SUBSIDIARY LEGISLATION 123.39

PART-TIME WORK RULES

1st January, 1996

LEGAL NOTICE 157 of 1996, as amended by Legal Notices 321 of 2001, 105 of 2005, 3 of 2006, 409 of 2007, 320 of 2012, 185 of 2014 and 125 of 2016; Act XXVII of 2016 and Legal Notice 67 of 2022.

Title.

1. The title of these rules is the Part-time Work Rules.

Applicability of article 90A of the Income Tax Act.
Amended by: L.N. 321 of 2001; L.N. 320 of 2012; XXVII. 2016.6.

2. The provisions contained in article 90A of the Income Tax Act, hereinafter referred to as "the Act", shall apply to an individual deriving income from part-time work and who is resident in Malta during the year immediately preceding the year of assessment and who moreover -

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(*a*) derived other income from a full time employment registered as such with Jobsplus established under the Employment and Training Services Act; or

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(*b*) was in receipt of a pension taxable in Malta; or

(*c*) was receiving full time instruction at any university, college or other educational establishment, or was serving an apprenticeship with a view to qualifying in a trade or profession.

Scope.
Substituted by: L.N. 321 of 2001.
Amended by: L.N. 105 of 2005; L.N. 409 of 2007; L.N. 320 of 2012. L.N. 185 of 2014.

3. (1) For the purpose of these rules but subject to the other provisions of this rule, income from part-time work shall be construed as consisting only of that income of an individual which is chargeable to tax under article 4(1)(*a*) or (*b*) of the Act.

(2) Where the income from part-time work derived by the individual or the individual's spouse from any part-time activities exceeds ten thousand euro (€10,000) in the case of income chargeable under article 4(1)(*b*) of the Act or twelve thousand euro (€12,000) in the case of income chargeable under article 4(1)(*a*) of the Act, such excess shall be charged to tax under the Act without having regard to the provisions of article 90A thereof and shall be declared by that person in a return furnished in accordance with the provisions of article 10 of the Income Tax Management Act, together with all his other income:

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Provided that in the case of a married couple, where the provisions of article 90A of the Act would not have applied to the income derived by one of the spouses were it not for the provisions of subarticle (9) of the said article, then the income from part-time work derived by such spouse shall so qualify only if it is not in any way derived from the individual's spouse or adoptive child, either of the spouses' ascendant or descendant in the direct line, the spouse of any such ascendant, descendant or adoptive child, either of the spouses' brother or sister or their spouses, or any company in which the individual or any of the aforementioned persons is directly or indirectly a shareholder.

(3) For the purpose of these rules, any income which is deemed to constitute a benefit provided by reason of an employment or office in terms of article 4(1)(*b*) of the Act or regulations made thereunder and the value of any such benefit shall not be construed as constituting income derived from part-time activities for the purpose of sub-rule (2) and shall be declared in a return furnished in accordance with the provisions of article 10 of the Income Tax Management Act together with all the other income.

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Part-time trade, etc.
Amended by: L.N. 321 of 2001; L.N. 320 of 2012; L.N. 185 of 2014; XXVII. 2016.6.

4. Where income from part-time work falls to be charged under article 4(1)(*a*) of the Act, the provisions of article 90A of the Act shall apply only where the individual -

(*a*) has registered the part-time work with Jobsplus;

(*b*) does not engage more than two employees (and such employees shall be on a part-time basis) in the part-time activity he carries out;

(*c*) keeps proper books of accounts as provided for in article 19 of the Income Tax Management Act;

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(*d*) performs such work for a company, organisation, enterprise or entity other than that with which he is employed on full-time basis; and

(*e*) is registered for value added tax purposes, unless the economic activity engaged in is one in respect of which such registration is not required or the individual is exempt from registration under the Value Added Tax Act.

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Part-time employment.
Amended by: L.N. 321 of 2001; L.N. 320 of 2012; L.N. 125 of 2016; XXVII. 2016.6.

