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VALUE ADDED TAX (WITHHOLDING AGENTS) RULES, 2022

Arrangement of Rules

Rule

1.	Citation.....	2
2.	Interpretation.....	2
3.	Appointment of VAT Withholding Agents.....	3
4.	Registration of VAT Withholding Agents.....	3
5.	Revocation of appointment.....	3
6.	Amount required to be withheld, records and acknowledgement of payment.....	3
7.	VAT to be withheld regardless of registration status.....	4
8.	Assessment and refund.....	4
9.	Where no VAT is withheld for a period.	5
10.	Supplier to issue invoice.....	5
11.	Supplier to file returns.....	5
12.	Inspection of records.....	5
13.	VAT withholding deduction.....	5
14.	Remittance.....	5
15.	Withholding VAT certificate and VAT withholding return.....	6

SCHEDULE



MINISTRY OF FINANCE

S.I. No. 74 of 2022

**VALUE ADDED TAX ACT, 2014
(NO. 32 OF 2014)**

**VALUE ADDED TAX (WITHHOLDING AGENTS) RULES,
2022**

The Comptroller, in exercise of the powers conferred by section 17 of the Value Added Tax Act, 2014 (*No. 32 of 2014*), makes the following Rules —

1. Citation.

- (1) These Rules may be cited as the Value Added Tax (Withholding Agents) Rules, 2022.
- (2) These Rules shall come into force on the 1st day of August, 2022.

2. Interpretation.

- (1) In these Rules —
 - “**Act**” means the Value Added Tax Act, 2014 (*No. 32 of 2014*);
 - “**prescribed payment**” means a payment to a supplier equal to or in excess of the VAT withholding threshold in respect of a supply of goods or services under Part I of the *Schedule*;
 - “**supplier**” or “**vendor**” means a person who receives a prescribed payment from a withholding agent for a taxable supply of goods or services.
 - “**tax legislation**” means any enactment relating to the raising of any toll, tax, impost, rate, duty, levy, fee, fine, penalty, surcharge or other charge.
- (2) The VAT withholding threshold is ten thousand dollars whether or not the supplier or vendor is a VAT registrant.
- (3) Unless the context otherwise requires, any word or phrase which is not defined in paragraph (1), which is used in these Rules, have the same meaning ascribed to them in the Act.

3. Appointment of VAT withholding agents.

The Comptroller shall —

- (a) in accordance with section 23A(1) of the Act, appoint withholding agents for VAT, and the appointment shall be in writing; and
- (b) within twenty-one days from the date of appointment, publish on the official website of the VAT Department, the list of names of withholding agents for VAT, appointed in accordance with paragraph (a).

4. Registration of VAT withholding agents.

- (1) The Comptroller shall, within seven days of the appointment under rule 3, register the withholding agent for VAT.
- (2) The Comptroller shall, upon registering a withholding agent for VAT, notify the person of the registration and shall issue the person with a certificate of registration in the prescribed form contained in Part II of the *Schedule*.

5. Revocation of appointment.

- (1) The Comptroller may, for good reasons, in writing, revoke the appointment of a withholding agent.
- (2) The Comptroller shall, within twenty-one days from the date of revocation, publish on the official website of the VAT Department, a new list of names of withholding agents for VAT.

6. Amount required to be withheld, records and acknowledgement of payment.

- (1) Upon making a prescribed payment to a supplier, a withholding agent shall —
 - (a) deduct from the payment forty per cent of the VAT due thereon;
 - (b) keep such records and in such form and manner as the Comptroller may direct; and
 - (c) furnish the supplier with a Withholding VAT Certificate in the prescribed form contained in Part III of the *Schedule*.
- (2) The reference in paragraph (1) to the VAT due on a prescribed payment means —
 - (a) an amount of VAT at the standard rate stated separately on a VAT invoice issued by the supplier to the withholding agent;
 - (b) where VAT is not accounted for separately on the invoice, the amount equal to the VAT fraction multiplied by the amount of the prescribed payment.

7. VAT to be withheld regardless of registration status.

- (1) A withholding agent shall withhold forty per cent of the VAT due on every prescribed payment, whether or not the supplier has included VAT in the price and irrespective of the registration status of the supplier.
- (2) Where a prescribed payment equal to or in excess of the registration threshold under section 21(a) of the Act is due to a supplier, a withholding agent shall —
 - (a) not pay the supplier unless the supplier is a VAT registrant; and
 - (b) upon registration of the supplier deduct from the payment forty per cent of the VAT due thereon.

