

HOME PURCHASE (DEDUCTIONS) RULES, 1989

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**Subsidiary
1989/099**

Rules made under s.37A.

HOME PURCHASE (DEDUCTIONS) RULES, 1989**(LN.1989/099)****23.11.1989**

Amending enactments	Relevant current provisions	Commencement date
LN.1990/078	r.2(2)(c) and (4)	28.6.1990
1992/021	rr. 2, 2A, 3, 6(1), (3) and (4)	1.7.1991
1993/090	rr.2(2)(d) and 2A(d)	1.5.1993
1992/022	r.2(1)	1.7.1993
2002/039	rr. 2(1)(i), (ii), (2)(e) and (2A), 2A(1)(i) and (ii)	1.7.2002
2008/067	r. 8	1.7.2007

ARRANGEMENT OF RULES.

Rule

1. Title.
2. Deduction for payments towards house purchase for own residential occupation.
- 2A. Deductions for payments towards house purchase for child's residential occupation.
3. Carry over of relief.
4. Joint ownership.
5. Provisional refund.
6. Forfeiture of deduction.
7. Repeal of section 26A of the Act.
8. Restrictions on entitlement to deduction specified in rule 2 and rule 2A in relation to elections made for Gross Income Based System.

Title.

1. These Rules may be cited as the Home Purchase (Deductions) Rules, 1989.

Deduction for payments towards house purchase for own residential occupation.

2. (1) Subject to subrules (2) and (3), an individual who is ordinarily resident in Gibraltar, other than an individual in respect of whom a certificate issued under rule 2 of the Rates of Tax (Relocated Executive Possessing Specialist Skills) Rules, 1992 is in effect, and proves to the satisfaction of the Commissioner that he or his spouse living with him—

- (a) has purchased, or entered into an agreement to purchase, a dwelling situate in Gibraltar for his or their own residential occupation; or
- (b) has constructed, or is in the process of constructing, a dwelling in Gibraltar for such a purpose,
 - (i) prior to 1 July 2001, shall be entitled in any one or more years of assessment to claim a deduction or deductions amounting in aggregate to not more than £10,000 from his or her assessable income;
 - (ii) from 1 July 2001 to 30 June 2015, shall be entitled in any one or more years of assessment to claim a deduction or deductions amounting in aggregate to not more than £11,500 from his or her assessable income.

(2) Subject to rule 3, a deduction under this rule:

- (a) shall not be allowed more than once nor be granted in respect of more than one dwelling at any one time;
- (b) shall only be allowed in respect of any payment or payments made on or after 1 July 1988 towards the purchase or construction of the dwelling;
- (c) shall not in any year of assessment exceed the aggregate amount paid by the individual in that year towards the purchase or construction of the dwelling, including the repayment of any loan, any part of a loan, or any interest on any loan obtained by him or his spouse for that purpose and shall not in total exceed

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the purchase price or the cost of construction of the dwelling;
and

- (d) shall not be allowed to an individual who—
- (i) is a resident tenant of a dwelling belonging to the Crown in right of its Government of Gibraltar in respect of the purchase of such dwelling; or
 - (ii) has acquired from the Crown in right of its Government of Gibraltar a property for redevelopment for his own residential occupation in respect of the acquisition of that property,

where that purchase or acquisition has taken place prior to the 1st day of May 1993, or

- (iii) has purchased property from the Crown in right of its Government of Gibraltar on terms that he shall not, in respect of that purchase, be eligible for a reduction or relief under these Rules or any replacement thereof.

(2A) Notwithstanding paragraph (2)(a), where an allowance under this rule or rule 2A has been allowed in respect of a dwelling prior to 1 July 2001 a further deduction may be allowed after 1 July 2001 in respect of a separate dwelling subject to the deduction being reduced by the amount of the deduction allowed under these rules or the principal Act prior to 1 July 2001.

(3) An individual claiming a deduction under this rule may elect that the deduction be made from the assessable income of his own, or of his spouse, or of both in the proportion of 50% each.

(4) For the purpose of ascertaining entitlement to a deduction under these Rules, “amount” shall not include any proceeds received by an individual on maturity or earlier realisation of a policy of life assurance entered into for the purpose of securing a loan to assist in the purchase of the dwelling.

Deductions for payments towards house purchase for child’s residential occupation.

2A.(1) Subject to subrules (2) and (3), an individual who is ordinarily resident in Gibraltar and proves to the satisfaction of the Commissioner that he or his spouse with him—

- (a) has purchased, or entered into an agreement to purchase, a dwelling situate in Gibraltar for residential occupation by a child of theirs or his or hers; or
 - (b) has constructed or is in the process of constructing, a dwelling in Gibraltar for such a purpose,
 - (i) prior to 1 July 2001, shall be entitled in any one or more years of assessment to claim a deduction or deductions amounting in aggregate to not more than £10,000 from his or her assessable income;
 - (ii) from 1 July 2001 to 30 June 2015, shall be entitled in any one or more years of assessment to claim a deduction or deductions amounting in aggregate to not more than £11,500 from his or her assessable income.
- (2) Subject to rule 3, a deduction under this rule—
- (a) shall not be allowed more than once in respect of a particular child of theirs or his or hers nor be granted in respect of more than one dwelling for such child at any one time;
 - (b) shall only be allowed in respect of any payment or payments made on or after 1st July 1988 towards the purchase or construction of the dwelling;
 - (c) shall not in any year of assessment exceed the aggregate amount paid by the individual in that year towards the purchase or construction of the dwelling, including the repayment of any loan, any part of any loan, or any interest on any loan obtained by him or his spouse for that purpose and shall not in total exceed the purchase price or the cost of construction of the dwelling; and
 - (d) shall not be allowed to an individual who—
 - (i) is a resident of a dwelling belonging to the Crown in right of its Government of Gibraltar in respect of the purchase of such dwelling; or
 - (ii) has acquired from the Crown in right of its Government of Gibraltar a property for redevelopment for residential

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occupation for such a child in respect of the purchase of such property,

where that purchase or acquisition has taken place prior to the 1st of May 1993, or

- (iii) has purchased property from the Crown in right of its Government of Gibraltar on terms that he shall not, in respect of that purchase, be eligible for a deduction or relief under these Rules or any replacement thereof.

