



Interpretations, Rulings & Opinions Committee White Paper
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RE: CONTRACT OF SERVICE

1. Once a Contract of Services is identified then this means employment and amounts paid under this contract are emoluments and therefore all statutory Deductions are to be made e.g. PAYE (tax); Education Tax; both employees' and employers' contributions.

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

1. Individual is subject to the supervision, direction and control of another person.
2. Individual holds an integral position within the organization e.g. Accountant/Managing Director
3. Individual does not conduct business on his account
4. Legally binding exclusive service agreement between the performer and payer
5. Tools, materials and work place are provided by payer
6. Payment of a fixed salary and reimbursement of the performer's expenses by the payer.
7. *Performer receives vacation leave and any other staff related benefit*

CONTRACT FOR SERVICES

2. This contract represents an independent (business) and therefore is responsible for his/her returns and payments under the self-assessment system.

Contract for services where section 5(1)(c)(ix) of the income Tax Act should be applied.

This is a contract as in two (2) above. However there is a difference in [5(1)(c)(ix)] called "The Employer" whether on his own behalf or on behalf of a company and –

1. *Individual is not subject to the supervision, direction and control of another person.*
2. Individual does not hold an integral position within the organization
3. Individual conducts business on his own account.
4. *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.*
5. *Performer provides his own equipment*
6. Payment of a fixed amount or commission for the complete job rather
7. than periodic payments
8. *Performer assumes his/her own financial risk and has responsibilities for his/her investment and management.*



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The definition of “Personal Services” includes services of a professional, clerical, Technical Administrative or Managerial nature”.

Section 5(1)(c)(ix) relates to contract for services with certain classification and only accounts for the withholding of Income Tax and therefore does not apply to his statutory deductions. These other statutory deductions would still be treated under the self-employed system.

For example 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 interpretation Education Tax (Both employees’ and employers’ contributions) should not be withheld under Section 5(1)(c)(ix). However, employee (who receive the contract) must make his return and payment to the Inland Revenue Department. Please note therefore that no contribution due from the employer (Person giving contract)