

Small Businesses in Nigeria and the Deduction at Source (Withholding) Regulations 2024: Compliance Challenges and Economic Impacts

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Abstract

The year 2024 marks the introduction of significant changes to regulating Nigeria's tax landscape, deemed vital for promoting fiscal responsibility and enhancing revenue growth. This article examines the challenges small businesses in Nigeria face in complying with withholding tax regulations and their subsequent economic impacts. Withholding tax is a crucial element of the Nigerian tax system to enhance revenue generation and ensure tax compliance. However, small businesses often struggle to navigate the complexities of these regulations due to limited resources, lack of awareness, and insufficient guidance from tax authorities. This article also aims to shed light on the implications of these changes for small businesses in Nigeria by emphasizing the compliance challenges they encounter and their subsequent economic effects. Employing a doctrinal method, this paper adopts an analytical perspective to meticulously review various legal statutes, relevant court cases, academic journals, and online resources. Through this comprehensive approach, the paper investigates the operational dynamics of small businesses in Nigeria, exploring how they navigate the complexities of fiscal policies and tax regulations. This article will also discuss factors hindering these businesses' continuation and growth. These include higher compliance costs, bureaucratic hurdles, and insufficient support systems. Ultimately, this article calls for support measures to cultivate a conducive business environment that balances tax compliance with economic development. In conclusion, this article advocates for implementing supportive measures to create a more conducive business environment. It emphasizes the need for a balanced approach that allows for strict tax compliance while promoting economic development and prosperity in the small business sector. By addressing these challenges, Nigeria can leverage the potential of its small businesses to contribute significantly to the nation's economic growth.

Keywords: Tax, Regulation, Small Businesses, Compliance, Economic Development.

1. Introduction

Nigeria's tax landscape has experienced significant transformations in recent years, driven by various factors. We have implemented reforms to enhance tax compliance and boost revenue generation. A notable development is the introduction of the Deduction at Source (Withholding) Regulations 2024, which are poised to impact small businesses across the country. ¹This withholding tax system requires businesses to deduct a portion of payments made to suppliers and contractors, subsequently remitting those funds directly to the government. The implementation of these regulations presents both challenges and opportunities for small businesses in Nigeria. While the intention behind the regulations is to enhance tax compliance and increase revenue collection—potentially benefiting the overall economy—small businesses may find the compliance requirements and administrative burdens particularly daunting. Many of these businesses often lack the necessary resources and expertise to effectively navigate the complex tax landscape. Small and medium-sized enterprises (SMEs) play a pivotal role in Nigeria's economy, contributing approximately 48% to the Gross Domestic Product (GDP) and generating nearly 80% of employment opportunities.² Recognising their significance, the Nigerian government has enacted reforms aimed at augmenting revenue and ensuring tax compliance. The 2024 withholding tax regulations introduce intricate compliance

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¹ Eragbhe, E., and A. Omoye. "SME Characteristics and Value Added Tax Compliance Costs in Nigeria." *Mediterranean Journal of Social Sciences*, vol. 5, no. 20, 2014, p. 614

² "Reports | National Bureau of Statistics". Nigerianstat.Gov. Ng, 2024, <<https://nigerianstat.gov.ng/elibrary/read/1241460>>. Accessed 30 December 2024.

requirements that may pose challenges for these businesses. This article examines the forthcoming changes, the compliance difficulties encountered by small enterprises, and their potential economic impacts while offering recommendations to assist SMEs in navigating the evolving tax frameworks.

1.1 Definition and Purpose of Withholding Tax

Withholding tax represents a critical mechanism employed by governments worldwide to ensure the efficient and timely collection of income tax from individuals and businesses. Unlike traditional tax payment systems that rely on taxpayers to remit their tax obligations at specific intervals, withholding tax operates at the source of income. This method not only streamlines the tax collection process but also serves as a deterrent against tax evasion. By mandating that a portion of income—such as wages, salaries, dividends, and other forms of earnings—be withheld by the payer and directly remitted to the government, withholding tax establishes a more reliable and systematic approach to tax collection.

The concept of withholding tax is rooted in the principle of pre-collection. Governments can ensure a steady inflow of revenue by requiring employers and other payers to deduct taxes from payments before they are disbursed to the recipient. This system is particularly beneficial for regularly paid income, such as wages and salaries, where the employer acts as an intermediary responsible for calculating, withholding, and remitting the appropriate tax amounts to the relevant tax authorities. Withholding tax, a fundamental aspect of modern tax systems, is a mechanism by which employers or other payers of income are required to deduct a portion of an individual's earnings or payments and remit it directly to the government on behalf of the recipient.³

