

**SUBSIDIARY LEGISLATION 372.14****FINAL SETTLEMENT SYSTEM (FSS) RULES**

1st January, 1998

*LEGAL NOTICE 88 of 1998, as amended by Legal Notices 128 of 1999, 39 of 2000, 297 of 2001, 344 and 425 of 2007, 323 and 426 of 2012, 260 of 2014, 148 of 2018, 246 of 2020, 66 of 2022 and 176 of 2026.*

**ARRANGEMENT OF RULES**

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| Title.                                                                                                                                                                                        | 1. The title of these rules is the Final Settlement System (FSS) Rules.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Interpretation.<br><i>Amended by:</i><br><i>L.N. 128 of 1999;</i><br><i>L.N. 39 of 2000;</i><br><i>L.N. 297 of 2001;</i><br><i>L.N. 260 of 2014;</i><br><i>L.N. 246 of 2020.</i><br>Cap. 372. | 2. In these rules, unless the context otherwise requires -<br>"Act" means the Income Tax Management Act;<br>"emoluments" means:<br><ul style="list-style-type: none"> <li>(i) any income, including any fringe benefits, chargeable to tax under article 4(1)(b) of the Income Tax Act and any income exempt under article 12 of the said Act which would have been chargeable under the said article 4(1)(b) but for the said exemption; and</li> <li>(ii) any pension arising or received in Malta chargeable to tax under article 4(1)(d) of the said Act; and</li> <li>(iii) any other remuneration payable or fringe benefits that are provided to an individual for services rendered by him except where such individual receives such payment in the course of his trade, business, profession or vocation or is otherwise required to be registered for the purposes of the Value Added Tax Act, in respect of such services, or where he renders such services to any individual for domestic and private purposes;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                |
| Cap. 123.                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Cap. 406.                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Cap. 123.                                                                                                                                                                                     | "fringe benefits" means any benefits provided or deemed to be provided by reason of an employment or office in terms of the provisions of article 4(1)(b) of the Income Tax Act or of regulations prescribed under that paragraph;<br>"paid" means paid directly or indirectly in cash or in kind, and includes the provision of a fringe benefit, and the terms "payable" and "payment" shall be construed accordingly;<br>"paid in cash" includes paid by cheque or draft, credited or deposited in a bank or other account elsewhere for the benefit, use or advantage of the payee and any set off against any liability of the payee, and the terms "payable in cash" and "payment in cash" shall be construed accordingly;<br>"payee" means any person to whom emoluments are paid;<br>"payer" means any person by whom emoluments are paid or deemed to be paid in terms of the provisions of article 4(1)(b) of the Income Tax Act or of regulations prescribed under that paragraph, or who pays, or is liable to pay emoluments whether on his own account or on behalf of another person and includes government departments, persons in the public service of Malta, public corporations and their officials, and other bodies of persons and their officials;<br>"qualifying overtime income" shall have the meaning as assigned to it in the Tax on Overtime Rules;<br>"rate of tax" includes a nil rate; |
| Cap. 123.                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| S.L. 123.200.                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

"value of fringe benefits" means the value of fringe benefits determined in accordance with regulations prescribed for the purposes of article 4(1)(b) of the Income Tax Act.

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*Payee Status Declaration*

3. (1) A payee in receipt of emoluments, being emoluments as defined under rule 2(i) and (iii), shall be required to complete the prescribed Payee Status Declaration publicly available on the appropriate website or in such manner as the Commissioner may require and forward the said form in triplicate to the payer by the 1st January, 1998, and thereafter within seven days from the commencement of a new source giving rise to such emoluments or upon any change in the information required to be given in Part B, C or D thereof.

Completion sad  
submission of  
payee status  
declaration form.  
*Amended by:*  
*L.N. 176 of 2026.*

(2) Failure on the part of the payee to comply with the provisions of sub-rule (1) shall render any emoluments due to be paid to him subject to tax deduction at a rate equal to the maximum rate of tax provided under article 56(1) of the Income Tax Act. Such rate of deduction shall remain applicable for the period during which the default continues.

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(3) A payer to whom a Payee Status Declaration form has been forwarded as aforesaid by the payee shall be required to complete the Payer's parts of such form. The payer shall submit to the Commissioner the original copy of such form by the last working day of the month following that during which the said form was forwarded to him, retain the payer's copy for the purposes of any inspection which may be carried out from time to time in terms of rule 31, and forward the remaining copy to the payee.

(4) Where the form referred to in this rule has not been forwarded by the payee, the payer shall nevertheless complete to the best of his knowledge of the said form and submit it to the Commissioner for the purposes of sub-rule (3).

(5) Where the payer submits to the Commissioner the form referred to in this rule in accordance with sub-rule (4), the provisions of sub-rule (2) shall still apply.

(6) A payer who, without reasonable excuse, provides incomplete or incorrect information on the form required to be submitted under sub-rules (3) or (4), or who fails to submit such form to the Commissioner shall, in addition to the corresponding additional tax prescribed in Schedule C, be liable to the payment of any underdeduction of tax, consequent to such default made in respect of emoluments paid by him to any payee unless such amount of tax is otherwise recovered by the Commissioner by the 31st December of the year in respect of which the deduction should have been made.

Cap. 123. (7) Where the form required to be submitted under paragraph (3) hereof is, for any reason, not considered acceptable by the Commissioner due to any default on the part of the payee, it shall be returned to the payer for correction, and unless the payee effects the necessary corrections in time for the payer to resubmit the form within fourteen days, the payer shall deduct tax, from any emoluments subsequently due to be paid to the payee, at a rate equal to the maximum rate of tax provided under article 56(1) of the Income Tax Act and such rate of tax deduction shall remain applicable until the Commissioner otherwise directs.

