

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4880 GIBRALTAR Monday 26th July 2021

B.14/21

BILL

FOR

AN ACT to amend the Income Tax Act 2010.

ENACTED by the Legislature of Gibraltar.

Short title.

1. This Act may be cited as the Income Tax (Amendment No.3) Act 2021.

Commencement.

2. This Act shall be deemed to have come into operation on the 1st July 2021.

Amendment of the Income Tax Act 2010.

3.(1) Schedule 3 to the Income Tax Act 2010 is amended in accordance with the provisions of this section.

(2) After paragraph 6 insert-

“Deduction for real property in Gibraltar.

6A.(1) The Commissioner may allow a deduction in an accounting period, or year of assessment, as the case may be, in respect of the amount by which the value of any real property in Gibraltar has diminished by reason of wear and tear arising out of the use by its owner for the purposes of a trade, business, profession or vocation at the rate of 1% per annum of the acquisition cost thereof, excluding the cost of the land on which the premises are situated.

(2) Subject to subparagraph (4) below, where the person carrying on the trade, is not the owner of the premises, the deduction may be allowed on either the former or the latter or apportioned between them.

(3) For the purposes of subparagraph (2), the Minister may make regulations prescribing the manner in which such deductions should be apportioned.

- (4) No deduction shall be allowed for any accounting period, or year of assessment, as the case may be, if the deduction exceeds the written down value.
- (5) No deduction shall be allowed for any accounting period, or year of assessment, as the case may be, if the person qualifies for a deduction in accordance with paragraph 6 of this Schedule.
- (6) A deduction shall only be permitted in relation to any accounting period, or year of assessment, as the case may be, ending in the period extending from 1 July 2021 to 30 June 2023.
- (7) For any accounting period, or year of assessment, as the case may be, an amount equivalent to the written down value of the real property disposed of, less any sum realized or likely to be realized by the sale thereof or recoverable under any insurance or indemnity, will be allowed as a deduction, provided that where the sum realised, or likely to be realised, is greater than the written down value, no deduction shall be allowed.”.
- (3) In paragraph 8-
- (a) for subparagraph (1)(b) substitute the following-
- “(b) in consequence of his incurring that expenditure, the plant and machinery belongs to the person at some time during the year of assessment or accounting period,
- then, for the purpose of ascertaining the assessable income of that person from that trade, business, profession or vocation, a deduction shall be given equivalent to the whole amount of that expenditure up to a maximum of £30,000, subject to any accounting periods, or years of assessment, as the case may be, ending within the period extending from 1 July 2021 up to and including 30 June 2023, for which the deduction shall be the higher of the following:
- (i) £60,000; or
- (ii) 50% of the expenditure incurred by the person in accordance with (a) above;”;
- (b) for subparagraph (2)(b) substitute the following-
- “(b) in consequence of his incurring that expenditure, the computer equipment belongs to the person at some time during the year of assessment or accounting period,
- then, for the purposes of ascertaining the assessable income of that person from that trade, business, profession or vocation, a deduction shall be given equivalent to the whole amount of that expenditure up to a maximum of

£50,000, subject to any accounting periods, or years of assessment, as the case may be, ending within the period extending from 1 July 2021 to 30 June 2023, for which the deduction shall be the higher of the following:

- (i) £100,000; or
- (ii) 50% of the expenditure incurred by the person in accordance with (a) above;”.

(4) For paragraph 9(3) substitute the following-

“(3) For the purposes of this paragraph and subject to subsubparagraphs (c) to (e) above, the term “pool allowance” shall, for a year of assessment or accounting period, be an allowance equal to –

- (a) 20% of the balance of qualifying expenditure in respect of that year of assessment for any person other than a company, or for a company chargeable in accordance with the provisions of Schedule 6 to this Act;
- (b) 15% of the balance of qualifying expenditure in respect of the accounting period for any other company,

Except that for any accounting periods or years of assessment ending within the period extending from 1 July 2021 to 30 June 2023, the allowance shall, for a year or assessment or accounting period, be an allowance equal to-

- (c) 30% of the balance of qualifying expenditure in respect of that year of assessment for any person other than a company, or for a company chargeable in accordance with the provisions of Schedule 6 to this Act;
- (d) 25% of the balance of qualifying expenditure in respect of the accounting period for any other company.”.

(5) In paragraph 9 after subparagraph (11) insert-

“(11A) In respect of the accounting periods or years of assessment ending within the period extending from 1 July 2021 to 30 June 2023, the definition of “plant and machinery” shall include a full electric vehicle, used wholly or partly in the ordinary course of a trade, business, profession or vocation.

(11B) The Commissioner shall allow up to a maximum of 50% of any allowance or deduction claimed by any person in relation to a full electric vehicle used partly in the ordinary course of the trade, business, profession or vocation.”.

(6) In paragraph 16 after subparagraph (2) insert-

“(2A) In respect of accounting periods or years of assessment, as the case may be, ending within the period extending from 1 July to 2021 up to and including 30 June 2023, the deduction referred to in subparagraphs (1) and (2) shall be of 60%.”.

(7) After paragraph 17B insert the following-

“Marketing and promotion.

18.(1) Where a person has incurred cost in the provision of marketing and promotion in an accounting period, or year of assessment, as the case may be, that person may claim a further deduction of 50% of those costs as a deduction under this paragraph in addition to the deduction claimed under paragraph 2(1) of this Schedule.

(2) Any deduction claimed under (1) above, shall be applied in computing the assessable profits for the accounting periods, or years of assessment, as the case may be, ending in the period extending from 1 July 2021 up to and including 30 June 2023.

(3) For the purposes of this paragraph -

“marketing and promotion” means any costs incurred in relation to the active marketing or promotion of products or services to consumers for the purposes of the production of the assessable income of the trade, business, profession or vocation in or from Gibraltar.

Fixed payroll costs.

19.(1) Where a person has incurred fixed payroll costs in an accounting period, or year of assessment, as the case may be, that person may claim a further deduction of 50% of those costs as a deduction under this paragraph in addition to the deduction claimed under paragraph 2(1) of this Schedule.

(2) Any deductions claimed under (1) above, shall be applied in computing the assessable profits for the accounting periods, or years of assessment, as the case may be, ending in the period extending from 1 July 2021 up to and including 30 June 2023.

(3) For the purposes of this paragraph -

(a) “fixed payroll costs” means all payments to registered employees in the form of contracted salaries and wages and excluding bonuses, incentive or compensation payments, overtime, allowances and any similar non-fixed or contracted amount; and

- (b) “registered employees” mean those registered in employment after 1 July 2021 and in accordance with all the requirements of H.M. Government of Gibraltar’s Employment Service.”.

Power to amend this Schedule.

20.(1) The Minister may by regulations amend the relevant paragraphs of this Schedule so as to-

- (a) amend the amount of any expenditure, allowance or deduction; or
- (b) extend any time period;

prescribed in those paragraphs.

(2) The relevant paragraphs of this Schedule are-

- (a) paragraph 6A(1) and (6);
- (b) paragraph 8(1)(b) and (2)(b);
- (c) the exception to paragraph 9(3) including paragraphs 9(3)(c) and (d);
- (d) paragraph 9(11A) and (11B);
- (e) paragraph 16(2A); and
- (f) paragraphs 18 and 19.

(3) The regulations may include such supplementary, incidental or consequential provisions as appear to the Minister to be necessary or expedient.

EXPLANATORY MEMORANDUM

This Act amends the Income Tax Act 2010 in order to give effect to the Government's Budget Measures of 2021.

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