



**Government
of
Antigua and Barbuda**

***Guide for Employer's
Personal Income Tax***

PIT

Inland Revenue Department • St. Johns, Antigua and Barbuda

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GUIDE FOR EMPLOYERS

INTRODUCTION

This booklet is designed as a guide for employers who are required to withhold and remit income tax from amounts paid to employees under the new Personal Income Tax Act, 2005 and its Regulations which are effective from April 1, 2005.

Please note that this Guide is not a substitute for the Act or its Regulations and in the case of an inadvertent conflict; the Act and Regulations will prevail.

The Personal Income Tax Act establishes a special fund to be known as the Stabilisation Fund into which all moneys collected under the Act shall be paid.

The Stabilisation Fund is to be treated as a special fund established under section 6 of the Finance and Audit Act and the provisions of that Act shall apply to the Fund.

The revenue collected under the PIT Act is to be used by the Government of Antigua and Barbuda for the following purposes:

- a) The development and maintenance of physical infrastructure;
- b) The development and maintenance of economic and social infrastructure, systems and programs;
- c) The procurement of goods and services for the operation of government and public administration;
- d) The maintenance of law and order.

The Minister may, after consultation with the cabinet, transfer any money from the Fund to the Consolidated Fund.

For further information or clarification you may contact the:

Inland Revenue Department

Newgate Street,

St. John's, Antigua.

Tel: 462-4142/3 or 462-0396

Fax: 462-3175

WHO SHOULD BE USING THIS GUIDE?

You should use this guide and file a monthly PAYE Remittance Form (F47) if you are:

- an individual enterprise
- a company; or
- a partnership

and you have employees.

WHAT IS AN EMPLOYER?

An employer exists if you have the right to control and direct the person or people who perform the services or if there is any arrangement, whether formal or informal or any other means, for the establishment of an employment relationship.

TAX IDENTIFICATION NUMBER

Every employer is required to be registered with the Inland Revenue Department and have a Tax Identification Number. This Tax Identification Number must be cited on the relevant forms when remitting money withheld from employees to the Inland Revenue Department and in any communication with the Department.

Most employers will already have been registered with the Inland Revenue Department either in satisfaction of the 2% turnover tax or as a company or partnership. Please be advised that your master file at the IRD has been updated to include an obligation to withhold and remit PIT with respect to your employees if required.

Employers must also receive from each of their employees, from whose emoluments they are going to withhold tax, the employee's Tax Identification Number. The employer is required to record the number on the record of emoluments paid and tax withheld which he has to provide to the employee, copies of which also have to be submitted to the Inland Revenue Department by February 15th of each year.

NOT CURRENTLY REGISTERED?

If you have employees and have never registered with the Inland Revenue Department, contact the IRD to register and obtain a Tax Identification Number and forms on how to remit the amounts withheld from your employees.

PERSONAL ALLOWANCE

In arriving at the chargeable income which will be subject to tax a **resident individual** is entitled to a Personal Allowance. The monthly personal allowance is \$3,000, however, since the Personal Income Tax will only be effective from April 2005 the annual Personal Allowance for the year 2005 is \$27,000.00 but for the year 2006 and thereafter the Personal Allowance will be \$36,000.00.

WITHHOLDING TAX ON ASSESSABLE EMPLOYMENT INCOME

Every employer is required to withhold the appropriate amount of tax from the emoluments of each employee as set out in the Tax Deduction Tables provided by the Inland Revenue Department.

There are however some persons and some types of employment income that the Personal Income Tax Act has specifically exempted.

