

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,152 of 5th March, 2015

B. 08/15

INCOME TAX (AMENDMENT) BILL 2015

ARRANGEMENT OF CLAUSES

Clause

1. Title.
2. Commencement.
3. Amendment of the Income Tax Act 2010.
4. Income Tax (Gift Aid) Rules 2006.
5. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2007.
6. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2009.
7. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2010.
8. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2011.
9. Amendments to HEPSS Rules.
10. Amendments to Qualifying (Category 2) Individuals Rules 2004.

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BILL

FOR

AN ACT to amend the Income Tax Act 2010.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Income Tax (Amendment) Act 2015.

Commencement.

2.(1) This Act comes into operation in accordance with the provisions of this section.

(2) Section 1, this section and section 9 come into operation on the day of publication.

(3) In section 3—

- (a) subsection (4) shall be deemed to have come into operation on 1 January 2011;
- (b) subsections (24)(b) and (26) shall be deemed to have come into operation on 1 July 2013;
- (d) subsections (5) and (6)(a), (c) and (d) shall apply to accounting periods ending on or after 1 July 2013;
- (e) subsections (1), (3), (6)(b), (7), (8), (9), (10), (11), (12), (13) to (23), (24)(a), (27) and (28) come into operation on the day of publication;

(f) subsections (2), (24)(c) and (d) shall be deemed to have come into operation on 1 July 2014;

(g) subsection (25) comes into operation on 1 July 2015.

(4) In section 4—

(a) subsections (1) and (2) shall be deemed to have come into operation on 1 January 2011; and

(b) subsection (3) shall be deemed to have come into operation on 1 July 2013.

(5) Section 5 shall be deemed to have come into operation on 1 July 2007.

(6) Section 6 shall be deemed to have come into operation on 1 July 2009.

(7) Section 7 shall be deemed to have come into operation on 1 July 2010.

(8) Section 8 shall be deemed to have come into operation on 1 July 2011.

(9) In section 10—

(a) subsections (1) to (6) shall be deemed to have come into operation on 1 July 2013; and

(b) subsection (7) comes into operation on 1 July 2015.

Amendment of the Income Tax Act 2010.

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

(2) In section 13(1) for the words “the standard rate of tax for persons other than companies” substitute “the rate set out in the Rates of Tax Rules, 1989,”.

(3) Insert the following section after section 18—

“Entities: power to make regulations.

18A. The Minister may by regulations prescribe how the tax liability of those entities described in the regulations are to be assessed for the purposes of this Act.”.

(4) Inserting the following section after section 25–

“Gifts to charity by individuals.

25A. The Minister may by rules make provision for the paying to charities of amounts equal to the tax paid by individuals making a donation to charity on such terms and conditions as the Minister may deem appropriate.”.

(5) Substitute the following section for section 29–

“Companies to make returns.

29.(1) Subject to subsection (2) below, a company that has assessable income under the provisions of this Act shall make a full and complete return of its income.

(2) A branch of a company situated in Gibraltar that has assessable income under the provisions of this Act shall make a full and complete return in respect of the income of that branch.

(3) A company that is obliged to file a return under this section shall do so within the nine months immediately following the month in which the accounting period ends.”.

(6) Section 30(1) is amended–

(a) by substituting the following paragraphs for paragraphs (b) and (c)–

“(b) in the case of a company or, as the case may be, a branch with an assessable income of at least £1,000,000 in relation to an accounting period which does not exceed twelve months or the appropriate proportion of £1,000,000 computed on the basis of

the number of months comprising the accounting period in relation to an accounting period which is less than twelve months, be accompanied by audited accounts;

- (c) in the case of a company or, as the case may be, a branch with an assessable income of less than £1,000,000 in relation to an accounting period which does not exceed twelve months or the appropriate proportion of £1,000,000 computed on the basis of the number of months comprising the accounting period in relation to an accounting period which is less than twelve months, be accompanied by accounts together with an independent accountant's report;"

(b) by inserting the following paragraphs after paragraph (c)–

“(ca) for the purposes of paragraph (c) the following shall apply–

- (i) the Minister may by regulations prescribe the applicable standards on which the independent accountant's report shall be based;
- (ii) accounts shall be signed on behalf of the board by two directors of the company, or, if there is only one director, by that director;

(cb) in relation to paragraph (c) above, an “independent accountant” means an individual who is approved in accordance with this Act to issue an independent accountant's report and is one that is–

- (i) independent with respect to the entity on which he is issuing an independent accountant's report, and the Commissioner may make reference to the definition of connected persons specified in paragraph 9 of Schedule 4 for the purposes of satisfying himself as to the independence of any person; and
- (ii) appropriately qualified by virtue of holding a practising certificate issued by a recognised

accountancy body of an EEA State or being deemed by the Commissioner to have demonstrated sufficient expertise prior to 1 January 2011; and

- (iii) sufficiently knowledgeable in respect of relevant Gibraltar legislation and practice by virtue of having been in professional practice within Gibraltar for a period of at least 3 years or having previously passed an exam of professional competence approved by the Commissioner;”;

(c) in paragraph (f)–

- (i) for the word “person” substitute “individual”, and
- (ii) for “subsection 39(9)” substitute “section 39(9)”.

(7) Substitute the following section for section 31–

“Assessing procedure.

31.(1) Subject to the provisions of this Act and to paragraph (d) below, assessments to tax shall be made by the Commissioner, and–

- (a) if the Commissioner is satisfied that any return made under the Act affords correct and complete information concerning income in respect of which tax is chargeable, he shall make an assessment accordingly;
- (b) if it appears to the Commissioner that there is any income in respect of which tax is chargeable and which has not been included in a return made under section 28 or, as the case may be, section 29 or if the Commissioner is dissatisfied with any such return, he may make an assessment to tax to the best of his judgment;
- (c) in relation to paragraph (b) above, where tax is chargeable for a year of assessment in respect of

income arising in that year, the Commissioner may make an assessment during that year of assessment to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other;

- (d) where the Commissioner has reason to believe that a person ceases to have any source of income in a year of assessment, he may make an assessment on that person at any time during that year of assessment notwithstanding the provisions of sections 28 to 30.
- (2) Where the Commissioner is dissatisfied with a return he may give notice under this subsection to any person of his intention to enquire into—
- (a) the return on the basis of which the person whose tax liability is being assessed (“the Taxpayer”) has made a statement in accordance with the requirements of sections 28 and 30 or, as the case may be, sections 29 and 30; or
 - (b) any amendment made to that return on the basis of which that statement has been amended by the Taxpayer.
- (3) For the purpose of enquiring into the return or an amendment made to the return, the Commissioner may at the same or at any subsequent time issue to the Taxpayer a notice or notices under section 32.
- (4) An enquiry under this section may be made at any time not later than one year after the date of the receipt of any return required to be delivered under section 28 or, as the case may be, section 29.
- (5) Subsection (4) above shall not apply if the Taxpayer, or any person acting on behalf of the Taxpayer, has committed any form of fraudulent or wilful default or negligent conduct in the failure to comply with any notice issued in relation to this section.”.

