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**INCOME TAX (DEDUCTION OF TAX FROM SALARIES AND PENSIONS)
REGULATIONS 2012**

The Administrator makes these Regulations in exercise of the powers in section 37 of the Income Tax Ordinance 2003(a), section 55 of the Assessment and Collection of Taxes Ordinance 2003(b) and section 10 of the Extraordinary Contribution Ordinance 2012(c).

Citation

1. These Regulations may be cited as the Income Tax (Deduction of Tax from Salaries and Pensions) Regulations 2012.

Commencement

2. These Regulations come into force on the 1 November 2012.

Interpretation

3. (1) In these Regulations—

“ACTO” means the Assessment and Collection of Taxes Ordinance 2003;

“ECO” means the Extraordinary Contribution Ordinance 2012;

“ITO” means the Income Tax Ordinance 2003;

(2) A reference in these Regulations to an employee is a reference to a person receiving a salary (as defined in section 33 of ITO); and “employed”, “employer” and “employment” must be construed accordingly.

(3) For the purpose of these Regulations, a person holding personal or public office is an employee and the person responsible for paying that person is an employer.

Employee must submit annual declaration of allowances, etc

4. An employee must submit to the employer, on first receiving a salary and on or before 1 January of every subsequent tax year during which the employee is employed, a declaration, in the form approved by the Commissioner, of—

- (a) annual allowances claimed under ITO by the employee for the tax year; and
- (b) the employee’s annual income apart from the salary for the tax year.

Employer must deduct income tax from salary

5. (1) An employer must, before paying salary to an employee, deduct an amount of income tax calculated in accordance with the form approved by the Commissioner for the relevant tax year.

(2) If an employee’s salary increases or decreases during the relevant tax year, an employer must vary the amount of income tax deducted each week or month, so that the total amount of income tax deducted in respect of salary earned during the relevant tax year is calculated in accordance with the form referred to in paragraph (1).

(3) If an employer makes a payment (the “earlier payment”) in respect of overtime, bonus or other earnings to an employee whose main salary is paid monthly or weekly at a date earlier in the month or week than the date on which the main salary is paid-

- (a) no deduction is to be made when making the earlier payment; but
- (b) when the main salary is next paid, the deduction must be calculated by reference to the total salary paid during the month or week, as the case may be, including the earlier payment.

(4) An employee who is paid by reference to a period other than a week or a month must be treated for the purposes of these Regulations as being paid monthly; and any deduction of income tax required by this regulation must be made from the last payment of salary in any month and be calculated by reference to the total salary paid during that month.

(5) If an employer pays salary to an employee after the date of the employee’s death, the employer must deduct income tax as if the deceased employee were still in employment at the date of the payment.

(6) In this regulation “relevant tax year” means the tax year during which the salary is earned, notwithstanding that the salary may be paid and tax deducted in a subsequent tax year.

(7) This regulation is subject to regulations 7 and 8.

Employer must pay income tax deducted to Commissioner, etc

6. (1) An employer must, within the period specified in paragraph (2),-

- (a) pay to the Commissioner the income tax deducted during each month; and
- (b) submit to the Commissioner a return of the salary paid and deductions made during each month in the form prescribed by the Commissioner.

(2) The period is 2 months starting with the last day of the month in which the income tax is deducted.

Commissioner may make special arrangements for casual employment. etc

7. (1) In the case of casual employment, and in any other case in which the Commissioner thinks that that deduction of income tax in accordance with regulation 5 is impracticable, the Commissioner may make special arrangements for the collection of income tax in respect of salary and may, in particular, direct that the following provisions of this regulation apply.

(2) As early in the tax year as may be, the Commissioner must make an assessment for that year in an amount equal, to the best of the Commissioner’s judgment, to the employee’s salary for that year.

(3) The Commissioner must serve a notice of assessment on the employee; and sections 20 and 21 of ACTO relating to objections and appeals apply accordingly.

(4) The income tax payable under the assessment must be paid to the Commissioner in no more than 4 equal instalments during the period beginning 21 days after the service of the notice of assessment and ending on the following 31 December; and the Commissioner must prescribe the days on which each instalment is payable.

(5) If the Commissioner is satisfied that the employee’s salary for the period from the beginning of the year to the following 31 March amounted to less than a quarter of the amount of the assessment and that the first instalment of the income tax paid by the employee exceeds the income tax that would have been so payable if the assessment had been made in an amount equal to 4 times that salary, the Commissioner may direct that the instalment next payable is to be reduced by the amount of the excess.

(6) Paragraph (5) applies with all necessary modifications where the Commissioner is satisfied that the employee’s salary for the period from the beginning of the year to the following 30 June or the following 30 September amounted to less than a half or three-quarters respectively of the amount of the assessment.

(7) Subject to ACTO, the Commissioner must, after the end of the tax year, ascertain the amount of the employee’s salary for the year and-

- (a) if that amount is less than the amount assessed, the assessment must be reduced accordingly and any income tax overpaid must be repaid;
- (b) if that amount is greater than the amount assessed, an additional assessment must be made; and paragraphs (3) and (4) apply to the additional assessment.

Commissioner may determine amount of income tax to be deducted in certain cases, etc

8. (1) Where an employee receives salary from more than 1 employer at the same time, the Commissioner must, at the request of the employee, determine the amount of income tax to be deducted from the salary paid by each employer.

