

## The New WHT Regulations 2024: Updated Provisions and Implementation

October 2024



### Background

It will be recalled that earlier in July 2024, a new WHT Regulations was issued to the public, which sought to replace the erstwhile WHT Regulations of 1997. However, the July version of the document was not properly published, as it was released on the letterhead of the Honourable Minister of Finance and Coordinating Minister of the Economy. This has now been rectified by publishing in a gazette, as well as further updating the WHT Regulations, albeit slightly.

### Highlights of the Updated Regulations

In addition to the prior amendments made via the document released in July, highlighted [here](#), the final gazetted version of the 2024 WHT Regulations now includes the following:

#### 1 Expanded Exemptions:

Transactions involving the payment for Telephone Charges, Internet Data and



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Airline Tickets, are now exempted from WHT.

## 2 Extended Implementation:

The implementation of the Regulations is now set at 1 January 2025 for all provisions of the Regulations.

## 3 Option for Early Application:

The relevant tax authority has the power, subject to the approval of the Minister of Finance, to issue guidelines and prescribe modalities for implementation from 1 July 2024, being the date of release of the earlier version.

# Our Comments

The updated WHT Regulations is geared towards ensuring a simplified tax system for WHT, as evidenced by the initial publication.

Notwithstanding the upsides to the changes, we note a few issues which, if not addressed quickly, may be counterproductive towards achieving the purposes of the law.

First, there is a conflict between the WHT Regulations' Commencement and Implementation dates of 30 September 2024 and 1 January 2025, respectively. While this may be a drafting error and notwithstanding the contradiction, the provisions of the WHT Regulations are however quite clear. That is, all provisions must take effect latest by 1 January 2025, while taxpayers subject to requisite approvals, may commence application of these provisions as early as 1 July 2024.

Secondly, the modalities of the option of early application are not clear-cut enough and this may cause uncertainty amongst taxpayers. The current provision of the WHT Regulations, leave the administrative segment of the option in the hands of the tax authorities. It is further to this authority that FIRS has now issued a Public Notice stating that the 2024 WHT Regulations will take effect from 1 January

2025, while the erstwhile 1997 WHT Regulations will remain in force up to and until 31 December 2024. This Public Notice does not seem to provide any clarifications to taxpayers who had commenced implementation from the initial release in July 2024. Rather, it raises more questions and doubts as to the fate of deductions already made from July till date.

Would the tax authority refund where higher rates have been deducted? Or would the taxpayers be held liable where the new reduced rates have been applied?

Nonetheless, it is mandatory that all taxpayers, corporates and individuals alike, keep proper records of all qualifying transactions and payments made in their regard, in order to ensure compliance. Companies which have already commenced compliance upon initial release in July, are encouraged to not only keep accurate records but also ensure continued compliance in view of any review or audits by the tax authorities.

Finally, we expect that the tax authority in conjunction with the Ministry, convene a stakeholder engagement to help transition taxpayers into the new WHT regime, and address possible emerging challenges identified by relevant stakeholders.