

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4374 of 22 June, 2017

LEGAL NOTICE NO. 116 OF 2017.

TAXATION (MUTUAL ADMINISTRATIVE ASSISTANCE) ACT 2014

INTERPRETATION AND GENERAL CLAUSES ACT

INTERNATIONAL CO-OPERATION (IMPROVEMENT OF INTERNATIONAL TAX COMPLIANCE)(AMENDMENT) REGULATIONS 2017

In exercise of the powers conferred upon it by section 27 of the Taxation (Mutual Administrative Assistance) Act 2014 and section 23(g) of the Interpretation and General Clauses Act, and in order to further transpose into the law of Gibraltar Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, and in order to give further effect to the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information, signed by the Competent Authority of Gibraltar on 29 October 2014, and the Agreement between the Competent Authorities of Gibraltar and Guernsey on the Automatic Exchange of Financial Account Information to Improve International Tax Compliance and to implement in Gibraltar Council Decision (EU) 2015/2453 of 8 December 2015 on the conclusion, on behalf of the European Union, of the Amending Protocol to the Agreement between the European Community and the Principality of Liechtenstein providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments; Council Decision (EU) 2016/1830 of the 11 October 2016 on the conclusion, on behalf of the European Union, of the Amending Protocol to the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC; Council Decision (EU) 2016/1751 of 20 September 2016 on the conclusion, on behalf of the European Union, of the Amending Protocol to the Agreement between the European Community and the Principality of Andorra providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments; Council Decision of 7

November 2014 on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the French Republic concerning the application to the collectivity of Saint Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation; Council Decision (EU) 2015/2400 of 8 December 2015 on the conclusion, on behalf of the European Union, of the Amending Protocol to the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EU on taxation of savings income in the form of interest payments; Council Decision (EU) 2016/828 of 21 April 2016 on the conclusion, on behalf of the Union, of the Amending Protocol to the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments; the Government has made the following Regulations-

Title.

1. These Regulations may be cited as the International Co-operation (Improvement Of International Tax Compliance)(Amendment) Regulations 2017.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of Regulations.

3.(1) The International Co-operation (Improvement of International Tax Compliance) Regulations 2016 are amended in accordance with this Regulation.

(2) For regulation 4(b), substitute the following-

“(b) the following arrangements relating to the CRS-

- (i) the arrangements for the exchange of tax information entered into by Gibraltar with another territory as at 22 June 2017 for the purposes of the adoption and implementation of the CRS; and

- (ii) the arrangements for the exchange of information arising from the agreements as at 22 June 2017 entered into by the European Union regarding the adoption and implementation of the CRS as between Member States and other territories.”.

(3) In regulation 5(3), delete “in the return required by regulation 8 for that year”.

(4) In Part 2 of Schedule 2, after “**Excluded Accounts**” insert the following-

“1. Retirement or pension accounts in respect of-

- (a) pension schemes approved by the Commissioner of Income Tax for the purposes of the Income Tax Act 2010;
- (b) non-approved pension arrangements where the annual contributions are limited to US\$50,000 and funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health.

2. Dormant accounts (other than annuity contracts) with balances that do not exceed US\$1,000 per account.

A dormant account is defined as an account where-

- (a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous three years;
- (b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years;
- (c) the account is treated as a dormant account under the reporting financial institutions normal operating procedures; and

- (d) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years.

Treatment as an excluded account is subject to election by the Financial Institution.”.

Dated 22nd June, 2017.

G H LICUDI QC,
Minister with responsibility for the
Co-ordination of International Exchange of Information,
for the Government.

EXPLANATORY MEMORANDUM

These Regulations further transpose into the law of Gibraltar Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, and in order to give further effect to the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information, signed by the Competent Authority of Gibraltar on 29 October 2014, and the Agreement between the Competent Authorities of Gibraltar and Guernsey on the Automatic Exchange of Financial Account Information to Improve International Tax Compliance and implement Council Decisions on the conclusion of Amending Protocols to the Agreements between the European Community and Liechtenstein, San Marino, the French Republic concerning Saint Barthélemy, Monaco, Andorra, and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.