- (8) Insert the following section after section 31–

“Ordinary time limit of six years for making assessments.

31A. Subject to the provisions of this Act, an assessment to tax may be made at any time not later than six years after the end of the year of assessment or, as the case may be, accounting period to which the assessment relates.”.

- (9) Substitute the following section for section 32–

“Power to make enquiries on return.

32.(1) This section applies where the Commissioner has given notice of his intention to enquire under section 31 to the Taxpayer.

(2) For the purposes of an enquiry under section 31(2), the Commissioner may by notice in writing require the Taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice–

(a) to produce to the Commissioner such documents as are in the Taxpayer’s possession or power and as the Commissioner may require for the purpose of determining whether and, if so, the extent to which the return is incorrect or incomplete or the amendment is incorrect; and

(b) to furnish to the Commissioner such accounts or audited accounts or particulars as he may require.

(3) For the purposes of complying with a notice under subsection (2) above, copies of documents may be produced instead of originals, but–

(a) the copies must be photographic or otherwise by way of facsimile or portable document format; and

(b) if the Commissioner so requires, he may by giving notice in writing demand that the original of a document be produced in relation to any document

specified in the notice within such time (which shall not be less than 30 days) as may be specified.

- (4) The Commissioner may take copies of, or make extracts from, any document produced to him under subsection (2) or (3) above.
- (5) An appeal may be made by the Taxpayer to the Tribunal in respect of any requirement imposed by a notice under subsection (2) above;
- (6) An appeal under subsection (5) above must be brought within the period of 30 days beginning with the date on which the notice under subsection (2) above is given and shall be made in writing addressed to the Commissioner.
- (7) A notice under subsection (2) above does not oblige the Taxpayer to produce documents or furnish accounts or particulars relating to the conduct of any pending appeal by that Taxpayer.
- (8) Subject to subsection (9) below, the provisions of Schedule 2 relating to appeals shall have effect in relation to an appeal under subsection (5) above as they have effect in relation to an appeal against an assessment to tax.
- (9) On an appeal under subsection (5) above, paragraph 13 of Schedule 2 shall not apply but the Tribunal may—
 - (a) if it appears to it that the production of the document or the furnishing of the accounts, audited accounts or particulars are required by the Commissioner for the purposes mentioned in subsection (2) above, confirm the notice issued under that subsection; or
 - (b) if it appears to it that the production of the document or the furnishing of the accounts, audited accounts or particulars are not required by the Commissioner for the purposes mentioned in subsection (2) above, set aside the notice to such extent as it considers necessary.

(10) For the purposes of this section, “document” includes books, contracts, vouchers and receipts.”.

(10) Insert the following section after section 32–

“Offence of falsification etc. of documents in relation to a notice under section 32.

32A.(1) A person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which he has been required by notice under section 32 to deliver or make available for inspection.

(2) A person guilty of an offence under subsection (1) above shall be liable–

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.”.

(11) Substitute the following section for section 33–

“Assessing procedure where no return is delivered.

33.(1) Where–

(a) a return is required under section 28 or, as the case may be, section 29; and

(b) the required return is not delivered on or before the date specified in section 28 or, as the case may be, section 29,

the Commissioner may to the best of his judgment make an assessment on the person named in the return during that year of assessment or, as the case may be, accounting period by reference to actual income or estimated income (whether from any particular source or generally), or partly by reference to one and partly by reference to the other.”.

(12) By substituting the following section for section 34–

“Additional, amended and discovery assessments.

34.(1) If the Commissioner discovers–

- (a) that any income which ought to have been assessed to tax has not been assessed; or
- (b) that an assessment to tax is or has been insufficient,

the Commissioner may make an assessment or assessments in the amount or further amounts which ought in the opinion of the Commissioner to be charged.

- (2) Subject to the provisions of this section, any assessment to tax made under this Act may be amended at any time by the Commissioner in the amount which ought in the opinion of the Commissioner to be charged.
- (3) Amendments to an assessment to tax may be made at any time not later than six years after the end of the year of assessment or, as the case may be, accounting period to which the assessment relates.
- (4) Notwithstanding the provisions of section 38, where any form of fraud, wilful default or neglect has been committed by or on behalf of any person in connection with or in relation to taxation for any year of assessment, or, as the case may be, accounting period, assessments or additional assessments may be made on that person at any time not later than twenty years after the end of the year of assessment or, as the case may be, the accounting period to which the assessment relates.”.

(13) Section 39 is amended–

- (a) in subsection (1) by substituting the following paragraph for paragraph (b)–
 - “(b) in the case of a company, no later than 9 months after the end of the month in which the accounting period ends.”; and

(b) by substituting the following subsection for subsection (4)–

“(4)(a) A company shall make a payment on account of its future liabilities on or before 28 February and 30 September in each accounting period;

(b) in accordance with the Table in Schedule 10, the payments on account payable in accordance with paragraph (a) shall be in two equal instalments of 50 per cent of the tax payable for the relevant accounting period;

(c) for the purposes of paragraph (b) the “relevant accounting period” means the accounting period used as a basis in determining the payments on account and is the accounting period whose due and payable date precedes the date of the first payment on account in accordance with the Table in Schedule 10;

(d) the Table in Schedule 10 shall apply for the purposes of determining the relevant accounting period;

(e) the payments on account made in an accounting period shall be set off against the tax due for that accounting period and any excess of the payments on account made for the accounting period over the tax due for that accounting period shall be repayable.”.

(14) Section 41 is amended by substituting the following subsection for subsection (10)–

“(10) The information required under this section must be provided at the place and in the form and manner as the Commissioner may specify by notice in writing.”.

(15) Insert the following section after section 56–

“Penalty for failure to deliver return made by employer.

56A.(1) A person who fails to comply with section 56 is liable to a penalty not exceeding an amount equivalent to level 5 on the standard scale.

- (2) An appeal shall lie to the Magistrates' Court from a penalty incurred under this section, and on any such appeal the court may either confirm or set aside the penalty.”.

(16) Substitute the following section for section 63–

“Duty to keep and preserve records and books of account.

63.(1) A person required to deliver a return under section 28, or, as the case may be, section 29 for any period must–

- (a) keep such records as may be needed to enable it to deliver a full and complete return for the period; and
- (b) preserve those records in accordance with this section.

(2) The records must be preserved for six years from the end of the period for which the person is required to deliver a return under section 28 or, as the case may be, section 29.

