TAX & CUSTOMS ADMINISTRATION
MALTA

Manual on the application of Tax on Income from Part-Time Work Article 90A of the Income Tax Act

These manuals contain technical guidance for CFR staff and tax professionals as well as the general public.

The guidance is not comprehensive and does not provide a definitive answer in every case. It is based on the law as it stood when they were published. CFR publishes amended or supplementary guidance if there's a change in the law or in the department's interpretation of it. These manuals are not to be considered as Guidelines of the CFR and therefore are not binding by law.

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SUMMARY

- Who can Qualify: Those in full time employment, pensioners and students, and are registered with Jobsplus as part-time employed or self-employed, and in the case of the latter keeps appropriate records and is registered for VAT purposes, if required

- Tax Rate: From basis year 1/1/2022, the tax rate for both part-time employed and part-time self-employed is 10%

- Thresholds: Part-Time Rules apply only on the first €10,000 in the case of income from employment and €12,000 in the case of income from self-employment

- Declarations: Income earned in excess of the part-time work thresholds must be declared in the tax return with other income

- Submission: is available online using an individual's e-ID and submitting the TA22 form for self-employed individuals and TA23 form for employed individuals where the FSS deductions have not been made

- Deadline for Submission: of the TA22 form is 30th of April of the following year in which the income was earned, whilst all TA23 forms must be submitted by 21st of December of the year following that in which the income from part-time work was derived.

If you wish to read more on how to apply the part-time work rules, please read the following pages which provide a more detailed explanation of the above.

Who can benefit from the part-time work rules?

As per S.L. 123.39 Part-Time Work Rules, only the following individuals resident in Malta during the year immediately preceding the year of assessment may qualify under the part-time rules if they have:

a. Derived other income from full time employment registered as such with Jobsplus established under the Employment and Training Services Act

b. Was in receipt of a pension taxable in Malta

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

An individual must fulfil the above employment conditions for any other work to be considered as qualifying part-time work, whether as an employee or on a self-employment basis.

If a single person has a part-time job but is not employed in another employment on a full-time basis than that person will not qualify for any benefits under the Part-Time Rules and the applicable provisions of the Income Tax Act. Income received will be subject to the applicable progressive rates applicable to that individual, based on their tax status.

A deviation from the above rule outlined in S.L.123.39, Part-Time Work Rules, arises in the case of married individuals submitting joint tax returns. A married individual who only works on a part-time basis may still benefit from the provisions of the Part-Time Rules if their spouse is engaged in full-time employment, is a pensioner or is a student/apprentice. Thus, if an individual is married, even though that person only works part-time, they may still benefit from the part-time rate, as long as their spouse has a full-time employment, is a pensioner or is a student/apprentice. The same benefit does not arise where taxpayers have opted for separate tax returns under the provisions of Article 49A of the Income Tax Act.

No benefit is derived under the Part-Time Work Rules where an individual works with the same employer and receives income from the same person for part-time work from any other employer related to his main employment. Furthermore, in the case of spouses filing a joint return, the benefit is lost where an individual is engaged in employment in related work if 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.

Those seeking to qualify as part-time self-employed falling within the scope of Article 4(1)(a) of the Income Tax Act must ensure that in addition to the above, they also have satisfied the following conditions:

a. Registered with Jobsplus as working on a part-time basis

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 per Article 19 of the Income Tax Management Act

d. Performs such work for a company, organisation, enterprise or entity other than that with which he is employed on full-time basis

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

Those seeking to qualify as part-time employees falling within the scope of Article 4(1)(b) of the Income Tax Act must ensure that they also satisfy the following conditions:

a. Is registered with Jobsplus as working on a part-time basis

b. Performs such work against remuneration with a company, organisation or enterprise other than that with which he is employed on full-time basis.

It is important to note that part-time work cannot exceed more than an average maximum of 30 hours a week. An exception applies where the Wage Regulation Order establishes a lower number of hours then the maximum will be less than 30 hours a week.

Same Employer

To qualify under the part-time work rules, employment on a part-time basis cannot be carried out with the same employer. If the part-time work is carried out with the same employer with whom the taxpayer works on a full-time basis or with another company within the same group of companies, that work will not qualify for the 10% reduced tax rate but will be taxed at the normal progressive rates of tax applicable to that individual based on their total income and their tax status.

Companies controlled a beneficially owned, directly or indirectly, to the extent of more than 50% by the same shareholders shall be considered as the same employer.

The government is not to be considered as the same employer where the entities involved are different from one another. Thus, a government employee will still qualify under the part-time rules if they also work on part-time basis with another government department or entity.

Tax Rate

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) for part-time self-employed individuals or Article 4(1)(b) of the Act for part-time employees. No other income may qualify under the part-time work rules.

From 1st of January 2022, income from part-time work derived by an individual or the individual's spouse from any part-time activities that does not exceed €10,000 in the case of part-time employment income or €12,000 in the case of part-time self-employment income shall be taxed at 10%.

In the case of a married couple, if both spouses qualify for the part-time rules, they are both entitled to pay 10% tax on €10,000 each for employment or €12,000 each in the case of self-employment.

Any income from part-time work earned before 1st of January 2022 is taxable at 15% with income subject to the same thresholds as outlined above.

It is important to note that you may still qualify for the reduced rate of tax of 10% where there are two or more sources of part-time income. Income thresholds continue to apply to the total amount received in any one year. Furthermore, a taxpayer may also receive income from part-time employment and part-time self-employment and still benefit from reduced rate of tax. The conditions outlined in this guideline shall continue to apply.

Taxpayers who qualify under the part-time work rules are not required to make social security contributions on such additional income.

