

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4190 of 6th August, 2015

INCOME TAX (AMENDMENT) ACT 2015

ARRANGEMENT OF SECTIONS

Section

1. Title.
2. Commencement.
3. Amendment of the Income Tax Act 2010.
4. Income Tax (Gift Aid) Rules 2006.
5. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2007.
6. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2009.
7. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2010.
8. Amendments to HEPSS Rules deemed to have come into operation on 1 July 2011.
9. *Not used.*
10. Amendments to Qualifying (Category 2) Individuals Rules 2004.



I ASSENT,
JAMES DUTTON,
GOVERNOR.

6th August, 2015.



GIBRALTAR

No. 23 of 2015

AN ACT to amend the Income Tax Act 2010.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Income Tax (Amendment) Act 2015.

Commencement.

2.(1) This Act comes into operation in accordance with the provisions of this section.

(2) Section 1, this section and section 9 come into operation on the day of publication.

(3) In section 3—

- (a) subsections (4) and (26) shall be deemed to have come into operation on 1 January 2011;
- (b) subsections (24)(b) shall be deemed to have come into operation on 1 July 2013;
- (c) subsections (5) and (6)(a) shall apply to accounting periods ending on or after 1 July 2013;
- (d) subsections (1), (1A), (3), (3A), (3B), (6)(b) and (c), (7), (8), (9), (10), (11), (12), (13) to (23), (23B), (24)(a), (27) and (28) come into operation on the day of publication;
- (e) subsections (2), (24)(c) and (d) and (25) shall be deemed to have come into operation on 1 July 2014;
- (f) subsection (5A), (15A) and (24)(aa), (ab), (ac) and (e) come into operation on 1 January 2016;
- (g) subsections (4A), (13)(aa) and (24A) come into operation on 1 July 2016;
- (h) subsection (2A) shall apply to accounting periods commencing on or after 1 January 2016;
- (i) subsection (6)(d) shall apply to accounting periods ending on or after 1 July 2015;

- (j) subsection (23A) shall be deemed to have come into operation on 22 June 2015;
 - (k) subsections (24)(f) and (g) shall be deemed to have come into operation on 1 July 2015 and in the case of companies, applies to accounting periods commencing on or after 1 July 2015.
- (4) In section 4–
- (a) subsections (1) and (2) shall be deemed to have come into operation on 1 January 2011; and
 - (b) subsection (3) shall be deemed to have come into operation on 1 July 2013.
- (5) Section 5 shall be deemed to have come into operation on 1 July 2007.
- (6) Section 6 shall be deemed to have come into operation on 1 July 2009.
- (7) Section 7 shall be deemed to have come into operation on 1 July 2010.
- (8) Section 8 shall be deemed to have come into operation on 1 July 2011.
- (9) In section 10–
- (a) subsections (1) to (6) shall be deemed to have come into operation on 1 July 2013; and
 - (b) subsection (7) comes into operation on 1 July 2015.

Amendment of the Income Tax Act 2010.

3.(1) The Income Tax Act 2010 is amended in accordance with the provisions of this section.

(1A) Substitute the following sections for section 6–

“6.(1) Subject to this section, the Commissioner may by notice in writing require a person to deliver to him information relevant to the tax liability to which the person is or may be subject to.

- (2) Subject to this section, the Commissioner may, for the purpose of enquiring into the tax liability of any person, by notice in writing require any other person to deliver to the Commissioner, or if the Commissioner agrees, to make available for inspection within such time as may be specified in the notice, information relevant to the tax liability of the person whose liability the Commissioner is enquiring into.
- (3) For the purposes of a notice issued under subsections (1) and (2)–
 - (a) the time to be specified in the notice shall not be less than 30 days; and
 - (b) the person whose liability the Commissioner is enquiring into shall be named, unless the criteria set out in subsection (6) is met.
- (4) If the Commissioner agrees, the person to whom a notice under subsections (1) or (2) is given may deliver extracts of the information requested in a form and manner agreed by the Commissioner.
- (5) The Commissioner retains the right to examine all or a sample of the information from which the extract delivered under subsection (4) has been extracted, provided that such right is exercised within 6 months of the date of the delivery of that extract.
- (6) The Commissioner may issue a notice under subsection (2) without naming the person whose liability he is enquiring into, provided he is satisfied that all of the following criteria are met–
 - (a) the notice relates to a person whose identity is not known to the Commissioner or to a class of persons whose individual identities are not so known;
 - (b) the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with the

provisions of the Act and that any such failure is likely to have prejudiced the proper assessment or collection of tax;

(c) the information requested in the notice is not readily available from another source.

(7) Subject to subsection (6), the Commissioner when giving a notice under subsections (1) or (2) shall provide to—

(a) in the case of a notice under subsection (1) above, the person to whom the notice applies; or

(b) in the case of a notice under subsection (2) above, the person whose liability the Commissioner is enquiring into,

a written summary of the reasons for the notice to the extent that such summary does not identify any person who has provided the Commissioner with information which he took into account in deciding to issue the notice.

(8) A person on whom a notice under subsections (1) or (2) is given may, by notice in writing given to the Commissioner within 30 days of the date of issue of the notice, object to that notice on the grounds that it would be onerous for him to comply with it; and if the matter is not resolved by agreement it shall be referred to the Tribunal who may confirm, vary or cancel that notice.

(9) For the purposes of this section the term “information” does not include anything which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are—

(a) produced for the purposes of seeking or providing legal advice; or

(b) produced for the purposes of use in existing or contemplated legal proceedings.

- (10) To the extent specified in section 7 below the provisions of this section are subject to the restrictions of that section.

Information Powers: International obligations under exchange of information agreements.

6A.(1)(a) Subject to this section, the Commissioner may by notice in writing require a person to deliver to him information relevant to the compliance of any obligation imposed on, or accepted by the Government under any agreement for the exchange of information or the assistance for the recovery of taxes with another country, territory or jurisdiction.

(b) For the purposes of (a) above, the Minister may by regulations prescribe which international exchange of information agreements are relevant.

- (2) For the purposes of a notice issued under subsection (1) the time to be specified shall not be less than 30 days.
- (3) A person on whom a notice under subsection (1) is given may, by notice in writing given to the Commissioner within 30 days of the date of issue of the notice, object to that notice on the grounds that it would be onerous for him to comply with it; and if the matter is not resolved by agreement it shall be referred to the Tribunal who may confirm, vary or cancel that notice.
- (4) For the purposes of this section the term “information” does not include anything which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are—
- (a) produced for the purposes of seeking or providing legal advice; or
- (b) produced for the purposes of use in existing or contemplated legal proceedings.”

(2) In section 13(1) for the words “the standard rate of tax for persons other than companies” substitute “the rate set out in the Rates of Tax Rules, 1989”.

(2A) Substitute the following section for section 16-

“16.(1) Subject to the provisions of this Act , the assessable profits or gains of a company for an accounting period shall be the full amount of the profits or gains of the company for that accounting period.

(2) An accounting period of a company shall begin for the purpose of this Act whenever-

(a) that company is first registered in Gibraltar; or

(b) a previous accounting period ends.

(3) An accounting period of a company shall end for the purposes of this Act on the first occurrence of any of the following –

(a) the expiration of 12 months from the beginning of the accounting period; or

(b) an accounting date of the company.

(4) Subject to subsections (1) to (3) above, where a company is wound up, an accounting period shall end and a new one begin with the commencement of the winding up, and thereafter each accounting period shall end on the expiration of each 12 month period save for the last accounting period which ends on completion of the winding up.

(5) Where it appears to the Commissioner that the beginning or end of any accounting period of a company is uncertain, he may to the best of his judgement make an assessment on that company for a period, not exceeding 12 months and that period shall be treated for all purposes as an accounting period for the purposes of the Act unless–

(a) it is revised by the Commissioner on consideration of further facts not previously made available; or

(b) an appeal is made against the assessment under which the proper accounting periods of the company are revealed.

(6) Where a company makes up its accounts for a period exceeding 12 months (an “extended accounting period”), the Commissioner shall, to obtain the measure of profits for the purposes of this Act, deem the profits to have accrued evenly over this extended accounting period and apportion by reference to time such profits so as to ascertain an initial accounting period ending on the company’s accounting date and a subsequent accounting period comprising the remaining 12 months.

(7) If the Commissioner believes that any delaying of the accounting date of a company to a period beyond 12 months under subsection (6) above has been effected to reduce the amount of tax which would otherwise be payable, he shall ascertain the profits for assessment for the accounting periods comprised in the accounts presented in whichever way as he shall, in his discretion, think fit for the purposes of assessment to tax.”.

(3) Insert the following section after section 18–

“Entities: power to make regulations.

18A. The Minister may by regulations prescribe how the tax liability of those entities described in the regulations are to be assessed for the purposes of this Act.”.

(3A) In section 19, for the tailpiece substitute–

“paid to any person who is not ordinarily resident provided that such person receiving the payment is present in Gibraltar on less than 30 days in aggregate in any year of assessment.”.

(4) Inserting the following section after section 25–

“Gifts to charity by individuals.

25A. The Minister may by rules make provision for the paying to charities of amounts equal to the tax paid by individuals making a donation to charity on such terms and conditions as the Minister may deem appropriate.”.

(4A) Substitute the following subsection for section 28(1)-

“(1) Subject to subsections (2) to (7), every person other than a company who is liable to tax or has income assessable in accordance with this Act for a year of assessment shall make a full and complete return of his income for that year by 30th November immediately following the end of that year of assessment.”.

(5) Substitute the following section for section 29–

“Companies to make returns.

29.(1) Subject to subsection (2) below, a company that has assessable income under the provisions of this Act shall make a full and complete return of its income.

(2) A branch of a company situated in Gibraltar that has assessable income under the provisions of this Act shall, with effect from 1 January 2016, make a full and complete return in respect of the income of that branch.

(3) A company that is obliged to file a return under this section shall do so within the nine months immediately following the month in which the accounting period ends.”.

(5A) In section 29–

(a) in subsection (1), after the words “a company that” insert “is registered in Gibraltar or”;

(b) for subsection (3) substitute the following subsections-

“(3) A company, or as the case may be, a branch that is obliged to file a return under this section shall do so within 9 months after the end of the month in which the accounting period ends.

(4) In the case of an extended accounting period in accordance with this Act, any return required under this section shall be filed within the 9 months immediately following the month in which the extended accounting period ends.”.