(8) Where, due to the operation of sub-rules (2) and (7), any tax has been deducted from emoluments payable to the payee, it shall be set off against the tax charged on the payee or refunded to him, as the case may be, in accordance with article 23(2) of the Act.

#### *Payer's Registration*

Registration as a payer.

S.L. 123.02

4. (1) Every person shall, as from the 1st day of January, 1998, register as a payer with the Commissioner within fifteen days from the date the first emoluments due to be paid by him to a payee start to accrue, unless such person was registered for the purposes of the Deduction of Tax (P.A.Y.E.) Rules, prior to the said date and such registration has not since been cancelled.

(2) A request for registration as a payer shall be made by the individual carrying on a trading, business, professional or vocational activity or, in the case of a body of persons, by the manager or other principal officer, and such registration shall be effected by completing the appropriate form supplied by the Commissioner to whom it shall be forwarded together with any required supporting documentation.

(3) Every person shall, following registration as a payer in accordance with this rule, report to the Commissioner on the appropriate form any substantial change affecting the information previously submitted by him upon registration, and failure to report such change shall constitute a default against the provisions of sub-rule (1).

(4) Without prejudice to the obligations imposed on the payer under the other provisions of these rules, the provisions of sub-rules (1), (2) and (3) shall likewise apply to a person who has acquired a going concern which engages individuals to whom emoluments are payable.

Cancellation and re-registration.

5. (1) A payer shall, upon ceasing to carry out his functions as a payer, request the Commissioner to cancel his registration as a payer.

(2) A request for cancellation in accordance with sub-rule (1) shall be made by an individual carrying on a trading, business, professional or vocational activity or, in the case of a body of persons, by the manager, other principal officer or liquidator, and such cancellation shall be effected by completing the appropriate form supplied by the Commissioner wherein the obligations of the payer requesting cancellation under this rule are clearly set out.

(3) Prior to any cancellation as a payer, the person making the

request under this rule shall, unless the Commissioner otherwise directs, be required:

- (a) to furnish a statement of earnings to all his payees in accordance with rule 21;
- (b) to remit to the Commissioner all outstanding tax deductions and to forward the relative monthly payment advice as required under rule 15;
- (c) to submit to the Commissioner his annual reconciliation statement in accordance with rule 22 together with a copy of each statement of earnings required to be furnished under paragraph (a); and
- (d) to provide any other details or information which the Commissioner may require.

(4) Where a person ceases to carry out his functions as a payer for a temporary period only, he shall notify the Commissioner accordingly on the form referred to in sub-rule (2) and unless otherwise directed by the Commissioner, he shall nonetheless comply with the provisions of sub-rule (3).

(5) Subject to the other provisions of this rule the Commissioner may at any time cancel the registration as a payer of the person making the request and notify him accordingly.

(6) A person who, following his cancellation as a payer in accordance with the provisions of this rule, recommences paying emoluments shall be required to request a new registration as a payer in terms of rule 4.

#### *Deduction of Tax by Payers*

6. (1) Save as provided under rule 3(2) or as otherwise directed by the Commissioner under sub-rule (2), every payer shall deduct tax from each payment of emoluments made to a payee, to the extent that it consists of or includes a payment in cash by applying, as the case may be, one of the following tax deduction methods:

Payers to deduct tax by applying the appropriate method.

*Amended by:*  
*L.N. 297 of 2001;*  
*L.N. 425 of 2007;*  
*L.N. 246 of 2020.*

- (a) the FSS Main Tax Deduction Method, in the manner provided under rule 7 and as set out in Schedule B;
- (b) the FSS Part-Time Tax Deduction Method, in the manner provided under rule 8;
- (bb) the FSS Overtime Tax Deduction Method, in the manner provided under rule 7A;
- (c) the FSS Other Emoluments Tax Deduction Method, in the manner provided under rule 9.

(2) Notwithstanding the provisions of sub-rule (1) regarding the deduction of tax by payers, the Commissioner may, whenever he thinks fit, determine a method of tax deduction or direct the deduction of the amount which should be made or the rate at which tax is to be deducted in such manner to cover the tax due by the payee for the year and instruct the payer in writing to effect such deduction accordingly.

(3) In computing the amount of tax to be deducted in accordance with sub-rule (1) or as directed by the Commissioner under sub-rule (2), the payer shall disregard any fraction of a euro being equal to or less than fifty cents, and round up to one euro any fraction of a euro exceeding fifty cents.

Application of the  
FSS Main Tax  
Deduction Method.  
*Amended by:*  
*L.N. 39 of 2000.*

7. (1) Tax deduction under the FSS Main Tax Deduction Method referred to under rule 6(1)(a) and computed in accordance with Schedule B shall apply in respect of:

- (a) all local pensions receivable by the payee other than those regulated by the provisions of sub-rule (3); and
- (b) any income from emoluments as defined under rule 2(i) (excluding those payable in respect of part-time work to which the provisions of article 90A of the Income Tax Act and of the Part-time Work Rules apply) indicated by the payee in his Payee Status Declaration form as constituting the main source of his emoluments:

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S.L. 123.39

Provided that where the payee is in receipt of one or more local pensions as aforesaid, no further emoluments arising to him shall qualify for tax deduction under the FSS Main Tax Deduction Method:

Provided further that where the payee is not in receipt of any such pension, he shall, at any one time, indicate only one source of income from emoluments, as defined under rule 2(i), as constituting the source to which the said method applies.