(3) If the person is required to deliver a return by notice given before the end of the six year period, the records must be preserved until any later day on which–

- (a) any enquiry into the return is completed; or
- (b) if there is no enquiry, the Commissioner no longer has power to enquire into the return.

(4) If the person is required to deliver a return by notice given after the end of that six year period and has in his possession at that time any records that may be needed to enable him to deliver a full and complete return, he is under a duty to preserve those records until the date on which–

- (a) any enquiry into the return is completed;
- (b) if there is no enquiry, the Commissioner no longer has power to enquire into the return.

- (5) The records required to be kept and preserved under this section includes books containing entries from day to day of all cash received and cash paid, statements of annual stocktaking, all goods sold and purchased showing sufficient detail to enable those goods, buyers and sellers to be identified and any contracts, invoices or other underlying documentation significant to the trade, business, profession or vocation undertaken.
 - (6) The duty to preserve records under this section includes a duty to preserve all supporting documents relating to the items mentioned in subsection (5).
 - (7) All the books of accounts kept for the purposes of this section shall be kept in the English language.
 - (8) For the purposes of subsection (6), “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.”.
- (17) Insert the following section after section 63–
- “Penalty for failure to keep and preserve records.**
- 63A.(1) A person who fails to comply with section 63 in relation to any year of assessment or, as the case may be, any accounting period, is liable to a penalty not exceeding an amount equivalent to level 5 on the standard scale.
- (2) An appeal shall lie to the Magistrates’ Court from a penalty incurred under this section, and on any such appeal the court may either confirm or set aside the penalty.”.
- (18) Section 64(1) is amended–
- (a) by substituting the following paragraph for paragraph (b)–
 - “(b) where any of the tax imposed by this Act and surcharge imposed under paragraph (a) above, is not paid within 90 days from the date when it becomes payable under that paragraph, an amount equal to 20 per cent of the tax and surcharge which remains

unpaid on that date shall become immediately due and payable.”; and

(b) by deleting paragraph (c).

(19) Substitute the following section for section 65–

“Penalties for failure to comply with requirements on return.

65.(1) This section applies where any person–

- (a) has failed to make a full and complete return for the purposes of section 28 or 29; and
- (b) has failed to deliver such return.

(2) The person shall be liable to a penalty of £50.

(3) If the failure by the person to comply with the requirements of section 28 or 29 continues after the period of–

- (a) three months beginning with the filing date on which the return should have been delivered, the person shall be liable to a further penalty of £300;
- (b) six months beginning with the filing date on which the return should have been delivered, the person shall be liable to an additional penalty of £500.

(4) The Commissioner may, if it appears to him that throughout the period of default mentioned in subsections (2) or (3) above, the person had a reasonable excuse for not complying with the requirements of section 28 or 29, set aside–

- (a) the penalty under subsection (2);
- (b) the further penalty under subsection (3)(a);
- (c) the additional penalty under subsection (3)(b).

(5) In this section–

“the filing date” means the applicable day for delivering the return under section 28 or, as the case may be, section 29;

“the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return is delivered.”.

(20) Insert the following sections after section 65–

“Penalties for failure to comply with requirements on certain notices.

65A.(1) This section applies where–

- (a) a person has been served with a notice under section 6 or 32; and
- (b) the person fails to comply with the notice.

(2) The person shall be liable to a penalty of £200.

(3) If the failure to comply with the notice continues after the end of the period of one month beginning with the submission date, the person shall be liable to a further penalty of £1,000.

(4) An appeal shall lie to the Magistrates’ Court from a penalty incurred under this section and on any such appeal the court may either confirm or set aside the penalty.

(5) In this section–

“the submission date” means the applicable day for delivering the documents mentioned in the notice issued under section 6 or, as the case may be, section 32.

Offence for failure to comply with requirements on certain notices and returns.

65B.(1) A person shall be guilty of an offence if he intentionally, or recklessly or negligently continues to fail to comply with the requirements of a notice served on him under section 6 or 32.

- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (3) The court, in determining a sentence under subsection (2), must take into account any penalty which has been imposed under section 65A.

Penalties for failure to comply with requirements under section 41.

- 65C.(1) This section applies where any person—
- (a) fails to provide the Commissioner with the information required for the purposes of section 41;
 - (b) fails to comply with a notice issued by the Commissioner under section 41(10); or
 - (c) in any other way fails to comply with the requirements of section 41.
- (2) The person shall be liable to a penalty of £200.
 - (3) If the failure by the person to comply with any of the requirements of section 41 or a notice issued under that section continues after the end of the period of one month beginning with the submission date, the person shall be liable to a further penalty of £1,000.
 - (4) In this section—

“the submission date” means the applicable day for providing the information as set out in section 41 or, as the case may be, for complying with the notice issued under section 41(10);

“person” includes the “promoter” as defined in section 41(2) of this Act.

Offence of failure to comply with requirements of section 41.

- 65D.(1) A person shall be guilty of an offence if he intentionally, recklessly or negligently continues to fail to comply with—
- (a) the requirements of section 41; or
 - (b) a notice issued under section 41(10).
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (3) The court, in determining a sentence under subsection (2), must take into account any penalty which has been imposed under section 65C.

Penalties where no penalty is specifically provided by this Act.

- 65E.(1) A person who, under this Act or any subsidiary legislation made hereunder, fails to comply with—
- (a) a requirement to submit documentation or information to the Commissioner; or
 - (b) a notice,
- in respect of which no other penalty is specifically provided, is guilty of an offence and shall be liable to the penalties set out in subsection (2).
- (2) A person who is guilty of an offence under this Act or any subsidiary legislation made hereunder, in respect of which no other penalty is specifically provided is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Failure to comply with requirement or notice.

65F.(1) A person shall be guilty of an offence if, having given an opportunity to regularise matters, he intentionally, or recklessly or negligently continues to fail to comply with—

- (a) the requirements of this Act;
- (b) a notice served on him under or for the purposes of this Act,

in respect of which no penalty is provided for.

- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.”.

(21) Section 67 is amended by substituting the following subsection for subsection (2)-

“(2) A person shall be guilty of an offence if he or a company of which he is a director or a shadow director fails to comply with—

- (a) a notice issued under section 50;
- (b) a notice issued under section 57;
- (c) the requirements of section 62;

- (d) the requirements of regulations made under sections 55 or 58.”.

(22) Substitute the following section for section 68-

“Publication of details of failure to pay taxes.

68.(1) Subject to the provisions of this section, the Commissioner may cause to be published in the Gazette the name of any person whom he has reason to believe has failed to—

- (a) pay tax due under this Act; or
- (b) comply with the requirements to deduct and pay the tax due from the emoluments of employees in accordance with the Income Tax (Pay As You Earn) Regulations 1989.

