

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5210 GIBRALTAR Thursday 20th February 2025

LEGAL NOTICE NO. 51 OF 2025

INCOME TAX ACT 2010

INCOME TAX (ALLOWANCES, DEDUCTIONS AND EXEMPTIONS) (AMENDMENT) RULES 2025

In exercise of the powers conferred on him by sections 25 and 72 of the Income Tax Act 2010, and all other enabling powers, the Minister has made the following Rules—

Title.

1. These Rules may be cited as the Income Tax (Allowances, Deductions and Exemptions) (Amendment) Rules 2025.

Commencement.

2. These Rules come into operation on the day of publication.

Amendment of the Income Tax (Allowances, Deductions and Exemptions) Rules, 1992.

3.(1) The Income Tax (Allowances, Deductions and Exemptions) Rules, 1992 are amended in accordance with this rule.

(2) After rule 3(54) insert –

“(55) Income that would otherwise be assessable to tax under the Income Tax Act 2010 where a person has made an election under Rule 3AA.”.

(3) After rule 3A insert –

“Election by Gibraltar Parent Entity to be taxed solely under Global Minimum Tax Act 2024.

3AA(1) An election under this rule may only be made by a Gibraltar Parent Entity that is within scope of the provisions of the Income Tax Act 2010 and the Global Minimum Tax Act 2024.

(2) Where there is an Approved Election under this rule and for all basis periods within subrule (9), the provisions of the Income Tax Act 2010 that levy a charge to tax shall not apply to the Gibraltar Parent Entity making the election or the Constituent Entities of that Group and only the Global Minimum Tax Act 2024 shall apply to that Gibraltar Parent Entity and the Constituent Entities of that Group.

- (3) For the purposes of this rule, a “Gibraltar Parent Entity” means:
- (a) a Constituent Entity of a Group that is –
 - (i) ordinarily resident in Gibraltar pursuant to the Income Tax Act 2010, section 74; or
 - (ii) registered or otherwise established in Gibraltar; and
 - (b) is an Ultimate Parent Entity.
- (4) An Approved Election is one made –
- (a) in writing to the Commissioner under this rule;
 - (b) approved in writing by the Commissioner.
- (5) An Approved Election is valid from the date on which the Commissioner gives written approval.
- (6) The Commissioner must give written approval where the requirements of this rule are met.
- (7) If the Commissioner rejects an election, the Gibraltar Parent Entity may by notice appeal this rejection.
- (8) Notice of an appeal must –
- (a) be given in writing to the Commissioner and the Tribunal;
 - (b) be given before the end of the period of 30 days beginning with the date on which notification of rejection under subrule (7) was given;
 - (c) state the grounds of appeal.
- (9) An Approved Election is effective for:
- (a) basis periods commencing after the date the election is made; and
 - (b) any basis period for which, at the date of election, a return under section 28 of the Income Tax Act 2010 is not yet due.
- (10) The election shall cease to be valid in relation to any Constituent Entity of the Group upon:
- (a) the Gibraltar Parent Entity’s notification in writing to the Commissioner;
or

- (b) the conditions of this rule no longer being met and notification in writing by the Commissioner to the Gibraltar Parent Entity setting out the reasons for the election not remaining valid.
- (11) An election made by the Gibraltar Parent Entity and approved under this rule, shall remain valid for a period not exceeding 18 months, if the Group falls out of scope.
- (12) Pursuant to subrule (10), a Gibraltar Parent Entity shall notify the Commissioner
- (a) at the time they first become aware of the Group falling out of scope in accordance with subrule (10); and
 - (b) confirmation of all reasonable steps actively taken to ensure that the election remains valid within a period of 18 months from the date in paragraph (a).
- (13) Pursuant to subrule (11), the Commissioner shall determine whether the Gibraltar Parent Entity's election remains valid.
- (14) Notwithstanding subrules (11) and (12), a Gibraltar Parent Entity shall not be precluded from making a further election under this rule provided that the conditions of this rule are met.
- (15) The Commissioner may rely on the anti-avoidance provisions contained in Part VI of the Income Tax Act 2010 in determining whether an election made under this rule is an Approved Election.
- (16) The terms "Constituent Entity", "Group" and "Ultimate Parent Entity" have the meanings given in the Global Minimum Tax Act 2024 or the Model Rules (as appropriate)."

Dated: 20th February 2025.

F R PICARDO,
Minister with responsibility for Public Finance.

EXPLANATORY MEMORANDUM

These rules amend the Income Tax (Allowances, Deductions & Exemptions) Rules, 1992.

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