5. (1) Where income from part-time work falls to be charged under article 4(1)(*b*) of the Act, the provisions of article 90A of the Act shall only apply if the individual -

(*a*) has registered the part-time work with Jobsplus; and

(*b*) performs such work against remuneration with a company, organisation or enterprise other than that with which he is employed on full-time basis:

Provided that the requirements of paragraphs (*a*) and (*b*) shall not apply to situations where the income from part-time work consists of remuneration referred to in rule 6(3).

(2) Work shall only be considered to be part-time work if the individual is not engaged therein for more than thirty hours in any one week:

Provided that where under a wage regulation order under the Employment and Industrial Relations Act, a person engaged for thirty hours is considered as full-time, the individual shall only be considered to be engaged in part-time work if he is so considered under the relevant wage regulation order.

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Interpretation for purpose of rules 4 and 5.
Substituted by: L.N. 321 of 2001; L.N. 320 of 2012.
Amended by: L.N. 185 of 2014; L.N. 125 of 2016.

6. (1) For the purpose of rules 4(*d*) and 5(1)(*b*):

(*a*) companies controlled and beneficially owned, directly or indirectly, to the extent of more than 50% by the same shareholders shall be considered as the same employer;

(*b*) a Government entity which is controlled directly or indirectly by another Government entity shall be considered as the same employer as that controlling entity. For the purposes of this paragraph, a Government entity shall mean the University of Malta and MCAST, Local Councils, any Government ministry, department or authority, parastatal bodies, corporations, foundations and other similar organisations or companies in which the Government or any of the aforementioned entities has a controlling interest.

(2) Income from part-time work shall not consist of:

(*a*) remuneration paid by Government to holders of an office, including members on boards or tribunals, and to Members of Parliament and Local Councils;

(*b*) fees and other similar payments made to members of the Board of Directors of companies or to members on boards of public corporations established by law.

(3) Remuneration paid to police officers for performing extra duty work shall be considered as income from part-time work qualifying under these rules. For the purpose of this sub-rule, "extra duty" refers to work that is not part of the police officer's normal duties and is not overtime.

Sale of Agricultural Produce.
Added by: L.N. 105 of 2005.
Amended by: L.N. 320 of 2012.
S.L. 123.80

7. Any person who derives income from a qualifying sale as defined in the Sale of Agricultural Produce Rules, and who also qualifies under these rules in respect of such income shall fill in and deliver such form as the Commissioner may require by the 30th June of the year following that in which the income was derived.

Payment by employee.
Added by: L.N. 3 of 2006.
Amended by: L.N. 320 of 2012; L.N. 185 of 2014; L.N. 67 of 2022.

8. Where, in the circumstances described in article 90A(6) of the Act, the tax is paid by the individual directly to the Commissioner, such payment shall be made by the 21st December of the year following that in which the income from part-time work was derived, and it shall be accompanied by a complete and correctly filled in Commissioner may approve.

Self-employed statement of accounts.
Added by: L.N. 125 of 2016.
Amended by: L.N. 67 of 2022.
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9. (1) The statement of accounts indicating the taxable net profits for the relevant year which shall accompany a payment to be made by a self-employed person, which shall be given by an individual in terms of article 42(4)(*a*) of the Income Tax Management Act, shall be according to such form as the Commissioner may approve.

(2) For the purposes of sub-rule (1), the term "self-employed" means a person who is performing part-time work in terms of article 90A(1) of the Act and whose gains or profits from such trade, business, profession or vocation fall under the provisions of

article 4(1)(*a*) of the said Act.

Notices to employer. *Added by: L.N. 125 of 2016.* S.L. 372.14

10. The notices referred to in article 90A(3) and (5) of the Act shall be made through the FS4 form prescribed in Schedule A to the Final Settlement System (FSS) Rules.

SCHEDULE A
(Rule 7)

Added by:
L.N. 105 of 2005.
Amended by:
L.N. 409 of 2007.
Deleted bby:
L.N. 320 of 2012.
Added by:
L.N. 125 of 2016.

Deleted by Legal Notice 67 of 2022.

Added by:
L.N. 3 of 2006.
Amended by:
L.N. 409 of 2007;
L.N. 320 of 2012;
L.N. 185 of 2014.

SCHEDULE B
(Rule 8)

Deleted by Legal Notice 67 of 2022.