

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3675 of 11 September, 2008

LEGAL NOTICE NO.69 OF 2008.

INCOME TAX

RATES OF TAX (AMENDMENT) RULES 2008

In exercise of the powers conferred on him by section 37 of the Income Tax Act, the Minister has made the following Rules—

Title and commencement.

1. These Rules may be cited as the Rates of Tax (Amendment) Rules 2008 and shall be deemed to have come into operation on 1 July 2007.

Replacement of rule 2.

2. For rule 2 of the Rates of Tax Rules 1989, substitute—

“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.”.

Replacement of rule 3.

3. For rule 3 of the Rates of Tax Rules 1989, substitute–

“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.”.

Introduction of new rule 3A.

4. The following new rule is inserted after rule 3 of the Rates of Tax Rules 1989—

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

3A.(1) Subject to the provisions of this rule and rule 8, tax may be charged on the assessable income of an individual who 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 in accordance with the following bandings—

the first £25,000 of assessable income at the rate of 20 per cent;

the next £75,000 of assessable income at the rate of 30 per cent;

the remainder of assessable 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 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.”.

Amendment of Rule 6.

5. Rule 6 of the Rates of Tax Rules 1989 is amended as follows—

- (a) in subrules (1) and (3), for “35%” substitute “33%”; and
- (b) in subrules (3) and (4), for “105,000” substitute “£95,667”.

Amendment of Rule 7.

6. Rule 7 of the Rates of Tax Rules 1989 is amended as follows—

- (a) in subrules (1) and (3), for “35%” substitute “33%”; and
- (b) in subrule (3), for “£105,000” substitute “£95,667” throughout.

Dated 11th September, 2008.

P R CARUANA,

Minister with responsibility for Public Finance.

EXPLANATORY MEMORANDUM

These Rules amend the Rates of Tax Rules 1989 so as to implement changes to the rates announced in the 2007 budget, and also to make necessary changes to introduce the Gross Income Based System.

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