(6) Section 30(1) is amended–

(a) by substituting the following paragraphs for paragraphs (b) and (c)–

“(b) in the case of a company or, as the case may be, a branch with an assessable income of at least £1,000,000 in relation to an accounting period which does not exceed twelve months or the appropriate proportion of £1,000,000 computed on the basis of the number of months comprising the accounting period in relation to an accounting period which is less than twelve months, be accompanied by audited accounts;

(ba) in the case of a branch, paragraph (b) applies with effect from 1 January 2016;

(bb) in the case of a company or, as the case may be, a branch with an assessable income of less than £1,000,000 in relation to an accounting period which does not exceed twelve months or the appropriate proportion of £1,000,000 computed on the basis of the number of months comprising the accounting period in relation to an accounting period which is less than twelve months, be accompanied by accounts together with an independent accountant’s report;

(c) in the case of a branch, paragraph (bb) applies with effect from 1 January 2016;”;

- (b) by inserting the following paragraphs after paragraph (c)–
- “(ca) for the purposes of paragraph (bb) the following shall apply–
- (i) the Minister may by regulations prescribe the applicable standards on which the independent accountant’s report shall be based;
 - (ii) accounts shall be signed on behalf of the board by two directors of the company, or, if there is only one director, by that director;
- (cb) in relation to paragraph (bb) above, an “independent accountant” means an individual who is approved in accordance with this Act to issue an independent accountant’s report and is one that is–
- (i) independent with respect to the entity on which he is issuing an independent accountant’s report, and the Commissioner may make reference to the definition of connected persons specified in paragraph 9 of Schedule 4 for the purposes of satisfying himself as to the independence of any person; and
 - (ii) appropriately qualified by virtue of holding a practising certificate issued by a recognised accountancy body of an EEA State or being deemed by the Commissioner to have demonstrated sufficient expertise prior to 1 January 2011; and
 - (iii) sufficiently knowledgeable in respect of relevant Gibraltar legislation and practice by virtue of having been in professional practice within Gibraltar for a period of at least 3 years or having previously passed an exam of professional competence approved by the Commissioner.”;

- (c) in paragraph (f)–
 - (i) for the word “person” substitute “individual”, and
 - (ii) for “subsection 39(9)” substitute “section 39(9)”;
- (d) in paragraphs (b) and (bb) for “£1,000,000” substitute “£1,250,000” on the four occasions those figures appear.

(7) Substitute the following section for section 31–

“Assessing procedure.

31.(1) Subject to the provisions of this Act and to paragraph (d) below, assessments to tax shall be made by the Commissioner, and–

- (a) if the Commissioner is satisfied that any return made under the Act affords correct and complete information concerning income in respect of which tax is chargeable, he shall make an assessment accordingly;
- (b) if it appears to the Commissioner that there is any income in respect of which tax is chargeable and which has not been included in a return made under section 28 or, as the case may be, section 29 or if the Commissioner is dissatisfied with any such return, he may make an assessment to tax to the best of his judgment;
- (c) in relation to paragraph (b) above, where tax is chargeable for a year of assessment in respect of income arising in that year, the Commissioner may make an assessment during that year of assessment to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other;

- (d) where the Commissioner has reason to believe that a person ceases to have any source of income in a year of assessment, he may make an assessment on that person at any time during that year of assessment notwithstanding the provisions of sections 28 to 30.
 - (2) Where the Commissioner is dissatisfied with a return he may give notice under this subsection to any person of his intention to enquire into—
 - (a) the return on the basis of which the person whose tax liability is being assessed (“the Taxpayer”) has made a statement in accordance with the requirements of sections 28 and 30 or, as the case may be, sections 29 and 30; or
 - (b) any amendment made to that return on the basis of which that statement has been amended by the Taxpayer.
 - (3) For the purpose of enquiring into the return or an amendment made to the return, the Commissioner may at the same or at any subsequent time issue to the Taxpayer a notice or notices under section 32.
 - (4) An enquiry under this section may be made at any time not later than one year after the date of the receipt of any return required to be delivered under section 28 or, as the case may be, section 29.
 - (5) Subsection (4) above shall not apply if the Taxpayer, or any person acting on behalf of the Taxpayer, has committed any form of fraudulent or wilful default or negligent conduct in the failure to comply with any notice issued in relation to this section.”.
- (8) Insert the following section after section 31—
- “Ordinary time limit of six years for making assessments.**

31A. Subject to the provisions of this Act, an assessment to tax may be made at any time not later than six years after the end of the year of assessment or, as the case may be, accounting period to which the assessment relates.”.

(9) Substitute the following section for section 32–

“Power to make enquiries on return.

32.(1) This section applies where the Commissioner has given notice of his intention to enquire under section 31 to the Taxpayer.

(2) For the purposes of an enquiry under section 31(2), the Commissioner may by notice in writing require the Taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice–

(a) to produce to the Commissioner such documents as are in the Taxpayer’s possession or power and as the Commissioner may require for the purpose of determining whether and, if so, the extent to which the return is incorrect or incomplete or the amendment is incorrect; and

(b) to furnish to the Commissioner such accounts or audited accounts or particulars as he may require.

(3) For the purposes of complying with a notice under subsection (2) above, copies of documents may be produced instead of originals, but–

(a) the copies must be photographic or otherwise by way of facsimile or portable document format; and

(b) if the Commissioner so requires, he may by giving notice in writing demand that the original of a document be produced in relation to any document specified in the notice within such time (which shall not be less than 30 days) as may be specified.

-
- (4) The Commissioner may take copies of, or make extracts from, any document produced to him under subsection (2) or (3) above.
 - (5) An appeal may be made by the Taxpayer to the Tribunal in respect of any requirement imposed by a notice under subsection (2) above;
 - (6) An appeal under subsection (5) above must be brought within the period of 30 days beginning with the date on which the notice under subsection (2) above is given and shall be made in writing addressed to the Commissioner.
 - (7) A notice under subsection (2) above does not oblige the Taxpayer to produce documents or furnish accounts or particulars relating to the conduct of any pending appeal by that Taxpayer.
 - (8) Subject to subsection (9) below, the provisions of Schedule 2 relating to appeals shall have effect in relation to an appeal under subsection (5) above as they have effect in relation to an appeal against an assessment to tax.
 - (9) On an appeal under subsection (5) above, paragraph 13 of Schedule 2 shall not apply but the Tribunal may—
 - (a) if it appears to it that the production of the document or the furnishing of the accounts, audited accounts or particulars are required by the Commissioner for the purposes mentioned in subsection (2) above, confirm the notice issued under that subsection; or
 - (b) if it appears to it that the production of the document or the furnishing of the accounts, audited accounts or particulars are not required by the Commissioner for the purposes mentioned in subsection (2) above, set aside the notice to such extent as it considers necessary.
 - (10) For the purposes of this section, “document” includes books, contracts, vouchers and receipts.”

(10) Insert the following section after section 32–

“Offence of falsification etc. of documents in relation to a notice under section 32.

32A.(1) A person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which he has been required by notice under section 32 to deliver or make available for inspection.

(2) A person guilty of an offence under subsection (1) above shall be liable–

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.”.

(11) Substitute the following section for section 33–

“Assessing procedure where no return is delivered.

33.(1) Where–

- (a) a return is required under section 28 or, as the case may be, section 29; and
- (b) the required return is not delivered on or before the date specified in section 28 or, as the case may be, section 29,

the Commissioner may to the best of his judgment make an assessment on the person named in the return during that year of assessment or, as the case may be, accounting period by reference to actual income or estimated income (whether from any particular source or generally), or partly by reference to one and partly by reference to the other.”.

(12) By substituting the following section for section 34–

“Additional, amended and discovery assessments.

34.(1) If the Commissioner discovers–

- (a) that any income which ought to have been assessed to tax has not been assessed; or
- (b) that an assessment to tax is or has been insufficient,

the Commissioner may make an assessment or assessments in the amount or further amounts which ought in the opinion of the Commissioner to be charged.

- (2) Subject to the provisions of this section, any assessment to tax made under this Act may be amended at any time by the Commissioner in the amount which ought in the opinion of the Commissioner to be charged.
- (3) Amendments to an assessment to tax may be made at any time not later than six years after the end of the year of assessment or, as the case may be, accounting period to which the assessment relates.
- (4) Notwithstanding the provisions of section 38, where any form of fraud, wilful default or neglect has been committed by or on behalf of any person in connection with or in relation to taxation for any year of assessment, or, as the case may be, accounting period, assessments or additional assessments may be made on that person at any time not later than twenty years after the end of the year of assessment or, as the case may be, the accounting period to which the assessment relates.”.

(13) Section 39 is amended–

- (a) in subsection (1) by substituting the following paragraph for paragraph (b)–

“(b) in the case of a company, no later than 9 months after the end of the month in which the accounting period ends.”; and

(aa) by substituting the following subsection for subsection (2)-

“(2)(a) Any person other than a company (the “Taxpayer”) shall make two payments on account towards their liability for a year of assessment each of which shall be of an amount equal to 50 per cent of the tax liability in respect of the immediately preceding year of assessment, subject to (b) below;

(b) for the purposes of (a) above—

(i) the liability used in determining the basis for the payment on account shall be any income falling within paragraph (2) of Table A of Schedule 1 and paragraph (2) of Table B of Schedule 1 assessed in the preceding year of assessment; and

(ii) in calculating the liability to be used for the purposes of this subsection the amounts set out in (i) above are deemed to be charged to tax immediately after any income which has been subject to deduction and withholding in accordance with the Income Tax (Pay As You Earn) Regulations 1989 on the basis that such income is charged to tax before any other income chargeable in accordance with this Act.”.

(b) by substituting the following subsections for subsections (4) and (5)–

“(4)(a) A company shall make a payment on account of its future liabilities on or before 28 February and 30 September in each accounting period;

(b) in accordance with the Table in Schedule 10, the payments on account payable in accordance with paragraph (a) shall be in two equal instalments of 50

- per cent of the tax payable for the relevant accounting period;
- (c) for the purposes of paragraph (b) the “relevant accounting period” means the accounting period used as a basis in determining the payments on account and is the accounting period whose due and payable date precedes the date of the first payment on account in accordance with the Table in Schedule 10;
 - (d) the Table in Schedule 10 shall apply for the purposes of determining the relevant accounting period;
 - (e) the payments on account made in an accounting period shall be set off against the tax due for that accounting period and any excess of the payments on account made for the accounting period over the tax due for that accounting period shall be repayable;
 - (f) where a company has changed its accounting date, the relevant accounting period for the purposes of paragraph (b) shall continue to be determined by reference to the previous accounting date until such time as there is an accounting period, determined in accordance with this Act, made up to the new accounting date of the company;
 - (g) where the relevant accounting period contained in the Table in Schedule 10 is derived from an extended accounting period ending on or after 1 January 2016 and determined under section 16(6) of this Act, the corresponding tax payable for such an extended accounting period shall be deemed to have accrued evenly over that period and shall for the purposes of this section be apportioned by reference to time to an equivalent period of 12 months;
 - (h) where the relevant accounting period contained in the Table in Schedule 10 is an accounting period of less than 12 months, the corresponding tax payable for

such a period shall be deemed to have accrued evenly over that period and shall for the purposes of this section be grossed up by reference to time to an equivalent period of 12 months.

