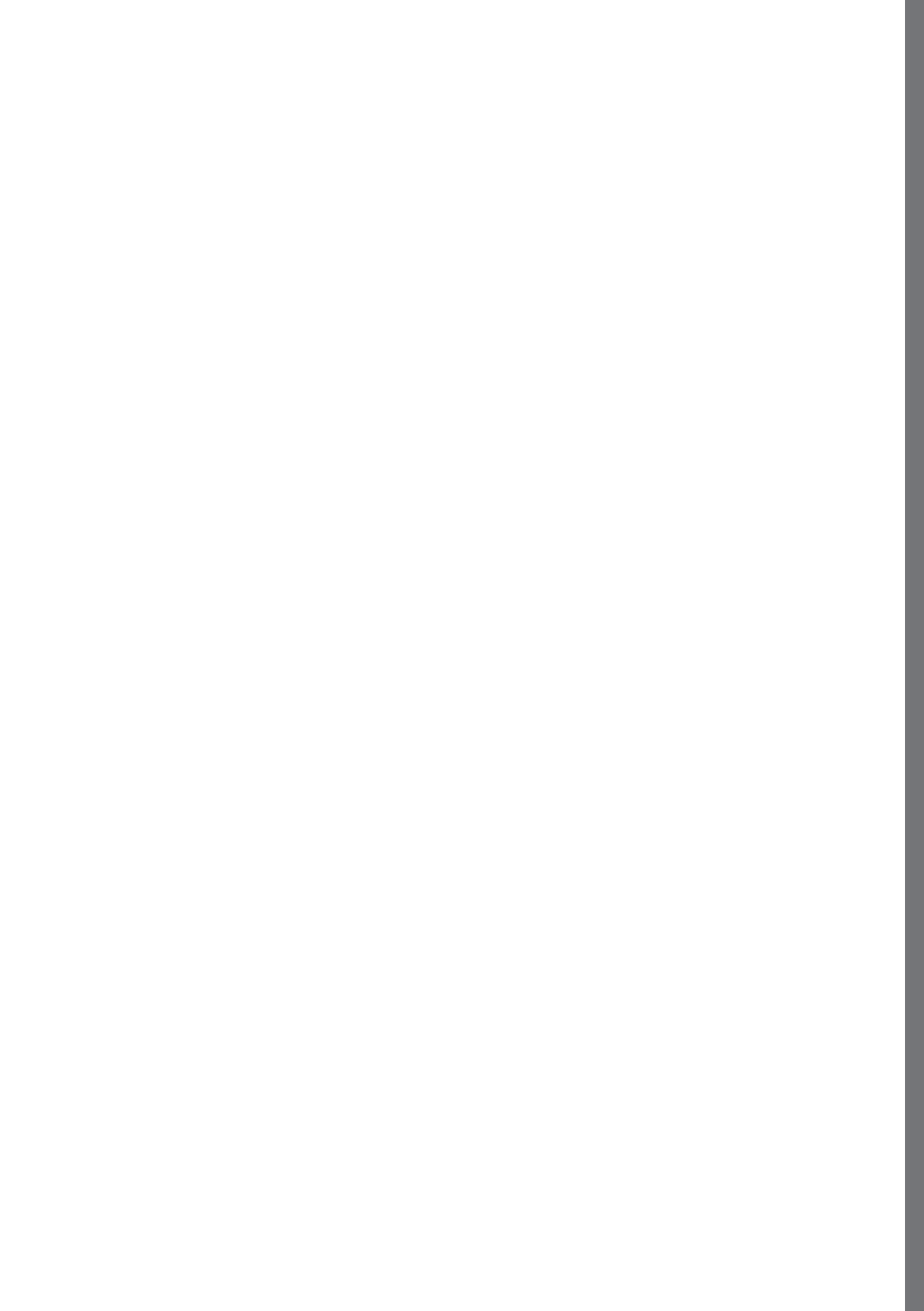




**Doing Business
In Gibraltar**
The 2019-20 handbook



Preface

The Doing Business In Gibraltar: the 2019-20 handbook has been prepared by EY Limited.

