

SUBSIDIARY LEGISLATION 123.07

INCOME TAX (DEDUCTIONS) RULES

1st January, 2001

LEGAL NOTICE 322 of 2001, as amended by Legal Notices 100 and 409 of 2007, 369 of 2009 and 229 of 2024

- 1.** The title of these rules is the Income Tax (Deductions) Rules. Title.
- 2.** In these rules, unless the context otherwise requires - Interpretation.
Amended by:
L.N. 229 of 2024.
- "Act" means the Income Tax Act; Cap.123.
- "benefit" has the same meaning assigned to it under the Fringe Benefits Rules; S.L.123.55
- "emoluments" has the same meaning assigned to it under the FSS Rules;
- "Fringe Benefits Rules" means the Fringe Benefits Rules, or any other rules prescribed under the Income Tax Act in replacement thereof; S.L.123.55
Cap. 123.
- "FSS Rules" means the Final Settlement System (FSS) Rules, or any other rules prescribed under the Income Tax Management Act in replacement thereof; S.L.372.14
Cap. 372.
- "qualifying income" means the income produced through the use or employment of the intellectual property or intellectual property rights chargeable to tax in accordance with the provisions of the Income Tax Acts before claiming the deductions contemplated in rule 6(1)(b) or (2), as may be applicable, and article 14(1)(o) of the Act.
- 3.** (1) Where any vehicle to which this rule applies was acquired at a cost exceeding €14,000 in a year immediately preceding any year of assessment and such vehicle is used and employed in the production of the income, any deduction in respect of wear and tear and any initial deduction with respect to the vehicle under the provisions of article 14(1)(f) and (j) of the Act and any allowance due or charge made with respect to the vehicle under the provisions of article 24 of the Act shall be computed as if the cost of acquisition were €14,000. Deductions in respect of vehicles.
Amended by:
L.N. 409 of 2007;
L.N. 369 of 2009.
- (2) Where any vehicle to which this rule applies is leased to a person in a year immediately preceding any year of assessment commencing on or after the 1st January, 2002 and such vehicle is used and employed in the production of that person's income, and where the listed price of that vehicle exceeds €14,000, any deduction that may be claimed by that person under the provisions of article 14(1) of the Act in respect of payments made for the lease of that vehicle shall not exceed the result obtained by multiplying the said lease payments by €14,000 and dividing the result by the listed price of that vehicle:

Provided that -

- (a) where the vehicle is used in terms of an arrangement whereby the burden of wear and tear is on the lessee, no deduction shall be allowable in respect of the lease payments;
- (b) the provisions of this subrule (2) shall not apply where the vehicle is used by the said person, or on his behalf, on an occasional basis for a period of less than seven days during the year in question otherwise than as a replacement for another vehicle leased to him;
- (c) where a leased vehicle is temporarily replaced by another vehicle for a period of less than thirty consecutive days without any change in the amount of lease payments, this subrule (2) shall apply during the period of replacement as if the reference to the listed price of the vehicle were a reference to the listed price of the first-mentioned vehicle, but when a change in the amount of lease payments is made on account of such replacement or where the period of replacement is thirty consecutive days or more, this subrule (2) shall apply during the said period by reference to the listed price of the second-mentioned vehicle.

(3) For the purpose of subrule (2) -

- (a) the listed price of a vehicle is the price shown for a vehicle of that same or comparable make and model in a price list drawn up or approved by the Commissioner for the purposes of the Fringe Benefits Rules increased by the cost of any optional accessories that may be fitted in the vehicle;
- (b) a vehicle shall be deemed to be leased to a person if it is used by him or on his behalf under any arrangement whereby a payment is made or due to another person as consideration for the said use;
- (c) "lease payments" means the total of the payments made or due by a person during the year in question as consideration for the use of a vehicle and any other costs that may be incurred or reimbursed by him in the said year in connection with the said use, including insurance, licences, repairs and servicing, but excluding fuel and garaging.

(4) This rule applies to any mechanically propelled vehicle constructed or adapted as a means of transport for individuals, but shall not apply to a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used, or to a vehicle used by the person claiming a deduction referred to in this rule wholly or mainly for the purpose of hire to or the carriage of members of the public in the ordinary course of his trade or business:

Provided that for any year of assessment commencing on or after the 1st January, 2002 this rule shall, moreover, not apply to a vehicle used by the person claiming a deduction referred to in this rule wholly or mainly for driving instruction in the ordinary course

of his trade or business.

4. (1) When a person pays emoluments in a year immediately preceding any year of assessment commencing on or after the 1st January, 2002, and such payment represents outgoings and expenses incurred wholly and exclusively in the production of his income, the deductions that may be allowed in respect thereof for that year of assessment under article 14(1) of the Act shall not exceed the amount of the said outgoings and expenses that relate to emoluments that have been duly accounted for.

Deductions in
respect of
emoluments.
Amended by:
L.N. 100 of 2007.

(2) Without prejudice to subrule (1), a deduction under article 14(1) of the Act relating to the provision of a fringe benefit falling under Part C (Category 2 Benefits - Use of Property) of the Fringe Benefits Rules shall not exceed the lower of:

S.L.123.55

- (a) the outgoings and expenses, determined in accordance with the relevant provisions of Part IV of the Act, incurred in the provision of the said fringe benefit; and
- (b) the value of that fringe benefit as determined in accordance with the said rules without, however, any reduction in the value contemplated in subrule 24(5) of the said rules with respect to any rent paid by the beneficiary:

Provided that where any rent or other consideration is paid by the beneficiary it shall constitute income in the hands of the provider of the benefit.

