

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3675 of 11 September, 2008**

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LEGAL NOTICE NO.65 OF 2008.

**INCOME TAX ACT**

**INCOME TAX (ALLOWANCES, DEDUCTIONS AND  
EXEMPTIONS) (AMENDMENT) RULES 2008**

In exercise of the powers conferred on me by section 37A of the Income Tax Act, I have made the following Rules—

**Title and commencement.**

1. These Rules may be cited as the Income Tax (Allowances, Deductions and Exemptions) Rules 2008 and shall be deemed to have come into operation on 1 July 2007.

**Amendment to the Income Tax (Allowances, Deductions and Exemptions) Rules 1992.**

2.(1) The Income Tax (Allowances, Deductions and Exemptions) Rules 1992 are amended in accordance with the provisions of this rule.

(2) Rule 3 is amended as follows—

(a) in subrule (46), for the words “his wife”, substitute “a spouse”; and

(b) after subrule (49), there shall be inserted—

“(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.”

(3) Rule 3A is revoked and shall be substituted with the following new rules—

**“Regime on specified pension income and other income.**

3A.(1) This rule applies where an individual receives a pension from any statutory pension scheme or provident or other fund approved by the Commissioner and the said individual is—

- (a) aged 60 or over; or
- (b) compulsorily retired at age 55 by operation of section 8(2) of the Pensions Act.

(2) Any pension to which subrule (1) applies shall form part of the assessable income of the individual but shall be taxed at 0% insofar as it forms part of the taxable income.

(3) Except for those cases to which rule 3B applies, subrules (4) to (6) apply where an individual receives both pension income to which this rule applies and other assessable income.

(4) Allowances and deductions shall be set-off first against the individual’s pension income.

(5) When allocating taxable pension income and other taxable income to the appropriate banding or bandings under the provisions of the Rates of Tax Rules any taxable pension income shall be treated as the first such income received by the

individual for the given year, and any other such income shall be treated as received subsequently.

- (6) Insofar as any pension income is taxable income within a banding under the aforesaid Rates of Tax Rules, the rate of tax for the relevant part of that banding shall be reduced from the amount prescribed in that rule to 0%.

**Special regime on specified pension income and other income for transitional year.**

3B.(1) This rule applies to the first year of assessment where an individual receives a pension from any statutory pension scheme or provident or other fund approved by the Commissioner and the said individual is—

- (a) aged 60 or over; or
  - (b) compulsorily retired at age 55 by operation of section 8(2) of the Pensions Act.
- (2) The day on which an individual qualifies to be subject to this rule is the “critical date”.
- (3) The individual shall be subject to two assessments for the year to which this rule applies, that is—
- (a) an assessment in respect of the period up to the critical date; and
  - (b) an assessment in respect of the remainder of the year including the critical date.
- (4) Subject to this rule, the assessments for each period referred to in subrule (3) shall be carried out as if they related to a complete year of assessment.
- (5) The bandings provided for under the Rates of Tax Rules shall apply to the income received in the full year of assessment, and, for the avoidance of doubt, the first taxable income is the income received in the period prior to the critical date.

- (6) Subject to the provisions of these Rules, any allowances and deductions that would be due in respect of the year of assessment shall be allocated to the assessment referred to in subrule (3)(a) and, insofar as any part of the said allowances and deductions have not been utilised, the remainder shall be applied to the assessment referred to in subrule (3)(b).
  - (7) In respect of subrule (3)(b), when allocating taxable income to the appropriate banding or bandings under the provisions of the Rates of Tax Rules any taxable pension income shall be treated as the first such income received by the individual for the given year, and any other such income shall be treated as received subsequently.”.
- (4) Rule 6 is revoked and replaced by the following new rule–

**“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 £2,660.
  - (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).
  - (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.”.
- (5) Insert after rule 6 the following new rules–

**“Limitation on entitlement to Allowances Based System for individuals.**

- 6A.(1) Subject to the provisions of this rule and rule 20, 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 claim the deductions specified in rules 6, 7, 7A, 8, 9, 12, 13, 14, 14A, 15, 16, 16A, 16B, 16C, 17, 18, 19, 20A, 21, 22, 23, 24, 25, and 29.
- (2) For the avoidance of doubt, where an individual is only in receipt of income from the sources referred to in subsection (8) of section 6 of the Act, the individual shall not be entitled to claim the deductions specified in rules 6, 7, 7A, 8, 9, 12, 13, 14, 14A, 15, 16, 16A, 16B, 16C, 17, 18, 19, 20A, 21, 22, 23, 24, 25, and 29.

**Restrictions on entitlement to Allowances Based System for spouses.**

- 6B.(1) Subject to the provisions of this rule and rule 20, 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 claim the deductions specified in rules 7, 7A, 8, 9, 12, 13, 14, 14A, 16, 17, 18, 19, 20A, 21, 22, 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 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 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 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 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
- (b) has not claimed, and nor has his spouse 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) Rule 16B shall be revoked and replaced by the following new rule—

**“Low income earner’s tax allowance and credit.**

- 16B.(1) Where an individual has income of £8,000 or less, he shall be entitled to claim for that year of assessment an allowance in the amount of £3,120.
- (2) Where an individual has income of more than £8,000 and upto £17,500, he shall be entitled to claim for that year of assessment an allowance in the amount of £1,000.
- (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 £670.
- (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 £350.
- (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.
- (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.”

Dated 11th September, 2008.

P R CARUANA,

Minister with responsibility for Public Finance.

**EXPLANATORY MEMORANDUM**

These Rules amend the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 principally to provide the taxation of earned income during a year where pension income is also received, and to make the necessary changes to introduce the Gross Income Based System. The Rules also introduce new exemptions from the charge to tax in respect of income from vocation training schemes and certain community work, and also in respect of income received by the Financial Services Commission.