

Subsidiary Legislation made under s.37A.

## INCOME TAX (ALLOWANCES, DEDUCTIONS AND EXEMPTIONS) RULES, 1992

### LN.1992/016

*Commencement of rule 3(13)*                      **1.7.1989**  
*All other rules*    **1.7.1991**

Amending enactments	Relevant current provisions	Commencement date
LN. 1993/133	r.3(9)	1.7.1991
1992/118	r.3(9A)	1.7.1992
1993/114	r.3(8)-(9)	1.1.1993
1994/088	r.3(34)	1.1.1993
1992/022	r.25(1)	1.7.1993
1993/110	r.22(2)(b)-(d)	1.7.1993
1994/088	rr.21(1)(b)-(c), 27A, 31(1)	1.7.1993
1994/033	r.3(41)-(42)	31.3.1994
1994/088	rr.7(1), 8(4)	1.7.1995
1995/119	r.22(4)-(6)	1.7.1995
1995/122	r.22(4)	1.7.1995
1996/081	rr.6(1), 7(1)-(2), 12, 16(1)(a)-(b), 18(a), 14A	1.7.1996
1996/087	r.22(1), (2)(d), (2A), (7)	5.9.1996
1997/066	rr.6(1), 7(1)-(2), 12, 16(1), 18, (a)	1.7.1997
Act.1997-24	r.27A	1.10.1997
LN. 1998/048	rr.6(1), 7(1)-(2), 8(1), (4), 9-10, 11(d), 12, 16(1)(a)-(b), 18(1), (a)	1.7.1998
1999/025	r.3(43)	25.3.1999
1999/085	rr.3(23), 5(1)(c)-(e), (2), 5A- 5B, 6(1), 7(1)-(2), 8(1), (4), 9-10, 11(d), 12, 14A(1), 16(1)(a)-(b), 17, 18(1), (a)	1.7.1999
1999/104	rr.3(44), 26(1)-(2), (5), 27	1.7.1999
*2000/003	rr.7A, 10-11, 14(1)(a), (2)	1.7.1999
2000/005	r.5C	1.7.1999
2000/068	rr. 3(45)-(46), 6-7, 7A(1), 8(1)(c), (4), 9, 12,	

\* See saving provisions at the end of these Regulations.

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	14(1)(b)(i), 14A, 15-16, 16A, 17-18, 20A, 25	1.7.2000
2002/013	r. 16A(2)(b), (5),	1.7.2000
“	rr. 5A(d), 5B(1), 5C(1), 5D-5E, 6-7, 7A(1), 8(1)(c), (4), 9, 12, 14A, 16-18	1.7.2001
2002/084	r. 16B	1.7.2001
“	rr. 2(1)-(2), 3(22)-(23), (23A), 6, 7(1)(i), (2), 7A(1), 8(1), (4), 9, 12, 14A, 15-16, 16A(6), 16B, (1)-(3), 17-18, 18(a), (d), 20A	1.7.2002
2004/108	r. 7	1.7.2002
2003/100	r. 3(47)-(48)	1.7.2003
2003/103	rr. 6-7, 7A, 8-9, 12, 14A, 15-16, 16A-16B, 17-18, 20A.	1.7.2003
2004/108	r. 7	1.7.2003
“	rr.3(49), 6(1), 7, 7A(1), 8(1)(c), (4), 9, 12, 14A, 15- 16, 16A(8), 17-18, 20A	1.7.2004
2005/120	rr.2(2), 3(22)-(23), (23A), (24)-(25), (32)-(33), 5(1)(j), 6, 7(1), (c), (2), 7A(1), 8(1)(c), (4), 9, 12, 14A, 15, 16(4), 16A(2), (4)-(8), 17-18, 18(a), (d), 20A, 26, (1)	1.7.2005
2005/158	r.3(27)	24.11.2005
2006/110	rr. 3(12), 3A, 6-7, 7A(1), 8(1), (4), 9, 12, 14A(1), 15(1), 16A(2), 16B(2)-(3), 16C, 17-18, 18(a), (d), 20A	1.7.2006
Act. 2007-17	rr. 4(1), 5(1)(i), 23(1) & 28(4)	14.6.2007
LN. 2008/065	rr. 3(46), (50)-(52), 3A-3B, 6, 6A-6B, 16B	1.7.2007
Act. 2013-15	rr. 3A(1)(b) & 3B(1)(b)	1.7.2007
LN. 2008/101	rr. 16B(1)-(4), 16D	1.7.2008
Act. 2009-10	rr. 21, 22(1), (8)	1.7.2008
LN. 2009/046	rr. 6(1), 7(1), (i), (3), 7A(1), 8(1), (4), 9, 12, 14A(1), 15(1), 16A(2), (a)-(b), 16B(13), 16C, 17, 18, (a)-(b), 20A(1)	1.7.2009
Act. 2011-11 <sup>1</sup>	rr. 3(35), (46), 6(1), 7(1), (3), 7A(1), 8(1), (4), 9, 12, 14A(1), 15(1), 16A(2), (a)-(b), 16C(1), (2), 18, (a), (d), 20A(1), 22(1), (9)	1.7.2010
“	rr. 2, 3(26)-(27), (35), (40)-(41), (45), 5, 5A- 5E, 6A, 6B(6), 7, 24- 26, 28-29	1.1.2011
LN. 2011/117	r. 6C	1.7.2011
2015/032	rr. 3A-3B, 21A	1.7.2011

<sup>1</sup> For the avoidance of doubt, section 24 of the Interpretation and General Clauses Act restricting the retrospective commencement of subsidiary legislation shall not apply to subsidiary legislation made under sections 4 to 7 of Act 2011-11. (s.2(4))

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2021/425	r. 3A(1)(a)-(c)	1.11.2011
2015/032	rr. 3(46), (52), 3A(1), 6A-6B, 7A(1)(c), 14A(1)-(2), 16B(1)-(2), 16E, 20A(1), 21A(1A), 22(1), (8)(a)	1.7.2012
2021/433	r. 3A(1)(aa)	1.7.2012
2015/032	rr. 3(46), (54), 6(1), 7, 7A(1), 12, 14A(1), 16B(1)- (2), 16C(1)-(2), 17, 20A(1), 24A	1.7.2013
Act. 2014-10	rr. 6B(1), (2)(b)(ii), (3)(c), 5(b), (6), 7(1), (b), 12, 18-19, 20A(1), 21(4), (9), 22(1), (2A), (3), (5)(a)- (b)	28.3.2014
LN. 2018/060	r. 3A(b)-(d)	1.4.2014
2015/032	rr. 3(46), 6(1), 7, 7A(1), 12, 14A(1), 16B(1)-(2), 16B(1)-(2), 16E, 17, 20A(1), 20B, 24A	1.7.2014
2018/115	rr. 3(46), 6(1), 7(1), (c)(i), 7A(1), 8(1), 9, 12, 14A(1)-(2), (a)-(b), 16B(1), 16C(1), 16D(4)(a)- (c), 16E(1)-(3), 17-18, (a), (d), 20A(1), 20B(1), 21(3)-(7), 22(10), 24A	1.7.2015
2018/060	r. 3A(d)-(e)	1.4.2016
2018/115	rr. 3(46), 6(1), 7(1), (c)(i), 7A(1), 8(1), 9, 12, 14A(1)-(2), (a)-(b), 16B(1), 16C(1), 16E(1)-(3), 17-18, (a), (d), 20A(1)	1.7.2016
Act. 2016-20	r. 3(7)-(8)	13.10.2016
LN. 2018/115	rr. 3(46), (49), 6(1), 7(1), (c)(i), 7A(1), 8(1), 9, 12, 14A(1)-(2), (a)-(b), 16B(1), 16C(1), 16E(1)-(3), 17-18, (a), (d), 20A(1)	1.7.2017
Act. 2017-12	rr. 7A(4), 14(2)	20.7.2017
LN. 2018/112	rr. 2, 16(1), (a), (4), 17-19, 22(1), (2)(a)-(b), (3)-(4), (5)(a)-(b), (6)	21.5.2018
2018/113	rr. 3(46), 6B(1), (2)(b)(ii), (3)(c), (4)(c), (5)(b), (6), 7(2), 16(1), (a), (4), 17, 20B(1), 21(2), (8), 22(2)(a)-(b), (4), (6)	21.5.2018
2018/282	rr. 3(46), 6(1), 7(1), 8(1)-(2), 9, 12, 14A(1), 16A(2), 16B(1)-(2), 16C(1)-(2), 16E(1)-(3), 17-18, 20A(1)	1.7.2018

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- 16B. Low income tax allowance and credit.
- 16C. Special allowance for individuals with total deductions amounting to less than £4,273.
- 16D. Tax credit for individual's aged 60 years and over.
- 16E. Special tax treatment of an individual on low income.
17. Deductions for blind persons.
18. Deduction in respect of dependent relatives.
19. Deduction in respect of services of unmarried daughters.