(5) Where the Taxpayer believes that the payment on account required under subsection (3) or (4) will exceed the liability payable for the year of assessment or accounting period an application may be made to the Commissioner for discharge in whole or in part from the obligation to make the payment on account.”;

(c) in subsection (6) for “advance payment” substitute “payment on account”;

(d) for subsection (8) substitute-

“(8) The Minister may make regulations for the purposes of the administration or interpretation of this section.”.

(14) Section 41 is amended by substituting the following subsection for subsection (10)–

“(10)The information required under this section must be provided at the place and in the form and manner as the Commissioner may specify by notice in writing.”.

(15) Insert the following section after section 56–

“Penalty for failure to deliver return made by employer.

56A.(1) A person who fails to comply with section 56 is liable to a penalty not exceeding an amount equivalent to level 5 on the standard scale.

(2) An appeal shall lie to the Magistrates’ Court from a penalty incurred under this section, and on any such appeal the court may either confirm or set aside the penalty.”.

(15A) Substitute the following sections for sections 59 and 60-

“59.(1) Subject to sub-section (2) every company incorporated in Gibraltar that declares a dividend shall prepare and deliver a return to the Commissioner by not later than nine months from the end of the accounting period in which the dividend was declared.

(2) Subsection (1) shall not apply to any company, the shares of which are listed on a Recognised Stock Exchange;

for the purposes of this subsection, a ‘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.

(3) A company shall be deemed to distribute available distributable profits proportionally from profits chargeable to tax in accordance with the provisions of this Act and profits not so chargeable to tax under this Act.

(4) For the purposes of subsection (3) above, distributable profits shall have the same meaning as in the Companies Act.

(5) A return made in accordance with subsection (1) shall be in a form specified by the Minister in the Gazette.

(6) The analysis and allocation of the available distributable profits out of which a dividend is declared shall be in accordance with any regulations which may be made by the Minister.

Dividends: provision of particulars.

59A. Every company incorporated in Gibraltar that declares a dividend shall provide each shareholder who is either an ordinarily resident individual or is another company incorporated in Gibraltar, with particulars of the amount of the tax credit and the dividend entitlement divided between that part which has been declared out of profits chargeable to tax in accordance with the provisions of this Act and that part which has been declared out of profits not chargeable to tax in accordance with the provisions of this Act, by not later than

nine months from the end of the accounting period in which the dividend was declared.

Set off of Tax Credit.

- 60.(1) Subject to subsection (6), dividends declared by a company incorporated in Gibraltar or payments made to any person by a company and deemed by the Commissioner to represent distributions of income as if a dividend had been paid in accordance with section 22 of this Act or Schedule 4 to this Act, shall attract a tax credit determined in accordance with subsection (2).
- (2) The Minister may by regulations prescribe the basis for the calculation of the tax credit attributable to the dividends declared.
- (3) The Commissioner may, to the extent available, provide any company to which this section applies with such information relating to the company as, in the opinion of the Commissioner, may aid the company in complying with the requirements of this section.
- (4) In determining the assessable income of any individual chargeable to tax under this Act, the proportion of any dividends received that are derived from profits chargeable to tax in accordance with the provisions of this Act shall be grossed up by the amounts of the tax credit attributable to those dividends.
- (5) Other than in respect of dividends to which paragraph (a) of Table C, Class 1 applies, a tax credit shall, to the extent that it has not been utilised to reduce any tax which is otherwise due or may become due, shall be refundable in accordance with section 61 of this Act.
- (6) Other than dividends that are assessable to tax as a result of the application of rule 10(4) of the Qualifying (Category 2) Individuals Rules 2004, no tax credit shall be available to any individual taxed in accordance with the following rules-

- (a) Qualifying (Category 2) Individuals Rules 2004; or
- (b) High Executive Possessing Specialist Skills Rules 2008.”.

(16) Substitute the following section for section 63–

“Duty to keep and preserve records and books of account.

63.(1) A person required to deliver a return under section 28, or, as the case may be, section 29 for any period must–

- (a) keep such records as may be needed to enable it to deliver a full and complete return for the period; and
 - (b) preserve those records in accordance with this section.
- (2) The records must be preserved for six years from the end of the period for which the person is required to deliver a return under section 28 or, as the case may be, section 29.
- (3) If the person is required to deliver a return by notice given before the end of the six year period, the records must be preserved until any later day on which–
- (a) any enquiry into the return is completed; or
 - (b) if there is no enquiry, the Commissioner no longer has power to enquire into the return.
- (4) If the person is required to deliver a return by notice given after the end of that six year period and has in his possession at that time any records that may be needed to enable him to deliver a full and complete return, he is under a duty to preserve those records until the date on which–
- (a) any enquiry into the return is completed;
 - (b) if there is no enquiry, the Commissioner no longer has power to enquire into the return.

- (5) The records required to be kept and preserved under this section includes books containing entries from day to day of all cash received and cash paid, statements of annual stocktaking, all goods sold and purchased showing sufficient detail to enable those goods, buyers and sellers to be identified and any contracts, invoices or other underlying documentation significant to the trade, business, profession or vocation undertaken.
 - (6) The duty to preserve records under this section includes a duty to preserve all supporting documents relating to the items mentioned in subsection (5).
 - (7) All the books of accounts kept for the purposes of this section shall be kept in the English language.
 - (8) For the purposes of subsection (6), “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.”.
- (17) Insert the following section after section 63–
- “Penalty for failure to keep and preserve records.**
- 63A.(1) A person who fails to comply with section 63 in relation to any year of assessment or, as the case may be, any accounting period, is liable to a penalty not exceeding an amount equivalent to level 5 on the standard scale.
- (2) An appeal shall lie to the Magistrates’ Court from a penalty incurred under this section, and on any such appeal the court may either confirm or set aside the penalty.”.
- (18) Section 64(1) is amended–
- (a) by substituting the following paragraph for paragraph (b)–
 - “(b) where any of the tax imposed by this Act and surcharge imposed under paragraph (a) above, is not paid within 90 days from the date when it becomes payable under that paragraph, an amount equal to 20

per cent of the tax and surcharge which remains unpaid on that date shall become immediately due and payable.”; and

(b) by deleting paragraph (c).

(19) Substitute the following section for section 65–

“Penalties for failure to comply with requirements on return.

65.(1) This section applies where any person–

(a) has failed to make a full and complete return for the purposes of section 28 or 29; and

(b) has failed to deliver such return.

(2) The person shall be liable to a penalty of £50.

(3) If the failure by the person to comply with the requirements of section 28 or 29 continues after the period of–

(a) three months beginning with the filing date on which the return should have been delivered, the person shall be liable to a further penalty of £300;

(b) six months beginning with the filing date on which the return should have been delivered, the person shall be liable to an additional penalty of £500.

(4) The Commissioner may, if it appears to him that throughout the period of default mentioned in subsections (2) or (3) above, the person had a reasonable excuse for not complying with the requirements of section 28 or 29, set aside–

(a) the penalty under subsection (2);

(b) the further penalty under subsection (3)(a);

(c) the additional penalty under subsection (3)(b).

(5) In this section—

“the filing date” means the applicable day for delivering the return under section 28 or, as the case may be, section 29;

“the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return is delivered.”.

(20) Insert the following sections after section 65—

“Penalties for failure to comply with requirements on certain notices.

65A.(1) This section applies where—

- (a) a person has been served with a notice under section 6 or 32; and
- (b) the person fails to comply with the notice.

(2) The person shall be liable to a penalty of £200.

(3) If the failure to comply with the notice continues after the end of the period of one month beginning with the submission date, the person shall be liable to a further penalty of £1,000.

(4) An appeal shall lie to the Magistrates’ Court from a penalty incurred under this section and on any such appeal the court may either confirm or set aside the penalty.

(5) In this section—

“the submission date” means the applicable day for delivering the documents mentioned in the notice issued under section 6 or, as the case may be, section 32.

Offence for failure to comply with requirements on certain notices and returns.

- 65B.(1) A person shall be guilty of an offence if he intentionally, or recklessly or negligently continues to fail to comply with the requirements of a notice served on him under section 6 or 32.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.
- (3) The court, in determining a sentence under subsection (2), must take into account any penalty which has been imposed under section 65A.

Penalties for failure to comply with requirements under section 41.

- 65C.(1) This section applies where any person—
- (a) fails to provide the Commissioner with the information required for the purposes of section 41;
 - (b) fails to comply with a notice issued by the Commissioner under section 41(10); or
 - (c) in any other way fails to comply with the requirements of section 41.
- (2) The person shall be liable to a penalty of £200.
- (3) If the failure by the person to comply with any of the requirements of section 41 or a notice issued under that section continues after the end of the period of one month beginning with the submission date, the person shall be liable to a further penalty of £1,000.

(4) In this section—

“the submission date” means the applicable day for providing the information as set out in section 41 or, as the case may be, for complying with the notice issued under section 41(10);

“person” includes the “promoter” as defined in section 41(2) of this Act.

Offence of failure to comply with requirements of section 41.

65D.(1) A person shall be guilty of an offence if he intentionally, recklessly or negligently continues to fail to comply with—

- (a) the requirements of section 41; or
- (b) a notice issued under section 41(10).

(2) A person guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

(3) The court, in determining a sentence under subsection (2), must take into account any penalty which has been imposed under section 65C.

Penalties where no penalty is specifically provided by this Act.

65E.(1) A person who, under this Act or any subsidiary legislation made hereunder, fails to comply with—

- (a) a requirement to submit documentation or information to the Commissioner; or
- (b) a notice,

in respect of which no other penalty is specifically provided, is guilty of an offence and shall be liable to the penalties set out in subsection (2).

