

Rules made under s.37.

## RATES OF TAX RULES, 1989

(LN. 1989/096)

23.11.1989

| Amending<br>enactments   | Relevant current<br>provisions                             | Commencement<br>date |
|--------------------------|--|----------------------|
| LN.1990/176              | rr. 2(c), (d) and 7  | 1.7.1991             |
| 1992/018                 | rr. 2(b), (d) and (e), 3 and 6                             | 1.7.1991             |
| 1993/045                 | rr.2, 3 and 8  | 8.3.1993             |
| 1992/022                 | r.2(e) and (f)   | 1.7.1993             |
| 1994/061                 | r.6  | 7.7.1994             |
| 1999/082                 | rr.2, 6 and 7  | 1.7.1999             |
| 2002/014                 | r.2  | 1.7.2001             |
| 2002/085                 | r. 3   | 1.7.2001             |
| “                        | rr. 2 and 3  | 1.7.2002             |
| 2003/104                 | rr. 2 and 3.   | 1.7.2003             |
| 2006/112                 | rr. 2, 3 and 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)<br>& (4)             | 1.7.2008             |
| 2009/047                 | rr. 3A(1) & (1A), 6(1), (3), (4) &<br>(6), 7(1), (3) & (4) | 1.7.2009             |
| Act.2011-11 <sup>1</sup> | rr. 3A(1) & (4), 3(1A) (1B), (1C),<br>(1D), (1E) & (1F)    | 1.7.2010             |
| LN.2010/187              | rr.6 & 7   | 1.1.2011             |
| 2011/116                 | rr. 3A(1), (1A), (1B), (1C), (1D),<br>(1E) & (1F)          | 1.7.2011             |

<sup>1</sup> 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))

**ARRANGEMENT OF RULES**

Rules

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.
4. Tax charged on certain amounts received from pension schemes, etc.
5. Standard rate of tax.
6. Corporation tax.
7. Building Society tax.
8. Income from Development Bonds.

**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 8, 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 17 per cent;

the next £12,000 of taxable income at the rate of 30 per cent;

the remainder of taxable income at the rate of 40 per cent.

(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 8, 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 30 per cent;

the remainder of taxable income at the rate of 40 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) 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 and rule 8, 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) 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 next £300,000 of assessable income at the rate of 10 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
- (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.

**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 6A(1).

**Standard rate of tax.**

5. The standard rate of tax shall be 30%.

**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 10 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.

**Building Society tax.**

7.(1) Except where otherwise expressly provided and subject to the provisions of this rule, the charge to taxation on the taxable income of any building society shall be at the rate of 10 per cent in relation to an accounting period.

(2) In this rule "building society" shall be construed in accordance with the provisions of the Banking (Extension to Building Societies) Act as amended from time to time.

**Income from Development bonds.**

8.(1) Tax shall be charged on the income of every person by way of interest on a Development Bond (as defined in regulation 2 of the Savings Bank (Development Bonds) Regulations, 1993) at the rate of 25%.

(2) In ascertaining the amount of income by way of interest chargeable to tax in accordance with subrule (1), no reliefs (personal or otherwise) exemptions or allowances otherwise to be taken into account in accordance with the Income Tax Act or rules made thereunder shall be allowed, and such income shall not form part of the assessable income of the person to whom it is paid and the tax deducted in accordance with the proviso to regulation 3 of the Savings Bank (Development Bonds) Regulations, 1993, shall not be refundable.