

Subsidiary Legislation made under s.37.

Rates of Tax Rules, 1989

LN.1989/096

Commencement **23.11.1989**

Amending enactments	Relevant current provisions	Commencement date
LN.1990/176	rr. 2(c)-(d), 7	1.7.1991
1992/018	rr. 2(b), (d)-(e), 3, 6	1.7.1991
1993/045	rr. 2-3, 8	8.3.1993
1992/022	r. 2(e)-(f)	1.7.1993
1994/061	r. 6	7.7.1994
1999/082	rr. 2, 6-7	1.7.1999
2002/014	r. 2	1.7.2001
2002/085	r. 3	1.7.2001
“	rr. 2-3	1.7.2002
2003/104	rr. 2-3	1.7.2003
2006/112	rr. 2-3, 4(a)	1.7.2006
2008/069	rr. 2-3, 3A, 6-7	1.7.2007
2008/102	rr. 3A(1), 6(1), (3)-(4), 7(1), (3)-(4)	1.7.2008
2009/047	rr. 3A(1), (1A), 6(1), (3)-(4), (6), 7(1), (3)-(4)	1.7.2009
Act.2011-11 ¹	rr. 3A(1), (4), 3(1A)-(1F)	1.7.2010
LN.2010/187	rr. 6-7	1.1.2011
2011/116	rr. 3A(1), (1A)-(1F)	1.7.2011
2015/033	r. 2(1)	1.7.2012
“	r. 2(1)	1.7.2013
2018/121	r. 3(1)	1.7.2013
2015/033	rr. 2(1), 5, 6A	1.7.2014
2018/121	r. 3(1)	1.7.2014
“	rr. 2(1), 3(1), 3A(1A)	1.7.2015
2017/070	r. 6B	11.4.2017
2021/345	rr. 4(b), 6(1), 6A-6B, 7,-8.	1.8.2021
2022/168	rr. 2(1), 3(1), 3A(1), (b), (1A), 3B, 6C	1.7.2022

¹ For the avoidance of doubt, section 24 of the Interpretation and General Clauses Act restricting the retrospective commencement of subsidiary legislation shall not apply to subsidiary legislation made under sections 4 to 7 of Act 2011-11. (s.2(4))

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ARRANGEMENT OF RULES

Rule

1. Title.
2. Rates of tax chargeable on individuals, etc.
3. Tax charged on certain non-residents.
- 3A. Rates of tax chargeable on individuals under Gross Income Based System.
- 3B. Years of Assessment 1st July 2022 to 30 June 2024.
4. Tax charged on certain amounts received from pension schemes, etc.
5. Standard rate of tax.
6. Corporation tax.
- 6A. Rate of Tax for Trusts.
- 6B. Rate of Tax for Foundations.
- 6C. Transitional Provision in respect of rules 6(1), 6A and 6B.
7. *Deleted.*
8. *Deleted.*

Title.

1. These Rules may be cited as the Rates of Tax Rules, 1989.

Rates of tax chargeable on individuals, etc .

2.(1) Subject to rule 3B, tax shall be charged on the taxable income of every person including an individual to whom the provisions of section 34(3) apply, but excluding—

- (a) an individual who elects to be charged on his assessable income under the provisions of rule 3A and subject to the provisions of that rule such election is accepted by the Commissioner,
- (b) a company,
- (c) a building society,
- (d) a non-resident individual to whom the provisions of rule 24(1) of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 do not apply,
- (e) a Category 3 individual under the provisions of the Qualifying (Category 3) Individuals Rules 2008,
- (f) a Category 4 individual under the provisions of the Qualifying (Category 4) Individuals Rules 2008,
- (g) a High Executive Possessing Specialist Skills Individual under the provisions of the High Executive Possessing Specialist Skills Rules 2008,
- (h) a qualifying individual under the provisions of section 41A of the Act; and
- (i) an individual under the provisions of the Qualifying (High Net Worth) Individuals Rules 1992,

in accordance with the following bandings—

the first £4,000 of taxable income at the rate of 14 per cent;

the next £12,000 of taxable income at the rate of 17 per cent;

the remainder of taxable income at the rate of 39 per cent.