- (2) A person who is guilty of an offence under this Act or any subsidiary legislation made hereunder, in respect of which no other penalty is specifically provided is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Failure to comply with requirement or notice.

65F.(1) A person shall be guilty of an offence if, having given an opportunity to regularise matters, he intentionally, or recklessly or negligently continues to fail to comply with—

- (a) the requirements of this Act;
- (b) a notice served on him under or for the purposes of this Act,

in respect of which no penalty is provided for.

- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.”.

(21) Section 67 is amended by substituting the following subsection for subsection (2)-

“(2) A person shall be guilty of an offence if he or a company of which he is a director or a shadow director fails to comply with—

- (a) a notice issued under section 50;
- (b) a notice issued under section 57;
- (c) the requirements of section 62;
- (d) the requirements of regulations made under sections 55 or 58.”.

(22) Substitute the following section for section 68-

“Publication of details of failure to pay taxes.

68.(1) Subject to the provisions of this section, the Commissioner may cause to be published in the Gazette the name of any person whom he has reason to believe has failed to—

- (a) pay tax due under this Act; or
- (b) comply with the requirements to deduct and pay the tax due from the emoluments of employees in accordance with the Income Tax (Pay As You Earn) Regulations 1989.

(2) The Commissioner may act in accordance with subsection (1) where he believes that—

- (a) any tax due to be collected or paid has not been collected or paid for a period of at least three months after the due date;
- (b) the amount of the tax due exceeds £5,000; and
- (c) he has, at least thirty days prior to the publication referred to in subsection (1), issued to the person a letter notifying that person of his intention to publish

details of his failure to comply with the provisions specified in subsection (1) and the sums due have not been paid in full prior to the expiration of such period of thirty days.

- (3) For the purposes of subsection (2), the Commissioner may estimate the amount or amounts due in accordance with the provisions of this Act.
- (4) For the purposes of subsection (1), the following information may be published—
 - (a) the name of the person (including any trading name, previous name or pseudonym);
 - (b) any other name or description used by the person in carrying on or exercising the trade, business, profession or vocation;
 - (c) the business address of the person (or registered office);
 - (d) the nature of any trade, business, profession or vocation carried on or exercised by the person;
 - (e) any such information as the Commissioner considers appropriate to publish in order to make clear the person's identity;
 - (f) the amount of tax due and the period to which it relates.
- (5) Where the Commissioner is satisfied that after publication of any item of information mentioned in paragraphs (a) to (e) of subsection (4) above, any such item of information is incorrect, the Commissioner shall publish a retraction in the Gazette as soon as practicably possible.
- (6) No person having any official duty or being employed in the administration of this Act shall be liable in damages for anything done or omitted in the discharge or purported

discharge of any powers under this section or any regulations made under this Act unless that act or omission is made in bad faith.

- (7) No action shall lie in defamation, misrepresentation or any other cause resulting in liability for damages against any person uttering, reporting or publishing any information published by the Commissioner under this section unless at the date of such utterance, report or publication the Commissioner has published a retraction under this section.
- (8) The Minister may from time to time make regulations to cause and enable the Commissioner to publish information on any person for the purposes of this section.”.

(23) Section 74 is amended in the definition of “person” by inserting “, and any other entities as defined in regulations made under this Act” after “body of persons”.

(23A) After section 76 insert the following Part-

“PART X -AMNESTY

Fixed penalty charge during amnesty.

77.(1) An individual who before 22 December 2015 remits to Gibraltar any money which-

- (a) is held outside Gibraltar; and
- (b) represents the product of income accrued and derived in Gibraltar,

shall on the payment of a penalty charge of 5% of the sum of monies so remitted, not be liable to a further charge to tax on such monies.

- (2) A person who pays the penalty charge referred to in subsection (1) shall not be liable to any further proceedings under this Act in relation to the same monies.

Expiry of amnesty.

78.(1) Where on or after 22 December 2015 the Commissioner receives information, pursuant to the procedures established for the exchange of information between tax authorities, that money-

- (a) is held outside Gibraltar;
- (b) represents the product of income accrued and derived in Gibraltar; and
- (c) information regarding such monies has not been included in any return so as to allow the Commissioner to assess its chargeability to tax under this Act,

the Commissioner shall issue a penalty charge which corresponds to 100% of the tax due under this Act.

(2) Nothing in this section shall affect the powers of the Commissioner under this Act including the Commissioners powers to proceed under any other provision in this Act.”.

(23B) In Schedule 1, under the heading “Dividends”, for paragraphs (a) and (b) substitute the following paragraph-

“(a) Dividends except dividends paid or payable-

- (i) by a company to another company;
- (ii) to a person who for the purposes of this Act is not ordinarily resident in Gibraltar;
- (iii) by a company the shares of which are listed on a Recognised Stock Exchange;
- (iv) out of profits or gains on which no tax has been charged in accordance with the provisions of this Act to the extent that the amount of the dividend represents the distribution of such profits or gains,

and for the purposes of this paragraph, “a 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;”.

(24) Schedule 3 is amended—

(a) in paragraph 2(1)(p)(i) by substituting “branch in Gibraltar” for “person”;

(aa) by substituting the following paragraph for paragraph 6-

“6.(1) The Commissioner may allow a deduction in respect of the amount by which the value of any hotel, mill, factory or other similar premises has diminished by reason of wear and tear arising out of the use by its owner in a trade, business, profession or vocation at the rate of 4 per cent per annum of the cost thereof excluding the cost of the land on which the premises are situated.

(2) Subject to subparagraph (4) below, where the person carrying on the trade, is not the owner of the premises, the deduction may be allowed on either the former or the latter or apportioned between them.

(3) For the purposes of subparagraph (3) the Minister may make regulations prescribing the manner in which such deductions should be apportioned.

(4) No deduction shall be allowed for any period if the deduction exceeds the written down value.

(5) For any year of assessment or accounting period, an amount equivalent to the written down value of the industrial building disposed of, less any sum realised or likely to be realised by the sale thereof or recoverable under any insurance or indemnity will be allowed as a deduction:

Provided that where the sum realised or likely to be realised is greater than the written down value, there shall be no deduction allowed.

(6) For the purposes of this paragraph –

“mill, factory and other similar premises” means any building which forms part of premises in which goods are subject to a process or manufacture, being either –

- (a) a building which contained, and is used wholly or mainly for the purpose of operating machinery worked by steam, electricity or other mechanical power; or
- (b) a building the depreciation of which is substantially increased by the operation of machinery so worked on the premises in any such building as mentioned in (a) above.”;

(ab) by deleting Chapter 2 Industrial Buildings;

(ac) in Chapter 3, by substituting the following paragraphs for paragraphs 8 to 12-

“First year allowances.

8.(1) Subject to the provisions of this paragraph, where–

- (a) a person carrying on a trade, business, profession or vocation, incurs in any year of assessment or accounting period, capital expenditure wholly and exclusively for the provision of plant and machinery for the purposes of producing the income of the trade, business, profession or vocation; and
- (b) in consequence of his incurring that expenditure, the plant and machinery belongs to the person at some time during the year of assessment or accounting period,

then, for the purpose of ascertaining the assessable income of that person from that trade, business, profession or vocation, a deduction shall be given equivalent to the whole amount of that expenditure up to a maximum of £30,000.

- (c) in this paragraph, “plant and machinery”, whether used conjunctively or disjunctively—
 - (i) includes a fixture and fitting;
 - (ii) does not include aircraft or vessels used for any purpose other than for a trade, business, profession or vocation;
 - (iii) does not include a motor vehicle, unless it is of a construction primarily suited for the conveyance of any goods or burden (other than passengers) of any description, or it is of a type not commonly used as a private motor vehicle and is unsuitable to be so used, or it is provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of the trade, business, profession or vocation.

- (2) Subject to the provisions of this paragraph, where—
 - (a) a person carrying on any trade, business, profession or vocation incurs in any year of assessment or accounting period, capital expenditure wholly and exclusively on computer equipment for the purposes of producing the income of the trade, business, profession or vocation; and
 - (b) in consequence of his incurring that expenditure, the computer equipment belong to the person at some time during the year of assessment or accounting period,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, a deduction shall be given equivalent to the whole amount of that expenditure up to a maximum of £50,000.

- (c) in this paragraph, “computer equipment” means any device for electronically storing and processing information, including—
 - (i) equipment peripheral to the operation of such a computer; and
 - (ii) any software used on such a computer.
- (3) Where plant and machinery or computer equipment is used for the purpose of a trade, business, profession or vocation on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such circumstances, be entitled to the deductions referred to in subparagraphs (1) and (2).
- (4) Where a person incurs capital expenditure on the provision of plant and machinery or computer equipment under a contract which provides that the person shall become the owner of that plant and machinery or computer equipment on the performance of the contract, that person shall be entitled to the deductions referred to in subparagraphs (1) and (2) above.
- (5) In the event of an extended accounting period, as defined by this Act, the allowances under this paragraph will be available in respect of each accounting period determined by the Commissioner in accordance with the provisions of section 16(6) or (7) for the purposes of obtaining the measure of profits for assessment to tax, provided that the Commissioner is satisfied as to the date on which the expenditure being claimed has been incurred.

Pool allowance.

9.(1) Subject to the provisions of this paragraph, where –

(a) a person has incurred capital expenditure on the provision of plant and machinery, computer equipment and motor vehicles, wholly and exclusively for the purposes of producing the income of the trade, business, profession or vocation; and

(b) in consequence of his incurring that expenditure, the plant and machinery, computer equipment and motor vehicles belong to it at some time during the year of assessment or accounting period,

then a “pool allowance” shall be given on the corresponding balance of “qualifying expenditure” available.

