

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,580 of 15th NOVEMBER, 1990.

I ASSENT,

ANDREW CARTER,

ACTING GOVERNOR.

15th November, 1990.



GIBRALTAR

No. 37 of 1990.

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, 1990 and shall come into effect on such day as the Governor may by notice in the Gazette appoint and different days may be so appointed for different purposes.

New section 11A.

2. The Income Tax Ordinance (hereinafter called "the principal Ordinance") is amended by inserting a new section, section 11A, after section (11) as follows—

"Special provision as to Building Societies

11A. In the case of a Building Society, the profits or gains on which tax is payable in respect of a loan which the Commissioner is satisfied has been financed exclusively from funds of the Society originating outside Gibraltar, shall be IS% of the gross interest received on such loan less the expenses incurred by the Building Society in Gibraltar in connection with the administration of that loan."

Amendment to section 40.

3. Section 40 of the principal Ordinance is amended—

- (a) by omitting in subsection (1) the words "which is ordinarily resident in Gibraltar";
- (b) by omitting the semi-colon in subsection (2) together with the proviso to that subsection and substituting therefor a full stop;
- (c) by omitting subsection (3) and substituting therefor the following new subsection

"(3) The Commissioner may, in respect of any interest to which this section applies, issue a direction to the persons entrusted with the payment of such interest requiring that the interest shall be paid to such persons as the Commissioner may specify either without deduction of tax or after deduction of tax at such rate (being a rate lower than the standard rate) as he may determine and any such direction may be either in respect of creditors generally or of such special class of creditors as may be specified in the direction and may be generally or in relation to payments of interest during such years of assessment as may be specified and the direction may at any time be amended or revoked by the Commissioner."

- (d) by inserting new subsection (5) as follows

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"(5) Notwithstanding any other provisions Of the Ordinance the rate of tax determined by the Commissioner under subsection (3) where the Commissioner so determines shall be the rate of tax payable in respect of that interest the creditors specified in the direction, and such interest shall not in that case form part of the assessable income of those creditors."

Amendment to section 41

4. Section 41 of the principal Ordinance amended

(a) in subsection (4) by—

(i) omitting paragraph (a) and substituting therefor the following new paragraph

(a) shall be charged on the taxable income of every qualifying company at such rate as may be prescribed but at not less than 2 per cent per pound and at not more than 18 per cent per pound; and”;

(ii) omitting in paragraph (b) the figure "(i)"

(b) by omitting subsections (5) and (7)

Amendment to section 53

5. Section 53 of the principal Ordinance is amended in subsection (1) by omitting the final fullstop and it substituting therefor a semi-colon followed by the following proviso—

“Provided that in respect of a company each and every director of that company shall be deemed to be the agent of that company for the purpose of this section.”.

Repeal and replacement of section 67.

6. Section 67 of the principal Ordinance is repealed and replaced by the following new section—

Payment of tax by or in respect of construction sub-contractors

67. The Financial and Development Secretary may make all such regulations as are necessary generally for ensuring compliance with the provisions of this Ordinance by persons engaged in the business of construction sub-contractors, and in particular, without prejudice to the generality of the foregoing, may make regulations for all or any of the following purposes—

- (a) defining for the purposes of this Ordinance "contractor" "sub-contractor" and "construction" together with any other terms the definition of which is this section;
- (b) prescribing the payments to which regulations made under this section shall apply;
- (c) determining the method of payment of tax, including any obligation to deduct tax in respect of construction contractors and sub-contractors ;
- (d) prescribing, where necessary, procedures to be followed and notices and statements to be submitted in connection with the deduction and handing over of tax deducted by or on behalf of construction, contractors or sub-contractors
- (e) prescribing the terms under which a construction, contractor or sub-contractor may be exempt from a requirement to comply with a provision or provisions of this Ordinance or of these regulations and for the cancellation of any such exemption;
- (f) prescribing any fees payable in respect of any of the procedures in such regulations;
- (g) providing, where appropriate, that contravention of the regulations shall constitute a criminal offence and providing for a fine not exceeding £2,000 together with three times the

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amount of any tax which should have been deducted or should have been paid to the Commissioner of Income Tax under the provisions of this section or to six months imprisonment or to both;

- (h) providing that fact of the issue or withdrawal of an exemption certificate may be published in the Gazette notwithstanding the provisions of section 4 of the Ordinance.”.

Repeal of sections 68 and 69.

7. Sections 68 and 69 of the principal Ordinance are repealed.

Passed by the Gibraltar House of Assembly on the 8th day of November, 1990.

C. M. COOM,

Clerk to the Assembly.