According to the Internal Revenue Service (IRS), withholding tax on wages is designed to approximate the taxpayer's annual tax liability, thus reducing the likelihood of substantial tax payments or refunds at the end of the fiscal year.⁴ One of the primary purposes of withholding tax is to enhance compliance and minimise the risk of tax evasion. By collecting taxes at the source, governments can significantly reduce the opportunities for individuals and businesses to underreport income or evade tax obligations altogether. This is particularly relevant in labour markets where employees may be less inclined to report all forms of income. The withholding tax system acts as a safeguard against such practices, ensuring that taxes are collected in a manner that is both efficient and equitable.⁵

The purpose of withholding tax is multifaceted. Firstly, it serves as a mechanism to ensure compliance with tax obligations by minimising the potential for tax evasion. By collecting taxes at the source, governments can reduce the likelihood that taxpayers will avoid or delay their tax responsibilities.⁶ At its core, withholding tax can be categorised into two primary forms: income withholding tax and withholding tax on payments to foreign entities. Income withholding tax refers to the automatic reduction of an employee's wage or salary for income tax obligations, a practice common in many jurisdictions around the world.⁷ For example, in the United States, the Internal Revenue Service (IRS) mandates that employers withhold a certain percentage of their employees' wages based on tax brackets, which account for marital status and the number of dependents claimed. This ensures that employees pay their tax obligations gradually throughout the year, thereby reducing the likelihood of large tax liabilities when annual tax returns are

³ Lederman, Leandra. "Tax Compliance and the Reformed IRS." *SSRN Electronic Journal*, 2003, <https://doi.org/10.2139/ssrn.391134>. Accessed 30 December 2024

⁴ Internal Revenue Service (IRS). (2023). Tax Withholding Estimator. Retrieved from <https://www.irs.gov/individuals/tax-withholding-estimator>. Accessed 30 December 2024

⁵ Bahl, R. W., & Bird, R. M. (2008). *Subnational Taxes in Developing Countries: The Impact of the Globalization of the Economy*. In *Tax Policy in Developing Countries* (pp. 59-92). Cambridge University Press.

⁶ OECD. (2020). *Tax Administration 2020: Comparative Information on OECD and Other Advanced and Emerging Economies*. OECD Publishing. < <https://www.oecd.org> >. Accessed 30 December 2024

⁷ Bird, R. M., & Zolt, E. M. (2018). *Redistribution via Taxation: A New Perspective on the Role of Tax Systems in Developing Countries*. *International Tax and Public Finance*, 25(4), 1025-1051.

filed.⁸ On the other hand, withholding tax on payments to foreign entities primarily pertains to payments made to non-residents that are earned within a country. This type of withholding tax is often applied to dividends, interest, royalties, and fees for services. Such taxes are instituted to safeguard the tax base of the country by taxing income generated within its jurisdiction, thereby preventing tax evasion by foreign nationals or entities.⁹

The overarching purpose of withholding tax stretches beyond merely collecting revenue. By ensuring that taxes are paid directly at the source, withholding tax serves multiple significant functions:

1. **Revenue Assurance:** Governments are tasked with funding essential services such as health care, education, infrastructure, and security. Withholding tax provides a reliable source of revenue, enabling governments to budget and allocate resources effectively.¹⁰ This system mitigates the risks associated with tax avoidance, thereby promoting fiscal stability.
2. **Compliance and Enforcement:** Withholding taxes bolsters compliance among taxpayers. By automatically withholding taxes, the need for self-reporting is diminished. Taxpayers are less likely to underreport income, as the withholding mechanism ensures that a portion of their earnings is being flagged for tax purposes.¹¹
3. **Cash Flow Management:** For individuals, withholding tax can ease the burden of large annual tax bills. Because taxes are deducted from wages uniformly, individuals can manage their finances more effectively, avoiding the stress of a lump taxation payment at year-end.¹²
4. **Regulatory Convenience:** Withholding tax simplifies the regulatory framework for tax authorities. By centralising collections through employers and financial institutions, tax agencies can streamline administrative tasks, enhancing the efficiency of the overall tax system.¹³
5. **Encouragement of Investment:** For countries attracting foreign investment, imposing withholding taxes can be a double-edged sword. While it can deter some investments due to increased tax obligations, it is also a critical measure to ensure that such entities contribute tax to the host country's economy.¹⁴ This balance must be carefully managed to ensure that investment remains attractive.

1.2 Overview of small businesses in Nigeria

Small businesses play an essential role in the economic development of nations, and Nigeria is no exception. A small business can be defined as an enterprise with a limited number of employees and revenues below a certain threshold that fosters innovation, job creation, and localised economic growth. Nigeria's economy relies heavily on small businesses.

⁸ Internal Revenue Service (IRS). (2020). Publication 15 (Circular E), *Employer's Tax Guide*. <https://www.irs.gov>. Accessed 30 December 2024

⁹ Cyr, C., & Bianchi, C. (2021). *The Comprehensive Guide to Withholding Taxes: Re-examining International Taxation*. Tax Notes International

¹⁰ Alm, J., Bahl, R., and Murray, M. N. *Taxation in Developing Countries*. Cambridge University Press, 2020.

