

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 2,952 of 12th December, 1996.

LEGAL NOTICE NO. 115 OF 1996.

INCOME TAX ACT

INCOME TAX (DEDUCTION OF APPROVED EXPENDITURE ON PREMISES IN TAX DEDUCTIBLE PROPERTY ZONE) RULES 1996

In exercise of the powers conferred on him by section 37A of the Income Tax Act, and of all other enabling powers, the Governor has made the following rules -

Title and commencement.

1. These rules may be cited as the Income Tax (Deduction of Approved Expenditure on Premises in Tax Deductible Property Zone) Rules 1996 and shall commence on the 12th day of December 1996 and have effect from the 1st day of January 1996 to the 31st day of December 1998 or such date as the Governor may, from time to time by notice in the Gazette, appoint.

Interpretation.

2. In these rules, unless the context shall otherwise require -

“the claimant” has the meaning given to that expression in rule 4(1);

“Minister” means the Minister charged with responsibility for the Environment;

“proposed expenditure” and “proposed works” mean such expenditure or works, as the case may be, in respect of which a person is seeking approval from the Town Planner according to the provision of these rules;

“tax deductible property zone” means any area designated under rule 3;

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

Designation Orders.

3. Where the Minister is of the opinion that an area is of special interest by reason of -

- (a) its cultural or historical value;
- (b) its value to the economy of Gibraltar; or
- (c) any other appropriate reason,

the Minister may, for the purpose of these rules, by order, designate that area to be a tax deductible property zone for such time as he shall see fit.

The allowance.

4. (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
- (b) has been certified as approved in accordance with rule 7.

(3) Subject to sub-rule (4) below, 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.

5. 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.

6. (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

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- (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.

7. (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) Subject to rule 8 below, no certificate shall be issued under sub-rule (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 sub-rule (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); and
- (b) the proposed works are reasonable in the circumstances of the case; and
- (c) the proposed works shall contribute to the overall enhancement of the tax deductible property zone; and

- (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.

(4) The applicant shall at the time he makes an application under sub-rule (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 sub-rule (2)(b) until that information is received.

(6) Where -

- (a) proposed expenditure has been approved by virtue of a notice under sub-rule (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.

Transitional provision.

8. (1) Where expenditure has been incurred on the painting, decorating, repair or enhancement of premises within a tax deductible property zone between 1st January 1996 and the 12th day of December 1996, the claimant may make an application to the Town Planner for the issue of a certificate under rule 7(1) and in those circumstances rule 7(2)(a) will not apply.

(2) An application under sub-rule (1) above shall be subject to the provisions of rule 7(4), (5) and (6).

(3) Where the works which are the subject of the application for the certificate under rule 8(1) were commenced after the 1st day of January 1996 and completed before the 12th day of December 1996 and the Town Planner is satisfied that -

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

then the Town Planner shall issue a certificate in accordance with rule 7(1).

(4) Where the works which are the subject of the application for the certificate under rule 8(1) were commenced after the 1st day of January 1996 but have not been completed by the 12th day of December 1996 and the Town Planner is satisfied that -

- (a) the expenditure which has been incurred and which is proposed 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); and
- (b) the works which have been completed and are proposed are reasonable in the circumstances of the case; and

- (c) the expenditure which has been incurred and is proposed is reasonable in the circumstances of the case; and
- (d) any planning permission required in respect of the proposed works has been granted by the Development & Planning Commission pursuant to the Town Planning Act,

then the Town Planner shall issue a certificate in accordance with rule 7(1).

Claim for deduction.

9.(1) Any claim for a deduction under these rules shall be made in writing to the Commissioner within 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 7(1).

(2) Where the claimant has provided a provisional certificate issued in accordance with rule 7(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 sub-rule (2) of this rule and the certificate provided for in rule 7(1) has not been provided to the Commissioner by the time limited in sub-rule (1) of this rule, then any deduction previously given on a provisional basis shall be withdrawn by assessment or additional assessment.

Dated this 12th day of December 1996.

By Command,
M. J. ROBINSON,
Deputy Governor.