(2) Where any payment of emoluments made to a payee is to be considered for deduction purposes under the FSS Main Tax Deduction Method referred to in sub-rule (1), the payer shall compute the amount of tax deduction therefrom by applying either -

- (a) the Main Cumulative Tax Deduction Formula; or
- (b) the Main Tax Deduction Tables,

in the manner set out in Part I and Part II of Schedule B, respectively, and in accordance with sub-rule (3).

(3) Notwithstanding the other provisions of this rule, where the Director of Social Security effects payment of a pension payable under the Social Security Act to a payee, who is also the recipient of one or more pensions from any other source, such Director shall, subject to appropriate information being brought to his notice by the Commissioner, take into account, for the purpose of tax deduction, the aggregate amount of the pensions receivable by such payee and compute the relative amount of the tax to be deducted in the manner directed by the Commissioner.

Cap. 138.

(4) Unless the Commissioner otherwise directs, payers paying emoluments which fall to be considered under the FSS Main Tax Deduction Method shall, for the purposes of sub-rule (2), compute the amount of tax deduction by applying the Main Cumulative Tax Deduction Formula, so however that payers paying emoluments to less than ten full-time payees may, at any time, on their own account, opt to make use of the Main Tax Deduction Tables:

Provided that no payer may concurrently apply both methods of computation referred to in sub-rule (2).

(5) For the purposes of this rule:

"full-time payee" means any individual whose emoluments are subject to tax deduction under the FSS Main Tax Deduction Method.

**7A.** (1) When a payer pays emoluments that represent qualifying overtime income he shall deduct from them tax at the rate of fifteen cents (€0.15) of every one euro (€1).

Application of the  
FSS Overtime Tax  
Deduction Method.  
Added by:  
L.N. 246 of 2020.

(2) Saving the other provisions of this rule -

- (a) qualifying overtime income from which tax has been so deducted shall not form part of the payee's chargeable income and shall not be declared by that individual in any return filed in accordance with article 10 of the Act;
- (b) the tax deducted in accordance with this rule shall be final and shall not be available as a credit or set off against the tax liability of any person or as a refund.

(3) A payee may, at any time, give instructions to the payer not to apply the FSS Overtime Tax Deduction Method to his overtime income and may, at any time, revoke such instructions. A notice for the purpose of this sub-rule shall be given in writing on such form as may be approved by the Commissioner.

(4) Instructions given to a payer in accordance with this rule shall have effect as from the date when the notice giving such instructions is delivered to the payer and shall cease to have effect as from the date on which the notice of revocation is delivered to the payer.

(5) Any income derived for overtime that a payee performs while instructions given as aforesaid have effect shall not be treated as qualifying overtime income and the provisions these rules shall apply in respect of such income without reference to sub-rules (1) and (2) and without reference to article 90B of the Income Tax Act and to the Tax on Overtime Rules.

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S.L. 123. 200.

(6) A payee may, if he so elects, declare qualifying employment income from which tax has been deducted in accordance with sub-rule (1) in a return filed in accordance with article 10 of the Act together with his other income for the year of assessment in question, and in that case that income shall be treated as part of the payee's chargeable income and subject to tax at the rates applicable to that payee in accordance with article 56 of the Income Tax Act without reference to article 90B of that Act. Any tax deducted from the qualifying overtime income in such a case shall be available for set-off in accordance with rule 26.

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(7) When an individual to whom article 12A of the Act applies derives qualifying overtime income, and it results to the Commissioner that an election mentioned in sub-rule (6) produces a benefit to that individual, sub-rule (6) shall apply as if that individual has made that election and declared that qualifying overtime income in a return filed in accordance with article 10 of the Act.

Application of the  
FSS Part-Time Tax  
Deduction Method.

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S.L. 123.39

**8.** (1) Tax deduction under the FSS Part-Time Tax Deduction Method referred to under rule 6(1)(b) shall apply in respect of emoluments payable to a payee in respect of part-time work which qualifies under the provisions of article 90A of the Income Tax Act and under the Part-time Work Rules, and shall operate in accordance with the provisions therein contained:

Provided that where the payee has reason to believe that his total income for the relevant year is not expected to exceed the sum over which he would be liable to tax, he may, at any time, direct the payer, on the Payee Status Declaration form, to have such emoluments paid to him without tax deduction as provided in article 90A(3) of the said Act.

(2) Where the payee who has availed himself of the option under the proviso to sub-rule (1), has reason to believe that his total income has reached a sum as would render him liable to tax he shall, in accordance with the provisions of article 90A(5) of the Income Tax Act, either:

- (a) direct the payer, on the Payee Status Declaration form, to make such deductions from his income deriving from part-time work for the relevant year so as to cover the relative tax due by the 31st December of that year; or
- (b) pay such tax due to the Commissioner by not later than the 31st December of that year.

(3) Where, for the purposes of this rule, the payee fails to direct the payer on the Payee Status Declaration form, the provisions of rule 3(2) shall apply.

Application of the  
FSS Other  
Emoluments Tax  
Deduction Method.  
*Amended by:*  
*L.N. 297 of 2001.*

**9.** (1) Tax deduction under the FSS Other Emoluments Tax Deduction Method referred to under rule 6(1)(c) shall apply in respect of:

- (a) any remuneration referred to under rule 2(iii); and
- (b) any emoluments considered by the payee as constituting his other emolument income provided that such method shall only be availed of where the tax deduction provisions of rule 7 or of rule 8 do not apply, or where the Commissioner has so directed in accordance with rule 6(2).

(2) Save as provided under rule 3(2), emoluments to which the FSS Other Emoluments Tax Deduction Method applies shall be subject to tax deduction at a standard rate equivalent to twenty per cent of the said emoluments:

Provided that all payees may, at any time, direct their payer on the prescribed form to deduct tax at a higher rate.