(3) The following provisions of this subrule shall apply, without prejudice to subrule (1), for determining the deduction, if any, that may be allowed to a person under article 14(1) of the Act relating to the provision of a fringe benefit consisting in a transfer of an asset to which Part D (Category 3 Benefits - Other Benefits) of the Fringe Benefits Rules applies:

- (a) where the asset is one in respect of which any deduction had been allowed to that person under the provisions of article 14(1)(f) and (j) of the Act, no deduction shall be allowed in respect of the provision of the said fringe benefit: provided that in the balancing statement required for the purposes of article 24 of the Act -
 - (i) where the said asset has been transferred at no consideration it shall be treated as having been put out of use for no value; and
 - (ii) where the said asset has been transferred at a consideration it shall be treated as having been sold for that consideration,

and a balancing allowance shall be allowed or a balancing charge shall be made accordingly;

- (b) where the asset is one in respect of which no deduction had been allowed to that person under any of the provisions of article 14(1)(f) and (j) of the Act, the deduction in respect of the provision of the fringe benefit shall not exceed the cost at which the provider

of the benefit had acquired that asset, including any costs incurred by the employer in transferring that asset: provided that any consideration paid by the beneficiary shall constitute income in the hands of the employer;

- (c) where the transfer is one which falls within the scope of the provisions of article 5 of the Act, no deduction shall be allowed under the provisions of article 14 of the Act in respect of the provision of the fringe benefit: provided that the gains or profits derived from the said transfer shall be determined in accordance with the provisions of the said article 5 without reference to the value of the fringe benefit.

(4) For the purpose of this rule emoluments shall not be deemed to have been duly accounted for except to the extent that their value has been correctly reported in the Payee Statement of Earnings and the Payer's Annual Reconciliation Statement prepared in terms of the FSS Rules with respect to the relevant year and furnished to the Commissioner by not later than twelve months after the relevant time limit prescribed under the said Rules.

(5) When a person pays emoluments to his or her spouse, such emoluments are allowable as a deduction in accordance with the provisions of article 14(1) of the Act, as long as such person complies with the requirements of sub-rules (1) and (4) of this rule and the spouse receiving the said emoluments has paid social security contributions on the basic wage or salary received.

5. Except as otherwise provided in the Fringe Benefits Rules, the value of a benefit determined in accordance with those rules shall be deemed to be net of all outgoings and expenses incurred by the beneficiary in connection with that benefit, and no further deduction shall be allowed to that person under article 14(1) of the Act in respect of that benefit.

6.* (1) Where any person claims a deduction in accordance with the second proviso to article 14(1)(m) of the Act in respect of expenditure of a capital nature on intellectual property or any intellectual property rights (hereinafter referred to as "expenditure"), the amount deductible in respect of any year of assessment shall be computed as follows:

(a) there shall be deducted that part of the said expenditure which would otherwise have been deductible by reference to the minimum period allowed in accordance with the first proviso to article 14(1)(m) of the Act; and

(b) there shall also be deducted that part of the said expenditure remaining after computing the deduction in accordance with paragraph (a):

Provided that where the deduction or a part thereof allowable in accordance with paragraph (b) cannot for any year be

Claims for deductions by beneficiaries of fringe benefits.
S.L.123.55

Deductions in respect of expenditure of a capital nature on intellectual property or any intellectual property rights.
Added by:
L.N. 229 of 2024.

*These rules shall apply with effect from the year of assessment 2024.

given effect to in full because there is no or insufficient qualifying income in that year of assessment, the expenditure provided for in said paragraph (b) shall not be available for deduction against any other income for the said year, or available for surrender in accordance with articles 16 to 22 of the Act, but shall be carried forward for deduction and be added to the deduction due for the following year and be deemed to be part of that deduction, or if there is no such deduction for that year, be deemed to be the deduction for that year and so on for subsequent years:

Provided further that, subject to the provisions of the third proviso to article 14(1)(m) of the Act, the aggregate of the deductions made in accordance with paragraphs (a) and (b) shall not in any case exceed the amount of the said expenditure.

(2) With respect to the year of assessment 2024, a claim for deduction in accordance with the second proviso to article 14(1)(m) of the Act may also be made with respect to any expenditure brought forward during the said year which, due to the provisions of the first proviso to article 14(1)(m) of the Act, had not been so deducted in the years of assessment preceding the year of assessment 2024, and in such case, the amount deductible in respect of the year of assessment 2024 and any subsequent year of assessment shall be computed as follows:

(a) there shall be deducted that part of the said expenditure which would otherwise have been deductible by reference to the period chosen in preceding years of assessment and allowed in accordance with the first proviso to article 14(1)(m) of the Act; and

(b) there shall also be deducted that part of the said expenditure remaining after computing the deduction in accordance with paragraph (a):

Provided that where the deduction or part thereof allowable in accordance with paragraph (b) cannot for any year be given effect to in full because there is no or insufficient qualifying income in that year of assessment, the expenditure under this part shall not be available for deduction against any other income for the said year, or available for surrender in accordance with articles 16 to 22 of the Act, but shall be carried forward for deduction and added to the deduction due for the following year and shall be deemed to be part of that deduction, or if there is no such deduction for that year, be deemed to be the deduction for that year and so on for subsequent years:

Provided further that, subject to the provisions of the third proviso to article 14(1)(m) of the Act, the aggregate of the deductions made in accordance with paragraphs (a) and (b) in conjunction with any other deductions made in the years of assessment preceding the year of assessment 2024 shall not in any case exceed the

amount of the said expenditure.

(3) For the avoidance of doubt, nothing in sub-rules (1) and (2) shall be construed as allowing any person to deduct or carry forward the expenditure in circumstances where the deduction of such would not have otherwise constituted an allowable loss in accordance with article 14(1)(g) of the Act.