(2) The Commissioner may act in accordance with subsection (1) where he believes that—

- (a) any tax due to be collected or paid has not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the tax due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

(3) For the purposes of subsection (2), the Commissioner may estimate the amount or amounts due in accordance with the provisions of this Act.

(4) For the purposes of subsection (1), the following information may be published—

- (a) the name of the person (including any trading name, previous name or pseudonym);
 - (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
 - (c) the business address of the person (or registered office);
 - (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
 - (e) any such information as the Commissioner considers appropriate to publish in order to make clear the person's identity;
 - (f) the amount of tax due and the period to which it relates.
- (5) Where the Commissioner is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Commissioner shall publish a retraction in the Gazette as soon as practicably possible.
- (6) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.
- (7) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Commissioner under this section unless at the date of such utterance, report or publication the Commissioner has published a retraction under this section.
- (8) The Minister may from time to time make regulations to cause and enable the Commissioner to publish information on any person for the purposes of this section.”.

(23) Section 74 is amended in the definition of “person” by inserting “, and any other entities as defined in regulations made under this Act” after “body of persons”.

(24) Schedule 3 is amended–

- (a) in paragraph 2(1)(p)(i) by substituting “branch in Gibraltar” for “person”; and
- (b) by inserting the following paragraph after paragraph 12–

“Deduction for construction costs.

12A.(1) Where a person carrying on a trade or business as a property developer–

- (a) on or before 31 March 2015, carries out the construction of a qualifying project which consists entirely of office accommodation; and
- (b) construction of the qualifying project commences on or after 1 July 2013,

for the purposes of ascertaining the profits or gains from the trade or business he shall be entitled to a deduction of the total amount of the construction costs in accordance with this paragraph.

- (2) In the first year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 30 per cent of the total construction costs.
- (3) In the second to eighth year of assessment, or accounting period, as the case may be, following completion of construction of the development project, a deduction of 10 per cent of the total construction costs per year of assessment.
- (4) A deduction under this paragraph may, at the election of the property developer of the qualifying project, be

made from the profits or gains of the trade or business of—

- (a) the property developer under subparagraph (1) for the total of the construction costs; or
 - (b) the occupier for the total of the construction costs; or
 - (c) the property developer and the occupier in the proportion of 50 per cent each of the total construction costs.
- (5) No deduction shall be permitted under this rule unless the claim for deduction is accompanied by a certificate of completion of construction.
- (6) In this paragraph—

“construction costs” means the total expenditure incurred in the construction of the qualifying project, excluding the cost of the land on which the qualifying project is built, and includes the cost of —

- (a) planning and design of the project including in connection with the obtaining full planning permission for the erection of the building;
- (b) digging and laying foundations for drains, water-pipes and electric cables;
- (c) cost of demolition of any building on the land on which the new building was constructed;
- (d) installing fittings forming part of the building;

“occupier” means the person occupying the office accommodation in respect of which the total construction costs are the subject of a deduction under this paragraph;

“qualifying project” means a building development project consisting wholly and exclusively of offices for business use and approved by the Commissioner as being a qualifying project for the purposes of this paragraph.

- (7) The Minister may make rules for the implementation of the provisions in this paragraph.”.

- (c) by inserting the following paragraph after paragraph 12A-

“Deduction for construction costs: high value accommodation.

12B.(1) Where a person carrying on a trade or business as a property developer, on or before 31 December 2015, carries out the construction of a qualifying project for the purposes of ascertaining the profits or gains from the trade or business he shall be entitled to a deduction of the total amount of the construction costs in accordance with this paragraph.

- (2) In the first year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 30 per cent of the total construction costs.
- (3) In the second to eighth year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 10 per cent of the total construction costs per year of assessment.
- (4) A deduction under this paragraph may, at the election of the property developer of the qualifying project, be made from the profits or gains of the trade or business of-
- (a) the property developer under subparagraph (1) for the total of the construction costs; or

- (b) the occupier for the total of the construction costs; or
 - (c) the property developer and the occupier in the proportion of 50 per cent each of the total construction costs.
- (5) No deduction shall be permitted under this rule unless the claim for deduction is accompanied by a certificate of completion of construction.
- (6) In this paragraph–

“construction costs” means the total expenditure incurred in the construction of the qualifying project, excluding the cost of the land on which the qualifying project is built, and includes the cost of–

(a) planning and design of the project including in connection with the obtaining full planning permission for the erection of the building;

(b) digging and laying foundations for drains, water-pipes and electric cables;

(c) cost of demolition of any building on the land on which the new building was constructed;

(d) installing fittings forming part of the building;

“occupier” means the person occupying the high value accommodation in respect of which the total construction costs are the subject of a deduction under this paragraph;

“qualifying project” means a building development project consisting of high value accommodation and approved by the

Commissioner as being a qualifying project for the purposes of this paragraph.

(7) The Minister may make rules for the implementation of the provisions in this paragraph.”.

(d) Schedule 3 is amended by inserting the following paragraph after paragraph 12B–

“Relocation costs.

12C.(1)A person who-

- (a) holds a licence to retail tobacco pursuant to section 6 of the Tobacco Act 1997; and
- (b) by virtue of changes to that Act and to subsidiary legislation thereto, has been required to relocate from those areas commonly known as Laguna Estate and Glacis Estate to another location,

may claim an additional capital allowance equivalent to the relocation costs, where such costs are approved by the Commissioner, but for the avoidance of doubt, the cost of the land or lease is not to be taken into consideration.

(2) The Minister may make rules for the implementation of the provisions in this paragraph.”.

(25) In Schedule 7, Chapter 6–

(a) in paragraph 30(3), for the definition of “employee” substitute–

““employee” includes a prospective employee and a director, shadow director or a connected person thereof, and”;
and

(b) for paragraph 35 substitute–

“35. If either the whole or part of an employment related loan is released or written-off in a tax

year the amount which was released or written-off is deemed as earnings from the last day of the employment in relation to which the employment-related loan was provided.”.

- (26) In Schedule 9 by substituting the following paragraph for paragraph 3-

“Capital Allowances and deductions allowed.

- 3.(1) Subject to subparagraphs (2),(3) and (4) below, for the purpose of ascertaining the capital allowance or balancing charge due to any person under Schedule 3, any expenditure made, allowance given (under the Previous Act), disposal or other event relevant to the computing of the Capital Allowances due occurring prior to the commencement of this Act shall have effect as if this Act had been in force at the time and any allowance given under the Previous Act had been given under this Act.
- (2) In the case of a chargeable company which was an exempt company immediately prior to the commencement of this Act and where the Commissioner is satisfied that the accounts of the company have historically reflected the depreciation of its assets in a form acceptable to the Commissioner, the qualifying expenditure at the commencement of this Act shall be the net book value of all the plant and machinery which was in the ownership and use that company at the date of commencement.
- (3) In calculating the net book value for the purposes of subparagraph (2) above, the Commissioner may disregard any increase in value of plant and machinery resulting from a revaluation.
- (4) If the Commissioner is not satisfied with the revaluation mentioned in subparagraph (3) above, the qualifying expenditure at the commencement of this Act shall be ascertained on the basis of the market value of all that plant and machinery which was in the ownership and use of the company at the date of commencement.