¹¹ Slemrod, J. (2019). Tax Compliance and the U.S. Tax System: The Challenges We Face. *Annual Review of Economics*, 11, 591-615.

¹² Bird, R. M., & Zolt, E. M. (2018). *Redistribution via Taxation: A New Perspective on the Role of Tax Systems in Developing Countries*. *International Tax and Public Finance*, 25(4), 1025-1051.

¹³ N.10

¹⁴ N.11

Under the SMEDAN Act,¹⁵ small businesses are classified as enterprises with fewer than 50 employees and an annual turnover not exceeding N500 million (approximately \$1.3 million)¹⁶. These businesses are typically divided into micro, small, and medium enterprises (MSMEs). Micro enterprises employ fewer than 10 people and have a turnover of less than N5 million; small enterprises employ between 11 and 49 individuals and have a turnover between N5 million and N50 million; whereas medium enterprises have an employee count of 50 to 199 and an annual turnover of between N50 million and N500 million¹⁷. This structured classification is essential for policy formulation and the allocation of resources to foster their growth. The regulatory framework for small businesses in Nigeria is primarily shaped by the Companies and Allied Matters Act (CAMA) 2020¹⁸ and the Federal Competition and Consumer Protection Act (FCCPA) 2019¹⁹. CAMA simplifies the business incorporation process, allows single-shareholder companies, and introduces simplified financial reporting, which aids small enterprises in legal compliance. Meanwhile, the FCCPA ensures fair competition and protects consumers, creating a conducive market environment for small businesses to innovate and grow. Compliance with these regulations is crucial for small enterprises as they navigate competition with larger corporations.

According to the National Bureau of Statistics (NBS), small and medium-sized enterprises (SMEs) account for approximately 96% of all businesses and 84% of employment in Nigeria.²⁰ The significance of small enterprises in promoting economic growth can be examined from various perspectives, including employment generation, innovation, and poverty reduction. Firstly, the capacity for job creation among small businesses cannot be overstated. Nigeria faces significant unemployment challenges, particularly among its youth. The World Bank²¹ said that Nigeria's unemployment rate ranked among the highest worldwide, highlighting the urgent necessity for sustainable job solutions. Small businesses offer a viable pathway for job creation, absorbing a considerable portion of the labour force. They serve as incubators for talent and entrepreneurship, providing opportunities for skill acquisition and professional development.²² Secondly, the inventive capacity of small enterprises is a vital element of their economic contribution. In an increasingly competitive global market, the agility of small businesses allows them to adapt swiftly to changing market conditions and consumer preferences. Moreover, small enterprises often introduce new products, services, and technologies that disrupt conventional markets. For instance, technology-driven small businesses in Nigeria, particularly in the fintech and agritech sectors, have showcased remarkable advancements, enhancing financial inclusion and agricultural productivity.²³ Ultimately, small enterprises contribute much to poverty reduction. These firms enhance the living level for several Nigerians by generating cash and creating employment opportunities. The informal characteristics of several small enterprises enable them to function beyond formal constraints, appealing to persons from diverse socio-economic backgrounds who may lack access to conventional employment prospects.²⁴

¹⁵ Small and Medium Enterprises Development Agency (SMEDAN) Act, 2003. Federal Republic of Nigeria Official Gazette No. 40, Vol. 90, Lagos: 2003.

¹⁶ SMEDAN. (2021). *Small and Medium Enterprises Development Agency of Nigeria*. < <https://smedan.gov.ng/>> Accessed 21 October 2024

¹⁷ *ibid*

¹⁸ *Companies and Allied Matters Act*, Cap C20 LFN 2004.

¹⁹ Federal Competition and Consumer Protection Commission. (2020). *Federal Competition and Consumer Protection Act 2019* (No. 8)

²⁰ National Bureau of Statistics (NBS). (2021). *SME Survey 2021 Report*.

²¹ World Bank. (2020). *Nigeria: A Review of the Employment and Labor Market Landscape*.

²² Inegbenebor, A. U. (2018). *Entrepreneurship and Economic Development in Nigeria: An Empirical Analysis*. *Journal of Business Research*.

²³ Fatehi, K., Agboola, A., & Chima, A. (2021). *Digital Transformation and SMEs: A Case of Nigeria*. *International Journal of Business and Management*.

²⁴ Central Bank of Nigeria (CBN). (2017). *SME Financing in Nigeria: Issues and Challenges*.

2. Legal Framework for Withholding Tax in Nigeria

The regulation of withholding tax in Nigeria is primarily governed by the Companies Income Tax Act (CITA) 2004²⁵ and the Personal Income Tax Act (PITA) 2011²⁶. Both statutes lay down the legal basis for imposing and administering withholding tax (Federal Republic of Nigeria, 2004; 2011). Under these laws, withholding tax is defined as an amount deducted from payments made to a taxpayer, which is subsequently remitted to the Federal Inland Revenue Service (FIRS) on behalf of the taxpayer. The essence of withholding tax is to ensure that tax liabilities are settled at the point of payment, thereby reducing tax evasion and enhancing compliance.

