

Rules made under s.41A and 98.

**QUALIFYING (CATEGORY 4) INDIVIDUALS
RULES, 1999**

Revoked by LN. 2008/019 as from 3.4.2008

(LN. 1999/077)

1.11.1999

Amending enactments	Relevant current provisions	Commencement date
None		

ARRANGEMENT OF RULES.

Rule

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QUALIFYING (CATEGORY 4) INDIVIDUALS RULES, 1999.**Title and commencement.**

1. These Rules may be cited as the Qualifying (Category 4) Individuals Rules, 1999 and come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

2. (1) In these Rules—

“a certificate” means a qualifying certificate issued under section 41A of the Income Tax Act;

“a company” means a qualifying or exempt company in respect of which the Finance Centre Director is satisfied that it has a physical presence in Gibraltar;

“a statutory body” means the Gibraltar Development Corporation or the Financial Services Commission;

“Finance Centre Director” means the Finance Centre Director or such other public officer of the Ministry of Trade and Industry as the Minister with responsibility for Trade and Industry may from time to time designate by notice in the Gazette.

“gross emoluments” means the full amount of the emoluments earned in respect of the occupation carried out for, or post held with, the applicant company or statutory body and shall include all salaries, fees, wages, perquisites and profits whatsoever; and

“taxable income” means—

- (i) the gross emoluments arising from the occupation or post of the Category 4 Individual in respect of whom the certificate issued in accordance with rule 3, or as the case may be, 4(3) is in operation,
- (ii) any income of that individual falling within section 6(1)(c) and (d) of the Income Tax Act, or
- (iii) any other income falling within section 6(3) of that Act.

(2) For the purposes of section 41A of the Income Tax Act, the prescribed requirements for the issue of a certificate shall be those set out in rules 3 to 5.

Category 4 Individual.

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3. A company or a statutory body may apply in writing to the Finance Centre Director for, and may be issued by him with, a certificate designating an individual remunerated in respect of an occupation carried out for, or a post held with, that company or statutory body as a Qualifying (Category 4) Individual (hereinafter referred to as a “Category 4 Individual”) where–

- (a) that individual is one in respect of whom the Finance Centre Director is satisfied that –
 - (i) he possesses skills or experience essential to the operation of the company or statutory body by whom the application is made;
 - (ii) those skills or experience are not available in Gibraltar;
 - (iii) those skills or experience are important for the economic regeneration of Gibraltar;
 - (iv) he has available to him for his exclusive use for the period of the certificate, residential accommodation in Gibraltar, approved for this purpose by the Finance Centre Director, adequate for himself and any and all of his family in Gibraltar dependent upon him; and
 - (v) he has not been gainfully occupied in Gibraltar in any of the five years of assessment immediately preceding the year of assessment in which the application is made (although the Finance Centre Director may waive the requirement of this sub-paragraph); and
- (b) the Finance Centre Director is satisfied at the time of an application made under this rule that contemporaneous with, and connected to, the appointment of the Category 4 Individual the company or statutory body has, for the purposes of this rule, created a new, substantial and additional, employment or employments which will endure for at least the whole of the period during which a certificate is in issue.

Terms of certificate.

4. (1) A certificate issued pursuant to rule 3 shall specify–

- (a) the name of the Category 4 Individual in respect of whom it is issued and the company or statutory body in respect of which he has an occupation or holds a post;

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- (b) the period for which it is issued.
- (2) A certificate may be issued for a period of up to three years.
- (3) The Finance Centre Director may on application in writing, upon being satisfied that rules 3(a)(i) to (iii) and (b) continue to be met, renew a certificate for one period only of up to three years.
- (4) If during the period for which a certificate has been issued the Finance Centre Director determines that—
- (a) any matter supplied in the application made under rule 3 was false or incomplete in a material particular;
 - (b) the tax payable in accordance with rule 6 was not paid at the times specified in that rule; or
 - (c) the employment created under rule 3(b) has ceased to exist;

he may withdraw the certificate with effect from the beginning of the year of assessment in which it is withdrawn.

Payment of fee.

5. An application by a company or a statutory body for a certificate under rule 3 or the renewal of a certificate under rule 4(3) shall be accompanied by a non-refundable fee of £500.

Rate of Tax.

6. (1) Subject to subrule (3), a Category 4 Individual in respect of whom a certificate has been issued or renewed in accordance with rule 3 or, as the case may be, rule 4(3) and which remains in effect, shall—

- (a) for each year of assessment during which the certificate is in effect and for which his taxable income does not exceed £50,000, be charged to tax of £5,000 for that year of assessment;
 - (b) for each year of assessment during which the certificate is in effect and for which his taxable income exceeds £50,000, be charged to tax of £10,000 for that year of assessment.
- (2) Subject to subrule (3), the tax charged for a year of assessment shall be due and payable as follows—

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- (a) where in accordance with subrule (1)(a) the tax charged is £5,000, the tax shall be payable in twelve equal monthly instalments, each instalment being due on the last day of each month of the year of assessment in respect of which the tax is charged;
- (b) where in accordance with subrule (1)(b) the tax charged is £10,000 –
 - (i) an amount of £5,000 shall be payable in twelve equal monthly instalments, each instalment being due on the last day of each month of the year of assessment in respect of which the tax is charged; and
 - (ii) an amount of £5,000 shall be due and payable on 30 September in the year immediately following the year of assessment for which the tax is charged.
- (3) (a) The amount of tax charged shall be reduced by one twelfth for each complete calendar month in the year of assessment during which there is no certificate in effect in respect of that individual;
- (b) for the purpose of calculating the tax to be charged before reduction in accordance with paragraph (a) of this subrule the amounts of £50,000 specified in subrules (1)(a) and (1)(b) shall be reduced by one twelfth for each complete calendar month in the year of assessment during which there is no certificate in effect in respect of that individual;
- (c) any tax charged in accordance with paragraph (a) of this subrule shall be due and payable as follows–
 - (i) where a reduced amount of tax is charged by reference to the amount specified in paragraph (1)(a), that reduced amount shall be due and payable in equal monthly instalments, each instalment being due on the last day of each month during which the certificate is in effect in the year of assessment for which the tax is charged;
 - (ii) where a reduced amount of tax is charged by reference to the amount specified in paragraph (1)(b), one half of that reduced amount shall be due and payable in equal monthly instalments, each instalment being due on the last day of each month during which the certificate is in effect in the year of assessment for which the tax is charged and the balance of the tax charged shall be due

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and payable on 30 September in the year immediately following the year of assessment for which the tax is charged.

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Treatment of Other Income.

7. Where a Category 4 Individual in respect of whom a certificate has been issued or renewed under rule 3 or, as the case may be, 4(3) has income which is not taxable income for the purposes of these Rules, that income shall be assessed in accordance with the provisions of the Income Tax Act.