- (5) The deductions referred to in subparagraphs (8) to (12) below shall be based on the following—
- (a) for the year of assessment commencing 1 July 2008—
 - (i) tax written down values from the preceding year of assessment; and
 - (ii) capital expenditure incurred within the basis period for the year of assessment commencing 1 July 2008 under a preceding year basis of taxation;
 - (b) for the year of assessment commencing 1 July 2009—
 - (i) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2008); and
 - (ii) capital expenditure incurred within the period extending from the first day immediately following the basis period mentioned in subparagraph (a)(ii) above to 30 June 2010;
 - (c) for the year of assessment commencing 1 July 2010—
 - (i) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2009); and
 - (ii) capital expenditure incurred within the period extending from 1 July 2010 to 31 December 2010.
- (6) Subject to subparagraph (7) below and in relation to the year of assessment commencing 1 January 2011, or as the case may be, accounting period commencing 1 January 2011, the deductions referred to in Schedule 3 shall be based on the following—
- (a) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2010 and ending on 31 December 2010); and

- (b) capital expenditure incurred within the period extending from 1 January 2011 to the accounting date;
 - (c) for the purposes of this subparagraph the amount in subparagraph (a) above shall constitute the initial amount available of qualifying expenditure as defined in Chapter 4 of Schedule 3.
- (7) For subsequent years of assessment or, as the case may be, accounting periods immediately following the year of assessment commencing 1 January 2011 or, as the case may be, the accounting period specified in subparagraph (6) above, the deductions referred to in Schedule 3 shall be based on the provisions of that Schedule.
- (8) (a) In this subparagraph, “plant and machinery”, whether used conjunctively or disjunctively—
- (i) includes a fixture and a fitting;
 - (ii) do not include any motor vehicle unless it is of a construction primarily suited for the conveyance of any goods or burden (other than passengers) of any description, or it is of a type not commonly used as a private motor vehicle and is unsuitable to be so used, or it is provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of trade or business;
 - (iii) do not include aircraft or vessel that is used for any purpose other than the purpose of a trade, business profession or vocation;
 - (iv) do not include computers or computer programs.
- (b) Subject to subparagraph (9) below, where—
- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure not exceeding

£30,000 wholly and exclusively for the provision of plant or machinery for the purposes of producing income from that trade, business, profession or vocation; and

- (ii) in consequence of the person incurring that expenditure, the plant or machinery belongs to the person at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income the whole amount of that expenditure.

- (c) Notwithstanding subsubparagraph (b) above, where a person who has already claimed a deduction under this paragraph in respect of any plant or machinery claims a deduction under this paragraph in respect of any capital expenditure incurred by him for the provision of any plant or machinery in replacement of the first item of plant or machinery, the Commissioner may refuse to allow the deduction in respect of the second item of plant or machinery unless the person satisfies the Commissioner that, having regard to the condition and the expected life of the first item, it is reasonably necessary to replace it.
- (d) Where any plant or machinery used for the purposes of any trade, business, profession or vocation, in respect of which a deduction is allowed under this paragraph, subsequently ceases permanently to be used for those purposes, every sum received by the person in whose favour the deduction was allowed, by reason of the disposal of that plant or machinery, shall be deemed to be income of that person liable to tax.
- (e) Where any such plant, machinery or fixtures is used for the purpose of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former

person shall, in such cases, be entitled to the deduction.

- (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (g) below, shall apply in the same manner as prior to the 1st July 1999.
 - (g) Subject to the provisions of this subparagraph, for the purpose of ascertaining the assessable income of any person there shall be deducted such sum as the Commissioner may consider just and reasonable as representing the amount by which the value of the premises being entertainment centres in respect of which a valid exemption certificate under section 5 of the Gaming Act is in force, hotels, mills, factories or similar premises, has been diminished by reason of wear and tear arising out of their use or employment by the owner thereof in a trade, business or profession—
 - (i) the amount to be deducted in respect of premises being entertainment centres in respect of which a valid exemption certificate under section 5 of the Gaming Act is in force, hotels, mills, factories or other similar premises, shall not exceed 4 per cent of the cost thereof (exclusive of the cost of the land on which the premises are erected);
 - (ii) where the person carrying on the trade or business is not the owner of the premises, the deduction may be allowed to either the former or the latter or apportioned between them in such a manner as the Commissioner deems just and equitable; and
 - (iii) no deduction shall be allowed for any period if the deduction will exceed the written down value.
- (9) (a) Subject to subparagraphs (b) and (c) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure exceeding £30,000 for the provision of plant or machinery for the purposes of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure, the plant or machinery belongs to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income for that year 25 per cent of the whole amount of that capital expenditure exceeding £30,000, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) In relation to subsubparagraph (a) above, the provisions of subparagraph (8) above shall apply in respect of the first £30,000 of the capital expenditure.
- (c) Where any such plant, machinery or fixtures is used for the purpose of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (d) No deduction shall be allowed under this subparagraph if the deduction will exceed the written down value.
- (e) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any plant or machinery (not being plant or machinery to which subparagraph (8) above applies) which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of the plant or machinery replaced, less

any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the new plant or machinery, whichever is the less: Provided that where the sum realised or likely to be realised under the provisions of this sub-paragraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.

- (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (8) above shall apply in the same manner as prior to the 1st July 1999.

(10) (a) Subject to subsubparagraph (b) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure for the provision of motor vehicles for the purpose of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure the vehicles belong to him at some time during the year of assessment,

then for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income for that year 25 per cent of the whole amount of the said capital expenditure, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) Where any such vehicles are so used for the purpose of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.

- (c) No deduction shall be allowed under this rule if the deduction will exceed the written down value.
 - (d) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any vehicles which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of the vehicle replaced, less any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the new vehicles, whichever is the less;
 - (e) Where the sum realised or likely to be realised under the provisions of this subparagraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.
 - (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (8) above shall apply in the same manner as prior to the 1st July 1999.
 - (g) In this subparagraph, “vehicles”, means motor vehicles to which subparagraphs (8) or (9) do not apply.
- (11) (a) Subject to subparagraph (d) below, where—
- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure on computers or computer equipment not exceeding £50,000 wholly and exclusively for the purposes of producing income from that trade, business, profession or vocation; and

- (ii) in consequence of his incurring that expenditure, the computers or computer programs belong to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income the whole amount of that expenditure.

