

## Tax talk - Professional Service Fees and Reimbursement of Expenses

**FS: In Fiji the respective businesses engage professional services from abroad, are these professional services being taxed?**

**ACEO:** The country where a person is being taxed would depend on the Double Tax Agreement if there is one. Any non-resident person charging a fee for the professional or other independent services from sources in Fiji is required to pay 15% Non-Resident Withholding Tax plus 9% VAT Reverse Charge. The taxes imposed are computed by applying the rate to the gross amount of the dividend, interest, royalty, insurance premium, management fee, natural resource amount or fee for the provision of professional or other independent services. However, Non-Resident Withholding Tax will not be charged if the person or company has a permanent establishment here in Fiji.

**FS: The new budget announcement states that Non Resident Withholding Tax will also be charged on the reimbursement of expenses charged under Professional Services. Please explain.**

**ACEO:** Non-Resident Withholding Tax will be charged on reimbursement for expenses charged under professional services fees. Professional services payments shall not be separated into accommodation provided or reimbursed, airfare, transport or allowances in order to avoid paying Withholding Tax on the gross value of the invoice. Where the invoice includes cost for personnel to be engaged on a particular job, airfare, allowances, accommodation, overheads plus mark-up, Withholding Tax will be applicable on the gross invoice amount. In the past we've seen companies breaking up costing on the invoice so as to differentiate the service cost from the expenses to pay lesser taxes and in many cases these are related party companies dealing with each other. Incomes earned out of Fiji by Non-Residents will be recorded on gross basis in respective jurisdictions and then the cost of doing business is allowed as a deduction by the relevant tax authorities. These are the simple rules and any Withholding Tax deducted at source will be credited against taxes assessed for that income returned.

**FS: Some overseas companies prefer that the Fiji Company pay for the respective taxes and that the full professional service amount is remitted to them abroad. How does FRCA calculate Non-Resident Withholding Tax?**

**ACEO:** There are two methods of calculating Non-Resident Withholding Tax.

### **Gross Up Method**

Where gross amount (Invoice value) is to be remitted, then Non-Resident Withholding Tax is calculated on the grossed up value. In simple term, it would mean that the invoice value that is to be remitted is the net value plus the tax payable. When grossing up, the invoice value is divided by .85 and is applied on the grossed up amount. The Grossed – Up method grosses up the invoiced amount and the hundred per cent payment is remitted to the non-resident person. The tax burden is on the resident person to settle the Withholding Tax with the FRCA.

### **Example**

Value to be sent offshore	FJD \$10,000	85%
Gross up – divide by .85	= \$11,764.71	
100%NRWT 15% on 11,764.71	= \$1764.71	
VRC 9% on 11,764.71	= \$1,058.82	

### **Net Off Method**

Where service provider is paid the invoice amount less the taxes, the tax calculation would be on Net off method. Where the net amount is to be remitted then Non-Resident Withholding Tax and VAT Reverse Charge are to be calculated on the invoice value with Withholding Tax to be deducted from it. Hence Tax Clearance will be prepared on the net value. VAT Reverse Charge will have to be calculated on the Invoice value as well and since VRC will be claimed by the registered person, it is not reduced from the invoice value. Where the person remitting the funds is not registered for VAT, then VAT Reverse Charge becomes its cost. The Net-off methods nets of the invoiced amount and the amount remitted is net of Withholding Tax. For this method, the tax burden is on the non-resident person where the resident person withholds and remits the tax withheld to the FRCA.

Example

Value of invoice	FJD \$10,000	100%
WHT @ 15% on 10,000	=\$10,000	
100% WHT 15% on 10,000	= \$1,500	
VRC @ 9% on 10,000	= \$900	

### **FS: What does a payer need for a tax clearance to remitting professional services charges abroad?**

**ACEO:** The person remitting from Fiji will have to complete an application form stating the amount to be remitted and in which currency. A copy of the suppliers invoice should be attached. All tax clearance will be checked to ensure that the correct tax is collected. Some companies and taxpayers separate disbursements and other charges to understate the collection of Withholding Tax which should not allowed where applicable. Only pure re-imbursments shall be allowed without application of VAT Reverse Charge and Withholding Tax, e.g. if a speaker comes to FIA Congress to speak on the terms that his air fares and accommodation will be paid by FIA, and he does not charge anything for his services (speaking at congress), then this falls within the ambit of Pure – re-imbusement.

### **FS: How about services that are being paid through credit card? The issue of stamping Credit Card Statements is cumbersome.**

**ACEO:** Whist a small or minority of people pay professional services through the Credit Card, FRCA will require to stamp the banks statements before the repayments into the Credit Card are made. It is a cumbersome task for credit card holders though the banks bring their statements for stamping, however, one needs to note that Government has lost revenue through those that paid professional services and legal fees through credit card without paying Non-Resident Withholding Tax. All service payments need to have Non-Resident Withholding Tax deducted. FRCA through the bank statements determine payments that are subject to Non-Resident Withholding Tax. We have discussed with the banks on a way forward where Banks submit a monthly credit card statement either through soft or hard copy for stamping and approval for tax clearance, FRCA will automate the processing through 'Post Clearance Audit Process'. Where FRCA needs to query on certain bank statement details, we will contact taxpayers. The payer or the resident person that fails to withhold tax is personally liable for the tax. The payer is obliged to furnish the Withholding Tax Certificate to the recipient of the payment.

### **FS: What if a non-resident individual provide professional service and does not represent a foreign company?**

**ACEO:** Where the service is performed by an individual, it will be subject to PAYE and maybe Social Responsibility Tax. It is important that the taxpayer produce the contract agreement in order to determine nature of service and the taxes applicable.