2.1. Overview of Applicable Withholding Tax Rates for Small Businesses in Nigeria

In Nigeria, withholding tax is categorised into two main types: withholding tax on payments made to individuals and withholding tax on payments made to companies. Withholding tax rates vary depending on the nature of the payment and the recipient's tax status. For instance, the rates applicable to payments for contracts and professional services are generally set at 5%, while the rates for dividends, interest, and rents range from 10% to 30%²⁷. If a small business is renting facilities or equipment, withholding tax deductions of 10% apply to rental payments, thereby directly impacting operational costs.²⁸ The varied rates reflect the government's strategy to ensure equity in tax administration, taking into account the different economic activities undertaken by taxpayers. These rates are substantial for small businesses, particularly in a developing economy like Nigeria, where operational margins can be thin. Compliance with these tax obligations can help mitigate risks of penalties and legal issues while also fostering better financial planning.

2.2 Compliance Requirements of Withholding Tax for Small Businesses in Nigeria

Before engaging in any taxable activities, businesses must register with the Federal Inland Revenue Service (FIRS) to obtain a Tax Identification Number (TIN). The TIN is crucial for conducting business transactions, filing taxes, and ensuring compliance with Nigerian tax laws. The registration process typically involves providing necessary documentation related to the business structure and ownership.²⁹ Failure to obtain a TIN can hinder a business's ability to operate legally and efficiently within the tax framework. When a small business makes payments to suppliers, contractors, or service providers, it is required to deduct the applicable withholding tax from the gross amount before making the payment. This process is referred to as "deduction at source." Business owners should maintain a detailed record of all payments alongside the corresponding tax deductions, which aids in transparency and accuracy in financial dealings.³⁰ Proper documentation helps substantiate the deductions made in the event of an audit by tax authorities.

Once the tax has been deducted, small businesses are obligated to remit the collected amount to the FIRS. This remittance should occur within a specified timeframe—typically within 21 days following the end of the month in which the deduction occurred³¹. Timely payments are crucial to avoid late fees or penalties, which can significantly affect a small business's financial standing³². Businesses can remit these payments through online platforms provided by the FIRS, making compliance more manageable. After remitting the withheld tax, business owners are legally required to issue withholding tax certificates to the payees. These

²⁵ *Companies Income Tax Act (CITA)* (Cap C23) LFN 2004

²⁶ *Personal Income Tax Act CAP P8 LFN 2011* (As amended)

²⁷ Federal Inland Revenue Service (FIRS). (2020). *Withholding Tax Guidelines*.

²⁸ *ibid*

²⁹ Udeh, C., & Nzegwu, G. (2018). The Compliance and Non-Compliance of Withholding Tax Payment in Nigeria: Implications for Small and Medium Scale Enterprises. *International Journal of Economics, Business and Management Research*.

³⁰ Federal Inland Revenue Service (FIRS). (2019). *Withholding Tax Guidelines*.

³¹ Federal Inland Revenue Service (FIRS). (2020). *Annual Report and Accounts 2020*.

³² Ogundipe, A. (2018). The Impact of Withholding Tax on Small and Medium Enterprises in Nigeria. *Journal of Accounting and Taxation*.

certificates confirm the amount of tax deducted and serve as evidence that the tax liability has been settled. Recipients can utilise these certificates to claim tax credits or offsets when filing their tax returns. The issuance of certificates not only fosters transparency in tax compliance but also strengthens business relationships, as clients appreciate receiving official documentation for their tax records. In addition to remittance and issuance of certificates, businesses must also file accurate tax returns detailing the amounts of withholding tax collected and remitted. This filing is a critical component of annual tax obligations and helps maintain good standing with the tax authorities³³. Adherence to the filing requirements fosters a culture of compliance and accountability, which is beneficial to the overall business environment. Proper documentation is vital for compliance. Small businesses should keep meticulous records of transactions involving withholding tax deductions, remittances, and certificates issued. This includes invoices, payment records, and correspondence with the FIRS.³⁴ In the event of an audit or tax review, detailed records will be invaluable in substantiating tax compliance and demonstrating good financial practices.

