

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4424 of 21 December, 2017

LEGAL NOTICE NO. 253 OF 2017.

INTERPRETATION AND GENERAL CLAUSES ACT

INCOME TAX ACT 2010 (AMENDMENT NO. 2) REGULATIONS 2017

In exercise of the powers conferred on him by section 23(g)(ii) of the Interpretation and General Clauses Act, and for the purpose of transposing into the law of Gibraltar Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money laundering information by tax authorities, the Government has made these Regulations-

Title.

1. These Regulations may be cited as the Income Tax Act 2010 (Amendment No. 2) Regulations 2017.

Commencement.

2. These Regulations come into operation on 1 January 2018.

Amendment of Act.

- 3.(1) The Income Tax Act 2010 is amended in accordance with the provisions of this regulation.

- (2) After section 6A insert the following section-

“Information Powers: Implementation and enforcement of the Cooperation Directive.

- 6B.(1) For the purpose of the implementation and enforcement of the Cooperation Directive and to ensure the functioning of the administrative cooperation it establishes, the Commissioner must be granted access to the mechanisms, procedures, documents and information referred to in Articles 13, 30, 31 and 40 of Directive (EU) 2015/849.

- (2) For the purposes of subsection (1) the Commissioner-
 - (a) may access any register of beneficial ownership established in Gibraltar pursuant to Articles 30 and 31 of Directive (EU) 2015/849;
 - (b) may by notice in writing require a relevant financial business to deliver to him, within a specified time, information relevant to the compliance of any obligation imposed on the relevant financial business by sections 10, 10A, 11, 12 or 13 of the Proceeds of Crime Act 2015 and consequently retained under sections 25 or 25ZA of that Act.
- (3) For the purposes of a notice issued under subsection (2)(b) the time to be specified shall not be less than 30 days.
- (4) A person on whom a notice under subsection (2)(b) is issued may, by notice in writing given to the Commissioner within 30 days of the date of issue of the notice, object to that notice on the grounds that it would be onerous for him to comply with it; and if the matter is not resolved by agreement it shall be referred to the Tribunal who may confirm, vary or cancel that notice.
- (5) For the purposes of this section the term “information” does not include anything which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are—
 - (a) produced for the purposes of seeking or providing legal advice; or
 - (b) produced for the purposes of use in existing or contemplated legal proceedings.
- (6) In this section-
 - “the Cooperation Directive” has the meaning given in section 5E;

“Directive (EU) 2015/849” means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC;

“relevant financial business” has the meaning given in the Proceeds of Crime Act 2015.”.

Dated 21st December, 2017.

G H LICUDI QC,
Minister with responsibility for the coordination
of international exchange of information.
For the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money laundering information by tax authorities.