



MALTA
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THE FINAL
SETTLEMENT
SYSTEM

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AGENDA

- An introduction to the FSS system
- Accounting for payroll
- The relevant payroll forms
- The payslip
- Compliance obligations
- The responsibilities of directors in respect to company employees



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Introduction

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Imposition of Income Tax

- Origin
- Pay As You Earn (PAYE) – January 1973
- Replaced by the FSS (Final Settlement System) – 1998
- Final Settlement System (FSS) Rules - SL 372.14



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Imposition of Income Tax

- The Final Settlement System (FSS) is a withholding tax system.
- It is not a final W/T – it is a provisional tax payment.
- It is most commonly applied to full time and part time employment and pension income, though technically it can apply to other types of income i.e. Directors Fees.
- Deductions of emoluments by the payer against the income are only allowable if they are properly disclosed in the FS3s and FS7.



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Imposition of Income Tax

- Article 4(1)(b)

“Gains or profits from any employment or office, including the value of any benefit provided by reason of employment or office.”

Fringe benefits have been taxable before the introduction of the fringe benefit rules



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Imposition of Income Tax

- FSS rules – definition of emoluments

Income and fringe benefits chargeable under article 4(1)(b) i.e. includes bonuses, overtime, benefits in kind, director's fees, allowances, national bonus

- Amendment LN 260 of 2014
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
- Example:- Income exempt – Article 12(1)(w) – Income of married person > 40 years



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Income Tax Deduction Rules

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

Correctly reported in the Payee Statement of Earnings and the Payer's Annual Reconciliation Statement and furnished to the Commissioner by not later than 12 months after the relevant time limit.



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FSS

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FSS – The Payer

- Means any person by whom emoluments are paid or deemed to be paid in terms of the provision of article 4(1)(b) of the ITA 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 services of Malta, public corporations and their officials, and other bodies of persons **and their officials**.
- It shall be presumed that there is an employment relationship and that the person or whom the service is provided is the employer if at least five of the following (next slide) are there:



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FSS – The Payer

In terms of LN 44 of 2012, an employment status:

1. Depends on one single person for whom the service is provided for at least 75% of his income over a period of one year;
2. Depends on the person for whom the service is provided to determine what work is to be done and where and how the assigned work is to be carried out;
3. Performs the work using equipment, tools or materials provided by the person for whom the service is provided;
4. Is subject to a working time schedule or minimum work periods established by the person for whom the service is provided;
5. Cannot sub-contract his work to other individuals to substitute himself when carrying out work;
6. Is integrated in the structure of the production process, the work organisation or the company's or other organization's hierarchy;



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FSS – The Payer


7. The person's activity is a core element in the organization and pursuit of the objectives of the person for whom the service is provide
8. Carries out similar tasks to existing employees, or in the case when work is outsourced, he performs tasks similar to those formerly undertaken by employees



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FSS Tax Deductions - Tax deduction Methods

1. FSS Main – Applicable to employee's main source of employment income and all local pensions
2. FSS Part-Time – Applicable to qualifying part-time work under the Part-Time work Rules is the 10% flat rate, unless the payee directs the payer not to withhold tax. 
3. FSS Other Emoluments – Applicable to all emoluments that do not qualify under the other two methods – Director's fees



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FSS Tax Deductions – Exception Rule 6(2)

- ‘...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.
- Example:- employee has substantial deductions



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FSS Tax Deductions – Computation Rounding – Rule 6(3)

In computing the amount of tax

1. Disregard any fraction of a euro being equal or less than fifty cents
2. Round up to one euro any fraction of a euro exceeding fifty cents



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FSS Main Tax Deduction Method

FSS Main – works by averaging the effective rate of tax chargeable on the employee and applying that rate to the weekly/monthly salary. The amount so deducted should be equal to the actual tax chargeable on the individual.

FSS Main:-

- 1.The Main Cumulative Tax Deduction formula; or
- 2.The Main Tax Deduction Tables



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FSS Main Tax Deduction Method

1. Payers paying emoluments to less than 10 full time payees may opt to make use of the Main Tax Deduction Tables or unless the CIR directs otherwise
2. No Payer may concurrently apply both methods
3. Payers cannot change the calculation from the Formula to the Tables or vice versa during the year.



