



NamRA TAX CAFÉ

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Dear Readers,

The Namibia Revenue Agency (NamRA) remains committed to continuous tax education to overcome knowledge gaps. It is against this backdrop that we introduced this platform to share with you information from our inhouse experts, which we trust will ensure that you remain well informed, while advising on how to be compliant. We further hope to equip taxpayers with the necessary understanding about the tax legislation and thereby strengthening tax compliance.

Loide Hamutumwa, Manager Legal Services and Memory Mbai, Manager Audit and Compliance have extensive knowledge in taxation and contributed this article.

Happy reading.



Loide Hamutumwa
Manager: Legal Services

Your tax obligations when importing services of foreign entertainers



Memory Mbai
Manager: Audit and Compliance

NamRA has noted an increased offering of services by foreign entertainers in Namibia, for which the related tax obligations have not been complied with. NamRA therefore deemed it necessary to educate taxpayers on their obligations when importing the services of foreign performers, for purposes of rendering services in Namibia.

The Income Tax Act, 1981 (Act No 24 of 1981) (the Act) defines a foreign entertainer to include a cabaret, motion picture, radio, television or theatre artist and any musician, actor, or sportsperson. The definition would also include other persons such as motivational speakers, religious preachers or prophets and spiritual healers, as the case may be.

In terms of Section 35A of the Act, any resident person who pays or becomes liable to pay any amount, whether directly or indirectly, to a non-resident person for his or her performance in Namibia is liable to deduct and withhold from that payment an amount of tax known as "Withholding Tax" calculated at the rate of 25% and remit it to NamRA on behalf of the foreign entertainer.

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What is important to note is that, albeit one may not be the resident person who procured the services and only acts as an agent, the obligation to withhold tax falls with the person who pays or becomes liable to pay. It is therefore critical for the parties involved, such as ticket distributors or facilitators to understand that if their arrangement includes the payment of the foreign entertainer, the law requires them to withhold tax and remit it to NamRA.

A resident person is broadly defined to include a regional council or a local authority in Namibia; a natural person ordinarily resident in Namibia; a company that is doing business in Namibia, including a branch of such company; or a partnership, board, or trust which is formed or established or incorporated under the laws of Namibia or which is doing business in Namibia, and includes a branch of such partnership, board or trust.

A non-resident person is defined as a person who does not meet the definition of a resident person. What is however important to note is that any person or entity outside Namibia to whom any payment is made is presumed, unless the contrary is proven, to be a non-resident.

All amounts withheld should be remitted to NamRA together with a return outlining the details thereof within 20 days following the month the tax was withheld. This amount is deemed to be a final tax on behalf of the foreign entertainer's tax obligations in Namibia. However, should the resident person fail to meet their withholding obligations as stipulated in the Act, the resident person shall become personally liable for the tax not withheld from the amount paid to the foreign entertainer of which any late payments would carry a penalty of 10% per month or part thereof and interest at the rate of 20% per annum.

While the Namibian tax regime is based on the principle of self-assessment by taxpayers, NamRA is committed to ensuring that all taxes due to the State are remitted timeously. In this regard, NamRA has strengthened its audit capabilities and will be monitoring the compliance status of taxpayers responsible for funding, organising and facilitating such activities in Namibia. Where uncertainties exist with respect to the withholding tax obligations, it is therefore advisable for taxpayers to notify NamRA by providing the details relating to the performance or activities of that nature to ensure that such a transaction is confirmed and the tax is correctly remitted.