- (b) Notwithstanding subsubparagraph (a) above, where a person who has already claimed a deduction under this subparagraph in respect of computers or computer programs claims a deduction under this subparagraph in respect of any capital expenditure by him for the provision of computers or computer programs in replacement of the first item of computers or computer programs, the Commissioner may refuse to allow the deduction in respect of the second item of computers or computer programs unless the person satisfies the Commissioner that, having regard to the condition and the expected life of the first item, it is reasonably necessary to replace it.
- (c) Where computers or computer programs used for the purposes of any trade, business, profession or vocation, in respect of which a deduction is allowed under this subparagraph, subsequently ceases permanently to be used for those purposes, every sum received by the person in whose favour the deduction was allowed by reason of the disposal of computers or computer programs shall be deemed to be income of that person liable to tax.
- (d) Where computers or computer programs are used for the purpose of a trade, business, vocation or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (e) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to 1 July 2001,

in which case the provisions of subparagraph (8) shall apply in the same manner as prior to the 1st July.

(12) (a) Subject to subparagraph (12)(b) and (c) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure exceeding £50,000 for the provision of computers or computer programs for the purposes of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure, the computer or computer program belongs to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income for that year 25 per cent of the whole amount of the said capital expenditure exceeding £50,000, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) The provisions of subparagraph (a) above shall apply in respect of the first £50,000 of the capital expenditure.
- (c) Where any computers or computer programs are used for the purposes of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (d) No deduction shall be allowed under this subparagraph if the deduction will exceed the written down value.
- (e) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any computers or computer

programs (not being computers or computer programs to which subparagraph (8) above, applies) which were used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of computers or computer programs replaced, less any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the computer hardware or software, whichever is the less.

- (f) Where the sum realised or likely to be realised under the provisions of this subparagraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.
- (g) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 2001, in which case the provisions of subparagraph (9) above, shall apply in the same manner as prior to the 1st July 2001.”.

(27) In Schedule 9 delete paragraph 10 and the Table.

(28) After Schedule 9 insert the following schedule–

“Schedule 10

Section 39

TABLE												
PAYMENTS ON ACCOUNT												
Accounting period end:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Accounts to be filed by:	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1st payment for accounting period	28 FEB	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	28 FEB	28 FEB	28 FEB
Payment date												
30 September 2015	31/01/14	28/02/14	31/03/14	30/04/14	31/05/14	30/06/14	31/07/14	31/08/14	30/09/13	31/10/13	30/11/13	31/12/13
Basis period:	2016	2016	2016	2016	2016	2016	2016	2016	2015	2015	2015	2015
Allocated to:												
28 February 2016	31/01/15	28/02/14	31/03/14	30/04/14	31/05/14	30/06/14	31/07/14	31/08/14	30/09/14	31/10/14	30/11/14	31/12/14
Basis period:	2017	2016	2016	2016	2016	2016	2016	2016	2016	2016	2016	2016
Allocated to:												
30 September 2016	31/01/15	28/02/15	31/03/15	30/04/15	31/05/15	30/06/15	31/07/15	31/08/15	30/09/14	31/10/14	30/11/14	31/12/14
Basis period:	2017	2017	2017	2017	2017	2017	2017	2017	2016	2016	2016	2016
Allocated to:												
28 February 2017	31/01/16	28/02/15	31/03/15	30/04/15	31/05/15	30/06/15	31/07/15	31/08/15	30/09/15	31/10/15	30/11/15	31/12/15
Basis period:	2018	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017
Allocated to:												
30 September 2017	31/01/16	28/02/16	31/03/16	30/04/16	31/05/16	30/06/16	31/07/16	31/08/16	30/09/15	31/10/15	30/11/15	31/12/15
Basis period:	2018	2018	2018	2018	2018	2018	2018	2018	2017	2017	2017	2017
Allocated to:												
28 February 2018	31/01/17	28/02/16	31/03/16	30/04/16	31/05/16	30/06/16	31/07/16	31/08/16	30/09/16	31/10/16	30/11/16	31/12/16
Basis period:	2019	2018	2018	2018	2018	2018	2018	2018	2018	2018	2018	2018
Allocated to:												
30 September 2018	31/01/17	28/02/17	31/03/17	30/04/17	31/05/17	30/06/17	31/07/17	31/08/17	30/09/16	31/10/16	30/11/16	31/12/16
Basis period:	2019	2019	2019	2019	2019	2019	2019	2019	2018	2018	2018	2018
Allocated to:												
28 February 2019	31/01/18	28/02/17	31/03/17	30/04/17	31/05/17	30/06/17	31/07/17	31/08/17	30/09/17	31/10/17	30/11/17	31/12/17
Basis period:	2020	2019	2019	2019	2019	2019	2019	2019	2019	2019	2019	2019
Allocated to:												
30 September 2019	31/01/18	28/02/18	31/03/18	30/04/18	31/05/18	30/06/18	31/07/18	31/08/18	30/09/17	31/10/17	30/11/17	31/12/17
Basis period:	2020	2020	2020	2020	2020	2020	2020	2020	2019	2019	2019	2019
Allocated to:												
28 February 2020	31/01/19	28/02/18	31/03/18	30/04/18	31/05/18	30/06/18	31/07/18	31/08/18	30/09/18	31/10/18	30/11/18	31/12/18
Basis period:	2021	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020	2020
Allocated to:												
Basis period:	The accounting period on which the payment is based. Payments are calculated at the applicable rate of tax on 50% of the taxable profits arising in the accounting periods indicated.											
Allocated to:	The accounting period for which the payment is made towards.											