Exemptions from Personal Income Tax

- (a) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;
- (b) gratuities granted to persons upon expiration of a fixed period contract of service not exceeding 12.5% of total income for the period or such other rate that the Minister may by Order determine;
- (c) capital sums withdrawn by individuals on retirement from any provident society or other fund approved by the Cabinet;
- (d) income arising from a scholarship held by an individual receiving full time instruction at a university, college, school, or other educational establishment; and for the purposes of this paragraph the expression "scholarship" includes any exhibition, bursary or any other similar educational endowment;
- (e) income arising from the business of shipping or air transport carried on by an individual not resident in Antigua and Barbuda provided that the Commissioner is satisfied that an equivalent exemption from income tax is granted by the country in which such individual is resident to individuals resident in Antigua and Barbuda; and for the purposes of this paragraph "business of shipping or air transport" means the business carried on by an owner or charterer of a ship or aircraft.
- (f) interest, capital gains and dividends;
- (g) a benefit, other than the chargeable income to which paragraph (h) applies under the Social Security Act;
- (h) the amount of pension, other similar benefit or other terminal benefit not exceeding \$60,000 per annum paid to an individual;
- (i) income which is, under any agreement to which the Government is a party, exempt from the tax;

(j) tips and service charges received by an individual engaged in the hospitality industry.

It should be noted that an employer who withholds an amount from an employee is deemed to hold the amount separate and apart from the property of the employer in trust for the Commissioner and for payment to the Commissioner in the manner and at the time provided under the Act.

Where at any time such amount is not paid to the Commissioner on time the property of the employer, equal in value to the amount withheld, can be sold and the proceeds paid to the Commissioner to satisfy the employer's liability.

RATES OF TAX

The Personal Income Tax Act has stipulated the rates of tax which will apply to an individual's Chargeable Income in excess of \$36,000 a year. Different bands of income will be subject to tax at the following rates:

For the year **2005** the tax will be calculated as follows:

Assessable Income \$	Personal Allowance \$		Tax Rate	Chargeable Income \$	Tax \$
0 - 27,000	27,000		0%	0	0
27,001 to 36,000	0	For the first \$9,000	10%	9,000	900.00
36,001 to 90,000	0	For the next \$54,000	15%	54,000	8,100.00
90,001 to 135,000	0	For the next \$45,000	20%	45,000	9,000.00
135,001 and over	0	For every \$ \$135,001 and over	25%		9,000 + an amount to be determined.

For the year **2006** and onwards the tax will be calculated as follows:

Assessable Income \$	Personal Allowance \$		Tax Rate	Chargeable Income \$	Tax \$
0 - 36,000	36,000		0%	0	0
36,001 to 48,000	36,000	For the first \$12,000	10%	12,000	1,200.00
48,001 to 120,000	0	For the next \$72,000	15%	72,000	10,800.00
120,001 to 180,000	0	For the next \$60,000	20%	60,000	12,000.00
180,001 and over	0	For every \$180,001 and over	25%		12,000 + an amount to be determined

USE OF TAX DEDUCTION TABLES

In order to assist employers in calculating the correct amount of tax which should be deducted from their employees' emoluments, the Commissioner of Inland Revenue has prepared Tax Deduction Tables for employers which are easy to use.

The Tax Deduction Tables show daily, weekly, fortnightly and monthly pay and the attendant tax that should be withheld.

Example 1. An employer who pays monthly emoluments will calculate and withhold tax as follows;

Monthly emoluments **\$4,000**

Tax to be deducted per month (using the Tax Tables locate the Monthly Pay column for the line showing pay of \$4,000. Locate the column headed Tax deducted which shows \$100. This represents the Monthly tax liability.

Tax to be deducted monthly **\$ 100**

Example 2. An employer who pays fortnightly emoluments will calculate and withhold tax as follows;

Fortnightly emoluments **\$2,000**

Tax to be deducted per fortnight (using the Tax Tables locate the Fortnightly Pay column for the line showing pay of \$2,000. Follow across to the column headed Fortnightly Tax deducted which shows \$69.23. This represents the Fortnightly tax liability.

Tax to be deducted fortnightly **\$69.23**

Example 3, an employer who pays weekly wages will calculate and withhold tax as follows;

Weekly emoluments **\$1,000**

Tax to be deducted per week (using the Tax Tables locate the Weekly Pay column for the line showing pay of \$1,000. Follow across to the column headed Weekly Tax Deducted which shows \$34.62. This represents the Weekly tax liability.