(2) For the purposes of this paragraph, the term “qualifying expenditure” is the total of the sum of subparagraphs (a) to (d) less subparagraph (e) –

(a) the capital expenditure incurred for the provision of plant and machinery in the year of assessment or accounting period in excess of any amount for which a deduction has been claimed under paragraph 8(1):

Provided that this expenditure, or any part thereof, has not formed part of a claim for deduction in any previous year of assessment or accounting period;

(b) the capital expenditure incurred on computer equipment in the year of assessment or accounting period in excess of any amount for which a deduction has been claimed under paragraph 8(2):

Provided that this expenditure, or any part thereof, has not formed part of a claim for deduction in any previous year of assessment or accounting period;

(c) the capital expenditure incurred on motor vehicles in the year of assessment or accounting period excluding any amount of first year allowance given under paragraph 8(1)(c)(iii);

(d) any balance of (a) to (c) above available from the preceding year of assessment or accounting period;

(e) the attributable value of any “disposed assets” on which capital expenditure has been incurred for the purposes of the production of the income of the trade, business, profession or vocation and which belong to the person at some time during the year of assessment or accounting period and in respect of which, during the year of assessment or accounting period, one of the following applies –

(i) the disposed assets cease to belong to the person;

(ii) the disposed assets cease to exist;

(iii) the disposed assets are used wholly for purposes other than for the trade;

(iv) the trade, business, profession or vocation of the person is permanently discontinued.

for the purposes of this subparagraph, the term “disposed assets” includes plant and machinery, computer equipment and motor vehicles as defined in paragraph 8. The reference to value is taken to mean the sale proceeds. Where the sale proceeds are not at arm’s length, the net book value at the date of disposal shall be substituted for the amount received.

(3) For the purposes of this paragraph and subject to subparagraphs (c) to (g) above, the term “pool allowance” shall, for a year of assessment or accounting period, be an allowance equal to –

(a) 20% of the balance of qualifying expenditure in respect of that year of assessment for any person other than a company, or for a company chargeable in accordance with the provisions of Schedule 6 to this Act,

- (b) 15% of the balance of qualifying expenditure in respect of the accounting period for any other company.
- (4) If the accounting period is for a period of less than 12 months the allowance in subparagraph (3) shall be apportioned by reference to time.
- (5) If the accounting period or year of assessment relates to the permanent discontinuance of the trade, business, profession or vocation, an allowance equivalent to the total balance of qualifying expenditure available shall be allowed.
- (6) If for any year of assessment or accounting period, the balance of qualifying expenditure is less than the value of disposed assets referred to in subparagraph (2)(e), the allowance in subparagraph (3) shall be restricted to the value of these disposed assets.
- (7) If the balance of qualifying expenditure for any year of assessment or accounting period is less than £1,000, the full amount of the residual qualifying expenditure will be allowed as a deduction for that year of assessment or accounting period.
- (8) If the accounting period is an extended accounting period as defined by this Act, the allowance in subparagraph (3) will be available in respect of each accounting period determined by the Commissioner in accordance with the provisions of sections 16(6) or 16(7) for the purposes of obtaining the measure of profits for assessment to tax, provided that the Commissioner is satisfied as to the date on which the expenditure being claimed has been incurred.
- (9) Where plant and machinery, computer equipment or motor vehicles are used for the purpose of a trade, business, profession or vocation on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such circumstances, be entitled to the deduction referred to in subparagraph (3).

(10) Where a person incurs capital expenditure on the provision of plant and machinery, computer equipment or motor vehicles under a contract which provides that the person shall become the owner of that plant and machinery or computer equipment on the performance of the contract, the person shall be entitled to the deductions referred to in subparagraph (3).

(11) For the purposes of this paragraph—

“plant and machinery”, whether used conjunctively or disjunctively—

(a) includes a fixture and fitting;

(b) does not include aircraft or vessels used for any purpose other than for a trade, business, profession or vocation;

(c) does not include a motor vehicle, unless it is of a construction primarily suited for the conveyance of any goods or burden (other than passengers) of any description, or it is of a type not commonly used as a private motor vehicle and is unsuitable to be so used, or it is provided wholly or mainly for hire to or of the carriage of members of the public in the ordinary course of the trade, business, profession or vocation.

“computer equipment” means any device for electronically storing and processing information, including —

(a) equipment peripheral to the operation of such a computer; and

(b) any software used on such a computer.

(12) Subparagraph (2) shall not apply to any assets purchased and disposed of in the same year of assessment or accounting period.”;

(b) by inserting the following paragraph after paragraph 12-

“Deduction for construction costs.

- 12A.(1) Where a property developer carries out the development of a qualifying project which consists entirely of office accommodation and construction commences between 1 July 2013 and 31 March 2015, the property developer shall be entitled to a deduction of the total amount of the construction costs in accordance with this paragraph.
- (2) In the first year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 30 per cent of the total construction costs.
 - (3) In the second to eighth year of assessment, or accounting period, as the case may be, following completion of construction of the development project, a deduction of 10 per cent of the total construction costs per year of assessment.
 - (4) A deduction under this paragraph may, at the election of the property developer of the qualifying project, be made from the assessable income of—
 - (a) the property developer for the total of the construction costs; or
 - (b) the occupier for the total of the construction costs; or
 - (c) the property developer and the occupier in the proportion of 50 per cent each of the total construction costs.
 - (5) No deduction shall be permitted under this rule unless the claim for deduction is accompanied by a certificate of completion of construction.
 - (6) Any deduction for expenditure given in accordance with this paragraph shall be in addition to any deduction, relief or allowance which may be given in

accordance with any other provision of this Act in respect of that same expenditure.

(7) In this paragraph—

“construction costs” means the total expenditure incurred in the construction of the qualifying project, excluding the cost of the land on which the qualifying project is built, and includes the cost of—

(a) planning and design of the project including in connection with the obtaining of full planning permission for the erection of the building;

(b) digging and laying foundations for drains, water-pipes and electric cables;

(c) cost of demolition of any building on the land on which the new building was constructed;

(d) installing fittings forming part of the building;

“occupier” means the person occupying the office accommodation in respect of which the total construction costs are the subject of a deduction under this paragraph;

“property developer” means a person who carries out the development of a qualifying project;

“qualifying project” means a building development project consisting wholly and exclusively of offices for business use and approved by the Commissioner as being a qualifying project for the purposes of this paragraph.

(8) The Minister may make rules for the implementation of the provisions in this paragraph.”.

(c) by inserting the following paragraph after paragraph 12A-

“Deduction for construction costs: high value accommodation.

12B.(1) Where a property developer carries out the development of a qualifying project which consists entirely of high value accommodation and construction commences between 1 July 2014 and 31 December 2015, the property developer shall be entitled to a deduction of the total amount of the construction costs in accordance with this paragraph.

(2) In the first year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 30 per cent of the total construction costs.

(3) In the second to eighth year of assessment or accounting period, as the case may be, following completion of construction of the development project, a deduction of 10 per cent of the total construction costs per year of assessment.

(4) A deduction under this paragraph may, at the election of the property developer of the qualifying project, be made from the assessable income of-

(a) the property developer for the total of the construction costs; or

(b) the occupier for the total of the construction costs; or

(c) the property developer and the occupier in the proportion of 50 per cent each of the total construction costs.

- (5) No deduction shall be permitted under this rule unless the claim for deduction is accompanied by a certificate of completion of construction.
- (6) Any deduction for expenditure given in accordance with this paragraph shall be in addition to any deduction, relief or allowance which may be given in accordance with any other provision of this Act in respect of that same expenditure.
- (7) In this paragraph–

“construction costs” means the total expenditure incurred in the construction of the qualifying project, excluding the cost of the land on which the qualifying project is built, and includes the cost of–

(a) planning and design of the project including in connection with the obtaining of full planning permission for the erection of the building;

(b) digging and laying foundations for drains, water-pipes and electric cables;

(c) cost of demolition of any building on the land on which the new building was constructed;

(d) installing fittings forming part of the building;

“occupier” means the person occupying the high value accommodation in respect of which the total construction costs are the subject of a deduction under this paragraph;

“property developer” means a person who carries out the development of a qualifying project;

“qualifying project” means a building development project consisting of high value accommodation and approved by the Commissioner as being a qualifying project for the purposes of this paragraph.

- (8) The Minister may make rules for the implementation of the provisions in this paragraph.”.
- (d) Schedule 3 is amended by inserting the following paragraph after paragraph 12B–

“Relocation costs.

12C.(1)A person who-

- (a) holds a licence to retail tobacco pursuant to section 6 of the Tobacco Act 1997; and
- (b) by virtue of changes to that Act and to subsidiary legislation thereto, has been required to relocate from those areas commonly known as Laguna Estate and Glacis Estate to another location,

may claim an additional capital allowance equivalent to the relocation costs, where such costs are approved by the Commissioner, but for the avoidance of doubt, the cost of the land or lease is not to be taken into consideration.

- (2) The Minister may make rules for the implementation of the provisions in this paragraph.”.
- (e) In Schedule 3 delete Chapter 4 – Written down allowances;
- (f) In Schedule 3 after paragraph (14) insert-

“Chapter 6

Start-ups

14A.(1) The capital allowances referred to in Chapters 1 to 5 may be claimed in full against the tax liability arising from the first year of trade, subject to subparagraphs (2) and (3).

(2) No claim can be made under this paragraph if a claim has already been made in accordance with the provisions of Chapters 1 to 5 of this Part and in respect of that same expenditure.

(3) Where the Commissioner is of the opinion-

(a) that a person connected to the company undertook business in Gibraltar before the company's commencement of business in Gibraltar and that the business undertaken by him was of the same or similar nature (or of an ancillary nature) to the business being undertaken by the company; or

(b) that the incorporation of the company or the commencement of business in Gibraltar by that company is an artificial or fictitious arrangement,

the provisions of subparagraph (1) will not apply.

(4) In this paragraph "business" means a trade, profession, business or vocation." as defined in section 74 of this Act;";

(g) by inserting the following Part after paragraph 15-

“PART IV

OTHER DEDUCTIONS AND CREDITS

Qualifying training.

- 16.(1) Where a person has incurred cost in the provision of qualifying training, an employer may claim a further deduction of 50% of those costs as a deduction under this paragraph in addition to the 100% deduction which may be claimed under paragraph 2(1).
- (2) A self-employed individual undertaking qualifying training may also claim the 50% deduction specified in subparagraph (1).
- (3) In this paragraph “qualifying training” means any qualification and training as approved by the Commissioner.

Architects fees and planning costs.

- 17.(1) Where a person has made an application under the Town Planning Act and which is approved in accordance with that Act-
 - (a) in respect of a development on or within its own property; and
 - (b) within 24 months from the day on which it commenced trading,

that person may claim a credit of up to 100% of the costs of the architects fees and any fees paid to the Government in respect of such an application, subject to the provisions of subparagraph (2) below.

- (2) The total amount which may be claimed under subparagraph (1)-
 - (a) must not exceed £5,000;
 - (b) may be claimed in respect of any tax liability incurred in the first 3 years of operation; and
 - (c) the proportion of that credit attributed to an accounting period or year of assessment, as the

case may be, must not exceed the amount of tax payable in any given accounting period or year of assessment.”.