		PAYMENTS ON ACCOUNT											
		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Accounting period end:		OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
Accounts to be filed by:		28 FEB	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	30 SEP	28 FEB	28 FEB	28 FEB
1st payment for accounting period													
Payment date													
30 September 2020	Basis period:	31/01/19	28/02/19	31/03/19	30/04/19	31/05/19	30/06/19	31/07/19	31/08/19	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2021	2021	2021	2021	2021	2021	2021	2021	2020	2020	2020	2020
28 February 2021	Basis period:	31/01/20	28/02/19	31/03/19	30/04/19	31/05/19	30/06/19	31/07/19	31/08/19	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2022	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021
30 September 2021	Basis period:	31/01/20	28/02/20	31/03/20	30/04/20	31/05/20	30/06/20	31/07/20	31/08/20	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2021	2021
28 February 2022	Basis period:	31/01/21	28/02/20	31/03/20	30/04/20	31/05/20	30/06/20	31/07/20	31/08/20	30/09/20	31/10/20	30/11/20	31/12/20
	Allocated to:	2023	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022
30 September 2022	Basis period:	31/01/21	28/02/21	31/03/21	30/04/21	31/05/21	30/06/21	31/07/21	31/08/21	30/09/20	31/10/20	30/11/20	31/12/20
	Allocated to:	2023	2023	2023	2023	2023	2023	2023	2023	2022	2022	2022	2022
28 February 2023	Basis period:	31/01/22	28/02/21	31/03/21	30/04/21	31/05/21	30/06/21	31/07/21	31/08/21	30/09/21	31/10/21	30/11/21	31/12/21
	Allocated to:	2024	2023	2023	2023	2023	2023	2023	2023	2023	2023	2023	2023
30 September 2023	Basis period:	31/01/22	28/02/22	31/03/22	30/04/22	31/05/22	30/06/22	31/07/22	31/08/22	30/09/21	31/10/21	30/11/21	31/12/21
	Allocated to:	2024	2024	2024	2024	2024	2024	2024	2024	2023	2023	2023	2023
28 February 2024	Basis period:	31/01/23	28/02/22	31/03/22	30/04/22	31/05/22	30/06/22	31/07/22	31/08/22	30/09/22	31/10/22	30/11/22	31/12/22
	Allocated to:	2025	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024
30 September 2024	Basis period:	31/01/23	28/02/23	31/03/23	30/04/23	31/05/23	30/06/23	31/07/23	31/08/23	30/09/22	31/10/22	30/11/22	31/12/22
	Allocated to:	2025	2025	2025	2025	2025	2025	2025	2025	2024	2024	2024	2024
28 February 2025	Basis period:	31/01/24	28/02/23	31/03/23	30/04/23	31/05/23	30/06/23	31/07/23	31/08/23	30/09/23	31/10/23	30/11/23	31/12/23
	Allocated to:	2026	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025
Basis period:	The accounting period on which the payment is based. Payments are calculated at the applicable rate of tax on 50% of the taxable profits arising in the accounting periods indicated.												
Allocated to:	The accounting period for which the payment is made towards.												

Income Tax (Gift Aid) Rules 2006.

4.(1) The Income Tax (Gift Aid) Rules 2006 shall be deemed to have been made under section 25A of the Income Tax Act 2010.

(2) For the avoidance of doubt, any payment made, or action taken, under the Income Tax (Gift Aid) Rules 2006 from 1 January 2011 shall for all purposes be deemed to have been validly made or taken.

(3) In rule 8 of the Income Tax (Gift Aid) Rules 2006, for “£1,000” substitute “£5,000”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2007.

5.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance with the provisions of this section.

(2) For rule 4 substitute—

“Terms and conditions of certificate.

4.(1) A certificate issued pursuant to rule 3 above, shall specify the following—

- (a) the name of the individual to whom it is issued;
- (b) the company or statutory body in respect of which that individual, for the purposes of rule 3 above, has an occupation or holds a post;
- (c) the title and functions of the post mentioned in paragraph (b) above; and
- (d) the period of validity referred to in sub-rule (2) below.

(2) Subject to the provisions of rule 5 below, a certificate issued pursuant to rule 3 above, shall remain valid and in force for the period specified in the certificate or where no period is specified in the certificate until it is revoked by the Finance Centre Director.”

(3) For rule 7 substitute—

“Deemed assessable income, rates of tax applicable and calculation of the tax.

7.(1) Subject to the provisions of this rule and rules 8 and 9 below, an individual in respect of whom a certificate has been issued under rule 3 above, shall be chargeable to tax for a year of assessment in the amount of £100,000 exactly of his assessable income under the Gross Income Based System in accordance with the provisions of rule 3(A) of the Rates of Tax Rules.

- (2) Subject to the provisions of this rule and rules 8 and 9 below, the amount of tax payable shall be—
 - (a) £2,291.67 for each complete calendar month or part of each calendar month in respect of the first year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid in accordance with sub- rule (3) below;
 - (b) £27,500 for any whole year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid by twelve equal monthly instalments in accordance with sub-rule (3) below;
 - (c) £2,291.67 for each complete calendar month or part of each calendar month in respect of the last year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid in accordance with sub- rule (3) below;
- (3) Subject to sub-rule (4) below, and notwithstanding that no assessment has been made on an individual to whom these rules apply, the tax payable referred to in paragraphs (a) to (c) of sub-rule (2) above, shall be paid as follows—
 - (a) on the last day of each month, or
 - (b) on such day or days, as appears appropriate to the Commissioner to give effect to paragraph (a) above.
- (4) In respect of the payment or payments, as the case may be, of any tax referred to in sub-rule (3) above, the Commissioner shall issue to any person, a directive or directives, as the case may be, pursuant to the provisions of rule 9 below.
- (5) An individual who has a certificate issued to him pursuant to rule 3 above that is valid and in force for a whole year of assessment shall be deemed to be chargeable to tax in the amount of £100,000 exactly as prescribed by sub-rule (1) above, notwithstanding that the assessable income of that

individual does not exceed £100,000 or is likely not to exceed £100,000 for that year of assessment.”.

(4) For rule 8 substitute the following rules-

“Treatment of other income.

- 8.(1) Where an individual to whom these rules apply, has other assessable income from any source specified in the Income Tax Act (and such other assessable income is not from a source in respect of which he has a valid certificate issued under rule 3 above), the individual shall be chargeable to tax on the full amount of that other assessable income for the year of assessment under the Gross Income Based System in accordance with rule 3(A) of the Rates of Tax Rules at the appropriate rate prescribed therein.
- (2) For the purposes of determining the appropriate rate under sub-rule (1) above, the amount of £100,000 specified in rule 7 above, shall be included in the assessable income of that individual.

Commissioner may issue directive for collection of tax.

- 9.(1) Subject to sub-rule (2) below, on the making of any payment of, or on account of, any income assessable and chargeable on an individual to whom the provisions of these rules apply, tax shall be deducted by the person making the payment if required by the Commissioner, notwithstanding that when the payment is made no assessment has been made in respect of such income.
- (2) Subject to the provisions of rule 7 above, the Commissioner may in such manner as seems appropriate to him issue a directive to the person referred to in sub-rule (1) above, requiring the person making any payment of, or on account of, any such income when he makes the payment, to make a deduction of tax in the amount specified in the directive and pay that amount to the Commissioner.
- (3) For the purposes of this rule, a payment of, or on account of, any income assessable to tax on an individual to whom the provisions of these rules apply, shall be treated as made at the

time when the payment is actually made or the time when the individual becomes entitled to the payment, whichever is the earlier.

- (4) In this rule, “person” includes any statutory authority and any company referred to in rule 3 above.”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2009.