(3) Notwithstanding the provisions of sub-rule (2), pensioners and students receiving full-time instruction at any university, college or other educational establishment or serving an apprenticeship with a view to qualifying in a trade or profession, in receipt of emoluments to which the tax deduction method referred to in this rule applies may, at any time, direct their payer as

aforesaid on the prescribed form not to deduct tax or to deduct tax from such emoluments at a lower rate than the standard rate laid down under the said sub-rule:

Provided that payees, other than pensioners and students, may direct their payer to deduct tax from such emoluments at a lower rate than the said standard rate only after written approval has been obtained from the Commissioner.

**10.** Further to the deductions which a payer shall be required to make under the FSS Tax Deduction Methods referred to under rule 6(1), the Commissioner may, whenever he thinks fit, determine and direct the deduction of an amount which should be made periodically, for the duration of a stated period of time, from any emoluments paid by a payer to cover any outstanding tax due by a payee. Notice of this requirement shall be given by the Commissioner in writing.

Deduction of tax in respect of arrears.

**11.** (1) Where deductions of tax fall to be made from any emoluments payable to a payee in accordance with rules 7, 8 or 9, the amount so deducted shall not, without the consent of the payee, exceed fifty per cent of that part of the emoluments payable to him that is payable in cash on any occasion unless article 71 of the Income Tax Act is applicable or where article 46 of the Act has been applied.

Maximum amount of tax deduction.  
Amended by:  
L.N. 297 of 2001.

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(2) Without prejudice to the provisions of sub-rule (1) where, due to the operation of rule 10, the aggregate amount of tax deductions which falls to be made exceeds fifty per cent of that part of the gross emoluments payable to a payee that is payable in cash for any period, the payer shall reduce the amount of the tax otherwise deductible under rule 10 by an amount equivalent to such excess.

**12.** The provisions contained in rule 6 shall likewise apply:

Termination of contract and deceased payees.

- (a) where emoluments, other than pensions, are paid to a payee after the termination of the relative contract under which such emoluments are due;
- (b) in the event of any emoluments accruing to an individual being payable at any time after his death to his heirs or his legal representative, as if the deceased individual were still alive and payment was being made to him, notwithstanding any obligation laid upon the payer under any other law.

**13.** (1) Where the payee has reason to believe that the deductions made by the payer from his emoluments have not been effected in accordance with these rules, he may in writing bring the matter to the notice of the Commissioner who shall as soon as may be, determine the question raised, inform the payee of his decision and, where necessary, direct action to be taken accordingly:

Power of the Commissioner to determine questions.

Provided that nothing in this rule contained shall impair the payee's rights under Parts V and VI of the Act following service of the notice of assessment upon him in terms of article 33(1) of the said Act.

(2) Any matter brought to the notice of the Commissioner in accordance with sub-rule (1) shall not enable the payer to change the rate of tax deduction or the amount of tax deductible, before he is so directed in writing by the Commissioner.

(3) Questions regarding the applicability or otherwise of these rules in respect of any class of income shall be determined by the Commissioner.

The Commissioner may direct the payer not to make payer further deductions.

**14.** (1) Where it appears to the Commissioner that the provisions of these rules have been misapplied or abused by any person he may, with immediate effect, direct the payer not to make any further deductions until otherwise directed by him in writing.

(2) Any action taken by the Commissioner in accordance with sub-rule (1) shall in no way prevent the Commissioner from imposing any additional tax prescribed under these rules or from commencing proceedings for any offence against the Income Tax Acts.

*Remittance to the Commissioner of deductions made by payers*

Monthly remittance of deductions and payment advice.  
Amended by:  
L.N. 148 of 2018.

**15.** (1) Every payer shall, by the last working day of the month following that during which he has made payments of emoluments, remit to the Commissioner the total amount of tax deducted or which should have been deducted therefrom in accordance with these rules.

(2) The remittance due to be made to the Commissioner under sub-rule (1) shall be forwarded by the payer together with the information required to be given on the form referred to in rule 20 which shall be completed and signed by the payer:

Provided that, when so directed by the Commissioner, the payer shall make the said remittance by means of an electronic payment.

(3) If the remittance required by sub-rule (1) is not received by the Commissioner by the due date, or if the amount received is less than that which should have been remitted, the Commissioner shall determine to the best of his judgement the total amount of the deduction of tax which should have been remitted by the payer and serve a default notice upon him in accordance with rule 24 requiring him to pay, in addition to any additional tax imposed thereby, the amount or the difference, as the case may be, within the time to be limited by such notice.

Recovery by payers of amounts not deducted but paid.

**16.** Where a payer fails to deduct tax in accordance with the provisions of these rules from any emoluments and he subsequently pays to the Commissioner the amount which should have been so deducted, he may recover that amount, but only that amount, in a manner approved by the Commissioner, from the payee from whose emoluments it should have been deducted.

Tax over-deducted and remitted by payers.

**17.** Where the payer has deducted tax at a rate or by an amount higher than that applicable under these rules and in consequence excess by tax has been deducted and also remitted to the Commissioner, and such over-deduction and over-remittance

becomes known to the payer, he shall make immediately a payment to the payee out of his own funds of an amount corresponding to such excess:

Provided that where the circumstances of the case warrant an adjustment, and repayment to the payee has been made to the satisfaction of the Commissioner, the payer shall, on the occasion of the next remittance to the Commissioner, be entitled to set off and recoup, from the total amount of tax to be remitted to the Commissioner, an amount corresponding to that so repaid to the payee or to claim a refund of the said amount from the Commissioner.