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20. Effect of non residence.
- 20A. Deduction for health insurance premiums.
- 20B. Deduction for health insurance premiums; Gross Income Based System.
21. Deduction in respect of life assurance premiums etc.
- 21A. Deduction in respect of contributions paid to a Personal Pension Scheme and a Retirement Annuity Contract.
22. Deduction in respect of loan interest.
23. Deduction in respect of certain investments.
24. Entitlement to specified deductions for non resident individuals.
- 24A. Deduction for approved pension.
25. *Revoked.*
26. *Revoked.*
27. *Repealed.*
- 27A. *Repealed.*
28. *Revoked.*
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*In exercise of the powers conferred on him by section 37A of the Income Tax Act, and of all other enabling powers, the Governor has made the following rules-*

**Title and commencement.**

1. These rules may be cited as the Income Tax (Allowances, Deductions and Exemptions) Rules, 1992, and except for Rule 3 (13) which shall be deemed to have come into effect on the 1st day of July 1989, shall be deemed to have come into effect on the 1st day of July 1991.

**Interpretation.**

2. In these Rules, unless the context otherwise requires-

“child” includes a stepchild, an illegitimate child, and a child adopted in accordance with an order made by a Court of Competent Jurisdiction;

“marriage” includes a reference to marriage of a same sex couple;

“married” includes a reference to a married same sex couple;

“widow” includes a woman whose marriage to another woman ended with the other woman’s death;

“widower” includes a man whose marriage to another man ended with the other man’s death.

**Income exempted.**

3. The following classes of income shall be exempt from tax –

(1) the Official emoluments received by the Officer Administering the Government;

(2) the emoluments payable to members of the permanent Consular Services of foreign countries who are nationals of those countries in respect of their offices or in respect of services rendered by them in their official capacity and any income derived by them from sources outside Gibraltar, and the emoluments of any other persons which in accordance with the terms of any International Convention applicable to Gibraltar or of any enactment in force in Gibraltar are to be exempted from taxes upon income;

(3) the emoluments payable from funds of Her Majesty's Government in the United Kingdom to members of Her Majesty's Forces and to any other persons (except persons appointed or engaged in Gibraltar) whose emoluments in respect of their offices in Gibraltar

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under that Government are charged to income tax in the United Kingdom, and the emoluments payable otherwise than from the said funds to members of the Armed Forces of any other power or body stationed in Gibraltar;

(4) the income of any friendly society registered in Gibraltar or in the United Kingdom in so far as the income is not derived from a trade or business carried on by such society;

(5) the income of any ecclesiastical, charitable or educational institution or trust of a public character in Gibraltar, but not including any income derived by such institution or trust from a trade or business carried on by it unless the profits are applied solely to the purposes of such institution or trust and either-

- (i) the trade or business is exercised in the cause of the actual carrying out of a primary purpose of the institution or trust; or
- (ii) the work in connection with the trade or business is mainly carried on by the beneficiaries of the institution or trust;

(6) the income of a body of persons formed for the purpose of promoting social or sporting amenities, subject to the Commissioner being satisfied that the income of such body is applied solely to the furtherance of the objects for which such body was formed and is not income derived from a trade or business carried on by such body;

(7) any sum paid as compensation for unfair dismissal which has been awarded by an employment tribunal under the provisions of the Employment Act;

(8) such amount paid in respect of compensation for unfair dismissal which has been agreed between the parties which the Commissioner considers would have been awarded by an employment tribunal if it had adjudicated upon the dismissal;

(9) such sum paid upon redundancy which the Commissioner considers to be appropriate, having regard to, but not limited to, the employee's length of service with the employer who made him redundant and his rate of pay;

(9A) such sum as is received by way of terminal gratuity as defined and provided for by the decision of the Construction and Allied Trades Joint Industrial Council in respect of short term terminal gratuity;"

(10) capital sums received by way of retiring, other than sums received in pursuance of a retirement benefit scheme, injury or death gratuities, or as consolidated compensation for death or injury;

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(11) any capital sum received as a gratuity upon termination of employment by an employee of the Crown, whether in its right of the Government of Gibraltar or of the United Kingdom, after his having completed 20 years service, where the terms of employment of the employee are such that any service in excess of 20 years would not enhance the amount of the gratuity;

(12) *Revoked.*

(13) wound and disability pensions granted to members of Her Majesty's forces or of any recognised national defence organisation in respect of service in such forces or organisation;

(14) pensions granted to widows of members of Her Majesty's Forces or of any recognised national defence organisation in respect of the death of such members in the service of such forces or organisation;

(15) gratuities granted to members of Her Majesty's Forces or of any recognised national defence organisation in respect of services rendered during the war, or on retirement;

(16) the income of any registered Trade Union and of the Gibraltar Chamber of Commerce, in so far as such income is not derived from any trade or business carried on by such Trade Union or by the Gibraltar Chamber of Commerce;

(17) the investment income of any pension fund, provided fund or other fund established in Gibraltar, and approved by the Commissioner;

(18) the income of the Government Savings Bank;

(19) the income arising from a scholarship, exhibition, bursary, or any other similar educational endowment held by a person receiving full time instruction at a university, college, school or educational establishment;

(20) the gains or profits derived by a non-resident owner or charterer or operator of ships or aircraft through the amounts received or receivable by him for the carriage of passengers or cargo to or from Gibraltar in any ship or aircraft owned or chartered or operated by him;

(21) the income of the Navy, Army and Air Force Institutes and of the Services Sound and Vision Corporation;

(22) *Revoked.*

(23) *Revoked.*

(23A) *Revoked.*



(24) *Revoked.*

(25) *Revoked.*

(26) *Revoked.*

(27) *Revoked.*

(28) a grant under the Overseas Service Aid Scheme paid by Her Majesty's Government of the United Kingdom direct to an officer designated under that scheme on his appointment to service in Gibraltar;

(29) an inducement allowance or education allowance paid to an officer designated under the Overseas Service Aid Scheme;

(30) a gratuity payable by the Government under a Contract of Employment with an officer recruited from outside Gibraltar;

(31) a gratuity payable by the Government under the terms of a Contract of Employment with any officer, not being a gratuity payable under the Pensions Act or under any subsidiary legislation made under that Act;

(32) *Revoked.*

(33) *Revoked.*

(34) such sum paid to an employee in lieu of the notice required to be given by an employer to terminate the Contract of Service of the employee under the provisions of section SS of the Employment Act which the Commissioner is satisfied is the only form of compensation paid to the employee by the employer upon the redundancy of the employee;

(35) *Revoked.*

(36) the gains or profits derived by a non-resident person from his appearance as a public entertainer in Gibraltar, in any appearance of not more than 3 hours duration and not exceeding 5 such appearances in any year of assessment;

(37) the emoluments, bounty and other grants payable from the Consolidated Fund to members of the Volunteer Reserve of the Gibraltar Regiment, under the Gibraltar Regiment Act;

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(38) the emoluments paid in the United Kingdom to an individual recruited from outside Gibraltar by consultants or contractors engaged on development projects or studies financed either directly or indirectly by the Overseas Development Administration of Her Majesty's Government of the United Kingdom:

Provided that the provisions of this sub-rule shall not apply to a permitted individual;

(39) any inducement allowance or gratuity paid to an individual recruited from outside Gibraltar and employed by or seconded to a company wholly owned by the Government of Gibraltar and paid either wholly or partly out of grants and loans originating from the Overseas Development Administration of Her Majesty's Government of the United Kingdom and received either directly or indirectly by such company:

Provided that the provisions of this sub-rule shall not apply to a permitted individual;

(40) *Revoked.*

(41) *Revoked.*

(42) a gratuity payable under the provisions of regulations 5(2) (d) of the Pensions Regulations.

