



# FEDERAL INLAND REVENUE SERVICE

**INFORMATION  
CIRCULAR**

**NO: 9903  
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**SUBJECT: TAXATION OF TRANSACTIONS IN THE NIGERIAN CAPITAL MARKET: Guidelines, applications, and procedures.**

## **Introduction**

*The purpose of this circular is to draw the attention of the general public especially officials of Issuing Houses, stock brokerage firms, reporting accountants and solicitors as well as the staff of Federal Inland Revenue Service to the government policy on the taxation of transactions in the capital market. The operators in the capital market whose activities include raising of new capitals or rights issues: trading on stocks, equities, share and debentures have for sometime failed to comply with the provisions of the tax law. The 1999 budget pronouncement revealed Government's interest in the developments that have taken place in the capital market. This circular aims at exposing the guidelines, clarifying the procedures and the place in the applications of Withholding Tax & VAT in the capital market in respect of fees. Commissions and other incomes earned by operators from transactions in the capital market.*

### **1. DISTINGUISHING WITHHOLDING TAX (WHT) FROM VALUE ADDED TAX (VAT)**

There is need to draw attention to the fundamental difference **between Withholding Tax and Value Added Tax** so as to facilitate clear understanding of the mechanics of the tax concepts.

**Withholding Tax** is an advance payment of income tax and the purpose is to bring the prospective taxpayer into the tax-net, thereby widening the income tax base. In other words, the withholding tax system is aimed at tracking down taxpayers and the incomes which may otherwise not be reported by them.

When the income on which withholding tax is deducted at source is finally brought to the notice of the tax authority and appropriate tax is computed, due **credit** is given for the withholding tax deducted at source on the presentation of the original withholding tax receipts through the issuance of **credit notes**. The taxpayer will be required to pay only the balance due after matching the actual tax liability against the credit for the withholding tax suffered at source. Withholding tax is therefore nothing more than a collection machinery to curb tax evasion. It is not a separate tax on its own. It is a part of the income tax whether personal or corporate income tax.

In contrast, Value Added Tax is a different type of tax. VAT is a consumption tax, payable on the goods and services consumed by any person whether government agencies, business organizations or individuals. The target of VAT is consumption of goods and services and unless an item is specifically exempted by the law, the

consumer is liable to the tax. Exemption from VAT is not aimed at agencies, companies or individuals but rather at the goods and services.

Therefore, all agencies of government, religious and other organizations and similar persons that are normally exempted from income tax are expected to pay VAT on the goods and services consumed by them except where the goods and services are specifically exempted by law.

## 2 THE PRIMARY MARKET

(a) **How to Impose Withholding Tax:** It is usual for issuing companies to pay fees to Issuing Houses, stock brokerage firms, reporting accountants and solicitors in respect of new and right issues, as well as debenture stocks. Such fees should suffer withholding tax at source in accordance with Section 81 of the Companies Income Tax Cap C21 LFN 2004 as amended, and the relevant extra-ordinary Gazette. The issuing companies are hereby mandated to deduct the withholding tax there-from and pay over to FIRS within 30 days as stipulated in the tax law. The net is then paid over to the Issuing House that handled the issue. The applicable rate for commissions/fees is ten percent (10%) for limited liability companies, and five percent (5%) for individuals and partnerships.

The Issuing Houses which co-ordinate the activities and services of the other parties involved in the issuing on behalf of the Issuing Companies, are hereby appointed as agents to deduct the withholding tax and pay over the tax withheld to the relevant tax authorities.

(b) **How to Impose VAT:** Every consumer pays VAT on services rendered to it. As consumers of the services rendered by both the Issuing Houses and other parties to the issue, the issuing companies are liable to the payment of VAT for the services rendered. The Issuing Houses and other parties to the issue should charge VAT at 5% on their invoices for services rendered. Since the Issuing Houses handle the transactions connected with new and right issues, they are to act as agents for the collection and remission of VAT to FIRS.

(c) **Listing by Nigeria Stock Exchange (NSE):** As a pre-requisite for listing new securities by Nigerian Stock Exchange (NSE), the evidence of settlement of WHT and VAT on the new and right issues must be attached. The listing fees are themselves liable to WHT and VAT.

(d) **Renewal of operators' Licences:** Before an operator's licence is renewed by the regulatory authority, evidence of WHT and VAT on issues handled in the pervious year must be produced.

## 3. THE SECONDARY MARKET

(a) **How to impose withholding tax**

- (i) In the case of a purchase, the stockbroker is expected to charge the investor for (the following:-
- the cost of the share purchased,

- commission based on gross value of share purchased on behalf of that investor,
  - the SEC fee is not subject to WHT & VAT being part of gross income earned by SEC
  - deduct withholding tax on the commission at 5% or 10% and pay over to the relevant tax authority, i.e. State Internal Revenue Service (SIRs) or Federal Inland Revenue Service (FIRS).
- (ii) In the case of a sale, the stockbroker is expected to deduct from the investor's gross consideration the following:-
- his commission,
  - the other fees payable to other third parties, as approved by SEC.

Thereafter, the net sale should be paid over to the investor. Both the stockbroker's commission and other fees paid to other third parties are subject to withholding tax. The stockbroker is to pay over tax withheld from the commission and other fees to the relevant tax authority.

- (b) **How to impose VAT:** In both purchase and sale transactions, the consumer of the services rendered by the stockbroker is the investor. It is therefore the investor that suffers the incidence of this tax. The VAT on these transactions (sale & purchase) should be paid over to FIRS.

#### 4. COLLECTION ARRANGEMENT

In respect of the collection of the taxes herewith discussed, the usual collection arrangement will prevail.

However, in summary, the following collection arrangement should be observed:-

- (a) **Withholding Tax (WHT)**
- (i) The rate at which tax is to be withheld on commission and fees is 10% when these payments are made to limited liability companies; and 5% for individuals and partnerships.
  - (ii) The currency in which the tax is to be paid is the currency the transaction was carried out and in which the tax was deducted.
  - (iii) payments of withholding tax should be made to designated collecting banks.
  - (iv)
  - (v) Any default in the implementation of the tax carries heavy penalties.

Failure to deduct WHT and failure to remit taxes withheld are punishable on conviction by a penalty of 10% of the tax not

withheld or remitted plus interest at as may be determined by FIRS Board (currently 15%).

(b) **Value Added Tax (VAT)**

- (i) The rate for **VAT** is 5%
- (ii) Payments of **VAT** should be made to designated collecting banks.
- (iii) The payments should be accompanied with the **VAT FORM 022** (which is readily available in all **FIRS** offices throughout Nigeria)

5. **DUAL ROLE OF ISSUING HOUSES**

It is necessary to clarify that the new policy of Government imposes dual roles on the Issuing Houses as agencies which handle new and right issues:

- (i) as agent of government for the deduction and remittance of withholding tax and as agent of government for the collection and remittance of **VAT**, even in respect of their own respective transactions, which ordinarily should have been paid over to the operator who charged the **VAT** on his invoice.

6.. For any further information or clarification please direct your enquires to:

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Or

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