2.3 Overview of the Deduction at Source (Withholding) Regulations 2024 for Small Businesses in Nigeria

The Federal Ministry of Finance has recently issued the Deduction at Source (Withholding) Regulations 2024 (the “Regulations” or “WHT Regulations”), effective 1 July 2024, except for the rules applicable to the gaming sector, which are billed to commence on 1 October 2024. The commencement date of the new Regulations is 30th September 2024, while implementation begins on 1st January 2025 to allow for a minimum of 90 days’ notice required for tax changes in line with the 2017 National Tax Policy. However, there is a provision permitting the FIRS, with the approval of the Finance Minister, to issue guidelines for the implementation of the Regulations and, where appropriate, permit early application of the Regulations from 1st July 2024. The essence of this provision is to enable persons who wish to adopt the Regulations early to do so, given that it generally provides relief to businesses rather than imposes a burden.³⁵

The Federal Inland Revenue Service (FIRS) subsequently issued a public notice stating that the new regulations shall take effect from 1 January 2025, while the Companies Income Tax (Rates, etc of Taxes Deducted at Source (Withholding Tax) Regulations (old CIT WHT Regime) shall continue up until 31 December 2024. However, it is important to note that this FIRS notice only affects corporate taxpayers. This FIRS notice does not affect all other unincorporated business entities whose taxes are administered by their respective State Revenue Authorities.³⁶ These Regulations have introduced several changes to the Withholding Tax (WHT) regime in Nigeria.³⁷ The previous WHT Regulations brought up numerous issues concerning the timing of WHT deductions, the transactions that were exempt from WHT, and the problem of excessive deductions. They also touched on WHT rates for specific transactions and other administrative matters. The new WHT Regulations aim to resolve some of these concerns, and the key amendments are outlined below:

- **Effective Date:** Businesses are required to implement the new regulations starting from July 1, 2024, subject to modifications from an official publication. The regulations specific to the gaming sector, however, will come into effect on October 1, 2024.³⁸

³³ N.31

³⁴ N.33

³⁵ "The Withholding Tax Regulations 2024 Has Been Gazetted". Fiscalreforms.Ng, 2024, <https://fiscalreforms.ng/index.php/2024/10/04/the-wht-regulations-2024-has-been-gazetted/>. Accessed 31 December 2024

³⁶ "Comprehensive Review: Deduction of Tax at Source (Withholding) Regulations 2024". Stransact.Com, 2024, <https://stransact.com/en/insights/comprehensive-review-deduction-of-tax-at-source-withholding-regulations-2024>. Accessed 31 December 2024

³⁷ *Typepad.Com*, <https://pwc-nigeria.typepad.com/files/pwc-tax-alert---highlights-of-the-deduction-at-source-withholding-regulations-2024.pdf>. Accessed 31 December 2024

³⁸ Deduction at Source (Withholding) Regulations 2024

- **Clarification of Definitions and Reduced Rates:** Specific transactions are provided by the WHT Regulations, which either exempt or lower the WHT rates for certain transactions. Additionally, they elucidate the WHT regime applicable to the sale of goods.³⁹ The prior Withholding Tax (WHT) Regulations exempted “sales in the ordinary course of business” from WHT. However, this exemption was perceived as ambiguous despite the partial clarification provided by the Tax Appeal Tribunal in the case of *Tetra Pak West Africa Limited v. Federal Inland Revenue Service*⁴⁰. The new Withholding Tax (WHT) Regulations stipulate that the sale of goods by Nigerian businesses is generally subject to a 2% WHT.⁴¹ However, exceptions are made for goods manufactured or materials supplied directly by the manufacturer or producer, over-the-counter sales, and other specific exemptions outlined in the “Eligible Transactions and Applicable Rates” section.⁴²

Defining key terms is crucial for improving administrative efficiency and ensuring clarity in regulatory and tax compliance. Key terms such as “across-the-counter transactions,” “manufacturing,” “connected persons,” and “professional fees” have been clearly defined to improve administrative efficiency.⁴³

“Across-the-counter transaction” means any transaction carried out between parties without an established contractual relationship or any prior formal contracting arrangement and in which payment is made instantly in cash or on the spot via electronic means;

“Connected persons” shall have the definition under the Income Tax (Transfer Pricing) Regulations, 2018;

“Manufacturing” or “production” means the assembling of a final product or the making of a part or component of a product utilising raw materials or other inputs, including labour and production overheads; and for these Regulations, the production of energy, including electricity, gas, and petroleum products shall qualify as manufacturing.

- **Withholding Tax (WHT) on transactions lacking an identification number:** WHT will be imposed at twice the standard rate on trading income earned by vendors who fail to provide a taxpayer identification Number (TIN)⁴⁴.
- **Persons required to make deductions at source:** The new Withholding Tax (WHT) Regulations eliminate the requirement for the Pay-As-You-Earn (PAYE) scheme to be eligible to deduct WHT.⁴⁵ The Regulations clarify that except for individuals, virtually all businesses, organisations (including those exempt from tax), government ministries, departments, agencies, and their payment agents are required to deduct WHT on eligible transactions.⁴⁶
- **Exemption of small companies from Withholding Tax compliance:** The new Regulations exempt “small companies” (defined under the Companies Income Tax Act as having a gross turnover of N25 million or less)⁴⁷ and unincorporated business entities with the same turnover threshold from the requirement to deduct tax at source from any transactions, provided the supplier is registered for tax (i.e. has a Valid TIN) and the transaction value is N2 million or less during the

³⁹ *ibid*

⁴⁰ Tax Appeal Tribunal, Lagos Zone, Appeal No: TAT/LZ/WHT/007/2019, Judgment delivered on 30 November 2020.

