

# Income Tax

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## GIBRALTAR 1992 COMPANY RULES, 1991.

**1952-11**  
**Repealed**  
**Subsidiary**  
**1991/229**

Rules made under s.98(1).

## GIBRALTAR 1992 COMPANY RULES, 1991

**Repealed by LN. 2005/071 as from 21.4.2005**

**(LN. 1991/229)**

### 1.1.1992

Amending enactments	Relevant current provisions	Commencement date
LN. 1992/089	r. 3(4)(e)	1.1.1992

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### ARRANGEMENT OF RULES.

#### Rule

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**GIBRALTAR 1992 COMPANY RULES, 1991.**

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**GIBRALTAR 1992 COMPANY RULES, 1991.****Title and commencement.**

1. These Rules may be cited as the Gibraltar 1992 Company Rules, 1991 and shall come into effect on the 1st day of January 1992.

**Interpretation.**

2. (1) In these Rules, unless the context otherwise requires—

“relevant participation” means an interest in the voting share capital of another body corporate, whether or not incorporated or registered in Gibraltar, equal to at least 5% of the total of such share capital;

“share” means a share in the share capital of a company and shall include stock except where a distinction between shares and stock is expressed or implied.

(2) For the purposes of these Rules a company shall be deemed to have an interest in the shares of a company if—

- (a) it holds that interest (other than as bare nominee or trustee thereof) directly or indirectly or through a company or series of companies and whether such interest is legal, equitable or contractual, or
- (b) by reason of any agreement or arrangement with another person, it has the right to acquire an interest in those shares or the right to enjoy a dividend or other benefit from those shares:

Provided that a company shall not be deemed to have an interest in the shares of a company by reason of its holding those shares or an interest therein acting in a representative or financial capacity only, even though it may be entitled to remuneration for so acting or may have a charge or lien on those shares in respect of such remuneration.

**Gibraltar 1992 Company.**

3. (1) The provisions of these Rules shall apply to a company certified under this rule as a Gibraltar 1992 Company.

(2) The Financial and Development Secretary may, where he is satisfied that the requirements of this rule have been met, issue to a company a certificate designating that company as a Gibraltar 1992 Company.

(3) A certificate issued under subrule (2) may be withdrawn if the Financial and Development Secretary ceases to be satisfied that the requirements of this rule are met by the company and such withdrawal shall

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take effect from the day after which, in the opinion of the Financial and Development Secretary, the requirements ceased to be met.

(4) The requirements to be satisfied by a company to be certified as a Gibraltar 1992 Company are–

- (a) the company shall be incorporated or registered in Gibraltar under the provisions of the Companies Ordinance on or after the 1st day of January 1992;
- (b) the company shall be ordinarily resident in Gibraltar;
- (c) the principal object of the company is to hold interests amounting to relevant participations;
- (d) in any year of assessment at least 51% of the income of the company shall have been derived from relevant participations or other investments including but not limited to deposits, bonds, royalty rights, shares and other debt claims;
- (e) the company has–
  - (i) available for its exclusive use business premises in Gibraltar of at least 400 square feet;
  - (ii) a level of staffing in Gibraltar adequate to meet its needs, and in any case not less than two employees;

Provided that where the Financial and Development Secretary is satisfied that the company is part of an integrated network of holding companies, he may regard the requirements of this paragraph as met if the company–

- (iii) shares the business premises specified in sub-paragraph (1) with another company or other companies in the same network;
- (iv) satisfies its staffing requirements by the use of the staff provided for in sub-paragraph (ii) in common with another company or other companies in the same network;
- (f) no person ordinarily resident in Gibraltar shall have a beneficial interest in the shares of the company other than as a shareholder in a public company–
  - (i) that is incorporated under the law of a country other than Gibraltar; and

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- (ii) the shares of which are quoted on a recognised stock exchange;
- (g) the company shall maintain an equity/debt ratio to the satisfaction of the Financial and Development Secretary.

### **Assessable Income.**

4. Notwithstanding section 8, the assessable income of a company to which these Rules apply shall for any year of assessment be the income, computed in accordance with the Ordinance, of that year.

### **Withholding Tax.**

5. (1) The provisions of section 39(1) in respect of the rate of tax to be deducted from the amount of any dividend paid to any shareholder shall not apply to dividends paid by a Gibraltar 1992 Company, and there shall be substituted for those provisions a requirement that such a company shall deduct from any such amount tax at the rate of one percent.

(2) Except where the person entitled to the interest or who has received it is ordinarily resident in Gibraltar the provisions of section 40 of the Ordinance shall not apply to a Gibraltar 1992 Company.

### **Liability of Shareholders, etc. to taxation.**

6. The liability to taxation of any person receiving income by way of—

- (a) a dividend on shares in a Gibraltar 1992 Company;
- (b) interest which, but for rule 5(2), would fall to be treated under section 40 of the Ordinance,

shall in respect of that income, be satisfied by any tax withheld under rule 5.