

## Other Categories of Employments and

### Emoluments – Special Cases

### Education Tax and Contracts of Personal Services

The question of whether **Education Tax** is to be deducted from payments for this type of service now remains.

The definition of 'employment' under the Education Tax Act,

**First Schedule** is as follows: -

*"Employment in Jamaica under any contract of Service or apprenticeship written or oral and whether express or implied".*

Based on this provision of the Education Tax Act, the contract income of persons rendering personal services on behalf of a company is subjected to Education Tax but the education tax should not be withheld from payments made for services rendered in accordance with Section 5(1)(c)ix of the Income Tax Act. However, the employee (who receives the contract) must make his return of Education Tax and make payment to the Tax Administration Jamaica (TAJ). *(Please note therefore that no matching contribution is due from the **deemed** employer (i.e the person giving the contract).*

### NHT and NIS Contributions

These are to be accounted for by the person rendering the personal services as a self-employed person. No employers' liability is due.

#### 1. **Casual employees:**

**PAYE** applies to casual employees in the same way as it does to regular employees. The cumulative amount should be recorded and the threshold given accordingly. All relevant statutory deduction should be made where applicable.

#### 2. **Holiday workers:**

High school workers, full-time college students and other students in youth service programmes should be given the cumulative tax-free amount (threshold) as at the date of employment, (if it is ascertained such persons were not employed during the year).

This does not apply to students doing evening or part-time work outside the normal holiday times.

#### 3. **Part- time Employees:**

Part-time employees should be taxed at 25% on all payments; these persons should apply to the Commissioner for a refund if the threshold is not reached at the end of a year, and the employee is not employed elsewhere.

#### **FOR MORE INFORMATION**

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# CONTRACTS: INCOME TAX & EDUCATION TAX



# CONTRACTS



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Persons may enter into contracts of varying kinds in order to render services.

These include:

- Contract **of** Service
- Contract **for** Services
- Contract **for** personal services

## CONTRACT OF SERVICE:

Once a Contract of Service is identified, then this means that the contract is one of employment. The amounts paid under this contract are emoluments and therefore all statutory deductions are to be made e.g. Income Tax ; Education Tax; and employees' contributions, NHT, and NIS.

Employers must pay employers' contributions for NHT and NIS and also Education Tax on these emoluments.

**Under this contract arrangement a person (employee) is under an obligation to render personal services to another person (employer) and the:**

- ◆ Individual (employee) is subject to the supervision, direction and control of another person.
- ◆ Individual (employee) holds an integral position within the organization e.g. Accountant /Managing Director.

- ◆ Individual (employee) does not conduct business on his account .
- ◆ Contract is a legally binding exclusive service agreement between the performer and payer.
- ◆ Tools, materials and work place are provided by payer.
- ◆ Individual receives a payment of a fixed & or incentive based salary and reimbursement of the performer's expenses by the payer.
- ◆ Performer receives vacation leave, sick leave and any other staff related benefit.
- ◆ Performer is required to file regular, oral or written status reports with the payer.

## CONTRACT FOR SERVICES:

**This contract represents an independent (business) and the individual is therefore responsible for his/her returns and payments under the self-assessment system: This applies to:**

- ◆ An individual who is not subject to the supervision, direction and control of another person.
- ◆ An individual who does not hold an integral position within the organization.
- ◆ Individual who conducts business on his own account.
- ◆ The performer's right to provide services to more than one person at a time with a separate contract between the performer and each payer.

- ◆ Performer provides his own equipment.
- ◆ Payment of a fixed amount or commission for the complete job (installment & payment on account accepted) rather than periodic payments.
- ◆ Performer assumes his/her own financial risk and has responsibilities for his/her investment and management.

## CONTRACT FOR PERSONAL SERVICES:

**The definition of "Personal Services" includes services of a professional, clerical, technical, administrative or managerial nature".**

- ◆ where personal services are provided by a person (the employee) to another person (the employer) on behalf of a company and the employee is subject to the right of supervision, direction or control by the employer as to the manner in which he renders those services, and
- ◆ the remuneration for the services would not, apart from Section 5(1) (ix) of The Income Tax Act, be treated as emoluments, then the relevant services shall be treated as duties of an office or employment of profit held by the employee, and the income arising therefrom shall be treated as emoluments of that office or employment and the employer shall deduct from the remuneration the income tax payable.