

Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023) (Sec. 83, 84 & 85)



TAX TALK
YOUR PARTNER IN TAX

Withholding Tax (WHT) On Payments (Sec. 83, 84 & 85) (Period w.e.f. 01.01.2023)

Knowledge Sharing Effort!

Application of the Withholding Tax (WHT) on Payments. (Agents, Withholdee & Tax Consultants)



01st October 2023

Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023) (Sec. 83, 84 & 85)

Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023) (Sec. 83, 84 & 85)

- (i) Under Sec. 83-Remuneration - APIT made mandatory on all employees (*Resident & Non-resident*) receiving remuneration exceeding Rs. 100,000 p.m.
- (ii) Under Sec. 84 (Not applicable for payments made by individuals, unless made in conducting a business)
- Dividends - 15% mandatory WHT as a Final Tax on any person.
 - Rent - If exceeds Rs. 100,000p.m. ~~or more~~ - 10% WHT on total on any person.
 - Interest & Discount by financial Institutions - 5% mandatory WHT on any person. (**not a final tax**).
 - Other Payments (Charge, natural resource payments, royalty, premium paid to any person) - 14% WHT
- (iii) Under Sec. 85
- Non-residents' service fees & insurance premia - 14% WHT.
 - Other Service Fee in excess of Rs. 100,000p.m. to resident individuals -
- 5% WHT on total payment.

The term "Payment" is interpreted in Sec. 195, while the Other Services are detailed in Sec. 85(1C).

Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023)

(Sec. 83, 84 & 85)

“Other Services” listed in Sec. 85(1C) – (For 5% WHT)

Payment of Service Fee;

(a) for teaching, lecturing, examining, invigilating or supervising an examination;

*(b) as a commission or brokerage to a resident insurance, sales or canvassing **agent**; or*

*(c) for services provided by such individual **in the capacity of independent service provider¹** such as doctor, engineer, accountant, lawyer, software developer, researcher, academic or any individual service provider² as may be prescribed by regulation:*

“payment” means the conferring of value or a benefit in any form by one person on another person and includes - (Sec.195)

(a) the transfer by one person of an asset or money to another person or the transfer by another person of a liability to the one person;

(b) the creation by one person of an asset that on creation is owned by another person or the decrease by one person of a liability owed by another person;

(c) the provision by one person of services to another person; and

(d) the making available of an asset or money owned by one person for use by another person or the granting of use of such an asset or money to another person. (Sec. 195)

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Extract of Sec. 195 of the Act – Sinhala Version

“ගෙවීම” යන්නෙන්, එක් තැනැත්තකු විසින් වෙනත් යම් තැනැත්තකු මත ඕනෑම ආකාරයකින් වටිනාකමක් හෝ ප්‍රතිලාභයක් පවරා දීම අදහස් වන අතර-

(අ) එක් තැනැත්තකු විසින් වෙනත් යම් තැනැත්තකුට වත්කමක් හෝ මුදල් පවරා දීම හෝ වෙනත් යම් තැනැත්තකු විසින් එක් තැනැත්තකුට වගකීමක් පවරා දීම;

(ආ) යම් වත්කමක් ගොඩනැගූ විට වෙනත් තැනැත්තකුට එහි අයිතිය සතු වන අයුරින් යම් තැනැත්තකු විසින් යම් වත්කමක් ගොඩනැගීම හෝ යම් තැනැත්තකු විසින් වෙනත් තැනැත්තකු පියවිය යුතු බැරකමක් අඩු කිරීම; හෝ

(ඇ) යම් තැනැත්තකු විසින් වෙනත් යම් තැනැත්තකුට සේවා සැපයීම;

(ඈ) එක් තැනැත්තකු සතු වත්කමක් හෝ මුදල් වෙනත් යම් තැනැත්තකුගේ භාවිතය සඳහා ලබා දීම හෝ එවැනි වත්කමක් හෝ මුදලක් භාවිත කිරීම සඳහා වෙනත් යම් තැනැත්තකුට ප්‍රදානය කිරීම,