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(2) In the case of an individual to whom the provisions of section 34(3) apply the amounts of taxable income set out in the above bandings shall be reduced by one-twelfth for each calendar month in the year of assessment during which that individual does not carry on, exercise or undertake any trade, business, profession, vocation or employment in Gibraltar.

Rates of tax charged on certain non-residents.

3.(1) Subject to the exceptions in subrule (2) and subject to rule 3A and rule 3B, tax shall be charged on the taxable income of every non-resident individual in accordance with the following bandings—

the first £16,000 of taxable income at the rate of 17 per cent;

the remainder of taxable income at the rate of 39 per cent.

(2) Subrule (1) shall not apply in respect of the following non-resident individuals—

- (a) those to whom the provisions of rule 24(1) of the Income Tax (Allowances, Deductions and Exemptions) Rules, 1992 apply; or
- (b) individuals falling within rules made under section 41A, except in so far as those Rules provide for the application of subrule (1) to them.

Rates of tax chargeable on individuals under Gross Income Based System.

3A.(1) Subject to rule 3B, where —

- (a) the assessable income of an individual does not exceed £25,000 in a year of assessment; and
- (b) the individual has made an election on the appropriate form prescribed by the Commissioner to the effect that the provisions of this rule shall apply to that individual,

then, subject to the provisions of this rule, tax may be charged on the assessable income of that individual in accordance with the following bandings —

the first £10,000 of assessable income at the rate of 6 per cent;

the next £7,000 of assessable income at the rate of 20 per cent;

the remainder of assessable income at the rate of 28 per cent.

(1A) Subject to rule 3B, where —

- (a) the assessable income of an individual exceeds £25,000 in a year of assessment; and
- (b) the individual has made an election on the appropriate form prescribed by the Commissioner to the effect that the provisions of this rule shall apply to that individual,

then, subject to the provisions of this rule and rule 8, tax may be charged on the assessable income of that individual in accordance with the following bandings –

the first £17,000 of assessable income at the rate of 16 per cent;
the next £8,000 of assessable income at the rate of 19 per cent;
the next £15,000 of assessable income at the rate of 25 per cent;
the next £65,000 of assessable income at the rate of 28 per cent;
the next £395,000 of assessable income at the rate of 25 per cent;
the next £200,000 of assessable income at the rate of 18 per cent;

the remainder of assessable income at the rate of 5 per cent.

(1B) *Revoked.*

(1C) *Revoked.*

(1D) *Revoked.*

(1E) *Revoked.*

(1F) *Revoked.*

(2) In the case of an individual to whom the provisions of section 34(3) apply the amounts of assessable income set out in the above bandings shall be reduced by one-twelfth for each calendar month in the year of assessment during which that individual does not carry on, exercise or undertake any trade, business, profession, vocation or employment in Gibraltar.

(3) Where an individual has made an election under subrule (1) and at any time within the year of assessment it appears to the Commissioner to the best of his judgement that–

- (a) the individual by virtue of his election would be liable to a greater amount in tax under the provisions of the Act for that year of assessment than if that individual had not made such an election, and

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- (b) the individual would instead be liable to a lower amount in tax under the provisions of the Act for that year of assessment if that individual were chargeable under rule 2 of these Rules taking into account any allowances and deductions that may be due to him,

the Commissioner shall disregard the individual's election for the purposes of the Act and that individual shall be chargeable under rule 2 of these Rules.

(4) In the case of an individual to whom the provisions of this rule apply, the amounts of assessable income and deemed assessable income specified in this rule shall be reduced by one-twelfth for each calendar month in the year of assessment during which that individual does not carry on, exercise or undertake any trade, business, profession or employment in Gibraltar.

Years of Assessment 1st July 2022 to 30 June 2024.

3B.(1) For each of the years of assessment in the period extending from 1 July 2022 to 30 June 2024 rules 2, 3 and 3A above apply subject to the following modifications.

