

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007**Subsidiary
2007/085**

Subsidiary Legislation made under s. 37A.

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007**(LN. 2007/085)***Commencement* **1.1.2007**

Amending enactments	Relevant current provisions	Commencement date
LN. 2008/066 r. 8		1.7.2007

EU Legislation/International Agreements involved:

ARRANGEMENT OF RULES**Rule**

1. Title and duration.
2. Interpretation.
3. The allowance.
4. Double deduction.
5. Joint claimants.
6. Certification of approved works.
7. Claim for deduction.
8. Restriction on entitlement to the deduction under these Rules.

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Income Tax

**Subsidiary
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In exercise of the powers conferred on him by section 37A of the Income Tax Act, the Minister with responsibility for Public Finance has made the following Rules—

Title and duration.

1. These Rules may be cited as the Income Tax (Deduction of Approved Expenditure on Premises in Tax Deductible Property Zone) Rules 2007 and shall be deemed to have come into operation on the 1st day of January, 2007 and shall have effect until the 31st day of December, 2009.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“the claimant” has the meaning given to that expression in rule 3(1);

“proposed expenditure” and “proposed works” mean such expenditure or works in respect of which a person is seeking approval from the Town Planner according to the provisions of these Rules;

“tax deductible property zone” includes the whole of Gibraltar;

“Town Planner” means the person appointed as such by virtue of the Town Planning Act.

The allowance.

3.(1) Subject to the provisions of these Rules, any person (“the claimant”) who has an interest in a building within a tax deductible property zone and who has incurred expenditure certified as approved in accordance with these Rules, being expenditure on—

- (a) the painting, decorating, repair or enhancement of the frontage of that building; or
- (b) matters ancillary to paragraph (a),

shall be entitled to claim a deduction in computing his income chargeable to tax.

(2) The deduction which the claimant shall be entitled to claim by virtue of this rule shall be an amount equal to the total expenditure which—

- (a) the Commissioner is satisfied has been incurred in the painting, decorating, repair or enhancement of the frontage or on ancillary matters thereto; and

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007

(b) has been certified as approved in accordance with rule 6.

(3) Subject to subrule (4), the deduction which the claimant shall be entitled to claim by virtue of this rule shall be allowable in computing the income chargeable to tax for the year in which the cost is incurred.

(4) Where effect cannot be given to all or part of the deduction due in the year in which the cost is incurred because of an insufficiency of assessable income, then any part to which effect cannot be given in that year shall be carried forward to be allowed in computing the income chargeable to tax in the next year of assessment and so on until effect is given in full to the deduction due.

Double deduction.

(4) Any deduction for expenditure given in accordance with these Rules shall be in addition to any deduction, relief or allowance which may be given in accordance with any other provision of the Income Tax Act in respect of the same expenditure.

Joint claimants.

5.(1) Where in any year of assessment two or more claimants are entitled to claim a deduction under these Rules in respect of the same expenditure and—

- (a) the claimants have agreed on the apportionment of the deduction between them; and
- (b) the claimants have provided to the Commissioner a written copy of their agreement to that apportionment,

the deduction permitted under these Rules shall be apportioned between them in such manner as they have agreed.

(2) Where in any year of assessment two or more claimants are entitled to claim a deduction under these Rules in respect of the same expenditure and have failed to agree on the apportionment of that deduction between them, then the Commissioner shall determine the apportionment of the deduction between them taking into consideration all the relevant facts, and, in particular, the amount expended by each claimant as a proportion of the total expenditure in respect of which the deduction is claimed.

Certification of approved works.

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007

**Subsidiary
2007/085**

6.(1) No deduction shall be permitted under these Rules unless the claim for the deduction is accompanied by a certificate issued by the Town Planner confirming that—

- (a) the works that have been carried out are works which are approved for the purpose of these Rules; and
- (b) the expenditure in respect of which the deduction is claimed has been made.

(2) No certificate shall be issued under subrule (1) unless—

- (a) an application shall have been submitted to the Town Planner not later than 28 working days prior to the commencement of the proposed works; and
- (b) the Town Planner shall have issued to the applicant a notice confirming that he has approved for the purposes of these Rules—
 - (i) the proposed works; and
 - (ii) the proposed expenditure in respect of the proposed works.

(3) The Town Planner shall not issue a notice under subrule (2) unless he is satisfied that—

- (a) the proposed expenditure is in respect of—
 - (i) the painting, decorating, repair or enhancement of the frontage of premises in a tax deductible property zone; or
 - (ii) matters ancillary to sub-paragraph (i);
- (b) the proposed works are reasonable in the circumstances of the case; and
- (c) the proposed works contribute to the overall enhancement of the tax deductible property zone;
- (d) the proposed expenditure is reasonable in the circumstances of the case; and
- (e) any planning permission required in respect of the proposed works has been granted by the Development and Planning Commission pursuant to the Town Planning Act.

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007

(4) The applicant shall, at the time he makes an application under subrule (2)(a), provide to the Town Planner all relevant details of the proposed works and the proposed expenditure in such form as the Town Planner shall require.

(5) The Town Planner shall request any further information as is, in his opinion, necessary to determine the application and shall not be required to issue a notice in accordance with subrule (2)(b) until that information is received.

(6) Where—

- (a) proposed expenditure has been approved by virtue of a notice under subrule (2)(b), and
- (b) the proposed works have not been completed by the end of the year of assessment in which they have been commenced, and
- (c) part of the approved proposed expenditure has been incurred,

then the Town Planner may issue a provisional certificate in respect of that part of the approved proposed expenditure which he is satisfied has been expended in that year of assessment.

(7) Notices made under sub-rule (2)(b) may be issued subject to such conditions as the Town Planner may deem appropriate in the circumstances.

Claim for deduction.

7.(1) Any claim for a deduction under these Rules shall be made in writing to the Commissioner with 2 years of the end of the year of assessment in respect of which the deduction is claimed and shall be accompanied by a copy of the certificate issued in accordance with rule 6(1).

(2) Where the claimant has provided a provisional certificate issued in accordance with rule 6(6), the Commissioner shall give immediate effect to the claim for a deduction on a provisional basis.

(3) Where a deduction on a provisional basis has been given in accordance with subrule (2) of this rule and the certificate provided for in rule 6(1) has not been provided to the Commissioner by the time limited in subrule (1) of this rule, then any deduction previously given on a provisional basis shall be withdrawn by assessment or additional assessment.

Restriction on entitlement to the deduction under these Rules.

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 2007**Subsidiary
2007/085**

8.(1) An individual who elects to be chargeable under the Gross Income Based System for the purposes of rule 3A of the Rates of Tax Rules, shall not be entitled to any deduction under these Rules.

(2) An individual who has a spouse that has elected to be chargeable under the Gross Income Based System shall be entitled to claim an amount not exceeding 50 per cent of the deduction under these Rules, unless—

- (a) the individual would (but for this subrule) be entitled for the year of assessment commencing 1 July 2007 and for any subsequent year of assessment to a deduction under these Rules; and
- (b) either—
 - (i) the individual had claimed on the appropriate form prescribed by the Commissioner for a deduction under these Rules and such claim had been made and submitted to the Commissioner on or before 30 June 2007 in respect of the year of assessment commencing 1 July 2006; or
 - (ii) the spouse had claimed on behalf of the individual on the appropriate form prescribed by the Commissioner for a deduction under these Rules and such claim had been made and submitted to the Commissioner on or before 30 June 2007 in respect of the year of assessment commencing 1 July 2006,

in which case, the individual in relation to the year of assessment commencing 1 July 2007 and for any subsequent year of assessment shall be entitled to the deduction.