

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,929 of 10th May, 2012

B. 5/12

BILL

FOR

AN ACT to amend the Income Tax Act 2010 in order to impose tax upon income from certain imported pensions.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Income Tax (Amendment) Act 2012 and shall come into operation on publication in the Gazette.

Amendment to the Income Tax Act 2010.

2.(1) The Income Tax Act 2010 is amended in accordance with the provisions of this section.

(2) The following section is inserted after section 14—

“Pensions imported from another country, territory or jurisdiction.

14A(1) Notwithstanding any other provision of the Act and the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 to the contrary, any income such as is described in rule 3A of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 and which derives from a source specified in subsection (2) shall form part of the assessable income of the individual and shall be taxed at the rate of 2.5% insofar as it forms part of the taxable income of that individual.

(2) The source of income referred to in subsection (1) is a statutory pension scheme or provident or other fund (for the purposes of this section, “a Pension Fund”) approved by the Commissioner to which the funds or benefits entitlement from which the income is derived were transferred from a pension scheme in any other country, territory or jurisdiction other than from another Member State of the European Union.

(3) For the purpose of this section approval will only be given by the Commissioner to a Pension Fund where the rules which irrevocably bind the Pension Fund prevent—

- (a) the commutation of more than 30% of the value of the assets creating the funds or benefits entitlement for any particular person;
- (b) payment of any part of the benefit entitlement provided by the Pension Fund before the normal minimum retirement age of 55 save where the retirement occurs on the grounds of ill health; and
- (c) the transfer of any part of the assets of the Pension Fund relating to any beneficiary of that Pension Fund to any pension fund which is not approved in accordance with this subsection or does not contain irrevocable provisions which have the same effect as those required to receive approval in accordance with this subsection.

(4) For the purposes of subsection (3)(b) the Commissioner will consider retirement to be on the grounds of ill health where the administrator of the Pension Fund receives evidence from a registered medical practitioner to the effect that the person is incapable of carrying on their occupation because of either mental or physical illness.

(5) For the purposes of this section the term “another Member State” has the same meaning as in section 5(8).

(6) This section shall be deemed to have come into effect on the 6th day of April 2006.”.

EXPLANATORY MEMORANDUM

This Bill amends the Income Tax Act in order to amend the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 in order to subject to tax in Gibraltar at the rate of 2.5% income from pensions from other countries and to prevent excessive commutation of the funds giving rise to those pensions.

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Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £0.40p**