- (2) In rule 2(1)-
 - (a) for "14 per cent" substitute "16 per cent";
 - (b) for "17 per cent" substitute "19 per cent"; and
 - (c) for "39 per cent" substitute "41 per cent".
- (3) In rule 3(1)-
 - (a) for "17 per cent" substitute "19 per cent"; and
 - (b) for "39 per cent" substitute "41 per cent".
- (4) In rule 3A-
 - (a) in subrule (1)(b)-
 - (i) for "6 per cent" substitute "8 per cent";
 - (ii) for "20 per cent" substitute "22 per cent"; and
 - (iii) for "28 per cent" substitute "30 per cent";

- (b) in subrule (1A)(b)-
 - (i) for “16 per cent” substitute “18 per cent”;
 - (ii) for “19 per cent” substitute “21 per cent”;
 - (iii) in the banding starting with the words “the next £15,000”, for “25 per cent” substitute “27 per cent”;
 - (iv) for “28 per cent” substitute “30 per cent”;
 - (v) for the words from “the next £395,000” to the end, substitute-
“the remainder of assessable income at the rate of 27 per cent”.

Tax charged on certain amounts received from pension schemes, etc.

4. Tax shall be charged—

- (a) *Revoked*
- (b) at the rate of 10 per cent on any amount chargeable in accordance with section 14(1).

Standard rate of tax.

5. The standard rate of tax shall be 20%.

Corporation tax.

6.(1) Except where otherwise expressly provided and subject to the provisions of this rule, the charge to taxation on the taxable income of any company (“Corporation Tax”) shall be at the rate of 12.5 per cent in relation to an accounting period.

(2) Corporation Tax shall be charged on the taxable income of a company where that company is a utility at the higher rate of 20 per cent in relation to an accounting period.

(3) Corporation Tax shall be charged on the taxable income of a company at the rate of 20 per cent in relation to an accounting period where in the opinion of the Commissioner that company has abused its dominant market position in respect of any such accounting period to which the Commissioner believes the abuse has taken place.

Rate of Tax for Trusts.

6A. The standard rate of tax for income of a trust that is resident in Gibraltar shall be 12.5 per cent.

Rate of Tax for Foundations.

6B. The standard rate of tax for income of a foundation (as defined in the Income Tax Act 2010) shall be 12.5 per cent.

Transitional Provision in respect of rules 6(1), 6A and 6B.

6C.(1) Notwithstanding rules 6(1), 6A and 6B, this rule shall apply to any accounting period of a company (except a company subject to rule 6(2) or 6(3)), trust or foundation that started before, but ended after, 1st August 2021 (“the Transitional Accounting Period”)—

- (a) from the start of the Transitional Accounting Period up to and including 31st July 2021 (the “Pre-Transition Period”), the rate of tax for income of the company, trust or foundation shall be 10%; and
- (b) from 1st August 2021 to the end of the Transitional Accounting Period (the Post “Transition Period”), the rate of tax for income of the company, trust or foundation shall be 12.5%.

(2) The tax liability in relation to the Transitional Accounting Period shall be computed by either—

- (a) apportioning the profits and losses by reference to:
 - (i) the number of days in the Pre-Transition Period divided by the number of days in the Transitional Accounting Period (the “Pre-Transition Profits and Losses”); and
 - (ii) the number of days in the Post-Transition Period divided by the number of days in the Transitional Accounting Period (the “Post-Transition Profits and Losses”); and
 - (iii) applying the rate in rule 6C(1)(a) to the Pre-Transition Profits and Losses up to and including 31st July 2021 and the rate in rule 6C(1)(b) to the Post-Transition Profits and Losses; or

- (b) apportioning the profits and losses by reference to the date on which such profits or losses accrue.
- (3) For the purposes of subrule (2) –
 - (a) any election made under subrule (2)(b) must be accompanied by an explanatory statement setting out the facts and circumstances as to the purpose of the election and appropriate evidence demonstrating-
 - (i) that the application of a straight-line apportionment under subrule (2)(a) gives a materially disproportionate result; and
 - (ii) the allocation of accrued profits or losses on an actual basis.
- (4) In the absence of the required explanatory statement and appropriate evidence being provided, or the Commissioner not being satisfied that these provide for a justifiable basis to proceed with the election under subrule (2)(b), the Commissioner reserves the right to refuse such an election and compute the tax payable for the Transitional Accounting Period in accordance with subrule (2)(a).
- (5) A trust, company or foundation shall at the time of the filing of its tax return for the Transitional Period elect which method of calculation shall be applicable in the Transitional Period.

7. Deleted

8. Deleted