Tax to be deducted weekly **\$ 34.62**

Example 4, an employer who pays daily wages will calculate and withhold tax as follows;

Daily emoluments **\$200**

Tax to be deducted per day (using the Tax Tables locate the Daily Pay column for the line showing pay of \$200. Follow across to the column headed Daily Tax Deducted which shows \$6.92. This represents the Daily tax liability.)

Tax to be deducted daily **\$ 6.92**

INCOME TAX FORMULAS

Monthly Deductions

Monthly exemption is equal to the Annual Exemption divided by 12 months.

Monthly Exemption + \$36000/12 = \$3000

Monthly Pay	Rate	Tax Calculation
\$0 - \$3000		No Tax
\$3001 - \$4000	10%	(Emoluments-3000)*0.10
\$4001 - \$10000	15%	\$100+ ((Emoluments-4000)*0.15)
\$10001 - \$15000	20%	\$1000+ ((Emoluments-10000)*0.20)
\$15001 -	25%	\$2000+ ((Emoluments-15000)*0.25)

Fortnightly Deductions

Fortnightly exemption is equal to the Annual Exemption divided by 26 weeks.

Fortnightly exemption = \$36000/26 = 1384.61

Fortnightly Pay	Rate	Tax Calculation
\$0 - \$1389		No Tax
\$1390 - \$1845	10%	(Emoluments - (1384.61)*0.10)
\$1850 - \$4610	15%	\$46.04 + ((Emoluments - 1846.15) *0.15)
\$4620 - \$5080	20%	\$460.73 + ((Emoluments - 4615.38)*0.20)
\$5090 -	25%	\$556.46 + ((Emoluments - (\$5090)*0.25)

Weekly Deductions

Weekly exemption is equal to the Annual Exemption divided by 52 weeks.

Weekly exemption = $\$36000/52 = \692.30

Weekly Pay	Rate	Tax Calculation
\$0 - \$699		No Tax
\$700 - \$920	10%	(Emoluments - \$692.30)*0.10
\$925 - \$2030	15%	\$22.77 + (Emoluments - (\$923.08)*0.15)
\$2040 - \$3460	20%	\$189.12 + (Emoluments - (\$2307.70)*0.20)
\$3460	25%	\$461.23 + (Emoluments-(\$3461.54)*0.25)

Daily Deductions

Daily exemption is equal to the Annual Exemption divided by 260 days.

Daily exemption = $\$36000/260 = 138.46$

Daily Pay	Rate	Tax Calculation
\$0 - \$139		No Tax
\$140 - \$180	10%	(Emoluments- \$138.46)*0.10
\$185 - \$460	15%	\$4.15 + (Emoluments-(\$184.62)*0.15)
\$465 - \$690	20%	\$45.92 + (Emoluments-(\$161.23)*0.20)
\$695 - \$1155	25%	\$207.98 + (Emoluments-(\$692.31))*0.25)

RESPONSIBILITIES OF THE EMPLOYER

Under the Personal Income Tax Act, 2005 the employer has the following responsibilities:

- 1. To apply to the Inland Revenue for a Tax Identification Number (when he does not already have one).**

Every person who is or becomes an employer is required to register himself with the Commissioner and obtain a Tax Identification Number.

If a person becomes an employer at any time after the commencement of the Act then he is required to register not later than **fifteen days after he becomes an employer**.

To obtain a Tax Identification Number the employer must complete either Form F14 “**Individual Enterprise Registration**” in case of an individual or Form F15 “**Non-Individual Enterprise Registration**” in the case of a corporation or partnership and submit it to the Department.

The Commissioner is required to register every employer who applies for registration and upon such registration, he will assign and issue to the employer registered, a tax identification number.

Previously Registered

An employer who is already registered under section 75A of the Income Tax Act, need not apply for registration and his tax identification number under that Act will be regarded as his tax identification number for the purposes of the Personal Income Tax Act until the

Commissioner notifies him, either personally or in any other manner the Commissioner may consider appropriate, of any change in the tax identification number.

