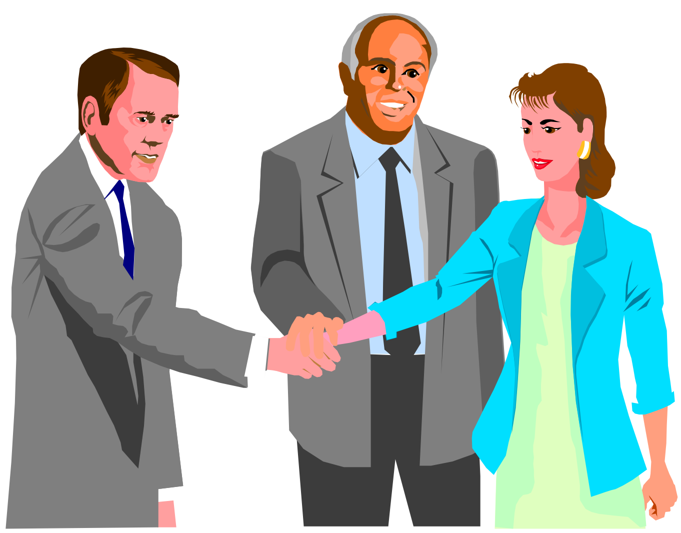
Inland Revenue Department
P.O. Box 99
Brades
Montserrat

EMPLOYER'S GUIDE

Information for people who employ staff or non-resident contractors



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Registering as an Employer

Why is registering as an employer important?

It is important that you know whether the people who work for you are employees or self-employed. This is because the tax treatment of the two groups is very different, and as a consequence you responsibilities for deducting tax from payments to these groups will differ. **It is illegal to treat a true employee as self-employed to avoid deducting tax.**

Legal definition of "employer" and "employee"

By law you are an "employer" if you are paying emoluments, and anyone receiving emoluments is an "employee". "Emoluments" are defined as any of the following:

- Salary and wages;
- Overtime;
- Bonus;
- Commission;
- Perquisites;
- Directors fees;
- Retiring allowances or pension arising or accruing in or derived from or received in Montserrat.

Emoluments do not include any salary or share of profits arising from a trade, profession or vocation carried on by any person by themselves or in partnership with any other person.

Exempt emolument income

Emolument income that is exempted includes the following:

- Official emoluments received by the Governor of Montserrat;
- Emoluments paid to members of the permanent consular services of foreign countries;
- Emoluments payable for Imperial funds to members of Her Majesties Forces and to persons in the permanent service of the Imperial Government in the Island in respect of their offices under the Imperial Government.

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Registering as an Employer, Continued

How to register as an employer

To register as an employer the *Employer Registration TD 2* form is to be completed and lodged with the Inland Revenue Department. A copy of this form is at the back of this booklet.

What happens next?

On receipt of the employer registration form the Inland Revenue Department will issue further instructions including a copy of the *Income Tax Tables*, which provides guidance on how much tax to deduct from payments to employees. Also refer to other sections of this booklet for further information on your responsibilities as an employer.

Employer Obligations

Tax to be deducted from emoluments

Anyone paying an emolument is required to deduct tax from that payment and pay the tax to the Accountant General. Specifically, employers are required to deduct PAYE (pay as you earn) from their employees’ wages whenever they pay them. The tax deducted must be paid to the Accountant General using the specified form. The tax is to be deducted at the amount shown in the tax tables (tax tables can be obtained from IRD).

Emolument payments not to have tax deducted

An employer is not to deduct tax on any of the following emolument payments:

- Emoluments paid outside of Montserrat to an employee outside of Montserrat;
- A pension, benefit or retiring allowance arising out of an employment which was wholly carried on outside of Montserrat; or
- The emoluments of any person who complies with any special conditions the Comptroller has set in a published notice.

Non-resident employees

Emolument payments to non-resident employees who are in Montserrat are subject to tax deductions in the normal manner. An exception applies to emoluments that are paid outside of Montserrat to employees who are outside of Montserrat. In that situation the emoluments do not attract tax deductions if they are paid directly to non-resident employees, however, these payments will probably be subject to withholding tax (contact the IRD if you are in this situation).

