

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3506 of 8 December, 2005



I ASSENT,

FRANCIS RICHARDS,

GOVERNOR.

4th December, 2005.



GIBRALTAR

No. 62 of 2005

AN ORDINANCE to amend the Income Tax Ordinance.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance 2005 and shall be deemed to have come into operation on 1 July 2005.

Amendments to section 6.

2.(1) Section 6(1)(g)(B) is amended by substituting for “£1000”, “£2000”.

(2) Sub-section 6 (2) is repealed.

(3) The following subsections (8) and (9) are added after subsection (7)–

“(8) For the purposes of this Ordinance sub-section 6(1)(c) shall not apply to dividends, interest or discounts other than trading receipts as follows–

- (a) dividends paid or payable by a company ordinarily resident in Gibraltar to a company;
- (b) dividends paid or payable to a person who for the purposes of this Ordinance is neither ordinarily resident in Gibraltar nor a permitted individual;
- (c) dividends paid or payable by a company the shares of which are quoted on a Recognised Stock Exchange;
- (d) interest paid or payable by a bank, building society or other financial services institution licensed to take deposits under the Banking Ordinance or equivalent legislation in any other jurisdiction;
- (e) interest paid or payable by the Gibraltar Government Savings Bank;
- (f) income from debentures issued by a company the shares of which are quoted on a Recognised Stock Exchange, including debenture stock, loan stock, bonds, certificates of deposit and any other instruments creating or acknowledging indebtedness

including bills of exchange accepted by a banker other than instruments included in (g) below;

- (g) income from loan stock, bonds, and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, a local or public authority;
- (h) income from units in a collective investment scheme which is marketed and available to the general public, including shares in or securities of an open-ended investment company;
- (i) income from rights to and interests in anything falling within (a) to (h) above; and
- (j) a dividend paid or payable out of the profits or gains of a company which has profits or gains on which the company is not liable to pay tax by virtue of (a) to (i) above to the extent of the amount of the dividend represented by the proportion which the amount of the income not liable to tax by virtue of (a) to (i) above bears to the entire income of the company for the year of assessment.

- (9) For the purposes of this section “Recognised Stock Exchange” means any stock exchange regulated market or equivalent body as the Commissioner designates to be a Recognised Stock Exchange by Notice in the Gazette.”.

Repeal of section 39.

- 3. Section 39 is repealed.

Enactment of new section 39.

- 4. A new section 39 is enacted as follows—

Dividend Tax Credit.

- “39.(1) Subject to subsection (5)—

- (a) dividends paid to shareholders of every company which is ordinarily resident in Gibraltar shall attract a tax credit at the rate paid or payable by the company on the profits out of which the dividend is being paid, double taxation relief being left out of account; and
 - (b) for the purposes of identifying the rate at which the credit is allowed profits earned at an earlier date shall be deemed to be paid over as a dividend before profits earned at a later date.
- (2) Within the thirty days following the end of each year of assessment every company which is ordinarily resident in Gibraltar which pays or votes a dividend to any person who may be taxable in Gibraltar on that dividend shall make a return to the Commissioner, in the form prescribed by the Commissioner, of the amount of any dividend paid in that year of assessment.
- (3) Where in any year of assessment the total amount of tax credit entitlement allowable on dividends paid by the company during that year is greater than the amount of tax chargeable on the income of the company for that year, the company shall forthwith account for and pay over to the Commissioner the difference between the amount of tax so chargeable and the total amount of tax credit attracting to the dividends paid by the company during that year: Provided that the difference which the company would, but for this proviso, be liable to pay to the Commissioner shall be reduced by such amount, not exceeding the said difference, as may in accordance with subsection (4) be available as a set off.
- (4) Where in any year of assessment the total amount of tax credit allowable on dividends paid by the company during that year is less than the amount of tax chargeable on the income of the company for that year, the excess of tax shall for the purpose of subsection (3), but for no other purpose, be available as a set off against the amount of tax which the company would otherwise be required to pay to the Commissioner in accordance with that subsection. An excess so available as a set off shall be applied on the first occasion next arising to which subsection (3) is applicable, and to the extent that an

excess cannot then be so applied shall be carried forward and applied in like manner on the next occasion so arising. An excess arising in any year of assessment may to the extent that it cannot be applied as a set off be aggregated with an excess arising in any other year of assessment, and the aggregate of such excesses shall be applied as if it were a single excess available as a set off.

- (5) The Commissioner may disclose to any company to which this section applies such information as, in the opinion of the Commissioner, may aid the company with its duties under the provisions of this section.”.

Repeal of section 42.

5. Section 42 is repealed.

Enactment of new section 42.

6. A new section 42 is enacted as follows—

Set off of Tax Credit.

“42. Any tax deducted from any interest under the provisions of section 40 or any tax credit entitlement under section 39 or any tax which is applicable to the share to which any person is entitled in the income of a body of persons or in the income of the estate of a deceased person shall, when such dividend, interest or share is included in the assessable income of such person, be set off for the purpose of collection against the tax charged on that income.”.

Repeal of section 43.

7. Section 43 is repealed.

Amendment to section 84.

- 8 Section 84(a)(ii) is amended by substituting for “shall” where it appears, “may, at the Commissioner’s discretion”.

Passed by the Gibraltar House of Assembly on the 28th day of November, 2005.

D. J. REYES,

Clerk to the Assembly.