



MINISTRY OF FINANCE



► GUIDANCE FOR ◀

VAT WITHHOLDING

July 25th, 2022

THE DEPARTMENT OF INLAND REVENUE

Introduction

This guide is intended to provide guidance on the operation of the Withholding VAT mechanism in the Value Added Tax Act, 2014 (“VAT Act”). It should be read in conjunction with the VAT Act and the VAT Rules which can be found on the website of the Department of Inland Revenue (“DIR”). If there is a discrepancy in the Guidance Note, the law will prevail in accordance with the VAT Act and Rules.

What is VAT Withholding?

Withholding VAT is an administrative mechanism that requires certain VAT registrants or government agencies (called VAT Withholding Agents) to withhold and remit to the government 40% of the VAT due on the payment to specific vendors for the purchase of certain goods or services, on account of the vendors’ VAT payable. This withholding is not a tax, but rather an alternative accelerated method of collecting a portion of the VAT due by suppliers (vendors). This provision only applies to supplies that attract the standard (10%) VAT rate.

The Ministry of Works and Utilities, the Ministry of Education & Vocational and Technical Training, Ministry of Public Service and the Treasury Department will be appointed as VAT Withholding Agents effective August 1st, 2022. These identified VAT Withholding Agents must withhold VAT from all payments above \$9,999.99 for:

1. The procurement of *construction goods or services* for the Government, or
2. Commercial Lease, or
3. Purchase of materials, building supplies, machinery, fixture or any equipment; or
4. Purchase of goods and services related to the maintenance, repair or improvement of any machinery, fixture, equipment, building or other property owned or leased by the Ministry or Department.

Per section 2 of the VAT Act 2014, “construction goods or services” means goods or services supplied directly in the construction, major reconstruction, manufacture, or extension of a building or civil engineering work;

For the remainder of this document, we will refer to these Ministries as **Withholding Agents**.

In the future, there may be other government entities and private businesses appointed as Withholding Agents.

Who should read this guidance note?

If you are appointed as a VAT Withholding Agent or are making supplies (selling goods or providing services) to a VAT Withholding Agent, the information in this guide applies to you.

How does withholding VAT work?

Assume that the VAT Withholding Agent purchases construction services or rents an office space from a VAT registered supplier named John. John's contract was for \$100,000 before VAT. When the job was done, John gives the Withholding Agent an invoice for \$100,000 plus \$10,000 of VAT, for a total of \$110,000.

The VAT withheld is calculated as follows:-

$$(\text{Base value before VAT} \times \text{VAT rate}) \times 40\% \sim$$
$$(100,000 \times 10\%) \times 40\% = \$4,000$$

When the supplier files their VAT return, they will be required to upload the withholding VAT Certificates received, indicating that a payment(s) has been made on their behalf.

An illustration of how the process works is shown in Appendix 2 at the end of this guidance note.

What are John's VAT filing obligations?

John's filing obligations will generally be the same as they have always been. John still issues invoices to the Withholding Agents in the same way that he always has – showing the amount of all VAT supplies including the total amount of VAT, separately. When John prepares his VAT return each month, he will calculate the VAT payable in the same way as he has always done. When John files his return he will have a Withholding VAT Certificate that shows that a \$4,000 payment was made to the VAT Department on his behalf. This amount will already be posted to John's electronic account with the VAT Department. John will also upload a copy of the Withholding VAT Certificate with his return.

In the example we have described above, if John's Net VAT payable for that month was \$7,500 (line 27 of the VAT return), it could then be reduced by the amount of the Withholding VAT Certificate (\$4,000 in this example). John would pay the remaining \$3,500 to the VAT Department as usual. See the illustration at Appendix 2.

It is important to note that the amounts withheld and shown on a Withholding VAT Certificate do not relate to a particular VAT filing period. It is simply a payment on file with the VAT Department that can be applied when the supplier files his next VAT return.

What are the Withholding Agent's obligations?

The Withholding Agent is required to withhold 40% of the VAT charge when paying suppliers for the procurement, construction, repair or maintenance of capital goods or building supplies; or rent for a commercial lease/rental. Where payment is being made to a Non Registrant, the Withholding Agent is required to impute the VAT and withhold the 40% of the VAT calculated, see calculations under 'How Does Withholding VAT Work?' The Withholding Agent must then provide a Withholding VAT Certificate to the supplier.

By the 12th of each month, the VAT Withholding Agent must provide to the VAT Department a VAT Withholding Reconciliation return detailing all amounts withheld from all their suppliers. This reconciliation will be prepared in the manner and form prescribed in the VAT Rules, see Appendix 3 - ***Return For Withholding Value Added Tax***. At the same time, the total amount of VAT withholding from all

clients, as shown in the reconciliation, must be paid to the VAT Department. These amounts are then posted to the individual vendors' VAT accounts.