Payments to other non-residents

Employers are also required to deduct tax from certain payments made to people who are not their employees but are non-residents. Generally a person who comes to Montserrat for less than 183 days in any 12-month period, and who has no permanent place of abode in Montserrat, or is not physically in Montserrat, is taxed as a non-resident. Payments to non-residents subject to tax deductions include:

- Dividends, interest or royalties;
- Income from immovable or movable property;
- Management charges;
- Annuities;
- Trust income
- Payments of other income including independent personal services where no permanent place of business in Montserrat exists.

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Employer Obligations, Continued

Employee declaration required

New employees must complete an *Employee Declaration TD 1* in duplicate as soon as they commence working for an employer. The declaration must be completed prior to the payment of any emolument to an employee. A sample of the TD 1 form is at the back of this booklet. It is not necessary for employees to complete a new declaration every year, however, an employee declaration is to be completed within 7 days of the day on which a change occurs in the total allowance entitlement of an employee.

Employees who are resident outside of Montserrat or employees who meet special conditions specified by the Comptroller are not permitted to file declarations.

Employee with more than one job

Most employees have one regular job (primary employment), which is their main source of income. An employee can have only one declaration at any time. In the situation where an employee is in the employment of more than one person, an employee declaration is to be completed for only one employer. The declaration is to be provided to whoever the employee considers to be the chief employer.

Copy of employee declaration to IRD

The duplicate copy of the employee declaration is to be forwarded to the Inland Revenue Department within 7 days of the any declaration having been made.

Employees' arrears

Employers may receive a notice from the Inland Revenue Department requiring them to deduct tax arrears from an employee's wages. The employer must pay the arrears to the Inland Revenue Department by the 15th of the month following the month the arrears were deducted.

Records and Payments

Retention of records

Employers must make sure they keep a copy of their employees completed employee declaration forms from when they started work with them and/or a copy of any subsequent declaration forms completed by employees. Employers must retain the completed employee declarations with their business records for a period of not less than seven years.

Wage records

A wage book is a good way for recording wage records. Wage books may be purchased at stationery shops or written up in any exercise book. The following are tips for operating a wage book:

- Start a new page in the wage book as soon as an employee starts work, or at the beginning of each tax year.
- Keep a separate page for each employee, even if the employee was only employed for a short period of time.
- Complete all the following wage details each payday
  - Total gross earnings, including allowances;
  - Amount tax (PAYE) deductions;
  - Amount of other deductions;
  - Total deductions;
  - Net earnings
- Summarise the details for each employee at the end of each payment period e.g. weekly, monthly.
- Keep a summary sheet that shows the summary of wage details for every employee for the payment period. These details are totalled to provide the necessary information for the *Monthly Tax Deduction Form (TD 3)* to be completed.
- Provide employees with particulars of wage payments every payday, including gross income, amount of tax, and other deductions.

Monthly payment requirements

Employers must pay the tax deducted from their employees' wages to the Accountant General by the 15th of the month following the month in which the tax was deducted. If any payment date falls on a weekend or public holiday, the payment must be made on the next available working day.

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Records and Payments, Continued

Monthly return requirements

The monthly tax deduction payment is to be accompanied by a completed *Monthly Tax Deduction Form (TD 3)* as set out at the back of this booklet. Copies of the Monthly Tax Deduction Form may be obtained from the Inland Revenue Department or by photocopying the sample form at the back of this booklet. The following information is required to be entered on the Monthly Tax Deduction Form:

- Employer name;
- Month of deductions;
- Date return filed;
- Employer IRD number;
- Employer's signature;
- Employees' names
- Gross income for each employee, including allowances and bonuses;
- Tax deductions for each employee
- Totals of gross income and tax deductions.