(43) The cost to the Crown of housing any officer employed by the Crown, not being an officer entitled to a gratuity under the provisions of the Pensions Act.

(44) the income accruing to a life fund maintained by a life assurance company in so far as the retention of the income within the fund is necessary to maintain the fund at the level required by the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations 1996.

(45) *Revoked.*

(46) the benefit to an employee by reason of the payment by his employer of premiums or contributions payable to an approved company for the purpose of providing health insurance for that employee, whether or not including a spouse, civil partner and dependent children, not exceeding in the aggregate the sum of £5,285 or as the case may be, £3,000 in respect of an employee who elects to be chargeable under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, 1989, less any sum claimed by the employee under rule 20A, or as the case may be rule 20B, in any year of assessment.

(47) income accrued, derived or received in Gibraltar by a non-resident individual arising out of his attendance as a speaker in a conference, convention, seminar or symposium held in Gibraltar;

(48) the gains or profits arising from a conference, convention, seminar or symposium held in Gibraltar and received by the organiser in Gibraltar.

(49) (a) Income received by a student from employment.

(b) *Deleted.*

(c) Nothing in this paragraph shall prejudice the application of the Income Tax (Pay As You Earn) Regulations 1989.

(d) For the purposes of this paragraph—

“educational establishment” is construed in accordance with rule 8;

“full time instruction” is construed in accordance with rule 8;

“student” means an individual receiving full time instruction at an educational establishment;

(50) Income received by an individual by reason of his participation in the Vocational Training Scheme which is—

(a) run by the Government of Gibraltar; and

(b) approved by the Commissioner for the purposes of this Rule.

(51) Income received by the Financial Services Commission established under the Financial Services Commission Act 2007.

(52) Income paid by Gibraltar Community Care to a Community Officer aged between 60 and 65 years old in respect of community work.

“Community Officer” means an individual carrying out community work for Gibraltar Community Care Limited.

(53) The earned income received by an individual who suffers from a specific bodily or mental disability and is in receipt of a disability allowance paid by the Government.

(54) the income received by the instructors of the army cadets in respect of the provision of training and any other related services to such Cadets.

**Treatment of specified pension income.**

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3A.(1) Subject to the provisions of section 14A of the Act, this rule applies where an individual receives a pension from any statutory pension scheme or provident or other fund approved by the Commissioner and that individual is—

- (a) aged 60 or over;
- (aa) a retired fire officer or firefighter of the Airport Fire and Rescue Service, formerly the Defence Fire and Rescue Service, aged between 55 and 60;
- (b) compulsorily retired at age 55 or over by operation of section 8(2) of the Pensions Act;
- (c) retired at age 55 or over from the Royal Gibraltar Regiment established under the Royal Gibraltar Regiment Act;
- (d) a retired customs officer aged between 55 and 60; or
- (e) a retired port officer aged between 55 and 60.

(2) Any pension to which subrule (1) applies shall be taxed at the rate of 0%.

(3) Where an individual to whom this rule applies receives pension income specified in subrule (1), and any other chargeable income, that individual shall be assessed to tax in the following manner—

- (a) the pension income at the rate of 0%;
- (b) the entirety of any such other chargeable income less any allowances and deductions due to the individual as may be apportioned under these Rules, in accordance with the bandings prescribed in the Rates of Tax Rules 1989.

3B. *Revoked.*

#### **Loans charged on Consolidated Fund.**

4.(1) The Minister responsible for finance may by notice in the Gazette provide that the interest payable on any loan charged on the Consolidated Fund shall be exempt from tax, either generally or in respect of interest payable to non-resident persons and exempt companies, and such interest shall as from the date and to the extent specified by such notice be exempt accordingly.

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(2) Any interest which has been exempt from tax under the provisions of sub-rule (1) and which has been paid to a company which distributes such interest by way of dividend to shareholders in such company or by way of fees to the directors of such company shall, subject to the provisions of sub-rules (3) and (4) be exempt from tax when paid to such shareholders or directors.

(3) If a company which has received interest exempt from tax under the provisions of sub-rule (1) has also received income from any other source and distributes only part of its total income, whether by way of dividends or as fees to directors, then only such part of the sum received exempt from tax shall be exempt from tax on distribution as the proportion such sum bears to the company's total income.

(4) No interest received by a company exempt from tax under the provisions of sub-rule (1) shall, on distribution, be exempt from tax unless-

- (a) the distribution of such interest is made within the accounting period in which the interest is received; and
- (b) the total sum available for distribution after the deduction of the expenses of the company is distributed.

5. *Revoked.*

5A. *Revoked.*

5B. *Revoked.*

5C. *Revoked.*

5D. *Revoked.*

5E. *Revoked.*

#### **Personal Allowance under Allowances Based System.**

6.(1) Subject to the provisions of this rule and rule 20, there shall be deducted from the assessable income of an individual the sum of £3,385.

(2) 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 the deduction under subrule (1).

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(3) The balance of assessable income of an individual after the deduction of any further amounts in respect of allowances and deductions which may be due to be made in accordance with these Rules (“Allowances Based System”) shall be the taxable income of such individual.

(4) Where no such deductions are due to be made under this rule or elsewhere in these Rules, the assessable income of any individual shall be the taxable income of such individual.

(5) The sum referred to in subrule (1), shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

**Limitation on entitlement to claim allowances and deductions under Allowances Based System for individuals.**

6A. Subject to these Rules and to rule 3A of the Rates of Tax Rules, 1989, an individual who elects to be chargeable under the Gross Income Based System shall not be entitled to claim the deductions specified in rule 6, 7, 7A, 8, 9, 12, 13, 14, 14A, 15, 16, 16A, 16B, 16C, 17, 18, 19, 20A, 21 and 21A.”.

**Restrictions on entitlement to Allowances Based System for spouses or civil partners.**

6B.(1) Subject to these Rules and to rule 3A of the Rates of Tax Rules, 1989, an individual who has a spouse or civil partner that has elected to be chargeable under the Gross Income Based System shall not be entitled to claim the deductions specified in rule 6, 7, 7A, 8, 9, 12, 13, 14, 14A, 15, 16, 16A, 16B, 16C, 17, 18, 19, 20A, 21, 21A, 23 and 25.

(2) 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 claim any of the deductions referred to in subrule (1); and

(b) either—

(i) the individual had claimed on the appropriate form prescribed by the Commissioner for any of the deductions referred to in subrule (1) 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 or civil partner had claimed on behalf of the individual on the appropriate form prescribed by the Commissioner for any of the deductions referred to in subrule (1) and such claim had been made and

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

then the individual, in relation to the year of assessment commencing 1 July 2007 and in relation to any subsequent year of assessment, shall be entitled to claim only the deductions that individual had claimed in the case of paragraphs (b)(i) or (b)(ii) above.

(3) Where (but for subrule (1)) in respect of the year of assessment commencing 1 July 2007 and any subsequent year of assessment, the individual—

- (a) is entitled to claim a deduction specified in rule 20A; and
- (b) contributes to an approved insurance policy, scheme, society or fund held solely in his name and which provides health insurance only for himself; and
- (c) has not claimed, and nor has his spouse or civil partner claimed, the deduction referred to in paragraph (a) in the manner described in paragraphs (b)(i) or (b)(ii) of subrule (2),

then that individual, in relation to the year of assessment commencing 1 July 2007 and any subsequent year of assessment, shall instead be entitled to claim the amount of the deduction allowable in respect of the deduction specified in rule 20A.