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FSS Main Tax Deduction Method

1. **Step 1:** Calculate Projected Annual Emoluments (A)
2. **Step 2:** Calculate Projected Annual Tax Due (P)
3. **Step 3:** Calculate Total Tax Due up to and including Current Pay Period (D)
4. **Step 4:** Calculate Tax Liability deductible for the Current Pay Period (L)



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FSS Main Tax Deduction Method

Step 1 Calculate Projected Annual Emoluments Total 'Main' Emoluments

$$\begin{array}{rclcl}
 \text{Projected Annual Emoluments} & = & \frac{\text{Total 'Main' Emoluments up to and including Current Pay Period}}{\text{Current Pay Period Number}} & \times & \text{Number of Pay Periods in the Year} \\
 \\
 \text{€35,000} & = & \frac{\text{€ 2,916.66}}{1} & \times & 12
 \end{array}$$



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FSS Main Tax Deduction Method

Step 2: Calculate Projected Annual Tax Due

Tax rates set out in article 56(1)(a) or (b) of the ITA according to the tax status of the payee indicated in the Payee Status Declaration Form – FS4:

1. Married Rates
2. Single Rates
3. Parent Rates



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FSS Main Tax Deduction Method

Step 2: Calculate Projected Annual Tax Due (*e.g. using married rates*)

From	To	Rate	Deduct	Tax
€	€		€	€
0	12,700	0%	0	0
12,701	21,200	15%	1,905	
21,201	28,700	25%	4,025	
28,701	60,000	25%	3,905	4,845
Remainder		35%	9,905	



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FSS Main Tax Deduction Method

Step 3 Calculate Total Tax Due up to and including Current Pay Period

$$\begin{array}{rclcl}
 \text{Total tax due up to and} & & \text{Projected Annual Tax} & & \text{Current Pay Period} \\
 \text{including current pay} & & \text{Due} & & \text{Number} \\
 \text{period} & = & \frac{\text{Number of Pay}}{\text{Periods in the Year}} & \times & \\
 \\
 \text{€404} & = & \frac{\text{€ 4,845}}{12} & \times & 1
 \end{array}$$



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FSS Main Tax Deduction Method

Step 4 Calculate Tax Liability deductible for the Current Pay Period

$$\begin{array}{rclcl}
 \text{Tax liability deductible} & & \text{Total tax due up to and} & & \text{Total tax deducted} \\
 \text{for current pay period} & = & \text{including current pay} & - & \text{up to the end of the} \\
 & & \text{period} & & \text{previous period} \\
 \\
 \text{€404} & = & \text{€404} & - & 0
 \end{array}$$



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FSS Main Tax Deduction Method

Payroll	Jan	Feb	Mar	Apr	May	June
Gross	2,916.67	2,916.67	2,916.67	2,916.67	2,916.67	2,916.67
Statutory Bonuses / Allowances			1,621.16			1,635.10
	2,916.67	2,916.67	4,537.83	2,916.67	2,916.67	4,551.77
NI	175.4	175.4	219.25	175.4	175.4	219.25
Tax	403.75	403.75	809.04	403.75	403.75	812.53
	2,337.52	2,337.52	3,509.54	2,337.52	2,337.52	3,519.99
Current Pay Period (C)	1	2	3	4	5	6
Total Emoluments (E)	2,916.67	5,833.34	10,371.17	13,287.84	16,204.51	20,756.28
Projected annual emolument (A)	35,000.04	35,000.04	41,484.68	39,863.52	38,890.82	41,512.56
Projected Annual Tax Due (P) {married}	4,845.01	4,845.01	6,466.17	6,060.88	5,817.71	6,473.14
Tax Due pay period (D)	403.75	807.5	1,616.54	2,020.29	2,424.04	3,236.57
Tax Liability (L)	403.75	403.75	809.04	403.75	403.75	812.53



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FSS Main Tax Deduction Method

Payroll	Jul	Aug	Sep	Oct	Nov	Dec	Total
Gross	2,916.67	2,916.67	2,916.67	2,916.67	2,916.67	2,916.67	35,000.04
Statutory Bonuses / Allowances			1,621.16			1,635.10	6,512.52
	2,916.67	2,916.67	4,537.83	2,916.67	2,916.67	4,551.77	41,512.56
NI	175.4	219.25	175.4	175.4	219.25	175.4	2,280.20
Tax	403.75	403.75	809.04	403.75	403.75	812.53	6,473.14
	2,337.52	2,293.67	3,553.39	2,337.52	2,293.67	3,563.84	32,759.22
Current Pay Period (C)	7	8	9	10	11	12	
Total Emoluments (E)	23,672.95	26,589.62	31,127.45	34,044.12	36,960.79	41,512.56	
Projected annual emolument (A)	40,582.2	39,884.43	41,503.27	40,852.94	40,320.86	41,512.56	
Projected Annual Tax Due (P) {married}	6,240.55	6,066.11	6,470.82	6,308.24	6,175.22	6,473.14	
Tax Due pay period (D)	3,640.32	4,044.07	4,853.11	5,256.86	5,660.61	6,473.14	
Tax Liability (L)	403.75	403.75	809.04	403.75	403.75	812.53	