Annual employee certificates

Employers must issue an Employee Certificate TD 5 to each of their employees within the month of January each year following the year in which tax was deducted from emoluments paid to those employees. The employer must also lodge 2 copies of the employee certificate with the Inland Revenue Department by the same date. The Inland Revenue Department will send blank Employee Certificates to employers in December of every year. Employee Certificates contain the following information:

- The name and address of the employee;
- The employee's IRD number;
- The total amount of all emoluments paid by the employer to the employee during the previous year;
- The total amount deducted by the employer on any amount contributed by the employee to an approved fund or scheme;
- The total amount of tax deductions made;
- The date when the employee commenced employment with the employer if it was different from the 1st January for the year to which the certificate relates.

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Records and Payments, Continued

Annual employer reconciliation

The employer must also complete an *Employer Reconciliation (TD 6)* and file it with the Inland Revenue Department within the month of January each year following the year in which tax was deducted from emoluments paid to those employees. A copy of the Employer Reconciliation (TD 6) is in the back of this booklet and is to be completed with the following information:

- Employer's name;
- Year that reconciliation relates to;
- Date reconciliation filed;
- Employer's IRD number;
- Signature of employer;
- Monthly tax deduction payments made to IRD;
- Details from the employee certificates including employee's name, gross pay and tax deducted.
- The columns for tax deductions, gross pay and tax deductions are required to be totalled.
- The tax deduction totals from the monthly payments and the employee certificates (TD5) must balance, or be within 5% of each other or $500, whichever is the lesser.

Employer ceases business

Employers ceasing to carry on business must pay all amounts of tax deducted to the Accountant General within 7 days on which the last payment of emolument was made. Any such payment must be accompanied with a Monthly Tax Deduction Form covering the last calendar month of operation, and also a final annual Employer Reconciliation (TD 6).

Ceasing employers must issue certificates to all their employees no later than the last day on which a payment of emolument was made to any employee. The employment certificate must be in respect of the period beginning with the first day of the year in which the business ceased to be carried on and terminating on the day of cessation of the business. Employers must also send 2 copies of any employment certificate to the Inland Revenue Department within 1 month of the day of cessation of the business.

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Records and Payments, Continued

Employee ceases being employed

An employer must issue a *Particulars of Employee Leaving (or Deceased) TD 4 Form* to any employee who ceases to be employed by that employer. The employee certificate must be issued not later than the day on which the last payment of emolument was made. Employers must also send 2 copies of any employment certificate to the Inland Revenue Department on the same date. A copy of the TD 4 form may be obtained from the Inland Revenue Department.

Death of employee

On the death of an employee an employer must issue a *Particulars of Employee Leaving (or Deceased) TD 4 Form* to the next of kin or personal representative of the deceased employee. The employee certificate must be issued by the 15th of the month following the date of death of the employee. The employer must also lodge 2 copies of the employee certificate with the Inland Revenue Department.

Change of employer

A cessation of employment is deemed not to have occurred where the employee works in the same business and the change of employer was as a result of a change of ownership of the business. However, the new employer is not liable for anything to do with any emoluments paid or payable before the change of ownership took place.

Death of employer

The personal representative of any deceased employer is responsible for any liability that the employer had under the Employment Rules.

Special Provisions

Bonus payments

Deducting tax from bonus payments requires special treatment. The following steps are to be followed:

Step	Action
1	Divide the total amount of the bonus by the number of pay periods in the year in which it is paid
2	The resulting amount from step 1 is to be added to the gross amount of emoluments which were payable to the employee in the pay period immediately preceding the date on which the bonus was paid
3	Use the tax tables to calculate the amount of tax which should have been deducted on the calculated aggregate amount
4	The amount of tax to be deducted from the bonus is determined by multiplying the difference between the amount of tax calculated in step 3, and the actual amount of tax deducted, by the number of pay periods in the year.

Casual or seasonal employment

The Comptroller may direct employers as to the amount of tax, if any, to be deducted from emoluments of employees engaged in casual or seasonal employment.

Excessive tax deductions

In any case where the Comptroller sets the amount of tax to be deducted from emoluments, the amount of tax shall not exceed the amount of tax that would have been deductible by reference to the tax tables.