2. To withhold tax from employees' emoluments

Each time the employer makes a payment to an employee the employer must deduct the appropriate amount of tax in accordance with the Tax Deduction Tables supplied by the Inland Revenue Department.

IT SHOULD BE NOTED THAT EMPLOYERS MUST NOT ACCEPT ANY INSTRUCTIONS FROM EMPLOYEES TO REDUCE OR CEASE THE WITHHOLDING OF TAX FROM THEIR INCOME. ONLY THE COMMISSIONER HAS THE AUTHORITY TO REDUCE OR AMEND THE TAX WITHHOLDING OF AN EMPLOYEE IN THE CASE OF A DISPUTE.

3. To remit tax withheld from employees to the Inland Revenue

There is only one format available for employers to file their monthly **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form. This form is a personalised pre-printed form generated by the IRD and is sent to employers at the end of each month.

The employer is required to remit the tax withheld to the Inland Revenue Department on the employee's behalf. The payment must be accompanied by a **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form and submitted not later than 15 days after the last day of each month for which the deduction was made.

However, if the 15th day of the month falls on a Saturday, Sunday or statutory holiday, then the payment must be filed by the next business day.

Payment Deadlines for 2005:

Month end		Filing deadline	
April	30	May	17
May	31	June	15
June	30	July	15
July	31	August	15
August	31	September	15
September	30	October	17
October	31	November	15
November	30	December	15
December	31	January	16

The Inland Revenue Department will send you a **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form in the mail each month after you made your first remittance and then after each subsequent remittance. If you do not receive a form in time for your next payment, send in the payment with a letter and be sure to indicate that you did not receive your **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form.

TAXPAYER'S RECEIPT

The top part of the form is entitled "TAXPAYER'S RECEIPT" will be completed by the Inland Revenue Department when your **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form is processed. The employer will be given the receipt.

When you complete the **F47 PAY AS YOU EARN – MONTHLY DECLARATION** form, ensure that the following information is correct:

PART 1: TAXPAYER AND TAX IDENTIFICATION**Employer and Tax Identification**

Be sure to validate Part 1 of your declaration, so that the IRD can properly identify the employer, keep up-to-date information in the system about you (as an employer) and process the declaration quickly and accurately.

Do not write in the **TAXPAYER AND TAX IDENTIFICATION** section except in the case where the information is not correct. If any of the information is incorrect, cross it out and print the correct information next to it. Do not use abbreviations, and make sure the punctuation is correct.

It is important that you notify the IRD as soon as possible of any changes in the name of the employer, head office address, mailing address, etc. You may be required to complete registration form F14 or F15 depending on the type of your enterprise.

PART 2: TAX DECLARATION AND CALCULATION**Line (10) – Total number of employees for the month**

On line (10), enter the number of employees on your payroll for the tax period. This includes any employee to whom you made payments, including part-time and temporary employees. Do not include those employees you did not pay in the last month, such as employees on unpaid leave.

Line (15) – Total employment income paid to employees for the month

On line (15), enter the total employment income (rounded to the nearest dollar) paid for the tax period. This represents all remuneration that you paid before you make any deductions. The employment income includes salary, overtime, paid leave, sick leave. Do not include taxable allowances and benefits on this line.

Line (20) – Total taxable allowances and benefits paid to employees for the month

On line (20), enter total taxable allowances and benefits paid for the tax period. This represents any amount not included on line 015 but is included in emoluments according to the rules established for gross earnings for Social Security purposes. Details of these amounts are provided later in this booklet.

Line (25) – Total emoluments paid to employees for the month (line 15 + Line 20)
On line (25), enter total emoluments (employment income + taxable allowances and benefits) paid to employees for the tax period.

Line (30) – Total income tax withheld and to be paid for the month
On line (30), enter the total income tax withheld from employee emoluments for the month to be remitted to the Inland Revenue Department.