8. Assessment and refund.

- (1) This rule applies where —
 - (a) VAT is withheld from an unregistered supplier; and
 - (b) the supplier is not a taxable person under the Act.
- (2) A supplier to which paragraph (1) applies may, within three years of the date that payment was remitted to the Comptroller by the withholding agent, apply in writing to the Comptroller under section 56(1)(b) of the Act for a refund of the amount withheld.
- (3) The Comptroller shall, within ninety days after receipt of a claim for refund by an unregistered supplier under paragraph (2), make an assessment in accordance with Part VIII of the Act on the supplier in order to determine such supplier's liability to be registered and pay VAT.
- (4) The Comptroller shall, where an assessment under paragraph (3) —
 - (a) confirms that the supplier is a taxable person, and the supplier has made no application for registration, compulsorily register such supplier in accordance with section 23(2) of the Act;
 - (b) establishes that the supplier is not a taxable person, allow the claim for refund.
- (5) The Comptroller in allowing a claim for refund pursuant to paragraph (4)
 - (b) —
 - (a) may apply the amount of the refund claimed in reduction of any unpaid amounts in taxes owing by the supplier under any tax legislation; and
 - (b) after applying the refund in accordance with paragraph (a), must refund any excess remaining to the supplier claiming the refund.

9. Where no VAT is withheld for a period.

Where no VAT is withheld with respect to a period for which the withholding agent would otherwise remit VAT to the Comptroller under section 23A(3) of the Act, the withholding agent shall furnish the Comptroller with a return showing that no VAT was withheld in that period.

10. Supplier to issue invoice.

A registrant supplier who makes taxable supplies in respect of which VAT is withheld by the withholding agent shall issue a VAT invoice showing separately the total amount of VAT chargeable.

11. Supplier to file returns.

The withholding of VAT by a withholding agent shall not relieve a supplier of any obligation to file returns in accordance with the Act.

12. Inspection of records.

For the purposes of obtaining full information in respect of accounting for VAT withheld, the Comptroller may require any person to —

- (a) produce for examination, at such time and place as the Comptroller may specify, records, books of accounts, documents and other records relating to the calculation or withholding of VAT in respect of any period specified by the Comptroller; or
- (b) attend at such time and place as the Comptroller may specify, for the purpose of being questioned, in respect of any matter or transaction appearing to be relevant to the VAT liability of any person.

13. VAT withholding deduction.

Any amount deducted by a withholding agent from any prescribed payment to a supplier under these Rules as VAT withheld shall be deemed to have been actually received by the supplier as part of the whole payment.

14. Remittance.

A withholding agent who has deducted from a prescribed payment to a supplier, an amount representing VAT withheld under rule 6, shall remit such amount to the Comptroller, within twelve calendar days from the end of the month in which such deduction was made.

15. Withholding VAT certificate and VAT withholding return.

- (1) A remittance to be made to the Comptroller under rule 14 shall be accompanied by a copy of the Withholding VAT Certificate, serially numbered, in the form set out in Part III of the *Schedule*.
- (2) The Withholding VAT Certificate referred to in paragraph (1) shall be completed and submitted during the month to which the remittance relates, together with a VAT Withholding return, summarizing the particulars of all deductions of VAT withheld made in that month.
- (3) The VAT Withholding Return shall be in the prescribed form contained in Part IV of the *Schedule*.

SCHEDULE

PART I

(rule 2)

Prescribed supplies

1. A supply of construction goods or services to a Ministry or Department of the Government of The Bahamas.
2. A supply to a Ministry or Department of the Government of The Bahamas of—
 - (a) materials, building supplies, machinery, fixtures or any equipment;
or
 - (b) goods or services for the maintenance, repair or improvement of any machinery, fixtures, equipment, building or other property owned or leased by the Ministry or Department.
3. A supply of a commercial rental or commercial leased property to a Ministry or Department of the Government of The Bahamas.

PART II

(rule 4)

FORM NO. 72



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

**CERTIFICATE OF REGISTRATION FOR VALUE ADDED TAX
WITHHOLDING AGENT**

Tax Identification Number (TIN): _____

This certifies that _____ (NAME OF WITHHOLDING AGENT) _____

located at [OPERATING ADDRESS OF WITHHOLDING AGENT], in The Commonwealth of The Bahamas is duly registered as a Value Added Tax Withholding Agent under the Value Added Tax Act, 2014 effective _____.

Dated this _____ day of _____, 20 _____.

Signed by the Comptroller

PART III
(rule 6)

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 OR 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 or 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.

PART IV
(rule 15)

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 #: _____

MONTH OR 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

Made this 29th day of July, 2022.

**Signed
SHUNDA STRACHAN
Comptroller of Value Added Tax**