(4) Where (but for subrule (1)) in respect of the year of assessment commencing 1 July 2007 and any subsequent year of assessment, an individual—

- (a) is entitled to claim the deduction specified in rule 21;
- (b) has made assurance only on his life in respect of the deduction referred to in paragraph (a); and
- (c) has not claimed, and nor has his spouse or civil partner claimed, the deduction referred to in paragraph (a) in the manner described in paragraphs (b)(i) or (b)(ii) of subrule (2),

then that individual in relation to the year of assessment commencing 1 July 2007 and any subsequent year of assessment shall instead be entitled to claim the amount of the deduction allowable in respect of the deduction specified in rule 21.

(5) Where (but for subrule (1)) in respect of the year of assessment commencing 1 July 2007 and any subsequent year of assessment, an individual—

- (a) is entitled to claim the deduction specified in rule 22; and

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- (b) has not claimed, and nor has his spouse or civil partner claimed, the deduction referred to in paragraph (a) in the manner described in paragraphs (b)(i) or (b)(ii) of subrule (2),

then that individual in relation to the year of assessment commencing 1 July 2007 and any subsequent year of assessment shall instead be entitled to claim an amount from his assessable income not exceeding one-half of the deduction allowable in respect of the deduction referred to in paragraph (a) and the amount of such deduction shall not exceed one-sixth of that individual's total assessable income.

(6) Where the individual is married or in a civil partnership and (but for subrule (1)) in respect of a year of assessment—

- (a) the individual satisfies rule 7(1)(a), and is eligible to claim the deduction mentioned in that rule; and
- (b) the individual claims any of the deductions specified in rules 7, 7A, 8, 9, 12, 13, 14, 14A, 16, 17, 18, 19, 20A, 21 and 22; and
- (c) the claim for deductions referred to in paragraph (b), is in the form and manner as the Commissioner may prescribe,

then the spouse or civil partner of the individual shall not be entitled to claim any deduction mentioned in paragraph (b) that has been claimed by the individual in relation to that same year of assessment.

#### **Tax credit for Individuals in Allowances Based System.**

6C.(1) An individual to whom rule 6 of these Rules applies shall be entitled to a tax credit under this rule in respect of a year of assessment.

(2) The tax credit shall not exceed £300 or 2 per cent of the liability to tax of the individual in respect of the year of assessment, whichever is the greater.

(3) In the case of an individual to whom the Income Tax (Pay As You Earn) Regulations, 1989 applies the tax credit shall be calculated in accordance with the tax-tables made by the Commissioner under those Regulations.

(4) The tax credit given under this rule shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

#### **Deduction for a spouse or a civil partner.**



7.(1) Save as otherwise hereinafter provided, an individual who proves to the satisfaction of the Commissioner that in the year of assessment he—

- (a) had a spouse or civil partner living with him or wholly maintained by him; or
- (b) paid alimony or maintenance to a previous spouse or civil partner whose marriage or civil partnership to the individual has been dissolved or annulled by a court of competent jurisdiction; or
- (c) made payments in accordance with an order of court or a separation agreement to a spouse or civil partner from whom the individual is separated by such order or agreement,

shall be entitled to claim a deduction from the amount of his assessable income of either £3,385 in the case of paragraph (a) or the amount actually paid under paragraphs (b) or (c):

Provided that—

- (i) where a deduction is claimed under paragraphs (b) or (c) and the payments are made by virtue of an order or an agreement, the amount of the deduction shall not exceed £3,385; and
- (ii) the deduction allowed under this sub-rule shall be reduced by one twelfth for each complete calendar month that the individual is not married or in a civil partnership and resident in Gibraltar (or, in the case of an individual who has paid alimony or maintenance, who is not resident in Gibraltar) during the year of assessment.

(2) Where an individual is married or in a civil partnership at the time he claims a deduction pursuant to this rule, his spouse or civil partner shall not be allowed to make any further separate claim.

#### **Deduction for disabled individuals.**

7A.(1) Save as hereinafter provided, an individual who proves to the satisfaction of the Commissioner that he is the parent of an unmarried individual who -

- (a) resides with that parent;
- (b) suffers from a specific bodily or mental disability; and

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- (c) the Director of Social Services confirms that, notwithstanding that the 5 year residency period may not have been satisfied, by reason of that disability the parent or individual would be eligible for a disability allowance paid for by the Government,

shall be entitled to claim from the amount of his assessable income a deduction of £9,285 in respect of each individual to whom this rule refers.

(2) An individual shall not be entitled to claim a deduction under rules 8 or 9 and this rule in respect of the same individual:

Notwithstanding the foregoing, where, but for this rule, two or more persons are entitled to claim a deduction under this rule in respect of the same individual, the Commissioner may apportion the relief on such basis as appears to him to be fair and reasonable in all the circumstances of the case, and so that the aggregate of deductions allowed does not exceed the amount specified in this rule.

(3) Nothing in this rule shall prejudice the provisions of rule 3(2) of the Income Tax (Allowances, Deductions And Exemptions) Rules 1992 (Amendment) (No.3) Rules 1999.

(4) The Commissioner may consult either the Director of Education or the Medical Director of the Gibraltar Health Authority, as the case may require, on any matter arising out of a claim to a deduction under this rule.

**Deduction for children.**

8.(1) Save as otherwise hereinafter provided, an individual who proves to the satisfaction of the Commissioner that he has maintained during the year of assessment an unmarried child who was-

- (a) under the age of 16 years at the commencement of the year of assessment; or
- (b) during the year of assessment receiving full time instruction at any university, college, school or other educational establishment; or
- (c) during the year of assessment under articles or indentures with a view to qualifying in a trade or profession,

shall, subject to rule 20, be entitled to claim from the amount of his assessable income a deduction of £1,165 in respect of the first child to whom this rule applies.

(2) An individual shall be entitled to claim the deduction referred to in sub-rule (1) in respect of the maintenance of a child born during the year of assessment:

Provided that the amount of the deduction shall be reduced by one twelfth for each complete month of that year ending before the birth of the child.

(3) Sub-rule (2) shall apply in relation to a stepchild or an adopted child as if the date on which the child has become a stepchild or an adopted child was the date of birth of that child.

(4) An individual who proves to the satisfaction of the Commissioner that in the year of assessment he has paid under an order of court or separate agreement or separate maintenance to a child, is entitled to claim a deduction from the amount of his assessable income of the amount of the alimony or maintenance actually paid up to a maximum of £1,165.

#### **Deduction for children educated abroad.**

9. Save as otherwise hereinafter provided an individual who proves to the satisfaction of the Commissioner that-

- (a) he has maintained during the year of assessment an unmarried child who has attained the age of 16 years by the commencement of the year of assessment; and
- (b) the child was during the year of assessment receiving or undergoing outside Gibraltar any training specified in rule 8(1)(b) and (c);
- (c) the individual is ordinarily resident in Gibraltar; and
- (d) the individual is not entitled to a similar allowance or deduction in any other country in respect of the child

shall be entitled to claim from the amount of his assessable income a deduction of £1,325 in respect of each child to whom this rule refers.

10. *Revoked*

11. *Revoked*

#### **Deduction for maintenance of children.**

12. An individual who proves to the satisfaction of the Commissioner that, if a spouse or civil partner, he is not entitled for the year of assessment to claim a deduction under rule 7 and that he has the custody of and maintains during the year of assessment an unmarried child for whom a deduction is allowable, shall, subject to rule 20, be entitled to claim a deduction from the amount of his assessable income of £5,575.

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**Joint Custody.**

13. If it is proved to the satisfaction of the Commissioner that-

- (a) the parents of a child are legally separated; and
- (b) the father of the child is not entitled to claim a deduction under rule 7(1)(b) or (c); and
- (c) both parents have the custody of and maintain the child (irrespective of which parent has care and control),

then, subject to rule 20, each parent shall be entitled to a deduction from his or her assessable income of one half of the amount specified in rule 12.

