THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE
No. 4,078 of 8th May, 2014

B. 18/14

BILL

FOR

AN ACT to amend the Income tax Act 2010.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Income Tax (Amendment) Act 2014 and comes into operation on the day of publication.

Amendments to the Income Tax Act 2010.

2. (a) In subsection (2) of section 14A, substitute–

"in any other country, territory or jurisdiction other than from another Member State of the European Union." with the following–

"in a country, territory or jurisdiction of the European Union.";

(b) Substitute subsection (3)(a) of section 14A with the following–

"the commutation of more than 30% of the value of the assets comprising the funds or benefits entitlement for any particular person (such figure to be varied by the Commissioner to a greater or lesser percentage as appropriate having regard to the legislation of the jurisdiction from where the funds or benefits entitlement originate);";

(c) In section 14A, substitute subsection (5) with the following–

"For the purposes of this section the term "country, territory or jurisdiction of the European Union" means the United Kingdom.";

(d) After section 14A, insert the following–

"Pensions in connection with a statutory instrument.

14B.(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 and benefitting an individual resident in a 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 conforming to the requirements of a statutory instrument and, moreover, where the rules which irrevocably bind the Pension Fund prevent−

(a) the commutation of more than 30% of the value of the assets comprising the funds or benefits entitlement for any particular person (such figure to be varied by the Commissioner to a greater or lesser percentage as appropriate having regard to the legislation of the jurisdiction from where the funds or benefits entitlement originate);

(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 "Member State" means the United Kingdom and Gibraltar and "a statutory instrument" means the statutory instrument in force in the United Kingdom in exercise of the powers conferred by section 271A of the Inheritance Tax Act 1984.

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

EXPLANATORY MEMORANDUM

This Bill clarifies certain terms in respect of imported pensions, introduces flexibility for the percentage of commutation to be taken into account by the Commissioner in respect of those same pensions, and prescribe the requirements which a pension scheme must satisfy for the purposes of section 271A of the Inheritance Act 1984(c. 51) (UK).

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