What if I am not registered for VAT and/or have not included VAT on the If the invoice amount is more than \$9,999.99, the Withholding Agent is required to deduct an amount from the payment on account of VAT Withholding. For example, if an invoice was provided to the Withholding Agent for \$12,000, but did not include a VAT charge, using the VAT fraction formula below, the withholding agent will calculate an "imputed" VAT:-

$$\text{VAT Fraction} = R / (100+R)$$

R = rate of VAT ~ (10%)

Calculation of imputed VAT = Invoice amount x VAT fraction ~

$$12,000 \times (10/110) = \$1,090.91$$

When paying the invoice, the Withholding Agent will then deduct 40% of this imputed VAT from the final payment of the invoice. In this case, $\$1,091.91 \times 40\% = \436.36 .

The Withholding Agent will, therefore, pay to supplier/vendor $\$12,000 - \$436.36 = \$11,563.64$.

If a vendor who is not registered for VAT submits an invoice for \$100,000 or more, the amount will not be paid until the vendor provides evidence that they are registered for VAT. This is because in the VAT Act the mandatory registration threshold for VAT is \$100,000 taxable sales. Therefore, that vendor is required to be registered. Once the vendor provides evidence of registration, VAT withholding will occur in the usual manner.

What happens if VAT Withholding results in a credit in John's VAT account?

In rare instances, a Withholding VAT Certificate may be more than John's Net VAT payable on the next VAT filing. This could create a credit balance in John's account. However, this should be a temporary situation, as the credit can be carried forward against future tax payable, or in some situations can be requested to be refunded.

Why is VAT being Withheld for Non Registrants?

Under the VAT Act persons who should be registered, are liable for VAT even if not registered. You are required to be registered if your annual gross sales are above \$100,000. If VAT was withheld from a payment to you and your annual sales do not meet the registration threshold of \$100,000 you may apply for a refund.

How will the process of VAT refund work?

A supplier/vendor has three years from the date that the amount withheld was paid to the VAT Department by the withholding agent, to apply in writing to the Comptroller for a refund.

Suppliers/vendors are, however, encouraged to apply for their refunds as soon as possible. This may be as soon as the month after the payment was withheld.

Refund requests will require the taxpayer's account to undergo a review to determine whether the taxpayer should register for VAT. For the review to be done the taxpayer will need to provide supporting documents, as requested by the VAT Department. This process can take up to ninety days.

If a non-VAT registered supplier/vendor is determined to be a taxable person and should have been registered, the VAT Department will force register them and make the effective date of registration retroactive to the point at which they should have been registered. Upon registration such supplier/vendors will also be subject to any associated fines and penalties levied as a result of not registering their business operations for VAT in the time required in the Act.

If a non-VAT registered supplier/vendor is not determined to be a taxable person, the claim for refund will be allowed. The amount of the refund claimed may be applied towards any taxes owed to the government. If there are no outstanding obligations, approved refund claims will be paid to the non-VAT registered supplier/vendor.

Appendix 1

FORM NO. 73



GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
MINISTRY OF FINANCE
VALUE ADDED TAX DEPARTMENT

WITHHOLDING VALUE ADDED TAX CERTIFICATE

CERTIFICATE SERIAL NO:

Gross amount due (Total amount on invoices) _____

Invoice number(s) _____

Description of transaction _____

Total VAT _____

VAT Withheld _____

Net Payable on invoices _____

Date VAT Withheld (Day/Month/Year) _____

PARTICULARS OF RECIPIENT (SUPPLIER/VENDOR)