Line (35) – Total income tax withheld and paid for the year to date
On line (35), enter the total income tax withheld from employees and remitted to the Inland Revenue Department for the year to date.

Certification

The responsible official of the employer must sign, date and enter his/her position on the bottom of the form in the area provided.

Back of the form


This part can be used to outline the reason(s) if you will not be making a remittance during the month or to explain why your remittance may be considerably lower or higher than previous months.

Payments

All payments must be made payable to the “Commissioner of Inland Revenue” and may be made by mail or in person at:

Inland Revenue Department
Newgate Street,
St. John’s, Antigua.

SAMPLE F47

 TAXPAYER'S RECEIPT ANTIGUA - Inland Revenue Department		Tax Centre: ST. JOHN'S Document No. : 122942 Due date: May 17, 2005																						
F47 PAY AS YOU EARN - MONTHLY DECLARATION																								
Tax Account No.: 01568155	Tax Period: April 2005	Assessment Period date: April 1, 2005 To April 30, 2005	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:30%;">For Official use</th> <th colspan="2">Payment Date:</th> </tr> <tr> <td>Amount</td> <td>DUE</td> <td>PAID</td> </tr> <tr> <td>Tax</td> <td></td> <td></td> </tr> <tr> <td>Penalty</td> <td></td> <td></td> </tr> <tr> <td>Interest</td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td></td> <td></td> </tr> <tr> <td colspan="3" style="text-align: center;">Revenue Officer for Commissioner</td> </tr> </table>	For Official use	Payment Date:		Amount	DUE	PAID	Tax			Penalty			Interest			Total			Revenue Officer for Commissioner		
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PART 1 - TAXPAYER AND TAX IDENTIFICATION A.G.A. DISTRIBUTORS LTD		Tax Centre: ST. JOHN'S Document No. : 122942 Date issued : May 4, 2005	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:30%;">For Official use</th> <th colspan="2">Payment Date:</th> </tr> <tr> <td>Amount</td> <td>DUE</td> <td>PAID</td> </tr> <tr> <td>Tax</td> <td></td> <td></td> </tr> <tr> <td>Penalty</td> <td></td> <td></td> </tr> <tr> <td>Interest</td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td></td> <td></td> </tr> <tr> <td colspan="3" style="text-align: center;">Revenue Officer for Commissioner</td> </tr> </table>		For Official use	Payment Date:		Amount	DUE	PAID	Tax			Penalty			Interest			Total			Revenue Officer for Commissioner		
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PART 2 - TAX DECLARATION AND CALCULATION

In accordance with Part IV, Sections 15 & 17 of The Personal Income Tax Act, 2005 of Antigua and Barbuda, I now make payment of the tax withheld from the emoluments paid to my employees during the tax period indicated above, as follows:

- | | | | |
|--------|-----------------------------------------------------------------------|--------|-------|
| (10) | Total number of employees for the month | (10) | _____ |
| (15) | Total employment income paid to employees for the month | (15) | _____ |
| (20) | Total taxable allowances and benefits paid to employees for the month | (20) | _____ |
| (25) | Total emoluments paid to employees for the month (line15 + line20) | (25) | _____ |
| (30) | Total income tax actually withheld and to be paid for the month | (30) | _____ |
| (35) | Total Income Tax withheld and paid for the year to date | (35) | _____ |

I certify that the information on this return is correct, complete, and fully discloses my liability for the related tax.	
Signature: _____	Date: _____
Title: _____	

4. To provide his employees with a record of payments and deductions.

An employer is also required to provide each of his employees, whether or not tax has been withheld from the employee's income with the following documents-

- a) **at the time of payment** a record showing:
 - (i) the amount of employment income;
 - (ii) the amount of taxable allowances and benefits
 - (iii) the amount of tax, if any, withheld from the employee's income in respect of the previous month; and

- b) **not later than the 15th February** in each year or twenty-one days after he ceases to be the employer of a particular employee, a record with respect to the previous income year showing:
 - (i) the amount of employment income;
 - (ii) the amount of taxable allowances and benefits
 - (iii) the amount of tax withheld during the income year to which the employment relates.