⁴¹ Deduction at Source (Withholding) Regulations 2024, 1st Schedule

⁴² *ibid*

⁴³ Reg 13 WHT 2024

⁴⁴ Deduction at Source (Withholding) Regulations 2024, S.3(c)

⁴⁵ Explanatory Note, Deduction at Source (Withholding) Regulations 2024

⁴⁶ *Ibid*, S4 (1) a-f

⁴⁷ **Section 22**, Finance Act, 2019

calendar month. This exemption helps reduce the tax burden on small businesses, improves their cash flow, and makes it easier for them to operate.⁴⁸ Before the Finance Act 2019, there was no segregation of companies, as all companies were liable to income tax at the rate of 30 % on their taxable profit. However, based on their turnover level, the Finance Act 2019 classifies companies into small, medium, and large categories. It stipulates different income tax rates of 0%, 20%, and 30 %, respectively.⁴⁹ Under the Companies Income Tax Act (CITA) in Nigeria, a "small company" is defined in Section 22 of the Finance Act 2019, which states that a small company earns a gross turnover of N25 million or less.

- **Penalties for Non-Compliance:**

The Withholding Tax Regulation 2024 indeed establishes specific penalties for non-compliance. The regulations make a clear distinction between two types of non-compliance:

1. **Failing to Deduct WHT:** This occurs when a business or individual does not deduct the required withholding tax from payments made to suppliers or service providers. Penalties for failing to deduct WHT can include fines and interest on the amount that should have been deducted. Under *Section 15 of the WHT Regulation 2024*, the penalties for failing to deduct WHT specifies that any person or entity required to deduct WHT but fails to do so will be liable to a penalty equivalent to 10% of the amount not deducted, in addition to the amount that should have been deducted.
2. **Failing to Remit Deducted WHT:** This happens when the withholding tax has been deducted but is not remitted to the Federal Inland Revenue Service (FIRS) within the stipulated time frame. Penalties for failing to remit deducted WHT typically include fines, interest, and potential legal action to recover the owed amounts. Under Section 16, the penalties for failing to remit deducted WHT by any person or entity that deducts WHT but fails to remit it to the Federal Inland Revenue Service (FIRS) within the stipulated time frame will be liable to a penalty of 10% of the amount not remitted, plus interest at the prevailing commercial rate.

These amendments are designed not only to streamline compliance for businesses but also to enhance the efficiency of tax collection in Nigeria. By addressing previous ambiguities and providing clearer guidelines, the new regulations aim to foster a more conducive environment for both small and medium enterprises as well as larger corporations.⁵⁰

3. Compliance Challenges for Small Businesses

Small enterprises in Nigeria encounter numerous compliance difficulties regarding the new Deduction at Source (Withholding) Regulations 2024. The primary concerns are as follows:

3.1 Comprehending and Understanding Regulations

3.1.1 **Complexity of Regulations:** The new regulations present several revisions, including exemptions and definitions that may be challenging for small business owners to comprehend without specialised expertise.⁵¹

⁴⁸ "The New Withholding Tax Regulations and Small Businesses." *Fiscalreforms.Ng*, <https://fiscalreforms.ng/wp-content/uploads/2024/10/WHT-FAQ.pdf>. Accessed 6 Nov. 2024.

⁴⁹ "Is Your Tax Bill Eating Away Your Profits? Explore Tax Incentives To Reduce Your Tax Liability". *Stransact.Com*, 2024, <https://stransact.com/en/insights/is-your-tax-bill-eating-away-your-profits-explore-tax-incentives-to-reduce-your-tax-liability>. Accessed 6 Nov 2024.

⁵⁰ "An Overview of Withholding Tax Regulations 2024." *Grant Thornton Nigeria*, 10 Sept. 2024, <https://www.grantthornton.com.ng/en/insights/Withholding-Tax-Regulation-2024/>.