Provided that if one of the parents dies during a year of assessment then-

- (i) the amount of the deduction to which the deceased was entitled under this rule shall be reduced by one twelfth for each complete month of that year after the date of the death; and
- (ii) the amount by which the amount of that deduction is reduced shall be added to the amount of the deduction which the surviving parent is entitled to claim under this rule.

**Exceptions for certain children.**

14.(1) An individual shall not be entitled-

- (a) to claim any deduction under rules 8 and 9 in respect of any child who is not resident in Gibraltar unless the child is a child of the individual; or
- (b) to claim a deduction under more than one of those rules in respect of the same child, and notwithstanding those rules-
  - (i) no deduction shall be allowed under any such rules in respect of any child whose total income in his own right exceeds the amount of the deduction specified in that particular rule: notwithstanding the foregoing, this subparagraph shall not apply to the following income -
    - (aa) income to which a child is entitled as the holder of a scholarship, bursary or other educational allowance;

- (bb) gains or profits from any employment by a child who is a full-time student at an educational establishment approved by the Commissioner for the purpose of this rule;
- (ii) where, but for this paragraph, two or more persons are entitled to claim a deduction under any such rules in respect of the same child, the Commissioner may apportion the relief on such basis as appears to him to be fair and reasonable in all the circumstances of the case, and so that the aggregate of the deductions allowed does not exceed the amount specified in those rules.

(2) The Commissioner may consult either the Director of Education or the Medical Director of the Gibraltar Health Authority, as the case may require, on any matter arising out of a claim to a deduction under any of the rules specified in sub-rule (1)(a).

#### **Nursery school allowance**

14A.(1) An ordinarily resident individual who proves to the satisfaction of the Commissioner that in a year of assessment he has a child who attends an independent nursery school in Gibraltar for the full school year ending in the year which immediately follows the year of assessment shall be entitled to claim for that year of assessment an allowance in the amount of £5,290 per child.

(2) Where a child described in (1) above-

- (a) attends an independent nursery school for part but not all of the school year provided for in (1), and
- (b) the Commissioner is satisfied that the failure to attend for the full school year is caused by,
  - (i) the long term illness or death of the child, or
  - (ii) genuine hardship on the behalf of the parents, the Commissioner may, at his discretion, allow a proportion of the allowance in (1) above which he considers appropriate given all the circumstances and in particular the length of attendance during the school year.

(3) For the purposes of this Rule-

“independent nursery school” shall mean a school, other than a government school which-

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- (i) is used mainly for the purpose of providing education for children who have not started primary education, and
- (ii) is registered under section 11 of the Education Act, and
- (iii) is accessible to the public at large, and
- (iv) provides an education service comparable to that provided in a government nursery school, and
- (v) charges a fee for the provision of education which the Commissioner is satisfied represents the market value of the service provided.

“school year” shall have the meaning ascribed to it in the Education Act.

**Apprentices.**

15.(1) An individual who proves to the satisfaction of the Commissioner that during the year of assessment he was an apprentice, shall be entitled to claim a deduction from the amount of his assessable income of £380.

Provided that the sum of £380 shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

(2) For the purposes of this rule, an apprentice means a person who is bound by a written contract approved by the Industrial Training Board or the Gibraltar Official Employers Apprentices Board to serve an employer for a determined period with a view to acquiring knowledge, including theory and practice, of a trade in which the employer is reciprocally bound to instruct that person.

**Deduction for persons over 65 years.**

16.(1) Where an individual proves to the satisfaction of the Commissioner that at any time during the year of assessment, either he or, if he is married or in a civil partnership and his spouse or civil partner is living with him or wholly maintained by him, his spouse or civil partner is of the age of 65 years or more, he shall, in addition to the deductions provided for elsewhere in these rules, be entitled to a deduction from his assessable income of-

- (a) in the case where he is married or in a civil partnership and his spouse or civil partner is living with him or wholly maintained by him, £855; and
- (b) in any other case £605;

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and in every case, to a further deduction of 15 per cent of the amount by which his assessable income is less than £4,500; but in the case of an individual to whom paragraph (a) of this subrule applies, his spouse or civil partner shall not himself be entitled to any deduction under this rule.

(2) Any deduction allowable under subrule (1) shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar.

(3) Subrule (2) shall not apply to the assessable income of an individual who is not resident in Gibraltar, where that assessable income includes income from a pension accruing in or derived from Gibraltar.

(4) No individual shall be entitled to a deduction under this rule on or after 1 July 2005 who did not qualify for such a deduction on 30 June 2005 by virtue of being married or in a civil partnership with a spouse or civil partner aged 65 years or more living with him or wholly maintained by him.

#### **Special deduction for senior citizens.**

16A.(1) This rule applies to an individual who proves to the satisfaction of the Commissioner that during a year of assessment—

- (a) he is of the age of 65 years or more or in the case of a woman 60 years or more, and
- (b) that he has not made an election under rule 25.

(2) An individual to whom sub-rule (1) applies shall be entitled to claim a deduction from the amount of his assessable income equal to the difference between £12,370 and the total of—

- (a) the sum of £3,385 under rule 6, and
- (b) the sum of £3,385 under rule 7.

(3) Any deduction allowable under this rule shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar.

#### **Low income tax allowance and credit.**

16B.(1) Where an individual has income of £11,200 or less, he shall be entitled to claim for that year of assessment an allowance in the amount of £6,512.

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(2) Where an individual has income of more than £11,200 and upto £17,500, he shall be entitled to claim for that year of assessment an allowance in the amount of £1,300.

(3) Where an individual has income of more than £17,500 and upto £18,500, he shall be entitled to claim for that year of assessment an allowance in the amount of £920.

(4) Where an individual has income of more than £18,500 and upto £19,500, he shall be entitled to claim for that year of assessment an allowance in the amount of £500.

(5) Where an individual receives income subject to the Income Tax (Pay As You Earn) Regulations, 1989 and proves to the satisfaction of the Commissioner that he will be entitled to an allowance under this rule for the current year, the Commissioner shall, when allocating that individual a code under regulation 4(3) of the said Regulations, treat the individual as if his entitlement to the relevant allowance under subrules (1) to (4) was already established.

(6) Where an individual has been treated as entitled to an allowance for the purposes of his tax code, but if he is subsequently assessed as receiving income that would have entitled him to a smaller allowance or no allowance, then the individual shall be liable to pay any difference between the tax assessed and the tax deducted for the year concerned.

(7) An individual's basic tax saving for the year of assessment ("the relevant year") shall be calculated as the difference between—

(a) the tax that would have been due and payable on taxable income for the relevant year using the rates of tax that were in force for the previous year of assessment and the applicable allowances for the current year of assessment but excluding any entitlement to an allowance under this rule; and

(b) the tax that is due and payable on taxable income for the relevant year,

and such saving shall be calculated when the individual's liability to tax for the relevant year has become final in accordance with the provisions of the Income Tax Act.

(8) Subject to subrule (10), an individual shall be entitled to a minimum tax saving in the relevant year of the following amounts—

(a) where he is assessed as entitled to an allowance under subrule (1), £595; and

(b) where he is assessed as entitled to an allowance under subrules (2), (3) or (4), £300.



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(9) Where an individual's entitlement to a minimum tax saving is greater than his basic saving, he shall be entitled to a tax credit in the amount of the excess.

(10) Where an individual's tax liability for the relevant year does not exceed the amounts referred to in subrule (8), his tax credit shall be limited to the amount of the liability.

(11) A claim under this rule shall be made in such form as the Commissioner may require.

(12) This rule shall not apply to an individual who has made an election under rule 25 of these Rules.

(13) Any allowance allowable under this rule shall be reduced by one-twelfth for each complete calendar month that the individual is not resident in Gibraltar.