(24A) In Part 1 of Schedule 4, substitute the following paragraph for paragraph 2-

“2.(1) Where at any time in an accounting period, the loan capital to equity ratio of a company, other than a credit institution or deposit taker regulated under the Financial Services (Banking) Act, is greater than 5 to 1, and-

(a) the company pays interest on a loan to a connected person which is not a company and the loan is not considered to be at arm’s length by reference to either the rate of interest or the terms and conditions of that loan; or

(b) the company pays interest on a loan to an arm’s length party, where that loan is secured wholly or on more than 50% of the assets belonging to a connected person which is not a company and the loan is not considered to be at arm’s length by reference to either the rate of interest or the terms and conditions of that loan,

then, the interest so paid, or payable, to either the connected person or to the arm’s length party, as the case may be, will be deemed to be a dividend paid by the company and received by the connected person, or the arm’s length party as the case may be, at either time of payment or at such other time as ascertained by the Commissioner and the interest shall not be deductible in computing the profits or gains of the company for that accounting period.

(c) for the purposes of this subparagraph –

“loan capital” means the total interest-bearing debt of a company in an accounting period.

“equity” means preference shares, whether redeemable or irredeemable and regardless of their accounting treatment, together with shareholders’ funds including the called-up share

capital, the share premium account, any capital redemption reserve, the retained profits and any revaluation reserve only where the Commissioner is satisfied as to the substance of such a revaluation.

(2) For the purposes of subparagraph (1)–

(a) any dividends deemed to have been paid by the company will be determined in accordance with the provisions of this Act as if an actual dividend had been paid by the company;

(b) any deemed dividends shall have available a tax credit determined in accordance with the provisions of this Act as if an actual dividend had been paid by the company;

(c) where a company has insufficient distributable profits to fund the dividends deemed to have been paid, the amount of the tax credit on such a dividend shall be restricted to the amount available in respect of the proportion which would be funded as if an actual dividend had been paid by the company;

(d) any restriction in (c) above shall not preclude the disallowance of the entirety of the interest in accordance with this paragraph.”.

(25) In Schedule 7, Chapter 6–

(a) in paragraph 30(3), for the definition of “employee” substitute–

““employee” includes a prospective employee and a director, shadow director or a connected person thereof, and”;
and

(b) for paragraph 35 substitute–

“35. If either the whole or part of an employment related loan is released or written-off in a tax year the amount which was released or written-off is deemed as earnings on the date of such release or write-off.”.

(26) In Schedule 9 by substituting the following paragraph for paragraph 3–

“Capital Allowances and deductions allowed.

- 3.(1) Subject to subparagraphs (2),(3) and (4) below, for the purpose of ascertaining the capital allowance or balancing charge due to any person under Schedule 3, any expenditure made, allowance given (under the Previous Act), disposal or other event relevant to the computing of the Capital Allowances due occurring prior to the commencement of this Act shall have effect as if this Act had been in force at the time and any allowance given under the Previous Act had been given under this Act.
- (2) In the case of a chargeable company which was an exempt company immediately prior to the commencement of this Act and where the Commissioner is satisfied that the accounts of the company have historically reflected the depreciation of its assets in a form acceptable to the Commissioner, the qualifying expenditure at the commencement of this Act shall be the net book value of all the plant and machinery which was in the ownership and use that company at the date of commencement.
- (3) In calculating the net book value for the purposes of subparagraph (2) above, the Commissioner may disregard any increase in value of plant and machinery resulting from a revaluation.
- (4) If the Commissioner is not satisfied with the revaluation mentioned in subparagraph (3) above, the qualifying expenditure at the commencement of this Act shall be ascertained on the basis of the market value of all that plant and machinery which was in the ownership and use of the company at the date of commencement.
- (5) The deductions referred to in subparagraphs (8) to (12) below shall be based on the following–

- (a) for the year of assessment commencing 1 July 2008–
 - (i) tax written down values from the preceding year of assessment; and
 - (ii) capital expenditure incurred within the basis period for the year of assessment commencing 1 July 2008 under a preceding year basis of taxation;
- (b) for the year of assessment commencing 1 July 2009–
 - (i) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2008); and
 - (ii) capital expenditure incurred within the period extending from the first day immediately following the basis period mentioned in subparagraph (a)(ii) above to 30 June 2010;
- (c) for the year of assessment commencing 1 July 2010–
 - (i) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2009); and
 - (ii) capital expenditure incurred within the period extending from 1 July 2010 to 31 December 2010.
- (6) Subject to subparagraph (7) below and in relation to the year of assessment commencing 1 January 2011, or as the case may be, accounting period commencing 1 January 2011, the deductions referred to in Schedule 3 shall be based on the following–
 - (a) tax written down values from the preceding year of assessment (year of assessment commencing 1 July 2010 and ending on 31 December 2010); and

- (b) capital expenditure incurred within the period extending from 1 January 2011 to the accounting date;
 - (c) for the purposes of this subparagraph the amount in subparagraph (a) above shall constitute the initial amount available of qualifying expenditure as defined in Chapter 4 of Schedule 3.
- (7) For subsequent years of assessment or, as the case may be, accounting periods immediately following the year of assessment commencing 1 January 2011 or, as the case may be, the accounting period specified in subparagraph (6) above, the deductions referred to in Schedule 3 shall be based on the provisions of that Schedule.
- (8) (a) In this subparagraph, “plant and machinery”, whether used conjunctively or disjunctively—
- (i) includes a fixture and a fitting;
 - (ii) do not include any motor vehicle unless it is of a construction primarily suited for the conveyance of any goods or burden (other than passengers) of any description, or it is of a type not commonly used as a private motor vehicle and is unsuitable to be so used, or it is provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of trade or business;
 - (iii) do not include aircraft or vessel that is used for any purpose other than the purpose of a trade, business profession or vocation;
 - (iv) do not include computers or computer programs.
- (b) Subject to subparagraph (9) below, where—
- (i) a person carrying on any trade, business, profession or vocation incurs in any year of

assessment capital expenditure not exceeding £30,000 wholly and exclusively for the provision of plant or machinery for the purposes of producing income from that trade, business, profession or vocation; and

- (ii) in consequence of the person incurring that expenditure, the plant or machinery belongs to the person at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income the whole amount of that expenditure.

- (c) Notwithstanding subsubparagraph (b) above, where a person who has already claimed a deduction under this paragraph in respect of any plant or machinery claims a deduction under this paragraph in respect of any capital expenditure incurred by him for the provision of any plant or machinery in replacement of the first item of plant or machinery, the Commissioner may refuse to allow the deduction in respect of the second item of plant or machinery unless the person satisfies the Commissioner that, having regard to the condition and the expected life of the first item, it is reasonably necessary to replace it.
- (d) Where any plant or machinery used for the purposes of any trade, business, profession or vocation, in respect of which a deduction is allowed under this paragraph, subsequently ceases permanently to be used for those purposes, every sum received by the person in whose favour the deduction was allowed, by reason of the disposal of that plant or machinery, shall be deemed to be income of that person liable to tax.
- (e) Where any such plant, machinery or fixtures is used for the purpose of a trade, business or profession on

such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.

- (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (g) below, shall apply in the same manner as prior to the 1st July 1999.
- (g) Subject to the provisions of this subparagraph, for the purpose of ascertaining the assessable income of any person there shall be deducted such sum as the Commissioner may consider just and reasonable as representing the amount by which the value of the premises being entertainment centres in respect of which a valid exemption certificate under section 5 of the Gaming Act is in force, hotels, mills, factories or similar premises, has been diminished by reason of wear and tear arising out of their use or employment by the owner thereof in a trade, business or profession—
 - (i) the amount to be deducted in respect of premises being entertainment centres in respect of which a valid exemption certificate under section 5 of the Gaming Act is in force, hotels, mills, factories or other similar premises, shall not exceed 4 per cent of the cost thereof (exclusive of the cost of the land on which the premises are erected);
 - (ii) where the person carrying on the trade or business is not the owner of the premises, the deduction may be allowed to either the former or the latter or apportioned between them in such a manner as the Commissioner deems just and equitable; and

- (iii) no deduction shall be allowed for any period if the deduction will exceed the written down value.

(9) (a) Subject to subparagraphs (b) and (c) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure exceeding £30,000 for the provision of plant or machinery for the purposes of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure, the plant or machinery belongs to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income for that year 25 per cent of the whole amount of that capital expenditure exceeding £30,000, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) In relation to subparagraph (a) above, the provisions of subparagraph (8) above shall apply in respect of the first £30,000 of the capital expenditure.
- (c) Where any such plant, machinery or fixtures is used for the purpose of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (d) No deduction shall be allowed under this subparagraph if the deduction will exceed the written down value.

- (e) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any plant or machinery (not being plant or machinery to which subparagraph (8) above applies) which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of the plant or machinery replaced, less any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the new plant or machinery, whichever is the less: Provided that where the sum realised or likely to be realised under the provisions of this sub-paragraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.
- (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (8) above shall apply in the same manner as prior to the 1st July 1999.

(10) (a) Subject to subsubparagraph (b) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure for the provision of motor vehicles for the purpose of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure the vehicles belong to him at some time during the year of assessment,

then for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from

his income for that year 25 per cent of the whole amount of the said capital expenditure, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) Where any such vehicles are so used for the purpose of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (c) No deduction shall be allowed under this rule if the deduction will exceed the written down value.
- (d) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any vehicles which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of the vehicle replaced, less any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the new vehicles, whichever is the less;
- (e) Where the sum realised or likely to be realised under the provisions of this subparagraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.
- (f) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 1999, in which case the provisions of subparagraph (8) above shall apply in the same manner as prior to the 1st July 1999.
- (g) In this subparagraph, “vehicles”, means motor vehicles to which subparagraphs (8) or (9) do not apply.

(11) (a) Subject to subsubparagraph (d) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure on computers or computer equipment not exceeding £50,000 wholly and exclusively for the purposes of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure, the computers or computer programs belong to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income the whole amount of that expenditure.

- (b) Notwithstanding subsubparagraph (a) above, where a person who has already claimed a deduction under this subparagraph in respect of computers or computer programs claims a deduction under this subparagraph in respect of any capital expenditure by him for the provision of computers or computer programs in replacement of the first item of computers or computer programs, the Commissioner may refuse to allow the deduction in respect of the second item of computers or computer programs unless the person satisfies the Commissioner that, having regard to the condition and the expected life of the first item, it is reasonably necessary to replace it.
- (c) Where computers or computer programs used for the purposes of any trade, business, profession or vocation, in respect of which a deduction is allowed under this subparagraph, subsequently ceases permanently to be used for those purposes, every sum received by the person in whose favour the deduction was allowed by reason of the disposal of computers

or computer programs shall be deemed to be income of that person liable to tax.

