

Rules made under s.41A and 98.

**QUALIFYING (CATEGORY 3)  
INDIVIDUALS RULES, 1998**

**Revoked by LN. 2008/018 as from 3.4.2008**

**(LN. 1998/050)**

**30.6.1998**

	Amending enactments	Relevant current provisions	Commencement date
LN.	1999/135	rr.2(1), 3, (d) and (e), 4(3) and (4)	1.11.1999
	2005/016	r.2(1)	10.2.2005
	2005/113	rr. 2(1), 3, 4(3), (3A), (3B) and (4) and 5	4.8.2005

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**ARRANGEMENT OF RULES**

Rule

1. Title and Commencement.
2. Interpretation.
3. Category 3 Individual.
4. Terms of Certificate.
5. Payment of Fee.
6. Rate of Tax.
7. Treatment of Other Income.
8. Revocation of 1992 Rules.
9. Transitional.

**1952-11**

**Revoked**  
**Subsidiary**  
**1998/050**

## Income Tax

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**QUALIFYING (CATEGORY 3) INDIVIDUALS RULES, 1998**

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**QUALIFYING (CATEGORY 3) INDIVIDUALS RULES, 1998****Title and commencement.**

1. These Rules may be cited as the Qualifying (Category 3) Individuals Rules, 1998 and shall come into operation on 30 June 1998.

**Interpretation.**

2.(1) In these Rules—

“a certificate” means a qualifying certificate issued under section 41A of the Income Tax Act;

“a company” means a qualifying or exempt company in respect of which the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette is satisfied that it has a physical presence in Gibraltar;

“gross emoluments” means the full amount of the emoluments earned in respect of the occupation carried out for, or post held with, the applicant company or statutory body and shall include all salaries, fees, wages, perquisites and profits whatsoever;

“statutory body” means the Gibraltar Development Corporation, the Financial Services Commission or the Gibraltar Health Authority; and

“taxable income” means—

- (i) the gross emoluments arising from the occupation or post of the Category 3 Individual in respect of whom the certificate issued in accordance with rule 3, or as the case may be, 4(3) is in operation,
- (ii) any income of that individual falling within section 6(1)(c) and (d) of the Income Tax Act, or
- (iii) any other income falling within section 6(3) of that Act.

(2) For the purposes of section 41A of the Income Tax Act, the prescribed requirements for the issue of a certificate shall be those set out in rules 3 to 5.

**Category 3 Individual.**

3. A company or a statutory body may apply in writing to the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by

**QUALIFYING (CATEGORY 3) INDIVIDUALS RULES, 1998**

notice in the Gazette for, and may be issued by him with, a certificate designating an individual remunerated in respect of an occupation carried out for, or a post held with, that company or statutory body as a Qualifying (Category 3) Individual (hereinafter referred to as a “Category 3 Individual”) where that individual is one in respect of whom the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette is satisfied that—

- (a) he possesses skills or experience essential to the operation of the company or statutory body by whom the application is made;
- (b) those skills or experience are not available in Gibraltar;
- (c) those skills or experience are important for the economic regeneration of Gibraltar;
- (d) he has available to him for his exclusive use for the period of the certificate, residential accommodation in Gibraltar, approved for this purpose by the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette, adequate for himself and any and all of his family in Gibraltar dependent upon him; and
- (e) he has not been gainfully occupied in Gibraltar in any of the five years of assessment immediately preceding the year of assessment in which the application is made (although the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette may waive the requirement of this sub-paragraph).

**Terms of certificate.**

- 4.(1) A certificate issued pursuant to rule 3 shall specify—
  - (a) the name of the Category 3 Individual in respect of whom it is issued and the company or statutory body in respect of which he has an occupation or holds a post; and
  - (b) the period for which it is issued.
- (2) A certificate may be issued for a period of up to three years.
- (3) The Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time

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**QUALIFYING (CATEGORY 3) INDIVIDUALS RULES, 1998**

designate by notice in the Gazette may on application in writing, upon being satisfied that rules 3(a) to (d) continue to be met, renew a certificate for one period only of up to three years.

(3A) The Minister with responsibility for financial services may, on application in writing by a company or statutory body, direct the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette to renew a certificate, which has already been renewed under sub-rule (3), for an additional period of one year. Thereafter, the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette may, on application in writing by a company or statutory body, renew annually such a certificate, if the Minister with responsibility for financial services so agrees.

(3B) A certificate may only be renewed under sub-rule (3A) if the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette is satisfied that the applicant continues to meet the requirements of rule 3(a) to (d).

(4) If during the period for which a certificate has been issued the Finance Centre Director or such other public officer as the Minister with responsibility for financial services may from time to time designate by notice in the Gazette determines that –

- (a) any matter supplied in the application made under rule 3 was false or incomplete in a material particular; or
- (b) the tax payable in accordance with rule 6 was not paid at the times specified in that rule;

he may withdraw the certificate with effect from the beginning of the year of assessment in which it is withdrawn.

**Payment of fee.**

5. An application by a company or a statutory body for a certificate under rule 3 or the renewal of a certificate under rule 4(3) or rule 4(3A) shall be accompanied by a non-refundable fee of £500.

**Rate of tax.**

6.(1) Subject to subrule (3), a Category 3 Individual in respect of whom a certificate has been issued or renewed under rule 3 or, as the case may be, rule 4(3) and which remains in effect, shall be charged to tax of £10,000 on

**QUALIFYING (CATEGORY 3) INDIVIDUALS RULES, 1998**

his taxable income for each year of assessment during which the certificate is in effect.

(2) Subject to subrule (3), the tax charged for a year of assessment shall be due and payable in twelve equal monthly instalments, each instalment being due on the last day of each month of the year of assessment in respect of which the tax is charged.

(3) The amount of £10,000 shall be reduced by one twelfth for each complete calendar month in the year of assessment during which there is no certificate in effect in respect of that individual and the reduced amount shall be due and payable in equal monthly instalments each instalment being due on the last day of each month during which the certificate is in effect in the year of assessment for which the tax is charged.

**Treatment of Other Income.**

7. Where a Category 3 Individual in respect of whom a certificate has been issued or renewed under rule 3 or, as the case may be, 4(3), has income which is not taxable income for the purposes of these Rules, that income shall be assessed in accordance with the provisions of the Income Tax Act.

**Revocation of 1992 Rules.**

8. Subject to rule 9, the Rates of Tax (Relocated Executive Possessing Specialist Skills) Rules 1992 are revoked.

**Transitional.**

9. An individual to whom a certificate has been issued in accordance with the Rates of Tax (Relocated Executive Possessing Specialist Skills) Rules 1992 shall continue to have the benefit of that certificate until the earlier of the following—

- (a) the expiry of the certificate issued under those Rules, or
- (b) the commencement of the year of assessment in respect of which the certificate is withdrawn.