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Part-Time Tax Forms

Taxpayers seeking to benefit from reduced rate of tax on part-time work must declare all income in their respective part-time forms.

1. Part-time employment

Individuals employed on a part-time basis will generally have tax deducted at source under the FSS system. If taxes are deducted at source, individuals who do not receive more than €10,000 in a year, and for which taxes have been correctly deducted by their employer at a rate of 10% on gross income earned need not make any declarations for tax purposes.

Taxpayers who have opted not to have taxes deducted at source by their employer are required to complete the online form TA23. Taxpayers are to ensure that the provide the correct details regarding their employment including the PE number of their employer. Taxpayers may also make a claim for any taxes deducted at source.

2. Part-time self-employment

Individuals working on a part-time self-employed basis must complete the online form TA22. Taxpayers are to provide details of their total turnover and related expenses incurred wholly and exclusively in the production of the income. Taxes of 10% of the net profit earned throughout the year from part-time self-employment must be paid, up to a maximum payment each year of €1,200 (10% of €12,000). The income derived from part-time work need not be declared in the annual income tax return because it is not subject to further tax.

Payment of taxes

Once the above forms have been completed the taxpayer may proceed to affect their tax payment through the Government Payment Gateway. Alternatively, the taxpayer may take note of the Payment Reference Number provided and settle the payment through Internet Banking.

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Tax Return Declaration of Part-Time Income

1. Part-time employment

Part-time employment income up to a maximum of €10,000 which qualifies under the part-time rules and on which tax at 10% has already been paid is not to be included in your tax return unless you need to claim back some of the tax that has already been paid.

When declaring part-time income from employment in a tax return, part-time gross income must be declared in box 1 of the tax return. A claim for any excess tax already deducted through the FSS system from income received must be declared on page 3 of the tax return in box 35. A copy of the FS3 must be attached to the tax return for a valid claim to be made. Any excess tax will be credited against tax due and excess tax paid will be refunded.

To avoid a taxpayer having to make a repeated claim for a tax refund, a taxpayer should immediately notify his employer by filing in an FS4 if for any year his total income, including that from part-time income would not be taxable. Where the taxpayer's circumstances change and as a result they becomes taxable, a new FS4 must be filled-in so that the 10% tax will be withheld.

Where a taxpayer earns more than €10,000 from part-time work, any excess amount must be declared in their tax return. The same applies in the case of income from part-time employment income that does not qualify under the part-time rules. In both cases, gross income received is to be declared in box 1 of the tax return.

2. Part-time self-employed

Part-time net profit of up to a maximum of €12,000, which qualifies under the part-time rules and on which tax at 10% has been paid, is not to be included in an individual's tax return. Any profits in excess of €12,000 or profits from part-time self-employment that do not qualify under the part-time rules are to be declared in the tax return.

The excess of net profit made over €12,000 must be declared in box 2 of the tax return.

Self-employed taxpayers who incur a loss will only be able to carry forward losses if that loss is declared in their tax return. This is to be declared on page 2 of the tax return in box 2. Losses made may be carried forward by an individual indefinitely and must be declared on page 3 of the tax return in box 21 in subsequent years. Losses may be set-off against future profits arising from future part-time income, full time income should the taxpayer earn income on a self-employment on a full-time basis as well as against other income from employment.

Part-time work which cannot benefit from Part-Time Rules

There are limited examples where income from part-time work cannot benefit from the provisions of the part-time work rules, and as a result, cannot benefit from a reduced rate of tax of 10%. These includes:

1. Remuneration paid by Government to holders of an office, including members on boards or tribunals, and Members of Parliament and Local Councils

2. Fees and other payments made to members of the Board of Directors of companies or to members on boards of public corporations.

Special provisions apply in the case of police offers carry out extra-duty. Remuneration paid to police officers for performing extra duty work shall still be considered as income from part-time work. Extra duty shall refer to work that is not part of the police officer's normal duties and is not overtime.

Where the Commissioner for Revenue has reason to believe that an activity is not, in fact, carried on a part-time basis but is the individual's normal activity or merely the performance of over-time, such activity shall be considered as not being on a part-time basis, regardless if tax would have been paid at 10%.

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Employers Obligations

The employment of individuals on a part-time basis gives rise to certain compliance obligations on the part of employers.

All employers must request new employees, or those changing their tax status, to complete an FS4 form. This form provides the taxpayers basic details, including declaration of tax status and option for deduction at source. Taxpayers working on a part-time basis must complete Part C of the form, declaring that they qualify under the part-time rules. Taxpayers wishing to have tax deducted at source must tick box C7 of the form.

A copy of the FS4 must always be kept by the employer as evidence of the authorisation given by the employee to deduct tax at source or otherwise.

The employer is also obliged to pass on any tax withheld every month to the Office of the Commissioner for Revenue together with the tax deducted from the other full-time employees, if any.

The 10% tax withheld has to be shown separately on each form FS3, FS5 and FS7 from other tax deducted from the other full-time employees.

Taxpayers may also request employers to deduct more tax if they realise that it would have been more favourable had their employer started to deduct tax before. Taxpayers may either inform their employer to deduct the tax due by the end of the year or else pay the difference directly to the Commissioner for Revenue using form TA23.

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Deadline for Submissions

Taxes on income from part-time work using both the TA22 and TA23 forms must be paid by no later than the 30th of April of the following year in which the income was earned.

The deadline for the TA23 form is 21st of December of the year following that in which the income from part-time work was derived.

The deadline submission is extended to 30th of June where any person derives income from a qualifying sale as defined in the Sale of Agricultural Produce Rules.

Taxes deducted at source by employers on part-time work must abide by the requirements of the FSS system. Payments are to be made to the Commissioner by no later than 15th of February of the following year in which the employee was engaged.

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