- (d) Where computers or computer programs are used for the purpose of a trade, business, vocation or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (e) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to 1 July 2001, in which case the provisions of subparagraph (8) shall apply in the same manner as prior to the 1st July.

(12) (a) Subject to subparagraph (12)(b) and (c) below, where—

- (i) a person carrying on any trade, business, profession or vocation incurs in any year of assessment capital expenditure exceeding £50,000 for the provision of computers or computer programs for the purposes of producing income from that trade, business, profession or vocation; and
- (ii) in consequence of his incurring that expenditure, the computer or computer program belongs to him at some time during the year of assessment,

then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, there shall be deducted from his income for that year 25 per cent of the whole amount of the said capital expenditure exceeding £50,000, and an additional 25 per cent in respect of the subsequent three years of assessment.

- (b) The provisions of subparagraph (a) above shall apply in respect of the first £50,000 of the capital expenditure.

- (c) Where any computers or computer programs are used for the purposes of a trade, business or profession on such terms that the burden of the wear and tear falls on the user and not on the owner thereof, the former person shall, in such cases, be entitled to the deduction.
- (d) No deduction shall be allowed under this subparagraph if the deduction will exceed the written down value.
- (e) In the case of the expenditure by any person engaged in any trade, business, profession or vocation of any sum in replacing any computers or computer programs (not being computers or computer programs to which subparagraph (8) above, applies) which were used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the written down value of computers or computer programs replaced, less any sum realised or likely to be realised by the sale thereof, or recoverable under any insurance or indemnity, or the cost of the computer hardware or software, whichever is the less.
- (f) Where the sum realised or likely to be realised under the provisions of this subparagraph is greater than the written down value, there shall be no deduction allowed, and the amount by which the sum realised or likely to be realised exceeds the written down value shall be liable to tax.
- (g) Nothing in this subparagraph shall serve to operate in respect of expenditure incurred prior to the 1st July 2001, in which case the provisions of subparagraph (9) above, shall apply in the same manner as prior to the 1st July 2001.”.

(27) In Schedule 9 delete paragraph 10 and the Table.

(28) After Schedule 9 insert the following schedule—

“Schedule 10

Section 39

		PAYMENTS ON ACCOUNT															
		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC				
Accounting period end:																	
Accounts to be filed by:																	
1st payment for accounting period																	
Payment date																	
30 September 2015	Basis period: Allocated to:	31/03/14 2016	28/02/14 2016	31/03/14 2016	30/04/14 2016	31/05/14 2016	30/06/14 2016	31/07/14 2016	31/08/14 2016	30/09/14 2016	31/10/13 2015	31/11/13 2015	31/12/13 2015				
28 February 2016	Basis period: Allocated to:	31/03/15 2017	28/02/14 2016	31/03/14 2016	30/04/14 2016	31/05/14 2016	30/06/14 2016	31/07/14 2016	31/08/14 2016	30/09/14 2016	31/10/14 2016	31/11/14 2016	31/12/14 2016				
30 September 2016	Basis period: Allocated to:	31/03/15 2017	28/02/15 2017	31/03/15 2017	30/04/15 2017	31/05/15 2017	30/06/15 2017	31/07/15 2017	31/08/15 2017	30/09/15 2017	31/10/14 2016	31/11/14 2016	31/12/14 2016				
28 February 2017	Basis period: Allocated to:	31/03/16 2018	28/02/15 2017	31/03/15 2017	30/04/15 2017	31/05/15 2017	30/06/15 2017	31/07/15 2017	31/08/15 2017	30/09/15 2017	31/10/15 2017	31/11/15 2017	31/12/15 2017				
30 September 2017	Basis period: Allocated to:	31/03/16 2018	28/02/16 2018	31/03/16 2018	30/04/16 2018	31/05/16 2018	30/06/16 2018	31/07/16 2018	31/08/16 2018	30/09/16 2018	31/10/16 2018	31/11/16 2018	31/12/16 2018				
28 February 2018	Basis period: Allocated to:	31/03/17 2019	28/02/16 2018	31/03/16 2018	30/04/16 2018	31/05/16 2018	30/06/16 2018	31/07/16 2018	31/08/16 2018	30/09/16 2018	31/10/16 2018	31/11/16 2018	31/12/16 2018				
30 September 2018	Basis period: Allocated to:	31/03/17 2019	28/02/17 2019	31/03/17 2019	30/04/17 2019	31/05/17 2019	30/06/17 2019	31/07/17 2019	31/08/17 2019	30/09/16 2018	31/10/16 2018	31/11/16 2018	31/12/16 2018				
28 February 2019	Basis period: Allocated to:	31/03/18 2020	28/02/17 2019	31/03/17 2019	30/04/17 2019	31/05/17 2019	30/06/17 2019	31/07/17 2019	31/08/17 2019	30/09/17 2019	31/10/17 2019	31/11/17 2019	31/12/17 2019				
30 September 2019	Basis period: Allocated to:	31/03/18 2020	28/02/18 2020	31/03/18 2020	30/04/18 2020	31/05/18 2020	30/06/18 2020	31/07/18 2020	31/08/18 2020	30/09/17 2019	31/10/17 2019	31/11/17 2019	31/12/17 2019				
28 February 2020	Basis period: Allocated to:	31/03/19 2021	28/02/18 2020	31/03/18 2020	30/04/18 2020	31/05/18 2020	30/06/18 2020	31/07/18 2020	31/08/18 2020	30/09/18 2020	31/10/18 2020	31/11/18 2020	31/12/18 2020				
Basis period:	The accounting period on which the payment is based. Payments are calculated at the applicable rate of tax on 50% of the taxable profits arising in the accounting periods indicated.																
Allocated to:	The accounting period for which the payment is made towards.																

TABLE
PAYMENTS ON ACCOUNT

Accounting period end: Accounts to be filed by: 1st payment for accounting period	JAN OCT 28 FEB	FEB NOV 30 SEP	MAR 30 SEP	APR JAN 30 SEP	MAY FEB 30 SEP	JUN MAR 30 SEP	JUL APR 30 SEP	AUG MAY 30 SEP	SEP 28 FEB	OCT JUL 28 FEB	NOV AUG 28 FEB	DEC SEP 28 FEB
30 September 2020	Basis period:	31/01/19	31/03/19	30/04/19	31/05/19	30/06/19	31/07/19	31/08/19	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2021	2021	2021	2021	2021	2021	2021	2020	2020	2020	2020
28 February 2021	Basis period:	31/01/20	28/02/19	31/03/19	30/04/19	31/05/19	31/07/19	31/08/19	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2022	2021	2021	2021	2021	2021	2021	2021	2021	2021	2021
30 September 2021	Basis period:	31/01/20	28/02/20	31/03/20	30/04/20	31/05/20	31/07/20	31/08/20	30/09/19	31/10/19	30/11/19	31/12/19
	Allocated to:	2022	2022	2022	2022	2022	2022	2022	2021	2021	2021	2021
28 February 2022	Basis period:	31/01/21	28/02/20	31/03/20	30/04/20	31/05/20	31/07/20	31/08/20	30/09/20	31/10/20	30/11/20	31/12/20
	Allocated to:	2023	2022	2022	2022	2022	2022	2022	2022	2022	2022	2022
30 September 2022	Basis period:	31/01/21	28/02/21	31/03/21	30/04/21	31/05/21	31/07/21	31/08/21	30/09/20	31/10/20	30/11/20	31/12/20
	Allocated to:	2023	2023	2023	2023	2023	2023	2023	2022	2022	2022	2022
28 February 2023	Basis period:	31/01/22	28/02/21	31/03/21	30/04/21	31/05/21	31/07/21	31/08/21	30/09/21	31/10/21	30/11/21	31/12/21
	Allocated to:	2024	2023	2023	2023	2023	2023	2023	2023	2023	2023	2023
30 September 2023	Basis period:	31/01/22	28/02/22	31/03/22	30/04/22	31/05/22	31/07/22	31/08/22	30/09/21	31/10/21	30/11/21	31/12/21
	Allocated to:	2024	2024	2024	2024	2024	2024	2024	2023	2023	2023	2023
28 February 2024	Basis period:	31/01/23	28/02/22	31/03/22	30/04/22	31/05/22	31/07/22	31/08/22	30/09/22	31/10/22	30/11/22	31/12/22
	Allocated to:	2025	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024
30 September 2024	Basis period:	31/01/23	28/02/23	31/03/23	30/04/23	31/05/23	31/07/23	31/08/23	30/09/22	31/10/22	30/11/22	31/12/22
	Allocated to:	2025	2025	2025	2025	2025	2025	2025	2024	2024	2024	2024
28 February 2025	Basis period:	31/01/24	28/02/23	31/03/23	30/04/23	31/05/23	31/07/23	31/08/23	30/09/23	31/10/23	30/11/23	31/12/23
	Allocated to:	2026	2025	2025	2025	2025	2025	2025	2025	2025	2025	2025
Basis period:	The accounting period on which the payment is based. Payments are calculated at the applicable rate of tax on 50% of the taxable profits arising in the accounting periods indicated.											
Allocated to:	The accounting period for which the payment is made towards.											

Income Tax (Gift Aid) Rules 2006.

4.(1) The Income Tax (Gift Aid) Rules 2006 shall be deemed to have been made under section 25A of the Income Tax Act 2010.

(2) For the avoidance of doubt, any payment made, or action taken, under the Income Tax (Gift Aid) Rules 2006 from 1 January 2011 shall for all purposes be deemed to have been validly made or taken.

(3) In rule 8 of the Income Tax (Gift Aid) Rules 2006, for “£1,000” substitute “£5,000”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2007.

5.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance Schedule 10

with the provisions of this section.

(2) For rule 4 substitute—

“Terms and conditions of certificate.

4.(1) A certificate issued pursuant to rule 3 above, shall specify the following—

- (a) the name of the individual to whom it is issued;
- (b) the company or statutory body in respect of which that individual, for the purposes of rule 3 above, has an occupation or holds a post;
- (c) the title and functions of the post mentioned in paragraph (b) above; and
- (d) the period of validity referred to in sub-rule (2) below.