**Special allowance for individuals with total deductions amounting to less than £4,273.**

16C.(1) This rule applies to an individual who, during a year of assessment, has total deductions amounting to less than £4,273 and has not made an election under rule 25.

(2) An individual to whom sub-rule (1) applies shall be entitled to claim a special allowance from the amount of his assessable income equal to the difference between £4,273 and the total of all other deductions.

(3) Any allowance allowable under this rule shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar.

**Tax credit for individual's aged 60 years and over.**

16D.(1) Subject to sub-rule (4) below, this rule shall apply to an individual who is—

- (a) aged 60 years or over; and
- (b) in receipt of earned income.

(2) An individual to whom this rule applies shall be entitled to a tax credit in the amount of £4,000 by way of a reduction on his tax liability.

(3) Where the liability to tax of an individual under this rule does not exceed £4,000 in the year of assessment, his tax credit shall be limited to the amount of that liability.

(4) This rule shall not apply to an individual who in any year of assessment—

- (a) is in receipt of income—

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- (i) exceeding £6,000 in respect of a pension, or
  - (ii) exceeding £6,000 in respect of the annual amount of an annuity, or
- (b) is entitled to receive a pension or annuity and the Commissioner is of the opinion that the capital sum in excess of 25 per cent of the capital value of that pension or annuity to be paid to that individual on his retirement will provide a pension greater than £6,000 or an annual amount exceeding £6,000 in relation to an annuity, or
- (c) has commuted his pension or annuity entitlement payable to him and the Commissioner is of the opinion that the capital sum in excess of 25 per cent of the capital value of such pension or annuity would provide a pension greater than £6,000 or an annual amount exceeding £6,000 in relation to an annuity, or
- (d) has made an election under rule 25 of these rules; or
- (e) has elected to be chargeable under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, 1989.
- (5) A deduction allowable under this rule shall be reduced by one twelfth for each complete calendar month that the individual during the year of assessment:
- (a) is not resident in Gibraltar;
  - (b) has not attained the age of 60.
- (6) A claim under sub-rule (1) shall be in such form as the Commissioner may require.
- (7) In this rule “earned income” means—
- (a) income arising in respect of gains or profits derived by the individual from any trade, business, profession or vocation carried on or exercised by him. Either as an individual acting personally or, in the case of a partnership, as a partner acting personally in it; and
  - (b) income derived by him from any employment to the extent that the Commissioner is satisfied that it represents reasonable payment by way of fees, salary, wages or other remuneration for services actually performed;

but does not mean any other income.

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**Special tax treatment of an individual on low income.**

16E.(1) An individual who has income of £11,200 or less shall not be subject to tax.

(2) Subject to subrule (3) below, an individual who has income of more than £11,200 but does not exceed £19,712, shall have his assessed liability to tax reduced by way of relief (reduced taper relief) determined by the formula –

$$T \text{ (reduced taper relief)} = T_0 - [0.4 \times (I - L)]$$

Where –

T is the reduced taper relief available on the amount or value of assessable income

I is the amount or value of assessable income

L is the lowest figure of the applicable income range

T<sub>0</sub> is the full taper relief available on the lowest figure of the income range.

(3) For the purposes of subrule (2) above –

- (a) where an individual has income exceeding £11,200 but does not exceed £12,541 (income range), L is £11,151 and T<sub>0</sub> is £536.40;
- (b) where an individual has income exceeding £17,500 but does not exceed £17,661 (income range), L is £17,501 and T<sub>0</sub> is £64.40;
- (c) where an individual has income exceeding £18,500 but does not exceed £18,678 (income range), L is £18,501 and T<sub>0</sub> is £71.20;
- (d) where an individual has income exceeding £19,500 but does not exceed £19,712 (income range), L is £19,501 and T<sub>0</sub> is £84.80.

(4) The Commissioner may issue tax tables in such form and manner as is appropriate for the purposes of determining the reduced taper relief calculated under the formula in subrule (2) above.

**Deduction for blind persons.**

17. Save as otherwise hereinafter provided, an individual who proves to the satisfaction of the Commissioner by the production of a certificate signed by a qualified medical

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practitioner that he or his spouse or civil partner has effectively lost his or her sight shall, subject to rule 20, be entitled to claim a deduction from the amount of his assessable income of £5,285.

**Deduction in respect of dependent relatives.**

18. Save as otherwise hereinafter provided, an individual who proves to the satisfaction of the Commissioner that during the year of assessment he maintained at his own expense any person, being a relative of his or of his spouse or civil partner who 'is incapacitated by old age or infirmity from maintaining himself, or his or his spouse's or civil partner's widowed mother, whether incapacitated or not, and being a person whose total income from all sources does not exceed £3,385 a year, shall subject to rule 20 be entitled to claim a deduction of £215 in respect of each such person from the amount of his assessable income:

Provided that-

- (a) if the total income from all sources of the person maintained exceeds £3,060 a year, the deduction shall be reduced by the amount of the excess;
- (b) where two or more individuals jointly maintain any such person, the deduction to be made under this rule shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person;
- (c) a deduction shall not be allowed under this rule to any individual for any year of assessment in respect of more than two such persons; and
- (d) where the dependent is ordinarily resident in Gibraltar the deduction which may be claimed shall be £325.

**Deduction in respect of services of unmarried daughters.**

19. Save as otherwise hereinafter provided, an individual who proves to the satisfaction of the Commissioner that, being a widower or surviving civil partner and not entitled for the year of assessment to claim a deduction in respect of any spouse or civil partner he is compelled to depend upon the services of an unmarried daughter resident with and maintained by him shall, subject to rule 20 be entitled to claim a deduction from the amount of his assessable income of £200:

Provided that no allowance shall be allowed in respect of an unmarried daughter whose total income in her own right, exceeds £200.

**Effect of non residence.**

20. The deductions allowable under 7(2), 8(1), 12, 13, 17, 18 and 19 shall be reduced by one twelfth for each complete calendar month that the individual claiming the deduction is not resident in Gibraltar during the year of assessment.

**Deduction for health insurance premiums.**

20A.(1) An individual who, for the purpose of providing health insurance for himself, his spouse or civil partner or his dependent children contributes to an approved insurance policy, scheme, society or fund shall be entitled to claim a deduction from his assessable income of the amount of the premium or contribution, or both, payable during the year of assessment up to a maximum of £5,285 in aggregate.

(2) Any deduction allowable under sub-rule (1) shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

(3) In this rule, “approved” means approved by the Commissioner for the purposes of this rule.

**Deduction for health insurance premiums; Gross Income Based System.**

20B.(1) An individual who is chargeable under the Gross Income Based System and for the purpose of providing health insurance for himself, his spouse or civil partner or his dependent children contributes to an approved insurance policy, scheme, society or fund shall be entitled to claim a deduction up to a maximum of £3,000.

(2) Any deduction allowable under sub-rule (1) shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

(3) In this rule, “approved” means approved by the Commissioner for the purposes of this rule.

**Deduction in respect of life assurance premiums etc.**

21.(1) Subject to the provisions of this rule, an individual who in a year of assessment pays—

- (a) a premium or premiums specified in sub-rule (2);
- (b) a contribution or contributions falling within sub-rule (9);

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(c) a contribution or contributions falling within sub-rule (10);

shall be entitled to claim a deduction from the amount of his assessable income of the amount payable during that year of assessment in respect of any of the payments mentioned in paragraphs (a), (b) and (c).

(2) The premiums referred to in sub-rule (1), are any premiums paid under a policy of life insurance by an individual who has made assurance on his life or the life of his spouse or civil partner.

(3) *Deleted.*

(4) *Deleted.*

(5) *Deleted.*

(6) Relief under this rule, shall not be given more than once in respect of the same amount.

(7) *Deleted.*

(8) Subject to the provisions of this rule, where a premium is paid by a spouse or civil partner out of the separate income of that spouse or civil partner in respect of an assurance on the life of the spouse or civil partner, or on the life of the individual, or jointly on the life of both, the same deduction may be claimed under this rule as if the premium was a premium paid by the individual for an assurance made on that individual's own life.