*Records to be kept and information to be forwarded by payers*

**18.** (1) Every payer shall at all times maintain in respect of each payee an up-to-date record, showing the following details and indicating separately the monthly and cumulative totals, as applicable, relating to emoluments to which any of the three tax deduction methods referred to under rule 6(1) applies:

Payers to keep records.  
Amended by:  
L.N. 297 of 2001;  
L.N. 426 of 2012.

- (a) full name and address;
- (b) legally valid identification document or income tax registration number;
- (c) date of payment;
- (d) the gross amount paid, distinguishing between the value of fringe benefits and other emoluments, and the relative tax deduction made;
- (e) the tax, if any, deducted in respect of the payee's outstanding tax liability, as directed by the Commissioner under rule 10; and
- (f) other details or information which the Commissioner may require.

(2) The record to be maintained in accordance with the provisions of sub-rule (1) shall be retained and preserved as laid down in article 23(12) of the Act.

**19.** On every occasion that a payer pays emoluments he shall furnish the payee in receipt of such emoluments with a statement showing separately:

Payers to furnish information to payees.  
Amended by:  
L.N. 297 of 2001.

- (a) the gross amount for each category of emoluments, distinguishing between the value of fringe benefits and other emoluments;
- (b) the corresponding amount of tax, if any, deducted therefrom in accordance with rule 6;
- (c) the amount of tax deducted, if any, in respect of the payee's outstanding tax liability as directed by the Commissioner under rule 10;
- (d) any other details or information which the Commissioner may require.

Payers to submit  
monthly payment  
advice.

*Amended by:*  
*L.N. 297 of 2001;*  
*L.N. 246 of 2020.*

**20.** Every payer shall prepare and forward, on a form supplied or approved by the Commissioner, a monthly payment advice (including a nil advice) for the purposes of rule 15(2) which, apart from the details relating to the payer's identity and the name and place of business, shall contain the following information:

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- (a) the number of payees to whom emoluments have been paid during the previous month showing separately the number of payees receiving emoluments referred to under paragraphs (b) and (c);
- (b) the gross amount of emoluments paid to the payees in respect of part-time employment qualifying under article 90A of the Income Tax Act;
- (bb) the gross amount of emoluments paid to the payees that represents qualifying overtime income;
- (c) the gross amount paid to the payees in respect of emoluments arising from any other source, distinguishing between the value of fringe benefits and other emoluments and showing sub-totals for different categories of fringe benefits;
- (d) the total amount of tax, if any, deducted in respect of the emoluments referred to under paragraph (b);
- (dd) the total amount of tax deducted in respect of the income referred to under paragraph (bb);
- (e) the total amount of tax, if any, deducted in respect of the emoluments referred to under paragraph (c); and
- (f) the total amount of tax, if any, deducted in respect of the payees' outstanding tax liability as directed by the Commissioner under rule 10.

Payers to forward  
statement of  
earnings.

*Amended by:*  
*L.N. 246 of 2020.*

**21.** (1) Every payer shall, in respect of each year, prepare and forward, for the purposes of and in the manner set out in sub-rule (2) and on a form supplied or approved by the Commissioner, a complete and correct Payee Statement of Earnings in quadruplicate which shall be utilized as follows:

- (a) the original statement referring to each payee shall be forwarded to the Commissioner together with the Payer's Annual Reconciliation Statement required to be submitted in accordance with rule 22;
- (b) the duplicate and triplicate copies relating to the year 1998 shall be given to the payee by the 31st January of the following year (one copy to be retained by the payee and the other copy to be forwarded by the said payee to the Commissioner together with the return required to be filed under the provisions of article 10 or 11 of the Act) and similarly for each subsequent year:

Provided that where the contract under which the emoluments are paid is terminated prior to the 31st day of December of any year, such copies shall, subject to the provisions of rule 28, be furnished to the payee or,

in the event of his decease, to his heirs or legal representative, within seven days from the date of the said termination;

- (c) the quadruplicate copy shall be retained by the payer for his own records.

(2) The statement of earnings referred to in sub-rule (1) shall contain the personal particulars concerning the payee's identity and other information required for income tax purposes and shall show, as applicable, separate amounts in respect of:

- (a) the gross amount of the emoluments paid to the payee in respect of part-time employment qualifying under article 90A of the Income Tax Act;
- (aa) the gross amount of emoluments paid to the payee that represents qualifying overtime income and the total number of hours of overtime in respect of which that income was paid;
- (b) the gross amount paid to the payee in respect of emoluments arising from any other source;
- (c) the tax, if any, deducted in respect of the emoluments referred to under paragraph (a);
- (cc) the tax deducted in respect of the income referred to under paragraph (aa);
- (d) the tax, if any, deducted in respect of the emoluments referred to under paragraph (b); and
- (e) the tax, if any, deducted in respect of the payee's outstanding tax liability, as directed by the Commissioner under rule 10.

Cap. 123.

(3) Where a payee has not been provided by his payer with a Payee Statement of Earnings in accordance with sub-rules (1) and (2), he may bring the matter to the notice of the Commissioner who may take remedial action accordingly: however, such omission on the part of the payer shall not release the payee from his obligation to forward the return required to be filed under the provisions of article 10 or 11 of the Act.

**22.** (1) Every payer shall, by the 15th February of every year, submit to the Commissioner a complete and correct Payer's Annual Reconciliation Statement relating respectively to the preceding year, together with the Payee Statement of Earnings required to be forwarded in respect of each payee in accordance with rule 21(1)(a):

Payers to submit annual reconciliation statement.  
Amended by:  
L.N. 297 of 2001.

Provided that where a person ceases to carry out his function as a payer he shall, subject to the provisions of rule 28, submit such statement by the last working day of the month following that during which he has last made payments of emoluments.