(2) Subject to the provisions of rule 5 below, a certificate issued pursuant to rule 3 above, shall remain valid and in force for the period specified in the certificate or where no period is specified in the certificate until it is revoked by the Finance Centre Director.”.

(3) For rule 7 substitute—

“Deemed assessable income, rates of tax applicable and calculation of the tax.

- 7.(1) Subject to the provisions of this rule and rules 8 and 9 below, an individual in respect of whom a certificate has been issued under rule 3 above, shall be chargeable to tax for a year of assessment in the amount of £100,000 exactly of his assessable income under the Gross Income Based System in accordance with the provisions of rule 3(A) of the Rates of Tax Rules.
- (2) Subject to the provisions of this rule and rules 8 and 9 below, the amount of tax payable shall be—
- (a) £2,291.67 for each complete calendar month or part of each calendar month in respect of the first year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid in accordance with sub- rule (3) below;
 - (b) £27,500 for any whole year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid by twelve equal monthly instalments in accordance with sub-rule (3) below;
 - (c) £2,291.67 for each complete calendar month or part of each calendar month in respect of the last year of assessment during which a certificate issued pursuant to rule 3 above is valid and in force and shall be paid in accordance with sub- rule (3) below;
- (3) Subject to sub-rule (4) below, and notwithstanding that no assessment has been made on an individual to whom these rules apply, the tax payable referred to in paragraphs (a) to (c) of sub-rule (2) above, shall be paid as follows—
- (a) on the last day of each month, or
 - (b) on such day or days, as appears appropriate to the Commissioner to give effect to paragraph (a) above.

- (4) In respect of the payment or payments, as the case may be, of any tax referred to in sub-rule (3) above, the Commissioner shall issue to any person, a directive or directives, as the case may be, pursuant to the provisions of rule 9 below.
- (5) An individual who has a certificate issued to him pursuant to rule 3 above that is valid and in force for a whole year of assessment shall be deemed to be chargeable to tax in the amount of £100,000 exactly as prescribed by sub-rule (1) above, notwithstanding that the assessable income of that individual does not exceed £100,000 or is likely not to exceed £100,000 for that year of assessment.”.

(4) For rule 8 substitute the following rules-

“Treatment of other income.

- 8.(1) Where an individual to whom these rules apply, has other assessable income from any source specified in the Income Tax Act (and such other assessable income is not from a source in respect of which he has a valid certificate issued under rule 3 above), the individual shall be chargeable to tax on the full amount of that other assessable income for the year of assessment under the Gross Income Based System in accordance with rule 3(A) of the Rates of Tax Rules at the appropriate rate prescribed therein.
- (2) For the purposes of determining the appropriate rate under sub-rule (1) above, the amount of £100,000 specified in rule 7 above, shall be included in the assessable income of that individual.

Commissioner may issue directive for collection of tax.

- 9.(1) Subject to sub-rule (2) below, on the making of any payment of, or on account of, any income assessable and chargeable on an individual to whom the provisions of these rules apply, tax shall be deducted by the person making the payment if required by the Commissioner, notwithstanding that when the

payment is made no assessment has been made in respect of such income.

- (2) Subject to the provisions of rule 7 above, the Commissioner may in such manner as seems appropriate to him issue a directive to the person referred to in sub-rule (1) above, requiring the person making any payment of, or on account of, any such income when he makes the payment, to make a deduction of tax in the amount specified in the directive and pay that amount to the Commissioner.
- (3) For the purposes of this rule, a payment of, or on account of, any income assessable to tax on an individual to whom the provisions of these rules apply, shall be treated as made at the time when the payment is actually made or the time when the individual becomes entitled to the payment, whichever is the earlier.
- (4) In this rule, “person” includes any statutory authority and any company referred to in rule 3 above.”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2009.

6. Rule 7 of the High Executive Possessing Specialist Skills Rules 2008 is amended-

- (a) in sub-rule (2) for “£2,291.67” substitute “£2,229.17” on both occasions where it appears;
- (b) in sub-rule (2) for “£27,500” substitute “£26,750”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2010.

7.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance with the provisions of this section.

- (2) In rule 3 for “£100,000” substitute “£120,000”.

(3) Rule 7 is amended as follows—

- (a) in sub-rule (1) for £100,000 substitute “£120,000”;
- (b) in sub-rule (2) for “£2,229.17” in the two places where it occurs substitute “£2,712.50”;
- (c) in sub-rule (2) for “£26,750” substitute “£32,550”;
- (d) in sub-rule (5) for “£100,000” in the three places where it occurs substitute “£120,000”.

(4) In rule 8 for “£100,000” substitute “£120,000”.

Amendments to HEPSS Rules deemed to have come into operation on 1 July 2011.

8.(1) The High Executive Possessing Specialist Skills Rules 2008 are amended in accordance with the provisions of this section.

(2) Rule 7 is amended as follows—

- (a) in sub-rule (2) for “£2,712.50” in the two places where it occurs substitute “£2,495”;
- (b) in sub-rule (2) for “£32,550” substitute “£29,940”.

9. *Not used.*

Amendments to Qualifying (Category 2) Individuals Rules 2004.

10.(1) The Qualifying (Category 2) Individuals Rules 2004 are amended in accordance with the provisions of this section.

(2) For rule 4, substitute the following rule—

“Exclusion by Previous Residence Activity.

4.(1) Subject to sub-rules (2) and (3) below, an individual who in the last five years of assessment immediately preceding the year of assessment in which the application is made—

- (a) was present in Gibraltar for a period exceeding—
 - (i) 183 days in any such year of assessment, or
 - (ii) an average of 90 days in any three of those years of assessment; or
- (b) has carried on or exercised any trade, business, profession, vocation or employment in Gibraltar,

shall not be entitled to a certificate issued under rule 6 of these rules.

(2) Paragraph (b) above shall not apply in relation to activities, duties or functions performed by the individual in Gibraltar that are incidental to any trade, business, profession, vocation or employment carried on or exercised outside Gibraltar by that individual.

(3) The Finance Centre Director may waive any requirement of this rule where he is satisfied that the issue of a certificate under rule 6 of these rules would be of benefit to the economic development of Gibraltar.”

(3) For rule 5, substitute the following rule—

“Permitted activities and chargeability to taxation on those activities.

5.(1) Subject to sub-rules (2) and (3) below, a Category 2 Individual may be permitted to carry on or exercise any trade, business, profession, vocation or employment in Gibraltar where the Finance Centre Director is satisfied that the exercise of such trade, business, profession, vocation or employment would be of benefit to the economic development of Gibraltar.

- (2) A Category 2 Individual who is permitted by the Finance Centre Director under sub-rule (1) above, to carry on or exercise any trade, business, profession, vocation or employment in Gibraltar shall be assessable to taxation—
- (a) under the provisions of the Act in relation to income accrued in or derived from Gibraltar, and
 - (b) in accordance with the provisions of rule 10 of these rules.
- (3) Sub-rule (2) above shall not apply in relation to activities, duties or functions performed by the Category 2 Individual in Gibraltar that are incidental to any trade, business, profession, vocation or employment carried on or exercised outside Gibraltar by that Category 2 Individual.”
- (4) In rule 6(c) delete the words “as a finance centre”.
- (5) Rule 7 is amended as follows—
- (a) in sub-rule (1) by deleting the words “on each anniversary of the issue of the certificate”;
 - (b) in sub-rule (1)(c) for “.” substitute “; and”;
 - (c) after sub-rule (1)(c) insert the following paragraph—
 - “(d) has paid all the assessed tax due under the provisions of the Act, or
 - (e) has paid the amount of any minimum tax payable or that would have been payable under rule 9 of these rules in relation to any year of assessment.”;
 - (d) after sub-rule (3) insert the following sub-rule—
 - “(4) Where a Category 2 Individual makes a declaration that he is not chargeable to taxation under the provisions of the Act, the Finance

Centre Director shall immediately revoke the certificate issued under rule 6 of these rules.”.

(6) Rule 9 is amended—

- (a) in sub-rule (2) by substituting “25” for “37A”;
- (b) in sub-rule (4)(a) immediately preceding the words “the provisions of rule 2” insert the words “subject to rule 10 of these Rules,”;
- (c) inserting after sub-rule (4)—
 - “(5) A Category 2 Individual shall not be assessable to tax on the Gross Income Based System under rule 3(A) of the Rates of Tax Rules.”.

(7) For rule 10, substitute the following rule—

“Assessable Income.

- 10.(1) Subject to the provisions of these rules, the income chargeable to taxation under section 11 of the Act in relation to dividends, pension or emoluments of office accruing in, derived from or received in any place other than Gibraltar of any person ordinarily resident in Gibraltar shall not be taken into account in determining the assessable income of a Category 2 Individual.
- (2) A Category 2 Individual may elect that all or any part of the income excluded by sub-rule (1) above, is taken into account in determining the assessable income of that individual for any year of assessment.
- (3) A Category 2 Individual shall be assessable to taxation under the provisions of the Act in respect of income from rents, premiums and any other profits arising from any real property situate in Gibraltar.
- (4) A Category 2 Individual who is permitted by the Finance Centre Director under rule 5 of these rules to carry on or

exercise any trade, business, profession, vocation or employment in Gibraltar shall be assessable to taxation under the provisions of the Act in relation to income accrued in or derived from Gibraltar.

- (5) The income from sources referred to in sub-rules (3) and (4) above, for the purposes of rule 9 of these rules shall be assessable on a Category 2 Individual in accordance with the provisions of rule 2 of the Rates of Tax Rules at the appropriate rate prescribed therein.
- (6) For the purposes of determining the appropriate rate under sub-rule (5) above, the amount specified in rule 9(4)(a) of these rules shall be included in the assessable income of the Category 2 Individual.”.

EXPLANATORY MEMORANDUM

This Act amends the Income Tax Act 2010 for the purpose of accommodating measures announced in Budget Speeches. The Bill also introduces a number of amendments, including the creation of new offences, for the purpose of improving the administration of the Act.

The Bill also make amendments to subsidiary legislation. Clause 4 relates to amendments to provide for the specific saving of the 2006 Income Tax (Gift Aid) Rules 2006, which were made under the previous Income Tax Act. Clauses 5, 6, 7, 8 and 9 amend the High Executive Possession Specialist Skills Rules 2008. Clause 10 amends the Qualifying (Category 2) Individuals Rules 2004.

Passed by the Gibraltar Parliament on the 22nd day of July, 2015.

P E MARTINEZ,
Clerk to the Parliament.

**Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £3.35**