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FSS Part-Time

1. Part-time employment
2. Qualifies under the provisions of article 90A & Part-time work rules
3. Employee direct employer through Payee Status Declaration Form – FS4
4. Payee may not want tax deducted – Ex: not expected to be liable to tax
5. Payee may direct employer to deduct tax so as to cover the relevant tax due by the 31 of December or file TA23



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FSS Part-Time

(Rule 8) **SCHEDULE B** **FORMOLA TA23 FORM TA23**

Artiklu 90A(6) tal-Akt dwar it-Taxxa fuq l-Indagħġ
Article 90A(6) of the Income Tax Act

UFFIĊĊJU TAL-KUMMISSARJU TAT-TAXXI
OFFICE OF THE COMMISSIONER FOR REVENUE

Flus ta' taxxa mhallta nicqqa fuq dħul minn impieġ part-time
Payment of tax under-deducted from part-time work

Detalji tal-Empjegat Employee's details	
Nru. tal-Indagħġ tal-Empjegat: Employer's Income Tax Ref. No.	
Isim:	
Isim:	
Indirizz:	
Nru. tal-Indagħġ tal-Empjegat: Employer's Income Tax Ref. No.	(jekk meħtieġi) (if necessary)

Detalji tal-Empjegat Employer's details	
Nru. tal-P.E. ta' min iħallidni: Employer's P.E. No.	
Isim:	
Isim:	
Indirizz:	

Dħul minn dan l-impieġ għas-sena b'valur Employment Income for last year	A1 €
Taxxa dovuta ta' 12% (A1 x 12%) Tax due at 12% (A1 x 12%)	A2 €
Maqqud ta' taxxa oħra minn fuq id-dħul ta' l-impieġ ta' l-impiegat Less: tax already paid on employment income in A1	A3 €
Taxxa dovuta ta' Maqqud A3 minn A2 Tax due: A2 less A3	A4 €

It-taxxa dovuta kif tistidna f' A4 trid tistallas sad-data kif stipulata rikdigi.
The due as resulting in A4 is to be paid by the date as stipulated by law.

Firma: _____ Data: _____
Signature Date



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FSS Other

- FSS Main or FSS Part-time not applicable
- Deduction at the standard rate of 20%
- Payee may at any time direct payer on a prescribed form to deduct tax at a higher rate
- Pensioners and students receiving full time instruction at any university, college or other educational establishment or serving an apprenticeship may at any time direct their payer to deduct tax at a lower rate
- In any other cases payees may direct payer to deduct a lower rate provided written approval has been obtained from the Commissioner
- Director's fees - tax Guideline Director's fees – Non Resident Directors



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FSS Arrears

- Payers may be required to deduct an amount in respect of tax arrears
- Only applicable when the Commissioner has informed the payer and payee of the amount and the period of tax deduction in writing



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Maximum amount of tax deduction

- Amount deducted shall not, without the consent of the payee exceed 50% of that part of the emoluments payable to him in cash
- Exception:
 - Article 71 ITA – Deceased persons
 - Article 46 ITA- where the CIR has reason to believe that the payee may leave Malta before such tax becomes payable
 - Terminal payments



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Mandatory electronic submissions

- Cases of 10 employees or more FS3 forms



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OBLIGATIONS

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Obligations of the Payee

- Completion of Section 1 of the FS4
- Must complete Section 1 of the FS4 and forward in triplicate to the payer within 7 days of the occurrence of any of the following two events:
 - the commencement of a new source of emoluments; or
 - any change in the information given in Part B, C or D of Section 1 other FS4. *exception pension income.*

Change in tax rates:- Single, Married, Parent, Overseas employment, Women returning to work, Highly qualified persons rate

Part – time employment

Other emoluments

Consequences of default (irrespective or reasonable excuse): tax will be deducted at the maximum rate (i.e. 35%). However, no additional tax payable by payee.