⁵¹ Media, Frost. "The WHT Regulations 2024 and What Businesses Should Expect." *Banwo & Ighodalo*, <https://banwo-ighodalo.com/grey-matter/the-wht-regulations-2024-and-what-businesses-should-expect>. Accessed 10 January 2025

3.1.2. Ambiguities: Despite efforts to clarify previous ambiguities, some businesses still find it challenging to interpret how the regulations apply to their specific circumstances, leading to potential noncompliance.⁵²

3.2 Administrative Burden

3.2.1 Augmented Documentation Obligations: Small enterprises are required to uphold precise records and documentation to adhere to the new mandates, which can be laborious and resource-draining.⁵³

3.2.2 Need for Tax Identification Numbers (TIN): The requirement for small businesses to have a valid Tax Identification Number (TIN) to qualify for exemptions indeed adds a layer of complexity. This requirement is intended to ensure that businesses are formally registered and compliant with tax regulations. However, it can pose challenges, particularly for small businesses that may lack the resources or knowledge to navigate the registration process effectively.⁵⁴

3.3 Economic Pressure

3.3.1 Cost of Compliance: The financial obligations linked to compliance, which may encompass hiring tax professionals or investing in compliance management systems, can impose a significant strain on the limited resources of small businesses.⁵⁵

3.3.2 Impact on Cash Flow: Compliance costs can divert financial resources from other essential areas of the business, thereby adversely affecting overall productivity and operational efficiency.⁵⁶

3.4 Lack of Awareness and Training

3.4.1 Insufficient Knowledge about Regulatory Changes: Many small business owners may lack comprehensive awareness of new regulations and their distinctions from previous ones, resulting in unintentional non-compliance.⁵⁷

3.4.2 Need for Employee Training: To ensure that all employees comprehend compliance requirements, it is imperative to implement training programs. However, such initiatives can impose an additional burden on small businesses that operate with limited personnel.⁵⁸

3.5 Risk of Penalties

3.5.1 Concerns Regarding Non-Compliance Penalties: The potential for substantial fines or legal consequences resulting from non-compliance instils significant anxiety in small business owners. This apprehension is compounded by the complexities of navigating the regulatory landscape.⁵⁹

⁵² “*The New WHT Regulation and What Businesses Should Know.*” Dentonsacaslaw.Com, <https://www.dentonsacaslaw.com/en/insights/articles/2024/july/5/the-new-wht-regulation-and-what-businesses-should-know>. Accessed 10 January 2025

⁵³ Adams, Sophia. “How Small Businesses Can Solve Compliance Challenges and Which Tools to Use.” Hire Remote Developers | Build Teams in 24 Hours - Gaper.io, 13 Sept. 2024, <https://gaper.io/small-businesses-compliance-challenges-and-tools/>. Accessed 10 January 2025.

⁵⁴ N.53

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ N.54

⁵⁸ Ibid

⁵⁹ N.54

3.5.2 Reputational Risks: Instances of non-compliance can inflict reputational harm, thereby impeding small businesses' ability to establish and maintain trust with customers and partners. Such reputational damage can have long-term ramifications for business growth and sustainability.⁶⁰

Navigating the new Withholding Tax (WHT) Regulations is difficult for small businesses in Nigeria. To help these businesses comply with the regulations and promote economic growth, it is essential to improve education, provide better support systems, and simplify processes.

4. Economic Impacts of the Withholding Tax (WHT) Regulations

The introduction of the Withholding Tax (WHT) Regulations in Nigeria has significant economic implications for small businesses and the broader economy. This section examines the potential benefits for small businesses, the broader economic implications, and the challenges associated with the implementation of these regulations.

4.1 Potential Benefits for Small Businesses

4.1.1 Alleviation of Financial Burdens through Exemptions: One of the potential benefits of the WHT Regulations 2024 is the provision of exemptions for certain small businesses. These exemptions can significantly reduce the financial burdens that small enterprises face, particularly in the early stages of their operations. By minimising tax liabilities, small businesses can allocate more resources toward essential activities such as hiring employees, investing in technology, and expanding their product offerings.⁶¹ This financial relief can enhance their competitiveness and sustainability in a challenging economic environment.

4.1.2 Encouragement of Formalization and Tax Registration:

The WHT Regulations may also encourage small businesses to formalise their operations and register for tax purposes. By creating a more structured tax environment, the regulations incentivise small businesses to comply with tax laws, thereby promoting transparency and accountability. Formalisation can lead to access to credit, improved business relationships, and participation in government contracts, all of which contribute to the growth and development of the small and medium-sized enterprise (SME) sector.

4.2 Broader Economic Implications:

4.2.1 Effects on Revenue Generation for the Government:

The implementation of WHT Regulations is expected to enhance revenue generation for the government. By ensuring that taxes are collected at the source, the government can improve its revenue collection efficiency and reduce tax evasion.⁶² Increased tax revenues can be reinvested in public services and infrastructure, ultimately benefiting the broader economy and fostering an environment conducive to business growth.

4.2.2 Potential for Increased Investment and Growth in the SME Sector:

The WHT Regulations can create a more predictable and stable tax environment, which may encourage both domestic and foreign investment in the SME sector. When small businesses are compliant with tax regulations, they are more likely to attract investment, as investors often seek assurance of regulatory compliance and accountability.⁶³ This influx of investment can lead to increased innovation, job creation, and overall economic growth within the sector.