(2) Such annual reconciliation statement shall be submitted on a form supplied or approved by the Commissioner and, apart from the details relating to the payer's identity and to the name and place of business, shall contain the following information:

Cap. 123.

- (a) the number of payee statements of earnings issued by the payer in respect of the previous year;
- (b) the gross amount of emoluments paid to the payees in respect of part-time employment qualifying under article 90A of the Income Tax Act;
- (bb) the gross amount of emoluments paid to the payees that represents qualifying overtime income;
- (c) the gross amount paid to the payees in respect of emoluments arising from any other source;
- (d) the total amount of tax, if any, deducted in respect of the emoluments referred to under paragraph (b);
- (dd) the total amount of tax deducted in respect of income referred to under paragraph (bb);
- (e) the total amount of tax, if any, deducted in respect of emoluments referred to under paragraph (c); and
- (f) the total amount of tax, if any, deducted in respect of the payees' outstanding tax liability as directed by the Commissioner under rule 10.

Submission of  
returns or  
statements.  
*Amended by:*  
*L.N. 128 of 1999.*

**23.** (1) The Commissioner may, at any time, request further returns or statements for the purposes of these rules in relation to any specific period or periods and may, furthermore, direct the payer to provide electronically, in a format approved by the Commissioner, any information required to be forwarded under these rules in addition to or in substitution for the requirement to submit such information on the appropriate form or other statement in accordance with the provisions of these rules:

Provided that where such data is required to be furnished electronically in substitution for its submission on a form or other statement, as aforesaid, the payer shall authenticate such data in a manner as the Commissioner may deem fit.

(2) The Commissioner may exempt any person or class of persons from complying with any of the provisions of these rules regarding the submission of returns or statements. Any such exemption may, at any time, be revoked by the Commissioner.

#### *Imposition of FSS Additional Tax and Contestation Procedure*

Imposition of FSS  
additional tax and  
payer's right to  
contest.

**24.** (1) Where a payer is in default regarding any of the provisions of these rules as indicated in Schedule C the Commissioner may, without prejudice to any other action which he is empowered to take under the provisions of the Income Tax Acts, impose upon such payer the respective FSS additional tax prescribed in the said Schedule, advise the payer by means of a default notice regarding the amount of such additional tax and the reason for its imposition and require him or his representative to rectify the default and pay the said tax within ten days from the date such notice is served upon him in accordance with sub-rule (2).

(2) The notice referred to in sub-rule (1) may be served on a payer either personally or by being sent by registered post to his

usual place of abode or business informing him of his rights under the provisions of sub-rule (3).

(3) If any payer feels aggrieved by a default notice served upon him under sub-rule (1), he may apply to the Commissioner by a letter of contestation within ten days from the date the default notice is served upon him by the Commissioner in accordance with sub-rule (2).

(4) Where the Commissioner refuses the contestation submitted by the payer against a default notice or where the payer has failed to contest such notice as provided in sub-rule (3), the Commissioner shall inform the payer accordingly and serve him with a demand notice advising him that unless the latter notice is contested in a court of law within fifteen days from its date of service it shall constitute an executive title in terms of article 40(1)(b) of the Act.

(5) Where the Commissioner is satisfied that the default in respect of which FSS additional tax has been imposed under sub-rule (1) was not due to any fault or neglect on the part of the payer, he shall remit the whole of the said additional tax and, in any other case, may remit such part or all of the said tax as he may think fit and, in every case he shall inform the payer accordingly.

(6) The payment by a payer of any amount of FSS additional tax imposed under sub-rule (1) shall in no way exonerate such payer from paying any outstanding amount due to the Commissioner or from submitting any documentation, in accordance with the provisions of these rules.

(7) Where, notwithstanding any action taken by the Commissioner under this rule, the FSS additional tax remains outstanding or the default in respect of which such additional tax has been imposed continues to subsist, as the case may be, the Commissioner may serve further default notices in accordance with this rule on the said payer imposing with each successive notice double the amount of the said additional tax otherwise applicable in accordance with Schedule C subject to the maximum amount provided for under article 23(5) of the Act in respect of each specific default:

Provided that each such further notice shall supersede the previous notice served on the payer for the same default but any payment made in respect of that previous notice shall be taken into account accordingly.

#### *Collection, Set-Off and Refunds*

**25.** (1) Any amount of tax deducted or which should have been deducted by a payer under these rules during any month shall be a debt due to Government by the last working day of the month following that during which the deduction was or should have been made and shall be recoverable as such together with interest, which shall be charged as provided in article 44(2A) of the Act;

(2) Without prejudice to any other power vested in him, the Commissioner may sue any payer in a court of competent jurisdiction with cost of suit for the recovery of any tax deducted or

Recovery by  
Commissioner of  
tax deductible by  
payers.  
*Amended:*  
*L.N. 148 of 2018.*

which should have been deducted by a payer under these rules and not remitted to the Commissioner within the prescribed period, together with interest.

Deductions of tax to be set off against payee's liabilities.  
*Amended by:*  
*L.N. 246 of 2020.*

**26.** Any tax deduction made in accordance with rule 6 and remitted to the Commissioner shall, where the relative income has been declared for tax purposes, be set off for the purpose of collection against the tax charged in respect of the year of assessment immediately following that during which the deduction was made:

Provided that where the deductions to be set off as aforesaid exceed the tax charged for the said year of assessment, as reduced by any other payment made in its respect, such excess shall be set off against any outstanding liability for any other year of assessment, and any remaining excess shall be refunded:

Provided further that tax deducted under the FSS Overtime Tax Deduction Method shall only be available for set-off in the circumstances mentioned in rule 7A(6) and (7).