6. Rule 7 of the High Executive Possessing Specialist Skills Rules 2008 is amended-

- (a) in sub-rule (2) for “£2,291.67” substitute “£2,229.17” on both occasions where it appears;
- (b) in sub-rule (2) for “£27,500” substitute “£26,750”.

7.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance with the provisions of this section.

- (2) In rule 3 for “£100,000” substitute “£120,000”.

(3) Rule 7 is amended as follows-

- (a) in sub-rule (1) for £100,000 substitute “£120,000”;
- (b) in sub-rule (2) for “£2,229.17” in the two places where it occurs substitute “£2,712.50”;
- (c) in sub-rule (2) for “£26,750” substitute “£32,550”;
- (d) in sub-rule (5) for “£100,000” in the three places where it occurs substitute “£120,000”.

- (4) In rule 8 for “£100,000” substitute “£120,000”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2011.

8.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance with the provisions of this section.

(2) Rule 7 is amended as follows—

- (a) in sub-rule (2) for “£2,712.50” in the two places where it occurs substitute “£2,495”;
- (b) in sub-rule (2) for “£32,550” substitute “£29,940”.

Amendments to HEPSS Rules.

9.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended by inserting the following sub-rule after rule 8(2)—

“(3) The provisions of section 60 of the Income Tax Act shall not apply to these Rules.”.

Amendments to Qualifying (Category 2) Individuals Rules 2004.

10.(1) The Qualifying (Category 2) Individuals Rules 2004 are amended in accordance with the provisions of this section.

(2) For rule 4, substitute the following rule—

“Exclusion by Previous Residence Activity.

4.(1) Subject to sub-rules (2) and (3) below, an individual who in the last five years of assessment immediately preceding the year of assessment in which the application is made—

- (a) was present in Gibraltar for a period exceeding—
 - (i) 183 days in any such year of assessment, or
 - (ii) an average of 90 days in any three of those years of assessment; or

- (b) has carried on or exercised any trade, business, profession, vocation or employment in Gibraltar,

shall not be entitled to a certificate issued under rule 6 of these rules.

- (2) Paragraph (b) above shall not apply in relation to activities, duties or functions performed by the individual in Gibraltar that are incidental to any trade, business, profession, vocation or employment carried on or exercised outside Gibraltar by that individual.
- (3) The Finance Centre Director may waive any requirement of this rule where he is satisfied that the issue of a certificate under rule 6 of these rules would be of benefit to the economic development of Gibraltar.”

- (3) For rule 5, substitute the following rule–

“Permitted activities and chargeability to taxation on those activities.

- 5.(1) Subject to sub-rules (2) and (3) below, a Category 2 Individual may be permitted to carry on or exercise any trade, business, profession, vocation or employment in Gibraltar where the Finance Centre Director is satisfied that the exercise of such trade, business, profession, vocation or employment would be of benefit to the economic development of Gibraltar.
- (2) A Category 2 Individual who is permitted by the Finance Centre Director under sub-rule (1) above, to carry on or exercise any trade, business, profession, vocation or employment in Gibraltar shall be assessable to taxation–
 - (a) under the provisions of the Act in relation to income accrued in or derived from Gibraltar, and
 - (b) in accordance with the provisions of rule 10 of these rules.
- (3) Sub-rule (2) above shall not apply in relation to activities, duties or functions performed by the Category 2 Individual in Gibraltar that are incidental to any trade, business,

profession, vocation or employment carried on or exercised outside Gibraltar by that Category 2 Individual.”.

(4) In rule 6(c) delete the words “as a finance centre”.

(5) Rule 7 is amended as follows–

(a) in sub-rule (1) by deleting the words “on each anniversary of the issue of the certificate”;

(b) in sub-rule (1)(c) for “.” substitute “; and”;

(c) after sub-rule (1)(c) insert the following paragraph–

“(d) has paid all the assessed tax due under the provisions of the Act, or

(e) has paid the amount of any minimum tax payable or that would have been payable under rule 9 of these rules in relation to any year of assessment.”;

(d) after sub-rule (3) insert the following sub-rule–

“(4) Where a Category 2 Individual makes a declaration that he is not chargeable to taxation under the provisions of the Act, the Finance Centre Director shall immediately revoke the certificate issued under rule 6 of these rules.”.

(6) Rule 9 is amended–

(a) in sub-rule (2) by substituting “25” for “37A”;

(b) in sub-rule (4)(a) immediately preceding the words “the provisions of rule 2” insert the words “subject to rule 10 of these Rules.”;

(c) inserting after sub-rule (4)–

“(5) A Category 2 Individual shall not be assessable to tax on the Gross Income Based System under rule 3(A) of the Rates of Tax Rules.”.

(7) For rule 10, substitute the following rule–

“Assessable Income.

- 10.(1) Subject to the provisions of these rules, the income chargeable to taxation under section 11 of the Act in relation to dividends, pension or emoluments of office accruing in, derived from or received in any place other than Gibraltar of any person ordinarily resident in Gibraltar shall not be taken into account in determining the assessable income of a Category 2 Individual.
- (2) A Category 2 Individual may elect that all or any part of the income excluded by sub-rule (1) above, is taken into account in determining the assessable income of that individual for any year of assessment.
- (3) A Category 2 Individual shall be assessable to taxation under the provisions of the Act in respect of income from rents, premiums and any other profits arising from any real property situate in Gibraltar.
- (4) A Category 2 Individual who is permitted by the Finance Centre Director under rule 5 of these rules to carry on or exercise any trade, business, profession, vocation or employment in Gibraltar shall be assessable to taxation under the provisions of the Act in relation to income accrued in or derived from Gibraltar.
- (5) The income from sources referred to in sub-rules (3) and (4) above, for the purposes of rule 9 of these rules shall be assessable on a Category 2 Individual in accordance with the provisions of rule 2 of the Rates of Tax Rules at the appropriate rate prescribed therein.
- (6) For the purposes of determining the appropriate rate under sub-rule (5) above, the amount specified in rule 9(4)(a) of these rules shall be included in the assessable income of the Category 2 Individual.”.

EXPLANATORY MEMORANDUM

This Act amends the Income Tax Act 2010 for the purpose of accommodating measures announced in Budget Speeches. The Bill also introduces a number of amendments, including the creation of new offences, for the purpose of improving the administration of the Act.

The Bill also make amendments to subsidiary legislation. Clause 4 relates to amendments to provide for the specific saving of the 2006 Income Tax (Gift Aid) Rules 2006, which were made under the previous Income Tax Act. Clauses 5, 6, 7, 8 and 9 amend the High Executive Possession Specialist Skills Rules 2008. Clause 10 amends the Qualifying (Category 2) Individuals Rules 2004.

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