

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,509 of 10th August, 1989.



I ASSENT,
PETER TERRY,
GOVERNOR.
10th August, 1989.



GIBRALTAR

No. 28 of 1989.

AN ORDINANCE to amend the Income Tax Ordinance.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance, 1989 and shall come into operation on such day as the Governor may by order in the Gazette appoint and different days may be so appointed for different purposes.

Amendment to Section 7.

2. Section 7 of the Income Tax Ordinance (hereinafter called the "principal Ordinance") is amended by repealing paragraph (tf) in subsection 1 and substituting therefor the following paragraph-

"(tf) any interest received by any person (whether resident or non-resident) in respect of any loan made by him to any person for the purpose of financing investment in development projects designed to promote the economic and social development of Gibraltar, where the terms and conditions of such loan have been approved by the Minister for Trade and Industry;"

Repeal and replacement of certain sections.

3. Sections 37, 37A, 37B and 38 of the principal Ordinance are repealed and the following sections are inserted therein in their appropriate numerical order-

"Rate of tax.

37. Tax shall be charged on the taxable income of every person at such rates Governor may by rules prescribe, and different rules may be so prescribed with respect to-

- (a) different descriptions of persons, or
- (b) different bandings of the taxable income, or
- (c) different descriptions of income.

Reliefs, allowances, etc.

37A.(1) For the purpose of ascertaining the amount of income chargeable to tax, there shall be allowed such reliefs (personal or otherwise), exemptions and allowances as the Governor may by rules prescribe.

(2) Without derogation of the generality of subsection (1) the rules made in pursuance of that subsection may make special provisions with respect to –

(a) the income of any company or other body of which the Government is a member being a company or body specified therein for the purpose of this rule,

(b) moneys invested in any such company or body by way of a purchase of shares or otherwise,

(c) income derived from the moneys so invested.

(3) The rules made in pursuance of subsection (1) may make provision for the repeal or modification of any of the provisions of this Ordinance which concern any such reliefs, exemptions or allowances.

Tabling of rules before House of Assembly and effects of annulment.

37B. (1) Any rule made in pursuance of section 37 or 37A, shall be laid before the House of Assembly at the meeting thereof next ensuing after such rule has been made.

(2) If any such rule is annulled by the House of Assembly in pursuance of the provisions of section 28 of the Interpretation and General Clauses Ordinance, then –

(a) any moneys paid in pursuance of such rule which, but for that rule, would not have been payable shall be repaid or made good, and

(b) any deduction made in pursuance of such rule so far as it would not have been authorized but for that rule, shall be deemed to be an unauthorized deduction, and

(c) subsection (2) of that section shall have effect only in so far as it relates to the duty of a person or authority to revoke the rule.

Rules may be given retrospective effect.

37C. Subject to proviso (b) to section 24 of the Interpretation and General Clauses Ordinance, the rules made in pursuance of section 37 or 37A may be given retrospective effect."

Amendment to section 41.

4. Section 41 of the principal Ordinance is amended-

(a) in subsection (4)

(i) in paragraph (a) (i) by omitting the words "the rate of " and substituting therefor "such rate as, may be prescribed but not less than",

(ii) in paragraph (a) (ii) by omitting the words "the rate of 17" and substituting therefor "such rate as may be prescribed not exceeding 18",

(iii) in paragraph (b) by omitting the words "of 2 per cent per pound" and substituting therefor "applicable in accordance with paragraph (a) (i) above";

(b) in subsection (5)

(i) by omitting the words "of 17 per cent per pound" and substituting therefor "applicable in accordance with subsection (4) (a) (ii)", and

(ii) by omitting the words "of 2 per cent per pound" and substituting therefor "applicable in accordance with subsection (4) (a) (i)".

New section

5. The principal Ordinance is further amended by inserting after section 41 the following new section-

“Qualifying individuals

41A.(1) The Financial and Development Secretary, where he is satisfied that an individual complies with the prescribed

requirements, may in his absolute discretion issue under his hand a qualifying certificate under this section to the individual, subject to such conditions as he may think fit, and the individual shall subject to subsections (2) and (3), be a qualifying individual from such date as may be stated in the certificate.

(2) A qualifying certificate shall remain in force for such a period as shall be stated in it.

(3) Notwithstanding subsection (2) an individual shall unless the Financial and Development Secretary otherwise directs in writing, cease to be a qualifying individual if he ceases to comply with the prescribed requirements or with any of the conditions specified in the qualifying certificate.

(4) Tax shall be charged on the taxable income of a qualifying individual at such rate of not less than 2 per cent per pound, as may be prescribed, provided that the total tax so charged shall not exceed such amount as may be prescribed.

(5) A qualifying individual who is subject to tax in pursuance of this section shall not be liable to tax under any other provision of this Ordinance.

(6) An application by an individual for a qualifying certificate shall be subject to the payment of such a fee as may be prescribed."

Passed by the Gibraltar House of Assembly on the 1st day of August, 1989.

C. M. COOM,

Clerk to the Assembly.