Claim for refund of tax overdeducted.

**27. (1)** A payee shall be entitled to claim a refund of tax deducted by payers from his emoluments and paid to the Commissioner under these rules in excess of the amount with which he is properly chargeable.

(2) Subject to rule 26, claims for refund under this rule shall be governed by article 48 of the Act.

#### *Miscellaneous*

Deceased payer.

**28.** If any payer dies, anything which he would have been liable to do under these rules shall be done by his heirs, legal representatives or successors, or, in the case of a payer who paid emoluments on behalf of another person, by the person succeeding him, or, if no person succeeds him, by the person on whose behalf he paid the emoluments.

Joint responsibility.

**29.** Where two or more persons are concurrently to be considered to be the payer in relation to any payee for the purposes of these rules, the obligations, duties and liabilities imposed on payers by these rules shall be deemed to have been imposed on them jointly and severally.

Principal officers personally responsible.

**30.** The manager, other principal officer or liquidator of any body of persons shall be personally answerable for all matters required to be done under these rules by or on behalf of the body of persons.

Power of the Commissioner inspect records.

**31.** Every payer, when called upon to do so by the Commissioner or by any person authorised by him in writing, shall produce for inspection any document or record which he is required to maintain for the purposes of these rules and, where necessary, provide copies of such document or record.

Payment on behalf of another person.

**32.** Where a payer pays emoluments on behalf of another person the latter shall provide the payer with all the information necessary to enable the payer to comply in every way with the

provisions of the Act and of these rules.

**33.** (1) Where any amount is paid by the payer to or for the benefit of a payee in respect of any tax which may be due by the latter, the gross emoluments from which tax is to be deducted in accordance with these rules shall be deemed to be equivalent to the aggregate of the net sum received by the payee and the amount of tax so paid by the payer.

Tax free  
emoluments.

(2) The provisions of this rule shall also apply in cases where the payer remits tax to the Commissioner which should have been deducted from emoluments paid by him but which has not been deducted, and which is not subsequently recovered by the payer from the payee.

**34.** Where any payment of emoluments to a payee represents and includes amounts payable on the termination of a contract giving rise to the payment of emoluments, the amount so payable shall be subject to tax deduction in accordance with rule 6 and/or rule 10, and the provisions of rule 11 shall not apply.

Terminal  
payments.

**35.** Every payer is hereby indemnified against any person whatsoever for all deductions and payments made by him in pursuance and by virtue of these rules.

Indemnification of  
payers.

**36.** Saving arrangements such as are provided for in rule 33, any arrangement whereby a payer undertakes not to deduct tax as required by these rules from any part or all of the emoluments paid to a payee shall be null and void.

Certain  
arrangements to be  
null and void.

**37.** A sufficient number of forms referred to in these rules shall be made available free of charge by the Commissioner to every payer on his request. No return, statement, certificate or other information required to be submitted by these rules shall be deemed to have been submitted unless it is made on a form supplied or approved by the Commissioner.

Form referred to in  
these rules.

**38.** For the purpose of any statement required to be furnished to the payee and any form required to be forwarded to the Commissioner, and for the purpose of calculating any tax that is required to be deducted from emoluments, the emoluments payable to a payee for the month of October, 2001 shall be deemed to include the total value of fringe benefits provided to him during 2001 up to the end of that month to the extent that such value has not been included in, and tax with respect thereto has not been deducted from, emoluments paid in any previous month.

Transitory  
provision relating  
to fringe benefits  
provided between  
January and  
October 2001.  
*Added by:  
L.N. 297 of 2001.*



SCHEDULE A  
(Rule 3)

*Substituted by:  
L.N. 297 of 2001;  
L.N. 344 of 2007;  
L.N. 323 of 2012;  
L.N. 260 of 2014;  
L.N. 66 of 2022.*

*Repealed by Legal Notice 176 of 2026.*

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Amended by:  
L.N. 297 of 2001;  
L.N. 323 of 2012.

SCHEDULE B  
(Rule 6)

FSS MAIN TAX DEDUCTION METHOD

PART I

FSS MAIN CUMULATIVE TAX DEDUCTION FORMULA

(RULE 7(2)(a))

(The FSS Main Cumulative Tax Deduction Formula must be applied by all payers having ten or more full-time payees on their payroll.)

The appropriate tax deduction to be made under the FSS Main Cumulative Tax Deduction Formula from emoluments paid to a payee at any pay period is determined by computing, in respect of each payment, the following four steps:

STEP 1- Projected Annual Emoluments (A)

The amount of Total 'Main' Emoluments for the calendar year up to and including the Current Pay Period (E) is divided by the Current Pay Period Number (C) and multiplied by the Number of Pay Periods in the Year (N).

$$A = (E/C) N$$

$$\begin{array}{l} \text{Projected} \\ \text{Annual} \\ \text{Emoluments} \end{array} = \frac{\text{Total 'Main' Emoluments up to} \\ \text{and including Current Pay Period}}{\text{Current Pay Period Number}} \text{ multiplied by } \begin{array}{l} \text{Number of Pay} \\ \text{Periods in the Year} \end{array}$$

STEP 2 - Projected Annual Tax Due (P)

The amount of the Projected Annual Tax Due (P) by the payee is computed on the basis of the Projected Annual Emoluments arrived at in Step 1. The tax rates set out in article 56(1)(a) or (b) of the Income Tax Act are applied according to the tax status of the payee indicated in the Payee Status Declaration Form.