(9) An individual makes payment of a contribution where that individual for the purposes of providing a pension for himself or herself, or his widow and children, her widower and children, or his or her surviving civil partner and children contributes to a pension scheme or to a provident society or fund approved by the Commissioner and such contributions are not in respect of a statutory Pension Scheme, a Personal Pension Scheme or in relation to contributions made by the individual prior to 1 July 1993 under any legislation relating to social insurance which provides for the payment of pensions.

(10) An individual who prior to the dissolution on 31 December 1993 of the Social Insurance (Pensions) Fund was entitled, by virtue of contributions to that Fund to claim a deduction under this rule or would have been entitled by virtue of contributions to that Fund if that Fund had not been dissolved, shall be entitled to claim a deduction of the amount equivalent to that which he would have been entitled under sub-rule (1), had that Fund not been dissolved.

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(11) The deduction referred to in sub-rule (1), for any year of assessment, shall not exceed—

- (a) one-sixth of the total assessable income of the individual subject to paragraph (b);
- (b) one-seventh of the total assessable income of the individual in respect of any part of the deduction attributable to—
  - (i) the payment of premiums specified in sub-rule (2),
  - (ii) the payment of contributions falling within sub-rule (10);
- (c) 7 per cent of the capital sum exclusive of any benefit by way of additional bonus or otherwise in respect of a policy securing a capital sum at death whether in conjunction with any other benefit or not.

(12) Any deduction allowable under sub-rule (1) shall be reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar during the year of assessment.

(13) In this rule, “Personal Pension Scheme” means a scheme approved by the Commissioner whose sole purpose is the provision of annuities or lump sums under arrangements made by individuals in accordance with the scheme.

**Deduction in respect of contributions paid to a Personal Pension Scheme and a Retirement Annuity Contract.**

21A.(1) Subject to the provisions of this rule, an individual who in a year of assessment pays a contribution or contributions—

- (a) to a personal pension scheme approved by the Commissioner; or
- (b) under a retirement annuity contract approved by the Commissioner,

shall be allowed a deduction from his earned assessable income for that year of assessment in the amount of that contribution or contributions.

(1A) The amount allowed to be deducted by virtue of subrule (1) in respect of contributions paid by an individual (whether a single contribution or contributions) shall not exceed the lesser of—

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- (a) 20 per cent of his earned assessable income for that year of assessment; or
  - (b) £35,000.
- (2) In this rule, “earned assessable income” means—
- (a) the profits and gains from the carrying on or exercise by an individual of a trade, business, profession or vocation; and
  - (b) the income specified in Table B of Schedule 1 to the Income Tax Act 2010 from employment carried on or held by the individual.
- (3) Subrule (1) does not apply to earned assessable income from any employment that makes provision for a pension or annuity.
- (4) An individual shall make a claim for a deduction under this rule in such form as the Commissioner may prescribe.

**Deduction in respect of loan interest.**

22.(1) Subject to the provisions of this rule, any interest paid by a person, or his spouse or civil partner living with him, on a loan, or loans, to defray money applied in constructing, purchasing or on improving or developing a property which he or they occupy or will occupy in Gibraltar for residential purposes shall, at the election by the person by whom the interest was paid, be deducted from the assessable income of that person or of his spouse or civil partner or both, in the proportion of 50 per cent each:

Provided that-

- (a) the aggregate of the loans in respect of which relief on interest is claimed under this rule, shall not exceed either the purchase price, construction price, development cost or improvement cost of the property as the case may be; and
- (b) in the case of the construction of a property, the property is subsequently occupied by the person or persons claiming relief in respect of interest on a loan to finance the construction, on the issue of the certificate of fitness in respect of that property under section 55 of the Public Health Act; or
- (c) in the case of a bridging loan to finance instalments payable either before or during the construction period on account of the purchase price of a property to be acquired from a developer in accordance with a purchase agreement, the property is subsequently occupied by the person or persons claiming relief in



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respect of the interest on the bridging loan on the execution of the lease or underlease in respect of the property; and

- (d) where relief has been claimed on interest on a loan to finance the construction of a property or to finance instalments payable either before or during the construction period on account of the purchase price of a property to be acquired from a developer in accordance with a purchase agreement and the property or interest in the property under construction is sold or otherwise disposed of before the property has been occupied by the claimant or claimants, then, unless the proceeds from sale are utilised within a 12 month period of the date on which it is sold or otherwise disposed of for the purpose of constructing or purchasing (and improving or developing the property so purchased) a property in Gibraltar for occupation by the claimant or claimants for residential purposes, any tax which would have been payable by the claimant or claimants for any year of assessment, were it not for the relief on interest claimed, will become due and payable to the Commissioner within thirty days from the expiry of such period of 12 months;
- (e) where a loan made for the purpose of and at the time of the purchase exceeds the amount outstanding on the purchase at the time of the purchase but does not exceed the purchase price and is secured on the property, interest on that loan shall be deemed to be interest which may be deducted in accordance with the provisions of this sub-rule.

(2) Sub-rule (1) shall not apply-

- (a) where the seller and purchaser are a married couple or civil partners and either sells to the other;
- (b) where the purchasers are the trustees of a settlement and the seller is the settlor or the spouse or civil partner of the settlor and it appears that the main purpose of the purchase is to obtain relief in respect of interest on the loan;
- (c) where in the opinion of the Commissioner the price substantially exceeds the value of what is acquired or the cost of improvement, development or construction; or

(2A) Sub-rule (1), save for paragraphs (c) and (d) thereof, shall not apply in circumstances where any person, within 12 months of first claiming relief on interest payments under sub-rule (1), sells, gifts, disposes of or otherwise fails or ceases to occupy, the property concerning which that loan has been obtained; provided that -

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- (a) the provisions of this sub-rule shall not apply where the person claiming the said relief ceases by way of death to occupy such a property and that property continues to be occupied by the deceased's spouse or civil partner, and that
- (b) the Commissioner may, at any time, make an amended or additional assessment to bring the amounts of any relief granted contrary to the provisions of this sub-rule to charge pursuant to section 74 of the Act.

(3) Any interest paid by a person or his spouse or civil partner living with him on a loan or loans to defray money applied in constructing or purchasing a residential property or for the purpose of providing bridging finance in connection with the acquisition of a residential property either to be constructed or under construction in Gibraltar for occupation by a child of theirs or his or hers shall, at the election of the person by whom interest was paid, be deducted from the assessable income of that person or his spouse or civil partner or both, in the proportion of 50 per cent each:

Provided that-

- (a) the aggregate of the loans in respect of which relief on interest is claimed, shall not exceed the construction cost or purchase price of the property as the case may be;
- (b) if the property or interest in the property to be constructed or under construction is sold or otherwise disposed of before occupation by such a child, then unless the proceeds from sale are utilised within a 12 months period of the date on which the property is sold or otherwise disposed of for the purpose of acquiring another property in Gibraltar for residential occupation by such a child, then any tax which would have been payable for any year of assessment by the person to whom relief on interest has been granted in accordance with the provisions of this sub-rule were it not for the relief on interest granted in respect of years of assessment, will become due and payable to the Commissioner within thirty days from the expiry of such period of 12 months;
- (c) no relief will be available for any year of assessment during which the property has been occupied for any period of time by any person other than such a child.

(4) Subject to sub-rule (5), any interest paid by a person, or his spouse or civil partner living with him, on a loan, or loans, to defray money applied in constructing or purchasing a garage or parking bay in Gibraltar shall, at the election of the person by whom the interest was paid, be deducted from the assessable income of that person, or his spouse or civil partner, or both in proportion of 50% each:

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Provided that the aggregate of the loans in respect of which relief on interest is claimed under this rule shall not exceed either the purchase price or construction price of the garage or parking bay, as the case may be.