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Obligations of the Payee

- Where a payee, who has instructed his employer not to deduct tax at 10%, believes that he will exceed the tax free threshold, he must do one of the following two:
 - direct the payer on the FS4 to make such deductions so as to cover the relative tax by the 31 December; or
 - pay the tax by not later than 30 June. (SL123.39- 21st December of the following year)



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Obligations of the Payer

- Payer must complete Section 2 of the FS4 after receiving it from the payee and forward original copy to CIR by last working day of the month following that in which he receives it from payee. The payer will retain one copy for his records and return the third copy to the payee.
- If payee does not give FS4 to payer, the latter is still obliged to complete it to the best of his knowledge

Consequences of default (unless reasonable excuse): If payer files incomplete/incorrect form or fails to submit form, payer shall be liable to additional tax of €2 for every form or €23 if number of such defaults in any month does not exceed 10.



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Registration as a Private Employer (PE Form)

- A payer must register with the CIR within 15 days from when the emoluments payable by him start to accrue.
- A payer must also report to the CIR any “substantial change” affecting the information submitted by him upon registration.
- Same obligations to a person who has acquired a going concern which engages individuals to whom emoluments are payable

Consequences of default: Payer fails to register as an FSS payer – additional tax €115



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Cancellation:- Private Employer (PE Form)

- A payer must cancel his registration as a payer upon ceasing to carry out his functions as a payer by completing the PE cancellation form.
- However, before submitting the form, the payer must:
 - Provide all his payees with an FS3 form.
 - Pay all outstanding tax deductions to CIR together with FS5 form.
 - Submit FS7 form to CIR.



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Payment of tax

- The payer is obliged to remit the total amount of tax deducted or which should have been deducted to the CIR by the last working day of the month following that in which the payer has made payments of emoluments.
- The remittance should be made together with the signed FS5. The FS5 should be submitted on a monthly basis even where there is no tax to pay.

Failure to submit form: EUR 15



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Mistakes in the payment of tax

Under-deduction of tax

If the payer did not deduct tax but should have deducted tax, he shall still be required to pay the CIR out of his own pocket. However, payer may recover amount from payee only in such manner approved by the CIR.

Over-deduction of tax

The payer must pay back to the payee the amount of the over-deduction as soon as possible.

The payer may set off the overpayment from the next remittance.



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Records to be kept by Payer

Payer must retain the following info in respect of each payee:

- Full name and address
 - Legally valid identification document or income tax registration number
 - Date of payment
 - The gross amount paid (showing fringe benefits separately)*
 - The tax deducted*
 - The tax deducted as specifically instructed by the CIR*
 - Other details as may be required by the CIR
-
- Showing the monthly and cumulative totals separately.

The above information must be retained for a period of 9 years after the completion of the transaction.



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Payer to provide pay-slips

Payer must provide a payslip to the payee (this can be in a hard or soft version) and must show:

1. The gross amount showing fringe benefits separately
2. The “normal” amount of tax deducted
3. The “special” amount of tax deducted as instructed by the CIR
4. Any other details as may be required by the CIR

A “payslip” is required even in the case of directors’ fees!



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End of year obligations

Payer must prepare and submit by the 15 February of the following year:

1. An FS7; and
2. An FS3 in quadruplicate for each payee and distribute them as follows:
 - The original FS3 which must be submitted together with the FS7 to the CIR;
 - The 2nd and 3rd copy to be given to the payee who must submit one to the CIR on submission of the return; and
 - The 4th copy is to be kept by the payee for his own records.

Payers have the option of filing the FSS forms manually or electronically. Payers having 10 or more are required to file the FSS forms electronically.

Failure :- Penalty EUR 200



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CFR Powers vis-à-vis FSS

- Notwithstanding the tax deduction methods, the CIR has the overriding power to instruct the payer in writing to deduct tax using a different method in order to cover the tax due by the payee for the year.
- Furthermore, in addition to the normal deduction method, the CIR has the overriding power to request the payer in writing to deduct further tax to cover any outstanding tax (including that of previous years) due by a payee.
- Payee has reason to believe that deductions has not been effected in accordance with FSS rules he may in writing bring the matter to the notice of the Commissioner.
- Commissioner shall inform the payee of his decision and where necessary direct action to be taken accordingly



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CFR Powers vis-à-vis FSS

Direct Payer not to make deductions

- Where it appears that the provisions of the FSS rules have been misapplied or abused, Commissioner may with immediate effect direct the payer not to make any further deductions until otherwise directed by him in writing.



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CFR Powers vis-à-vis FSS

Submission of further returns & statements

The Commissioner may at any time request further returns or statements for the purpose of the FSS 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 FSS rules



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CFR Powers vis-à-vis FSS

Inspection of records

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



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Principle officers personally responsible

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.



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