TIN _____

Name in full _____

Trading name _____

Vendor ID _____

Contact person _____

Postal address _____

Telephone _____

Email address _____

PARTICULARS OF WITHHOLDING AGENT FOR VAT

TIN _____

Name of Withholding Agent _____

Trading name _____

Date Withholding VAT Certificate issued to supplier/vendor _____

This Certificate is to be distributed as follows

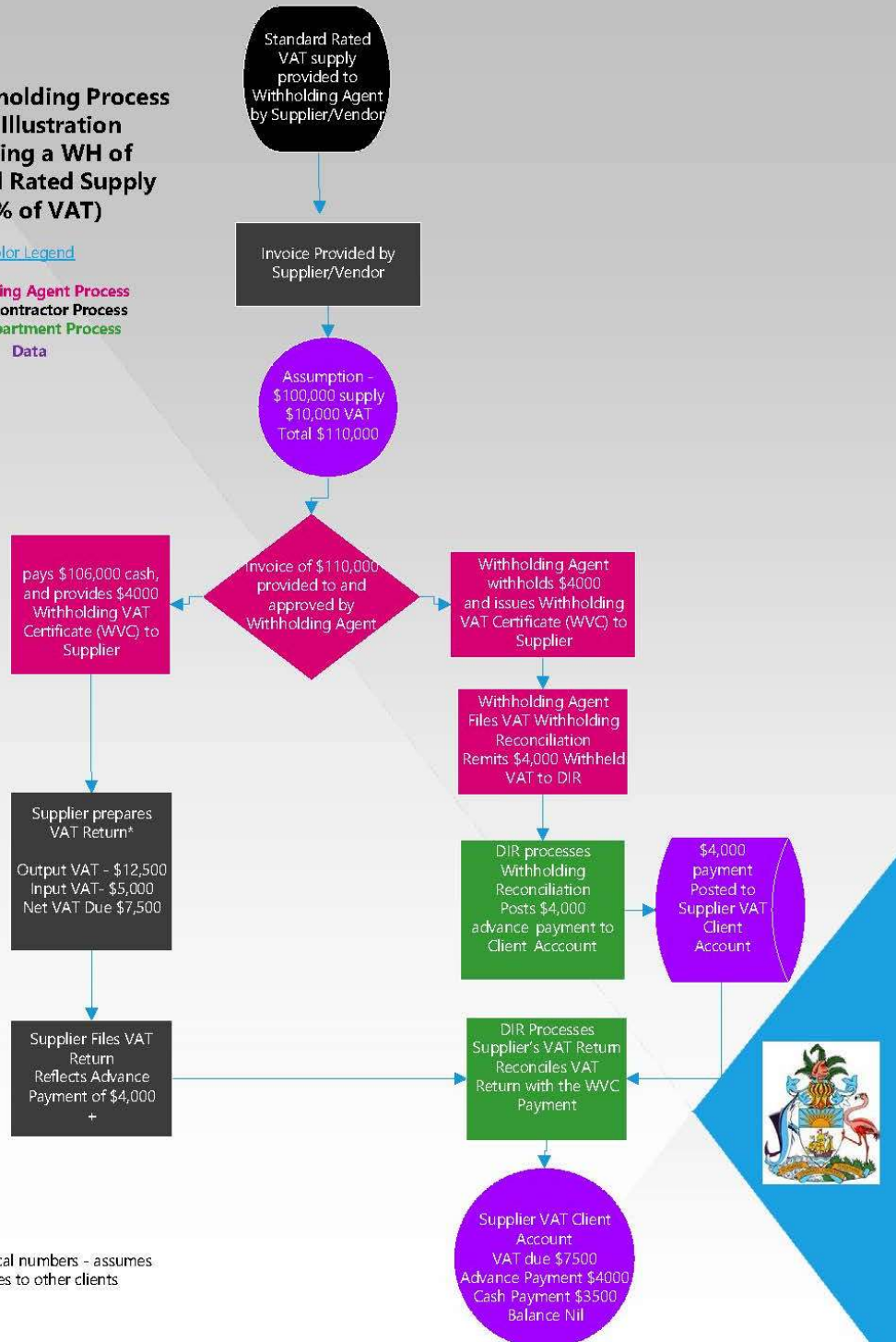
- (1) A copy is to accompany the remittance to the Comptroller.
- (2) A copy is to be provided to the supplier.
- (3) A copy is to be retained by the Value Added Tax Withholding Agent.

Appendix 2

VAT Withholding Process Basic Illustration Assuming a WH of Standard Rated Supply (40% of VAT)

[Color Legend](#)

Withholding Agent Process
Vendor Contractor Process
VAT Department Process
Data



Appendix 3

FORM NO. 74



GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
MINISTRY OF FINANCE
VALUE ADDED TAX DEPARTMENT

RETURN FOR WITHHOLDING VALUE ADDED TAX

PARTICULARS OF WITHHOLDING AGENT

TIN _____

NAME OF WITHHOLDING AGENT _____

POSTAL ADDRESS _____

EMAIL ADDRESS _____

TELEPHONE NO _____

MONTH/PERIOD _____ YEAR _____

PARTICULARS OF VALUE ADDED TAX WITHHELD

TIN	Name of Recipient	Trading name (where applicable)	Vendor ID	Agents expenditure account no (Item no)	Invoice numbers	Total Invoiced Amounts (VAT inclusive)	VAT Withheld	Net Payable Amount on Invoices	Withholding VAT Certificate Number

TOTAL WHT									

DECLARATION

I _____ hereby declare that this return contains a fully, accurate and true account of the required particulars with regard to value added tax withheld.

Signature

Date

The Law

You may find the following references to the legislation useful

VAT Act

Section 23A - Withholding Agents

Section 56(1)(b) - Carry forward of excess credits and refund of tax

VAT Rules

Value Added Tax (Withholding Agents) Rules, 2022

Contact Us

Further information can be obtained by contacting us via email at vatwithholding@bahamas.gov.bs

Or you can write to:

Department of Inland Revenue
Central Revenue Administration
Value Added Tax Unit
P. O. Box N-13 Nassau, N.P.
Bahamas