ඊට ඇතුළත් වේ;



Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023) (Sec. 83, 84 & 85)

(i) WHT On Remuneration

WHT on Remuneration of Resident/ Non-resident / SL Non-citizen Employees; (Sec. 83 & 83A)

PERIOD	WHT (Pay As You Earn/Advance Personnel Income Tax) LIABILITY	
	Resident and/or SL Citizen	Non-resident and/or Non-citizen
01.04.2018 – 31.12.2019	Liable to PAYE (<u>Mandatory basis</u>)	Liable to PAYE (<u>Mandatory basis</u>)
01.01.2020 – 31.03.2020	Not Liable	Not Liable
01.04.2020 – 31.12.2022	Liable to APIT (<u>Voluntary basis</u>)	Liable to APIT (<u>Mandatory basis</u>)
01.01.2022 Onwards	Liable to APIT (<u>Mandatory basis</u>)	Liable to APIT (<u>Mandatory basis</u>)

Employee Terminal Benefits (Sec. 83, 83A, 84 & 84A);

WHT on terminal benefits of any employee (both resident & non-resident) is removed w.e.f. 01st January 2020, while it is reintroduced only on non-residents and non-citizens w.e.f. 01st April 2020. However, w.e.f. 01.01.2023 it is re-introduced on mandatory basis.

Withholding Tax (WHT) On Payments (w.e.f. 01.01.2023) (Sec. 83, 84 & 85)

(ii) WHT on Non- Remuneration Payments to Residents w.e.f. 01.01.2023

Payment Nature	Rate	On whom	Final/not
Dividend	15%	Any Person	Final
Interest & Discounts (paid by financial institutions)	5%	-Do- (Excluding Exempted)	Non-Final
Other Payments (Covered under Sec. 85)	14%	Any Person	Non-final
Rent, if exceeds Rs. 100,000p.m. (on total)	10%	Any Person	Non-final
Non-residents Service Fees & Insurance Premia	14%	Non-residents	Non-final
Other Service Fee (Non-employment) to Individuals, if exceeds Rs. 100,000p.m. (on total) (Covered under Sec. 85)	5%	Resident Individuals	Non-final

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(iii) WHT on Payments to Non-residents (*Investment Income & on Service Fees*) w.e.f. 01.01.2023;

Source of Income (Payment)	WHT %* ¹	WHT Liable/No
(a) Interest, discounts* ¹	5%	No [Exempted – 3rd Sch. item (i)-(ii)(iv)(v)]* ²
(b) Dividends, charge, natural resource payment, rent, royalty, premium, service fee or an insurance premium from 01.01.2020 to 31.12.2022.	14%	Up to 31.12.2022 No [Dividend* ³ Exempted– 3rd Sch. item (oo)(ii)]
(c) Gems sold by any person in a NGJA auction	2.5%	Liable (Final Tax-Sec.88)
(d) Services fee (land, sea, air transport or telecommunication)	2%	Liable (Final Tax-Sec.88)
(e) Profit share allocated by a partnership to a partner	N/A	No

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Following Payments to any person (*Both Resident & Non-resident*) are continued to be liable to WHT since its introduction (Even during the period from 01.01.2020 to 31.12.2022);

Source of Income (Payment)

WHT %

Winnings from a lottery, reward, betting or gambling (w.e.f. 01.01.2020)	14% (Final Tax-Sec.88)
Gems sold by any person in a NGJA auction (w.e.f. 01.04.2018)	2.5% (Final Tax-Sec.88)



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REMARKS;

1. Under the law, the WHT Agents (Withholders) are having lot of duties & responsibilities & hence, they should understand the Act & act accordingly.
2. Whether the agent is correctly deducted or not the withholdee is also have responsibilities and hence, should know the legal requirements & act accordingly.
3. As per the Act, the term “Payment” has a different meaning than the general understanding of making a physical settlement but committing a payment & hence, at the time of conferring a payment need to deduct & pay the WHT.

In case you need further clarifications, we are pleased to help you.

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