- (5) Sub-rule (4) shall not apply -
- (a) where the seller and purchaser are a married couple or civil partners and either sells to the other ;
  - (b) where the purchasers are trustees of a settlement and the seller is the settlor or the spouse or civil partner of the settlor and it appears that the main purpose of the purchase is to obtain relief in respect of interest on the loan;
  - (c) where in the opinion of the Commissioner the price substantially exceeds the value of the interest in the garage or parking bay, as the case may be, or the cost of construction thereof; or
  - (d) where the purchaser obtains the legal estate of the garage or parking bay constructed or purchased by a loan in respect of which the purchaser claims relief on interest payments in accordance with sub-rule (4) and either -
    - (i) he sells or disposes (other than by way of mortgage) within three years of obtaining the legal estate of his interest therein; or
    - (ii) he fails or ceases to use such garage or parking bay as a garage or parking bay to store or park a motor vehicle within twelve months of obtaining the legal estate,

and if the provisions of sub-rule (4) have been applied contrary to the provisions of this sub-rule in any year of assessment, the Commissioner may make an amended or additional assessment to bring the amounts of such a deduction to charge in accordance with the provisions of section 74.

(6) For the purposes of sub-rule (5) a motor vehicle is a motor vehicle other than a motor cycle which is in the ownership of the person, or his spouse or civil partner living with him, by whom a deduction of interest is claimed and is for his or her or their personal use.

(7) In this rule "occupy" shall mean occupy as the only or main place of residence in Gibraltar, and "occupation" shall be construed accordingly.

- (8) (a) Subject to paragraph (b), any deduction allowable under this rule shall only be allowed in respect of the principal sum or sums of a loan or loans limited to a

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maximum not exceeding £350,000 in the aggregate in relation to such principal sum or sums;

- (b) where the principal sum or sums, of a loan made on before 30 June 2008 exceeds the amount of £350,000 in the aggregate the deduction allowable under this rule shall be calculated as follows—
- (i) for the year of assessment commencing 1 July 2008, the excess over £300,000 in respect of the principal sum or sums, shall be reduced by one-tenth of the difference between that principal sum or sums and £300,000 (“the adjusted principal sum”);
  - (ii) the adjusted principal sum shall be included for the purposes of calculation allowable under this rule for that same year of assessment;
  - (iii) for the years of assessment commencing 1 July 2009, 1 July 2010 and 1 July 2011 the adjusted principal sum for the purposes of calculation under this rule shall be further reduced by one-tenth of the difference between the principal sum and £300,000;
  - (iv) for the year of assessment commencing 1 July 2012 onwards the adjusted principal sum for the purposes of calculation under this rule shall be further reduced by one-tenth of the difference between the principal sum and £350,000;
  - (v) no deduction shall be allowed under this rule in respect of any excess mentioned in paragraph (b) above, in relation to any loan or loans made after 30 June 2008;
- (c) in this subrule, “principal” means the capital.

(9) Any deduction allowable under this rule shall only be allowed in respect of interest paid to a bank or building society or other financial institution licensed to take deposits under the Financial Services (Banking) Act.

(10) Any deduction due under this rule shall not exceed £1,500 in respect of a year of assessment in relation to an individual who is chargeable to tax on the Gross Income Based System under rule 3A of the Rates of Tax Rules, 1989.

#### **Deduction in respect of certain investments.**

23.(1) There shall be deducted from the assessable income of a person in any year of assessment any amount invested by him during that year by way of a purchase of shares or

otherwise in any such Company of which the Government is a member, and subject to such conditions as the Minister responsible for finance may, in the exercise of his discretion, prescribe from time to time.

(2) For the avoidance of doubt it is hereby declared that where an amount is deducted from the assessable income in accordance with subrule (1) no deduction or allowance shall be made in respect of that amount under any other provision of these rules.

#### **Entitlement to specified deductions for non resident individuals.**

24.(1) Subject to the provisions of these Rules and subrules (2) and (3) below, any person who is a non resident individual and who is in receipt of a pension accruing in Gibraltar shall be entitled to claim the deductions, allowances and reliefs set out in rules 6 to 21 of these Rules as if that person was resident in Gibraltar throughout the year of assessment.

(2) The allowances, deductions and reliefs referred to in subrule (1) above, shall not be given so as to reduce the amount payable by the person below the amount which bears the same proportion to the amount which would payable by way of tax by the person; if the tax is chargeable upon the total income from all sources possessed by the person (including income which is not subject to tax chargeable in Gibraltar) as the amount of income subject to tax so charged, bears to the amount of the income of that person from all sources.

(3) For the purposes of subrule (2) above, relief in respect of foreign tax paid shall be left out of account in computing—

- (a) the amount of tax payable by an individual; and
- (b) the amount which would be payable by the individual by way of tax if the tax is chargeable on the total income possessed by that individual from all sources including income which is not subject to tax charged in Gibraltar.

#### **Deduction for approved pension.**

24A. An individual who—

- (a) elects to be charged under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, 1989; and
- (b) in a year of assessment pays a contribution or contributions to a pension scheme approved by the Commissioner,

shall be allowed a deduction from his earned assessable income for that year of assessment in the amount of that contribution or contributions up to a maximum of £1,500.

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25. *Revoked.*

26. *Revoked.*

27. *Repealed*

27A. *Repealed*

28. *Revoked.*

**Allowances and deductions subject to return of income being made and proof of claim.**

29. No allowances and deductions provided for by these Rules shall be granted, nor shall tax be charged at less than the standard rate, unless a person makes a claim for those allowances and deductions in a return of income on the proper form or in such form and manner as the Commissioner may prescribe, and that claim contains any particulars and is supported by proof as the Commissioner may require.

**Amendment to Act.**

30. Pursuant to the provisions of section 37A(3) of the Act, the following amendments are hereby made-

- (a) in section 6(1)(b) by omitting the expression "section 16 (g)" and substituting therefor the expression "rule 5(g) of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (b) in section 6A(1) by omitting the expression "under sections 16(h) or 33" and substituting the expression "rules 5(h) or 21 of the Income Tax (Allowances, Deductions and Exemptions) Rules, 1992";
- (c) in section 10(4)-
  - (i) by omitting the expression "section 26(2)" and substituting therefor the express "rule 7(2) of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
  - (ii) by omitting the expression "section 7(1) (c)" and substituting therefor the expression "rule 3(3) of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";

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- (d) in section 10(5) by omitting the expression "sections 26 to 31" and substituting therefor the expression "rules 7 to 14, 17 to 19 and 23 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (e) in section 34(3) by omitting the expression "the proviso to section 37 applies, and shall be entitled to the deductions, allowances and reliefs set out in sections 23 to 26, 27 to 30, 32, and 33", and substituting therefor the expression "section 37 and rules 6 to 21 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 apply,";
- (f) in section 39(5) by omitting the expression "sections 44 or 45" and substituting therefor the expression "rules 26 or 27 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (g) in section 40(1A) by omitting the expression "sub-section (1)(tf) of section 7" and substituting therefor the expression "rule 3(35) of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (h) in section 43 by omitting the expression "sections 44 or 45" and substituting therefor the expression "rules 26 or 27 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (i) in section 49(1) by omitting the expression "section 34" and substituting therefor the expression "rule 24 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992";
- (j) in section 54 by omitting subsection (2) and substituting therefor the following new sub-section-

"(2) In assessing the income of a deceased person, any deduction allowable under any of the provisions of rules 6 to 12 and 15 to 19 of the Income Tax (Allowances, deductions and Exemptions) Rules 1992 shall be reduced by one twelfth for each complete calendar month that the date of demise preceded the end of the year of assessment".

### **Repeal and Revocation.**

31.(1) Pursuant to the provisions of section 37A(3) of the Act, sections 7, 16, 17, 19, 23, 24, 25, 26, 26B, 27, 28, 29, 30, 32, 33, 34(1) and (2), 34A, 35, 44, 45, 46 and 66(3) of the Act are hereby repealed.

(2) The Income Tax (Deduction for Maintenance of Children) Rules 1992 are revoked.