(2) Where an employer proposes to pay a bonus or other substantial additional salary, the Commissioner must, at the request of the employer, determine the amount of income tax to be deducted in respect of the bonus or additional salary.

Commissioner may determine amount of income tax to be deducted for dependents who are employees of the Crown

9. (1) Where a dependent, who is an employee of the Crown, has left employment before the end of a tax year, and the Commissioner is satisfied that the dependent intends to leave, or has left, the island of Cyprus without obtaining further employment, the Commissioner may direct that, for the purpose of regulation 5(1),—

- (a) the amount of income tax deducted in the final tax year of employment is to be calculated by reference to the amount of salary earned from 1 January of that tax year until the date the dependent left employment; and
- (b) any amount of income tax deducted which is in excess of the amount calculated in accordance with subparagraph (a) is refunded to the dependent.

(2) In this regulation-

- (a) “the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas; and
- (b) “dependent” has the meaning given in paragraph 1(d) of section 1 of Annex C to the Treaty of Establishment.

Employer must give employee certificate of income tax deducted, etc

10. (1) An employer must, at the end of the tax year, give an employee a certificate in the form approved by the Commissioner showing the total salary paid and the income tax deducted.

(2) An employer must give an employee who leaves the employer’s employment and from whom the employer received a declaration under regulation 4 a certificate in the form approved by the Commissioner.

Employer must produce documents for inspection

11. An employer must, at the request of the Commissioner or an officer authorised by the Commissioner, produce for inspection at the employer’s premises all wages sheets and other documents and records relating to the calculation or payment of employees’ salaries and the deduction of income tax from those salaries.

Modification for extraordinary contribution

12. (1) This regulation applies to the deduction, and payment to the Commissioner, of extraordinary contribution in the tax years of 2012 and 2013.

(2) Where these Regulations require that an employer or employee does something “in accordance with a form prescribed by the Commissioner”, a reference in the form to “special contribution” is to be read as a reference to “extraordinary contribution”.

(3) In a case where extraordinary contribution is payable, an employer must, before paying salary to an employee, deduct an amount of extraordinary contribution calculated in accordance with the ETO.

(4) Regulation 6 applies to the payment of extraordinary contribution to the Commissioner as if the reference to income tax was a reference to extraordinary contribution.

Delegation of functions to the Republic

13. Except for the function specified in regulation 9, the functions conferred on the Commissioner by these Regulations are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(d).

Dated this 23rd day of October 2012.

By the Administrator's Command,

J. S. Wright,

Chief Officer,

Sovereign Base Areas.

(SBA/AG/2/TA/194/2)

Notes

- (a) Ordinance 29/03, amended by Ordinance 19/11.
- (b) Ordinance 30/03.
- (c) Ordinance 7/12.
- (d) Ordinance 17/007.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

1. This explanatory note relates to the Income Tax (Deduction of Tax from Salaries and Pensions) Regulations 2012 (the “Regulations”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Regulations.
2. This note should be read in conjunction with the Regulations. It is not, and is not meant to be a comprehensive description of the Regulations. So when a regulation, or part of a regulation, does not seem to require any explanation or comment, none is given.
3. These Regulations provide the legal framework for the deduction of income tax by employers from salaries and pensions, and the payment of the sums so deducted to the Commissioner (defined as the Fiscal Officer under the Income Tax Ordinance 2003).
4. Regulation 4 provides that before the start of a tax year an employee is to inform the employer of the allowances claimed and of income other than salary. This information is on the form approved by the Commissioner, which is the Republic’s IR59 form.
5. Regulation 5 sets out how an employer is to calculate the amount of tax to be deducted. This is in accordance with the form approved by the Commissioner, which is the IR59 form referred to above. This form contains the rates of tax for each tax year and instructions to employers related to the calculation of tax payable. The amount of tax to be deducted is determined by the year in which salary is earned, even if it is paid in a subsequent tax year.
6. Under regulation 6 tax deducted is to be paid to the Commissioner not later than 2 months after the end of the month which it is deducted. For example, tax deducted at the end of January is to be paid to the Commissioner on or before the last day of March. At the same time as paying the tax, an employee must send a return to the Commissioner of salary paid and deductions made.
7. Regulations 7 and 8 make provision for special cases where it may not be practicable for an employer to follow the instructions on the IR 59. Under regulation 7, the Commissioner has a power to make special arrangements for the deduction and collection of income tax from casual employees, and any other case where the Commissioner considers it is impractical to comply with regulation 5. The Commissioner is required, when requested by an employee, to determine the amount of tax to be deducted when a person has more than 1 employer (regulation 8(1)), and, when requested by an employer, to determine the tax payable on additional salary or a bonus (regulation 8(2)).
8. Regulation 9 makes provisions for the refund of income tax when a dependent (as defined in the Treaty of Establishment) leaves employment before the end of a tax year and has left or intends to leave the island of Cyprus without obtaining further employment.
9. Under regulation 10, an employer must give an employee a certificate of tax deducted at the end of the tax year, and by regulation 11 permit inspection of records etc. by an officer authorised by the Commissioner.
10. Regulation 12 provides for modifications relating to the deduction of extraordinary contribution from salary in the tax years 2012 and 2013.
11. Regulation 13 delegates the functions of the Commissioner to the Republic, except the function in regulation 9.

