



**TAXPAYER GUIDELINES
GUIDELINES FOR APPOINTED VAT WITHHOLDING AGENTS**

Section 42A of the Tax Procedures Act, 2015 gives powers to the Commissioner to appoint a person to withhold two per cent of the taxable value on purchasing taxable supplies at the time of paying for the supplies and remit the same directly to the Commissioner.

These guidelines are for the proper operation of withholding VAT on taxable supplies received by VAT withholding agents:

1. VAT withholding agents are required to withhold two per cent of taxable value indicated on a tax invoice on purchasing taxable supplies at the time of paying a registered supplier and remit the same to the Commissioner within five (5) working days after the deduction was made.
2. Item 1 notwithstanding, where a VAT registered supplier has not indicated the VAT amount on an invoice for a taxable supply, it shall be deemed that the supply is VAT inclusive.
3. Withholding VAT shall not be applied on payments for taxable supplies to:
 - a. Official aid funded projects;
 - b. The taxable value of zero-rated supplies;
 - c. Registered manufacturers whose value of investment in the preceding three years from the 1st July 2022 is at least three billion Kenya shillings (Kshs). The Registered manufacturer(s) are required to provide an exemption certificate (letter) by Commissioner for Domestic Taxes; and
 - d. Non-VAT registered persons.
4. VAT withholding agents shall be required to withhold VAT in the name and PIN of the supplier of taxable supplies.
5. A VAT Withholding agent shall apply for cancellation of a withholding certificate through iTax due to any of the following reasons:
 - a. The certificate is issued to the wrong person.
 - b. The certificate is issued in error.
 - c. A credit note is issued resulting into reduction of transaction value.
 - d. Any other reasonable cause.
6. Upon cancellation of a withholding certificate, the system shall generate a Withholding Adjustment Voucher, which can be utilized to make future withholding VAT payments.
7. The tax withheld under this section shall be remitted to the Commissioner as provided for in Tax Procedure Act, 2015 Section 42A (4B).
8. Failure to withhold tax and remit the tax due to the Commissioner is an offence and the withholding agent shall be liable to penalties as provided for under Section 39A and 42A of the Tax Procedures Act, 2015.

Tulipe Ushuru, Tujitegemee!



**TAXPAYER GUIDELINES
GUIDELINES FOR REVOCATION OF A WITHHOLDING VAT AGENT'S
APPOINTMENT**

Section 42A (2) of the Tax Procedures Act, 2015 provides that the Commissioner may, at any time, revoke the appointment of a tax withholding agent made under subsection (1), if the Commissioner deems it appropriate to do so.

These guidelines are to guide appointed Withholding VAT(WHVAT) agents on the requirements and procedures, where they seek revocation of their WHVAT agent appointment.

1. The following appointed WHVAT agents are eligible to apply for revocation of their appointment –
 - a) WHVAT agents who cease operations or carrying out business and notifies the Commissioner for Domestic Taxes attaching a business deregistration certificate;
 - b) WHVAT agents whose purchases and sales requiring electronic tax invoices are 100% TIMS or eTIMS compliant for at least six consecutive months;
 - c) Public bodies, privileged persons and institutions listed in Part B of the Second Schedule to the VAT Act, 2013, provided that they are not carrying on any business.
2. Appointed WHVAT agents falling within the criteria listed in (1) above can apply to their Tax Service Office (TSO) in writing for consideration for revocation of their WHVAT agent appointment citing any one of the reasons with evidence.
3. A WHVAT agent who has applied for revocation of their appointment will continue to withhold and remit to the Commissioner two percent of the taxable value of all taxable supplies within five working days after the deduction was made until notified otherwise.
4. Where the Commissioner reviews the application for revocation by the WHVAT agent and the grounds stated are deemed sufficient, the Commissioner shall revoke the appointment and a Withholding VAT Agent Cancellation Notice will be forwarded to their iTax registered email.
5. The revocation of a WHVAT agent will take effect on the Notification date indicated on the Withholding VAT Agent Cancellation Notice.
6. The Commissioner reserves the right to re-appoint a taxpayer as a WHVAT agent where information is obtained that contradict the grounds provided in the taxpayer's revocation application letter.
7. Where the Commissioner determines that the applicant is not eligible for revocation, the Commissioner shall reject the application for revocation in writing citing reasons. The WHVAT agent shall continue to operate WHVAT on all payments for purchases as guided in their WHVAT appointment letter.

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