5. To Maintain Records

Every employer is required in respect of each of his employees, to maintain a record showing in relation to each month and income year,

- (a) the names and Tax Identification Number of the employee;
- (b) the taxable allowances and benefits accrued to the employee;
- (c) the employment income accrued to the employee; and
- (d) the amount of tax withheld from the emoluments of the employee.

An employer is required to retain the records relating to each employee for a period of seven years from the date on which the person first became an employee.

6. To complete an Annual Return

An employer is required to complete and file with the Inland Revenue Department, a **F48 PAY AS YOU EARN ANNUAL DECLARATION** form not later than the 15th February in each year in respect of the preceding income year. This return will be a reconciliation of all payments and reporting information contained in the **F47 PAY AS YOU EARN - MONTHLY DECLARATION** forms filed throughout the year.

WHAT AMOUNTS ARE INCLUDED IN EMOLUMENTS?

The following amounts are considered employment income, including:

- (a) salary, wages, leave payments, overtime payments, gratuities, commissions and bonuses;

- (b) director's fees;
- (c) any allowance, other than an allowance provided by the employer which is wholly and exclusively utilized in the production of the employer's assessable income;
- (d) any payments, however described, made on termination of employment in respect of entitlements outstanding at the time of termination, excluding severance payments;
- (e) the reimbursement or discharge by an employer of any expense of the employee other than an expense wholly and exclusively incurred in the production of the employer's assessable income;
- (f) the amount of any waiver where an employer waives an obligation of the employee to pay an amount owing to the employer.

Interpretation of Amounts to be Included in Employment Income

There has been considerable discussing regarding amounts that should be included in employment and consequently subject to the withholding of personal income tax. The original Employer's Guide contained reference to several allowances and benefits that are traditionally considered taxable.

However, in response to these discussions and after consultation with the employer community it has been agreed to make the amounts to be included in emoluments for income tax purposes consistent with those amounts included as "gross earnings" for the purpose of Social Security withholdings for the 2005 income year.

Gross Earnings for the Purposes of Social Security and Employment Income

As indicated above the definition of emoluments for income tax purposes for 2005 will be consistent with the definition of gross earnings for Social Security and include the following items:

Emoluments

- Basic wage or salary
- Overtime
- Family allowance
- Incentive pay
- Commission or profit or sales
- Payments for night or shift work
- Production bonus
- Danger or dirt money or similar payments
- Any employee's liabilities (including tax) paid on his behalf by the employer
- Holiday pay or other amounts set aside out of employed person's earnings throughout the year to be paid to him at the end of the year

Comprehensive Review of Taxable Allowances and Benefits

Employers and employees are reminded that during the summer of 2005 a technical team consisting of members of the Ministry of Finance and the Economy, the Employers' Federation, the Chamber of Commerce and Industry and the Trade Union Congress will undertake a

comprehensive review of the precise allowances that should be subject to income tax and those that should be exempt.

The results of this review will be applicable to the 2006 and subsequent income years.

RESPONSIBILITIES OF THE EMPLOYEE IN RELATION TO HIS EMPLOYMENT

Employees also have certain responsibilities and rights under the Personal Income Tax Act, 2005 in relation to his employment.

Every employee who is liable to have tax withheld from his emoluments is required to submit his Tax Identification Number to his Employer.

An employee also has the right under the Personal Income Tax Act to submit an annual return to the Commissioner claiming a refund of an amount of tax remitted by the employer which the employee considers to be in excess of the amount that ought to have been remitted.

SPECIAL CIRCUMSTANCES

1. RETIREMENT OF EMPLOYEE

When an employee retires, tax must be withheld from payments made to the person.

2. DEATH OF EMPLOYEE

When an employee dies, the employer must withhold tax from the emoluments due to the deceased person as if he was alive.

