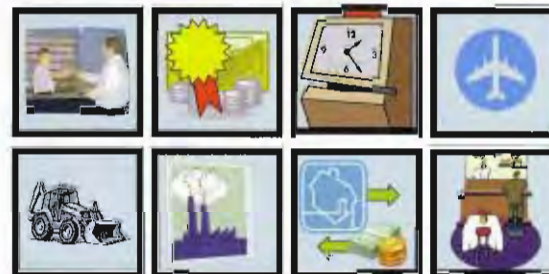




Guide 15 Taxable and Non-Taxable Income



Introduction

This guide outlines what income is taxable and what income is not taxable for residents of Afghanistan. For tax issues for non-residents, please see Guide 23, Tax Issues for Non-Residents.

According to the Income Tax Law 2009, income tax is imposed on

- Income from Afghan sources of all natural persons and legal persons, whether resident of Afghanistan or not, and
- Income from non-Afghan or foreign sources of residents of Afghanistan

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.

in accordance with the provisions of the Income Tax Law (Article 2).

What is taxable income?

Taxable income is the total income of a natural or legal person, whether in cash, property, or services, minus any allowable exemptions or deductions. *Exemptions* are amounts that are not subject to tax by law. *Deductions* are amounts that can be subtracted from total income such as allowable business expenses and other expenses of



producing income. For more information concerning allowable deductions, see Guide 16, Deductible and Non-Deductible Business Expenses.

Who is a resident for tax purposes?

A natural person is considered a resident of Afghanistan in the following circumstances:

- The person has his or her principal home in Afghanistan at any time during the fiscal year; or
- The person is present in Afghanistan for a period or periods amounting to 183 days in the fiscal year; or
- The person is an employee or official of the Government of Afghanistan assigned abroad at any time during the fiscal year.

Any other entity is resident in Afghanistan for a tax year if the entity was established in Afghanistan or has the center of its administrative management in Afghanistan at any time during the year.

A natural person's "principal home" is determined using a "facts and circumstances" test. In determining whether a natural person has a "principal home" within Afghanistan, the following factors shall be taken into account:

1. Whether the person owns or rents the home in Afghanistan
2. Whether the person owns or rents

a home in a different country

3. The amount of time the person spends in Afghanistan and the amount of time the natural person spends in other countries
4. The location of the person's family; and
5. The length of time the person has owned his or her home in Afghanistan and the length of time that the person has owned a home in one or more other countries.

Taxable Income

Income of natural persons

The following types of income are subject to income tax:

1. Salaries, wages, fees and commissions
2. Income from business, industry, construction and other economic activity
3. Income/gain from the sale of property (movable and immovable)
4. Interest, dividends, rents, royalties, awards, prizes, winnings, gratuities, bonus payments
5. Distributive shares of partnership income
6. Any other return from labor, capital, or economic activity
7. Income from other circumstances provided in the Law
8. Any other income which has not been provided in the Law.

Salaries, wages, fees, and commissions

Salaries and *wages* are payment for services received by an employee. In general, these amounts will be subject to withholding tax, that is, the tax withheld by an employer from salary or wage payment and paid to the government on an employee's behalf. If your only income is from salaries or wages, taxes were correctly withheld, and you have only one job, you do not have to file an income tax return.

Fees are usually paid on a per job basis, rather than on a time worked basis, such as a doctor who is an employee of a hospital being paid on a per appointment basis rather than on an hourly or daily basis.

Commissions are amounts you receive in addition to or in place of your salary or wage. Commissions are usually paid as a percentage of your sales.

Income from business and industry activity

Individuals engaged in business activity, whether as an independent professional (doctor, lawyer, accountant, etc.) or a sole proprietor (individual business owner such as a shopkeeper, tailor, importer, travel agent, etc. who has not established a legal entity such as a corporation or limited liability company), are required to pay income tax on the

net income from the business activity. Net income is the total income minus allowable business expenses.

Income/Gain from the sale of property

The gain from the sale, exchange or transfer of a capital asset or investment in a trade or business is income and the difference between the amount realized and the taxpayer's cost (or cost after depreciation and related expenses of sale) of the property is income to be reported. If the difference between the amount realized and the taxpayer's cost (after expenses) is a loss, then this also needs to be reported.