(3) An individual claiming a deduction under this rule, may elect that the deduction be made from the assessable income of his own, or of his spouse, or of both in the proportion of 50% each.

(4) For the purpose of ascertaining entitlement to a deduction under this rule “amount” shall not include any proceeds received by an individual on maturity or earlier realisation of a policy of life assurance entered into for the purpose of securing a loan to assist in the purchase of the dwelling.

Carry over of relief.

3. Where the amount claimed in respect of the dwelling in any year of assessment is less than the amount to which the individual is entitled under these Rules, then notwithstanding rule 2(2)(c) and/or rule 2A(2)(c) a deduction shall be granted in respect of the balance of the entitlement in any subsequent year of assessment.

Joint ownership.

4. Where it is shown to the satisfaction of the Commissioner that two or more individuals are entitled to a deduction under these Rules separately in respect of the same dwelling, the Commissioner shall only allow each such individual a reduced deduction, the amount of which shall be reckoned by reference to the individual’s interest in the dwelling.

Provisional refund.

5. If the Commissioner is satisfied that an individual has not obtained the full tax relief that he is entitled to under these Rules in any year of assessment the Commissioner may, at his discretion, refund to that individual an amount of tax equivalent to tax at the standard rate on the unutilised balance of the relief to which the individual was entitled in that year of assessment subject to any adjustment that may be made in the individual’s assessment for that year.

Forfeiture of deduction.

6. (1) Subject to subrule (2), an individual who, within twelve months of obtaining the legal estate of the dwelling in respect of which a deduction is allowable under rule 2,—

- (a) sells or disposes (otherwise than by way of mortgage) of his interest therein; or
- (b) fails or ceases to use such dwelling for his own residential accommodation,

shall not be entitled to claim deduction under these Rules and where such a deduction has been made in respect of a past year of assessment, the Commissioner may make an amended or additional assessment to bring the amount of that deduction to charge, in accordance with section 74 of the Act.

(2) Subrule (1) shall not apply where the individual ceases by reason of his death to use such dwelling for his residence and the dwelling continues to be occupied by his spouse.

(3) Subject to subrule (4), an individual who or whose child or the child of whose spouse, within twelve months of obtaining the legal estate of the dwelling in respect of which a deduction is allowable under rule 2A—

- (a) sells or disposes (other than by way of mortgage) of his interest therein; or
- (b) fails or ceases to use such dwelling for residential occupation by that child,

shall not be entitled to claim deduction under these Rules and where such deduction has been made in respect of a past year of assessment, the Commissioner may make an amended or additional assessment to bring the amount of that deduction to charge, in accordance with section 74 of the Act.

(4) Subrule (3) shall not apply where such child ceases by reason of his death to use such dwelling for his residence and the dwelling continues to be occupied by his spouse, or by another child of the individual to whom a deduction in respect of that dwelling has been allowed under rule 2A and in respect of which child the individual would have been entitled to claim a deduction under rule 2A but has not done so.

Repeal of section 26A of the Act.

7. Section 26A of the Act is repealed, provided that an individual who, prior to the coming into operation of these Rules—

- (a) was a resident tenant of a dwelling belonging to the Crown in right of its Government of Gibraltar;
- (b) has acquired from the Crown a property for redevelopment for his own residential occupation,

shall continue to be entitled to claim the deduction, in respect of the purchase by him or his spouse of that dwelling, specified in section 26A of the Act prior to its repeal by these Rules.

Restrictions on entitlement to deduction specified in rule 2 and rule 2A in relation to elections made for Gross Income Based System.

8.(1) An individual who elects to be chargeable under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, shall not be entitled to any deduction under these Rules.

(2) An individual who has a spouse that has elected to be chargeable under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, shall not be entitled to any deduction under these Rules, unless—

- (a) the individual would (but for this subrule) be entitled for the year of assessment commencing 1 July 2007 and for any subsequent year of assessment to a deduction under these Rules; and
- (b) either—
 - (i) the individual had claimed on the appropriate form prescribed by the Commissioner for a deduction under these Rules and such claim had been made and submitted to the Commissioner on or before 30 June 2007 in respect of the year of assessment commencing 1 July 2006; or
 - (ii) the spouse had claimed on behalf of the individual on the appropriate form prescribed by the Commissioner for a deduction under these Rules and such claim had been

made and submitted to the Commissioner on or before 30 June 2007 in respect of the year of assessment commencing 1 July 2006,

in which case, the individual in relation to the year of assessment commencing 1 July 2007 and for any subsequent year of assessment shall be entitled to the deduction.

(3) Where the individual would (but for subrule (1)) be entitled for the year of assessment commencing 1 July 2007 and for any subsequent year of assessment—

- (a) to a deduction under these Rules; and
- (b) the individual and his spouse have not claimed the deduction referred to in paragraph (a), in the manner described in paragraphs (b)(i) and (b)(ii) of subrule (2),

the individual in relation to the year of assessment commencing 1 July 2007 and any subsequent year of assessment shall be entitled to claim from his assessable income a deduction not exceeding one half of the deduction that would be allowable under these Rules (but for subrule (2)) on his assessable income.