

FIRS to withhold VAT on taxable supplies through MTN, Airtel & Money Deposit Banks (MDBs)

The Federal Inland Revenue Service (FIRS) has in line with Section 14(3) of the Value Added Tax Act, Cap. V1 Laws of the Federation of Nigeria (LFN) 2004 (as amended) appointed companies like MTN, Airtel including all Money Deposit Banks (MDBs) (as defined by the CBN Guidelines) as its agents for the purposes of withholding Value Added Tax (VAT) on all taxable services supplied to them.

By the Notice dated 1st November 2022, the Executive Chairman of the Service, Muhammad Nani stated that all such withheld VAT are to be remitted separately from the VAT that would ordinarily be due on the companies' taxable supplies..



Picture: FIRS office in Abuja

This is by making use of the self-accounting tax form provided for in the legislation

Initially, all taxable persons pay to their suppliers, the tax on taxable goods and services known as INPUT TAX and on supplying taxable goods and services to their accredited distributors, agents, clients and consumers as the case may be, such taxable persons collect the tax on those goods and services known as OUTPUT TAX.

The said OUTPUT TAX net the INPUT TAX is then remitted to the government. However, by the amendment to the VAT Act through the Finance Act of 2022, VAT can now be deducted at source. Section 14(3) and (4) of the VAT Act contains a new self-account provision for all supplies that are not subject to VAT.

The provision transfers the filing obligation of a small company to medium and large companies.

To that effect, a taxable person who receives goods or services in Nigeria is expected to withhold and remit tax in the prescribed format where the supplier is exempted from (or fails to charge) VAT.

Examples of persons exempted are businesses with annual turnover below ₦25 million as well as Non-Resident Companies without a permanent establishment in Nigeria.

Though many people expressed their displeasure about the self-account provision based on its likelihood to create extra costs for both parties in the transaction and that such suppliers whose output tax are withheld may

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may end up not recovering their input VAT from the corresponding output VAT, the FIRS by the Notice tried to address this by providing the underlisted options:

1. "A supplier whose output tax is withheld, as provided in this Notice, may deduct the input tax paid on the goods purchased or imported to make the taxable supply from the output tax collected on other taxable supplies."
2. "And where the input tax paid to make the supply is not fully recovered from the output tax on other taxable supplies, the balance is refundable to the supplier; provided that a supplier who is entitled to a refund may utilize the amount refundable to offset future VAT liability or request for a cash pay-out,"

This is in line with the Withholding Tax (WHT) principle under which a supplier can offset taxes already deducted at source against subsequent tax liability.

The rationale behind this becomes well appreciated when one recalls the decision in Vodacom against FIRS which has expanded the scope of the VAT liability of Nigerian resident companies to include all forms of services rendered by Non-Resident Companies (NRCs) whether or not such services are physically supplied in Nigeria (by employees or via some form of equipment located in Nigeria).

As usual, remittance is in the currency of transaction and not later than the 21st day of the month immediately following the month of collection and withholding.

In view of the above, all stakeholders, particularly those who carry on any trade, business and profession are expected to take into consideration the new changes which will take effect from 1st January 2023 in order to avoid being sanctioned by the Tax Authority.



Picture: Tax calculation



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