Retrospective payments

The employer must account to the Accountant General separately for tax deducted from emoluments relating to a previous calendar year. This relates to the situation where a payment is made that increases emoluments retrospectively, and at least part of the increase relates to periods in a calendar year that precede the year in which such payment was made.

Penalties

Late payment of monthly tax deductions	If the employer does not remit the tax deducted to the Accountant General by the 15th of the month following the month the tax was deducted a late penalty is charged. The late penalty is set at 5% of the amount not remitted or $1,000, whichever is the greater. In addition, interest is imposed on the amount of outstanding tax at the rate of 10% per annum.
Failure to remit tax deductions and/or provide details	Any employer who fails to **remit any tax deductions**, returns, accounts or certificates to the Accountant General, is liable on conviction by a court to a fine not exceeding $100 for every day during which the failure continues.
Wilful failure to deduct tax	Any employer who **wilfully fails or neglects to deduct tax** is liable on conviction by a court to a fine not exceeding $1,000 and in default of payment to a term of imprisonment not exceeding 4 months. A further penalty of $50 is imposed for every day after judgment that the failure or neglect continues.
Obstructing the inspection of wage records	Anyone who hinders, prevents or obstructs the Comptroller or other officer from inspecting any wage records after being requested to do so, is guilty of an offence. A court may impose a fine not exceeding $1,000 or to imprisonment for a term not exceeding 1 month or to both.
Making incorrect statements	Any employer who makes an incorrect statement which is not true or correct is guilty of an offence and is liable on summary conviction to a penalty not exceeding $4,000 and in default of payment a term of imprisonment for a term not exceeding 8 months.
Knowingly making false statements	Employers who **knowingly** make a false statement are guilty of an offence and are liable on summary conviction to a penalty not exceeding $20,000 or to a term of imprisonment for a term not exceeding 12 months.

Inland Revenue
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TD 1

EMPLOYEE DECLARATION

Last Name:

First Name(s):

Residential Address:

Postal Address (If different from residential address):

Phone number (Residential):

Phone number (Business):

Are you paying mortgage interest on a residential property Yes No

If yes. Enter the amount of annual mortgage interest ***$***

Name of primary employer:

Signature: ______________________ ***Date:*** ______________________

<u>FOR OFFICE USE ONLY:</u>

IRD Number issued:

Officer's Name: ______________________ ***Date:*** ______________________

Inland Revenue **TD 2**

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EMPLOYER REGISTRATION

Print name of employer: (ie individuals name or full company, trust or partnership name, as appropriate)

Print trading name if different from above:

Physical address of business:

Postal Address (If different from physical address):

Business phone number:

After hours phone number:

Nature of business or trade:

Date employment commences:

Day Month Year

Name of person making application:

Signature: ***Date:***

<u>FOR OFFICE USE ONLY:</u>

Employer File Created: Yes No

Officer's Name: ***Date:***

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TD 3

MONTHLY TAX DEDUCTION FORM

Print name of employer: (ie individual, company, trust or partnership name, as appropriate)

Period (eg. Jun2002):

IRD Number:

Name of employee (Print family name first):

Gross income:

Tax deductions:

Total

Signature:

Date:

FOR OFFICE USE ONLY:

Date received:

Date filed:

Officer's Name:

Inland Revenue
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Brades
Montserrat

TD 6

EMPLOYER RECONCILIATION

Employer's Name:

IRD Number:

Year:

MONTHLY TAX DEDUCTIONS

Month	*Tax Deductions (Dollars and cents)*
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
TOTAL	

EMPLOYEE CERTIFICATES

Name of employee (family name first):	*Gross income: (Whole dollars only)*	*Tax deductions: (Dollars and cents)*
TOTAL		

NOTE:
1 Enter whole dollars only for gross pay.
2 Total monthly tax deductions must equal the total tax deductions on the employees' certificates.
3 Contact the Inland Revenue if you are having difficulty completing the reconciliation.

Signature: ________________________ ***Date:*** ________________

FOR OFFICE USE ONLY:

Date received: ________________

Date actioned: ________________

Officer's name: ________________

April 2002

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Montserrat

TD 6

EMPLOYER RECONCILIATION