The Income Tax Law also imposes a fixed tax of 1 percent of the sale or transfer of movable or immovable property. If the sale or transfer is made by a legal person, the fixed tax will be allowed as a credit against tax payable for annual income tax purposes. If the sale is made by an individual, the fixed tax will apply instead of annual income tax.

Interest, dividends, rents, royalties, awards, prizes, winnings, gratuities, and bonus payments

Interest income is the gain you receive on amounts that you have lent to others.

Dividends are distributions from companies that you have invested in, whether received as money or as property.

Dividends are also any benefit provided to you as a shareholder, including:

- 1 Any tangible or intangible assets
- 2 Shares in the company
- 3 Discounts on any purchases from the company
- 4 Loans to shareholders
- 5 The use of any company property.

The taxable portion of the benefit is the difference between the fair market value (its cost to the general public) and the amount paid for it.

Example: ABC Corporation sells electronics equipment. Shareholders of ABC Corporation may purchase equipment directly from the company at a 40 percent discount on the retail price (fair market value). This benefit is not available to the general public. Ahmad is a shareholder and buys a piece of equipment for AFN 6000. The fair market value of the equipment is AFN 10,000. Ahmad would have to report the benefit of AFN 4000 as income on his tax return.

Income you receive for renting property that you own is subject to income tax. The rental payments may be subject to withholding tax. See Guide 01 Withholding on Rental Services for more information.

Royalties are amounts you receive for the purchase or use of items that you

have produced, such as books, films, music, etc. Royalties are also subject to income tax.

Prizes (whether in cash or property), winnings, gratuities, bonus payments, etc., are also subject to income tax.

Distributive shares of partnership income

If you are a partner, you will be issued a statement regarding your share of the gross income of the partnership and your share of the business' expenses. The difference (gross income minus deductible expenses) will be your share of the profits of the partnership. You are required to include this amount in your total income on your income tax return.

Note

If you have received income in the form of services or property (moveable or immovable), you must report the income at the fair market value of the property or service on the date you received it.

Example: Aziz is a carpenter who has done some work for a dentist. Instead of paying for the work in cash, the dentist has agreed to conduct dental work for Aziz's two children. The dental work would normally cost AFN 10,000. Aziz must report AFN 10,000 as income on his tax return.

Income of Legal Persons

Legal persons are subject to income tax on the same types of income as for individuals except for salary or wages.

Non-taxable income

The following receipts are not subject to income tax and not included in returns of natural and legal persons:

- 1 Grants, gifts, and awards of the State
- 2 Grants, gifts, and awards of foreign governments, nonprofit organizations or international organizations, for contributions to science, art, literature, social progress, and international understanding
- 3 Scholarships, fellowships, and grants for professional and technical training
- 4 Health, accident, and unemployment insurance benefits
- 5 Life insurance paid on death
- 6 Compensation or damages for personal injuries or sickness or restitution of reputation
- 7 Proceeds of borrowing
- 8 Proceeds of issues of stocks and bonds by companies
- 9 Acquisition of property in connection with mergers of domestic corporations and other legal entities
- 10 Acquisition of movable or immovable property through expropriation of

property of debtors by creditors

- 11 Payments on principal received from debtors
- 12 Interest on bonds issued by the State and by municipalities, and
- 13 Any other receipts according to the provisions of the Income Tax Law.

Grants, gifts, and awards of State do not include payments made to employees for services performed in the ordinary course of duty. Grants, gifts, and awards are given in special circumstances or in recognition of unusual service. They are associated with hardship or recognition of accomplishment and are therefore non-taxable. Annual bonuses, overtime, back pay and other benefits given on a nonselective basis are taxable income of the recipient.

Note

Income received by a person may be exempt from tax in Afghanistan because of an international treaty or agreement entered into by the Government of Afghanistan.

For more information regarding exemption from tax in these circumstances, please refer to Guide 07 Confirming an Exemption from Income Tax under a Bilateral or Multilateral Agreement, available at the Afghanistan Revenue Department or online at www.ard.gov.af