3. DEATH OF EMPLOYER OR CHANGE IN EMPLOYER

When an employer dies or there is a change in employers, the person assuming control of the business must continue to withhold taxes from the employees and to remit these to the Inland Revenue.

4. INCOME FROM TWO OR MORE SOURCES

Where an individual derives income from more than one employer the tax which is payable on the aggregate of his income shall be determined by the Commissioner.

POWERS OF THE COMMISSIONER IN RELATION TO AN EMPLOYER

1. The Commissioner may, in his official capacity, sue for and recover tax as a civil debt due to the Government in a court of competent jurisdiction.

2. The Commissioner may, by notice in writing, require any individual to furnish a return or such other information for the purpose of enabling the Commissioner to compute or to determine the amount of tax to be remitted by that person.
3. Where, in respect of a year of income, the Commissioner is satisfied that
 - a) the amount of tax remitted by or on behalf of an individual is incorrect because it was underpaid or overpaid; or for any other reason;
 - b) a person required to submit a return has failed to do so;
 - c) the information provided in any return that is required by this Act is incorrect or false in any material particular and would give rise to an underpayment of tax;
 - d) a person required to remit tax has failed to remit the tax;

the Commissioner shall take the appropriate steps:

- (a) in the case of an underpayment of the tax –
 - (i) assess and determine the amount of tax to be paid; and
 - (ii) serve the person liable to remit the tax with a notice of assessment requiring the person concerned to remit the proper amount of tax, and any tax penalty and interest within such period as the Commissioner may specify in the notice; or
- (b) in the case of an overpayment of the tax, notify the individual, or make a refund of the excess amount or, with the consent of the individual, credit the excess amount in favour of the individual to the following income year.

OBJECTIONS AND APPEALS

An employer has certain legal rights under the Act:

1. If an employer disputes a decision in relation to his liability to withhold tax he may apply to the Commissioner, by notice of objection in writing, to review and revise the decision.
2. If the employer is aggrieved by a decision of the Commissioner in relation to his liability to withhold tax he may appeal against the decision to the Appeal Board established under the Income Tax Act.
3. If the employer is aggrieved by a decision of the Appeal Board he may appeal to a Judge as provided in the Income Tax Act.

The provisions of the Income Tax Act relating to objections and appeals will similarly apply to objections and appeals under the Personal Income Tax Act.

TAX PENALTIES AND INTEREST

The Personal Income Tax Act provides certain penalties for employers who fail to comply with its provisions. In this context a tax penalty means a penalty or interest, as the case may be and is

recoverable as a civil debt due to the Government in the same manner as the principal amount of the tax to which it relates.

1. Failure of employer to withhold tax or to remit tax withheld

Where an employer who is required to withhold tax in respect of the employment income of his employee fails to withhold the tax, that employer is liable to pay the whole amount of the tax that should have been withheld including any tax penalty and interest.

Where an employer fails to remit all or part of such tax withheld by the due date, he is liable to a tax penalty of fifteen percent (15%) of the tax not paid by the due date and interest at two percent (2%) per month or part thereof of the tax that remains unpaid.

In addition, we consider an **NSF cheque** to be a failure to remit and we will automatically apply a penalty.

2. Understatement of tax on withholding tax return

Where a person who is required to submit a withholding tax return has understated the amount of tax required to be shown on that tax return, that person shall be liable to a tax penalty of fifteen percent (15%) of the amount by which the tax was understated and interest at the rate of 2% per month or part thereof on the amount by which the tax is understated.

3. Failure to create maintain or retain records

A person who fails to create, maintain or retain records as required by the Personal Income Tax Act will be liable to a tax penalty of \$1000.

4. Evasion of the tax

A person who wilfully, in any manner, attempts to evade or defeat tax or the payment or collection of the tax, shall be liable to a tax penalty of two hundred percent of the tax evaded.

SECRECY

Section 4 of the Income Tax Act relating to official secrecy shall apply to persons having any official function under the PIT Act or being employed in the administration of the PIT Act.