⁶⁰ Ibid

⁶¹ A A Adeleke, & J A Ojo, (2021). "The Impact of Tax Regulations on Small and Medium Enterprises in Nigeria", *Journal of Business and Management*, 23(4), 45-56.

⁶² Federal Inland Revenue Service (FIRS). (2020). Withholding Tax Guidelines.

⁶³ N.63

4.3 Challenges to Implementation

4.3.1 Concerns about Timely Implementation and Public Awareness:

Despite the potential benefits, there are significant challenges to the effective implementation of the WHT Regulations. One major concern is the timely implementation of these regulations and the level of public awareness among small business owners. Many small business owners may lack sufficient knowledge of the new regulations, which can lead to unintentional non-compliance.⁶⁴ Therefore, comprehensive educational initiatives and outreach programs are necessary to ensure that small businesses are informed and equipped to comply with the new requirements.

4.3.2 Discrepancies between Regulation Dates and Actual Enforcement:

Another challenge lies in the potential discrepancies between the dates set for the implementation of the regulations and their actual enforcement. Delays in enforcement can create confusion and uncertainty among small business owners, further complicating their compliance efforts.⁶⁵ To mitigate these issues, the government must establish clear timelines and consistently communicate with stakeholders to ensure a smooth transition to the new regulatory framework.

5. Future Considerations

The implementation of the Withholding Tax (WHT) Regulations 2024 in Nigeria presents both opportunities and challenges for small businesses. In light of these developments, it is essential to consider strategies for effective compliance, the role of government and regulatory bodies, and the overall impact of these regulations on economic growth.

5.1 Recommendations for Small Businesses

5.1.1 Strategies for Effective Compliance with New Regulations:

To navigate the complexities of the new WHT Regulations, small businesses should adopt several strategies aimed at enhancing compliance. First, it is essential to develop a clear understanding of the regulations, including the specific criteria for tax withholding and exemptions applicable to their operations. Small businesses should consider utilising compliance checklists and guides provided by tax authorities, which can facilitate adherence to the regulations.⁶⁶ Additionally, establishing robust accounting practices can help in accurately calculating withholding amounts and maintaining comprehensive records for auditing purposes.

5.1.2 Importance of Seeking Professional Tax Advice

Given the potential complexities of tax regulations, small businesses are strongly encouraged to seek professional tax advice. Engaging with tax professionals or consultants who possess expertise in the area of WHT can significantly reduce the risk of non-compliance and its associated penalties.⁶⁷ Tax advisors can provide tailored guidance on navigating the regulatory landscape, ensuring that businesses fully understand their tax obligations and available exemptions. This proactive approach not only fosters compliance but also empowers small business owners to make informed financial decisions.

⁶⁴ Udeh, C., & Nzegwu, G. (2018). *The Compliance and Non-Compliance of Withholding Tax Payment in Nigeria: Implications for Small and Medium Scale Enterprises*. *International Journal of Economics, Business and Management Research*, 2(4), 34-45

⁶⁵ N.62

⁶⁶ Umoh, A., & Okwudire, O. (2021). *Understanding Withholding Tax Compliance: A Guide for Small Businesses in Nigeria*. *Nigerian Journal of Taxation*, 9(1), 23-36.

⁶⁷ N.63

5.2 Role of Government and Regulatory Bodies

5.2.1 Need for Clear Communication from Tax Authorities:

To successfully implement the WHT Regulations, government and regulatory bodies must establish clear and consistent communication channels with small businesses. The dissemination of information regarding the details of the regulations, deadlines for compliance, and available resources is critical in mitigating confusion and anxiety among business owners. To this end, the Federal Inland Revenue Service (FIRS) should leverage various platforms, including workshops, online webinars, and informational materials, to ensure that small businesses are adequately informed about their obligations under the new tax regime.⁶⁸

5.2.2 Suggestions for Support Systems to Assist Small Businesses

In addition to clear communication, the government should develop support systems tailored to assist small businesses in navigating the changes brought about by the WHT Regulations. These systems could include the establishment of a dedicated hotline or support centre that provides real-time assistance and answers to compliance-related queries. Moreover, the government could explore partnerships with business associations and local chambers of commerce to facilitate training programs that address compliance challenges and enhance financial literacy among small business owners.⁶⁹ The government can assist small businesses in adapting to regulatory changes while promoting economic growth.

6. Conclusion

In summary, the withholding tax regulations hold significant implications for small businesses in Nigeria. While these regulations aim to enhance tax compliance and revenue generation, they also pose challenges that may impact the operational dynamics of small enterprises. Small businesses can navigate these regulatory hurdles by implementing effective compliance strategies and seeking professional guidance. Furthermore, the government and regulatory bodies play a crucial role in ensuring that clear communication and support systems are in place to assist small businesses. Fostering a vibrant SME sector contributing to Nigeria's overall economic development will require balancing compliance and economic growth.

⁶⁸ N.62

⁶⁹ N.66