STEP 3 - Total Tax Due up to and including the Current Pay Period (D)

The amount of projected Annual Tax Due (P) calculated in Step 2 is divided by the Number of Pay Periods in the Year (N) and multiplied by the Current Pay Period Number (C).

$$D = (P/N) C$$

$$\begin{array}{l} \text{Total Tax Due} \\ \text{up to and} \\ \text{including the} \\ \text{Current Pay} \\ \text{Period} \end{array} = \frac{\text{Projected Annual Tax Due}}{\text{Number of Pay} \\ \text{Periods in the Year}} \text{ multiplied by } \text{Current Pay Period Number}$$

STEP 4 - Tax Liability deductible for the Current Pay Period (L)

The amount of Total Tax Due up to and including the Current Pay Period (D) calculated in Step 3 is reduced by the amount of Total Tax Deducted up to the end of the previous Pay Period (X).

$$L = D - X$$

*Note: If the amount of Tax Liability deductible for the Current Pay Period (L) in*

*the above calculation results in a negative figure no tax deduction should be made for this period. In any other case, the amount of tax deduction shall not exceed fifty per cent of that part of the emoluments for the period that are payable in cash.*

## PART II

### FSS MAIN TAX DEDUCTION TABLES

#### (Rule 7 (2)(b))

(The FSS Main Tax Deduction Tables may be applied only by payers having LESS than ten full-time payees on their payroll and provided such payers do not concurrently apply the FSS Main Cumulative Tax Deduction Formula in respect of any pay period during the year.)

Tax deduction under the FSS Main Tax Deduction Tables works out as follows:

#### 1. Periodical Calculation

The amount of tax to be deducted from 'Main' emoluments payable to a payee for each pay period is arrived at by applying the appropriate tax table in the Main Tax Deduction Tables.

The payer should match the amount of 'Main' emoluments payable for the pay period with the corresponding tax deduction amount indicated in the relevant Tax Deduction Table after having taken into account:

- (i) the Tax Status of the payee as indicated in the Payee Status Declaration form (FS4); and
- (ii) the duration of the pay period (i.e. "Weekly", "Fortnightly", "Four-weekly" or "Monthly").

#### 2. Year-End Adjustment

In addition to the periodical calculation set out under item 1 above, a Year-End adjustment is normally required to be made in the final pay period of the year. This adjustment can be performed only where the complete information for its computation is available to the payer. This data is usually obtained from the payer's own records relating to the payee but, where the payee has received "Main" emoluments from previous payers during the same year, such information will be complete only if the payee produces the relative Statements of Earnings (FS3's).

The Year-End Adjustment (i.e. the amount of Tax Liability deductible for the Current Pay Period (L)) is determined by computing the following two steps:

##### STEP 1- Projected Annual Tax Due (P)

The amount of Projected Annual Tax Due (P) by the payee is computed on the basis of the Total 'Main' Emoluments for the calendar year up to and including the Current Pay Period (E). The tax rates set out in article 56(1)(a) or (b) of the Income Tax Act are applied according to the tax status of the payee indicated in the Payee Status Declaration Form.

##### STEP 2 - Tax Liability deductible for the Current Pay Period (L)

The amount of Projected Annual Tax Due (P) computed under Step 1 is reduced by the amount of Total Tax Deducted up to the end of the Previous Pay Period (X).

*Note: If the amount of Tax Liability deductible for the Current Pay Period (L) in*

*the above calculation (i.e. the tax deduction for the last pay period) results in a negative figure no tax deduction should be made for the last pay period of the year. In any other case, the amount of tax deduction shall not exceed fifty per cent of that part of the emoluments for the period that are payable in cash.*

#### FSS MAIN TAX DEDUCTION TABLES

The FSS Main Deduction Tables applicable in accordance with this Part of this Schedule shall be such tables as the Commissioner may, for the purpose of these rules, declare to be applicable to the respective year of assessment in a communication to the payer or a circular to payers or an official publication or the official website of the Maltese Government.

*Amended by:  
L.N. 297 of 2001.  
Substituted by:  
L.N. 425 of 2007.  
Amended by:  
L.N. 323 of 2012;  
L.N. 148 of 2018.*

#### SCHEDULE C (Rule 24)

#### FSS ADDITIONAL TAX

| DEFAULT                                                                                                                                                                                                                                                   | IMPOSITION<br>FSS ADDITIONAL TAX<br>(Subject to a maximum of €1000<br>for each default as per article 23 of<br>the Act)                            | FSS RULE<br>REFERENCE  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1. PAYEE STATUS DECLARATION FORM<br><br>The payer fails to submit to the Commissioner the prescribed Payee Status Declaration form, relating to each of his payees, in the manner and within such period provided under rule 3(3) and (4) of these rules. | €2 for every form not submitted as required<br>OR<br>the amount of €23, whenever the number of such defaults in any one month does not exceed ten. | Rule 3                 |
| 2. PAYER REGISTRATION<br><br>The payer fails to register as an FSS payer as provided under rule 4 and, where applicable, to re-register in accordance with rule 5(6) of these rules.                                                                      | €115 for default in registering or re-registering as a payer, as the case may be.                                                                  | Rule 4 and Rule 5(6)   |
| 3. MONTHLY PAYMENT ADVICE<br><br>The payer fails to forward to the Commissioner a monthly payment advice (including a nil advice) as required and within the time prescribed by rule 15 and in the manner provided under rule 20.                         | €15                                                                                                                                                | Rule 15(2) and Rule 20 |
| 4. PAYER'S ANNUAL RECONCILIATION STATEMENT<br><br>The payer fails to submit to the Commissioner a Payer's Annual Reconciliation Statement together with the original of all Payee Statements of Earnings as required under rule 22.                       | €200                                                                                                                                               | Rule 22                |