

SUBSIDIARY LEGISLATION 123.200**TAX ON OVERTIME RULES**

16th June, 2020

LEGAL NOTICE 245 of 2020, as amended by Legal Notice 68 of 2022.

1. The title of these rules is the Tax on Overtime Rules. Citation.

2. In these rules, unless the context otherwise requires: Interpretation.

"the Act" means the Income Tax Act; Cap. 123.

"basic weekly wage" means the basic weekly wage or the weekly equivalent of the basic monthly salary as determined for the purpose of calculating the rate of class one contributions payable by an employed person in terms of the Tenth Schedule to the Social Security Act; Cap. 318.

"full-time employment" means a full-time employment registered as such with Jobsplus established under the Employment and Training Services Act; Cap. 594.

"managerial post" means a post of employment of a person who is a director of the company or a partner of the partnership with which he is employed or who is an officer with managerial functions;

"overtime" means hours of work performed by an individual in the course of a full time employment in excess of his normally scheduled working hours and for which he is entitled to remuneration over and above his basic weekly wage;

"qualifying overtime" means overtime performed in the course of a full time employment during a period while -

(a) the rate of basic weekly wage for that employment does not exceed three hundred and seventy-five euro (€375) per week; and

(b) the post in which that individual is engaged in terms of the said full time employment is not a managerial post;

"qualifying overtime income" means income derived on or after 1 January 2020 as remuneration for the performance of qualifying overtime but subject to the limitations provided for in rule 3.

3. The provisions of article 90B of the Act shall apply to qualifying overtime income derived by an individual in the year immediately preceding the year of assessment up to an amount not exceeding -

Maximum
qualifying
overtime income.
Amended by:
L.N. 68 of 2022.

maxhours x maxrate

where:-

maxhours is the number of hours of qualifying overtime in respect of which the individual has derived qualifying overtime income in the year immediately preceding that year of assessment but not exceeding one hundred (100); and

maxrate is the rate per hour at which remuneration is paid to that individual for overtime performed by him but not exceeding twice the hourly equivalent of the basic weekly wage: and for this purpose, the hourly equivalent of the basic weekly wage shall be calculated by dividing the basic weekly wage paid to that individual for the period during which the qualifying overtime in question is performed by forty (40):

Provided that with effect from the year of assessment 2023, the said provisions of article 90B of the Act shall apply to qualifying overtime income derived by an individual in the year immediately preceding the year of assessment up to an amount not exceeding:

- (a) ten thousand euro (€10,000); and
- (b) the amount resulting when the actual number of hours is multiplied by **maxrate**, where "the actual number of hours" means the actual number of hours of qualifying overtime in respect of which the individual has derived qualifying overtime income and "**maxrate**" is the rate defined above.

Election to exclude overtime income from the scope of article 90B of the Act.

4. (1) Notwithstanding rule 3, an individual may elect to have his overtime income excluded from the scope of article 90B of the Act.

S.L. 372. 14.

(2) An election referred to in sub-rule (1) shall be made in accordance with the provisions of the Final Settlement System Rules (FSS).

Married couples.

5. In the case of a married couple, article 90B of the Act and these rules shall be applied separately to the income derived from overtime performed by each of the spouses.