It has been written to give the busy executive an overview of the investment climate, taxation, forms of business organisation and business accounting practices in Gibraltar. Making decisions about foreign operations is complex and requires detailed knowledge of a country's commercial climate, with a realisation that the climate can change overnight. Companies and individuals doing business in Gibraltar, or planning to do so, are advised to obtain the latest and detailed information from experienced professionals.

Unless otherwise indicated, this handbook presents information current as at 12 December 2019. For additional copies or for further information on our complete range of services, please contact EY Limited at the following address:

Regal House,
Queensway, Gibraltar
Tel: + 350 200 13 200
Fax: + 350 200 13 201

P.O. Box 191
www.ey.com/gj

Brexit developments

The parliamentary majority secured by the Conservative party at the General Election on 12 December 2019, paves the way for PM Johnson to re-introduce the European Union (Withdrawal Agreement) Bill before Christmas, to enable the UK and Gibraltar to leave the EU on 31 January 2020, on the terms set out in the withdrawal agreement.

A transition period between exit date and 31 December 2020 will then come into place where Gibraltar and the UK would remain subject to EU Laws. The transition period is envisaged to allow the EU and UK to negotiate a deal on the future long-term trade relationship between the two blocs.

Throughout the Brexit process, the UK Government has provided repeated assurances that the UK will negotiate both the withdrawal and the future relationship with the EU on behalf of and for the benefit of the whole UK family, including Gibraltar. The UK Government has been clear that when it comes to financial markets, there are strong mechanisms already underpinning Gibraltar's access to the UK market which are enshrined in UK law and that the UK government will maintain that access in post-Brexit scenario.

The clear commitment from the UK to maintain access to its markets, which are the mainstay of our business in key sectors such as Insurance and e-gaming, together with double taxation agreements concluded during the year with the UK and Spain, underpins Gibraltar's positive outlook that we can navigate the challenges and take advantage of the opportunities as we leave the EU together with the UK.



Contents

Executive summary	4-9
1 Introduction and general information	10-21
2 Business entities and accounting	22-42
3 Finance and investment	43-53
4 Residency, employment regulations and social security contributions	54-62
5 Taxation	63-115
6 Appendices	116-130

Executive summary on Gibraltar

A. General	
Location	▶ Southern tip of the Iberian Peninsula
Land area	▶ 7 sq. km (approximately)
Population	▶ 32,000 (approximately)
Languages	▶ English (official), Spanish
Climate	▶ 23°C-35°C (summer), 10°C-25°C (winter)
Time zone	▶ GMT +1
Status	▶ UK overseas territory ▶ Local government responsible for internal affairs ▶ UK Government responsible for defence, external affairs and internal security
Economy	▶ Leading activities: financial services, tourism, shipping and online gaming ▶ Joined the European Union (EU) with the UK in 1973 but exempted from Common Customs Tariff, Common Agricultural Policy and harmonization of turnover taxes (notably VAT)
Legal system	Based on common law and the rules of equity (as the UK)
GDP	£2.35 billion (estimate for year to 31 March 2019)
Inflation	2.8% (year to July 2019)



B. Foreign investments

Currency and exchange controls	<ul style="list-style-type: none"> ▶ Official currency – Sterling ▶ No exchange controls ▶ Residents and non-residents permitted to maintain accounts denominated in foreign currencies
Banking services	<ul style="list-style-type: none"> ▶ Well established ▶ Regulatory and supervisory practices that match UK standards ▶ Some major banks (including one UK clearing bank) represented in Gibraltar ▶ Services offered: retail, private and corporate banking, loans, import finance and mortgages on real estate
Investor protection	<ul style="list-style-type: none"> ▶ Deposit Guarantee Scheme (in compliance with the EU Deposit Guarantee Directive) ▶ Investor Compensation Scheme (in compliance with the EU Directive on Investor Compensation Schemes) ▶ UK standards of supervision and regulation
Import and export procedures	<ul style="list-style-type: none"> ▶ Not part of customs territory of the EU ▶ Few restrictions ▶ Import duties generally at rates of 0% (exempt) and a newly introduced rate of 200% for disposable plastic products ▶ No VAT or other sales taxes
Excise duties	<ul style="list-style-type: none"> ▶ Levied mainly on spirits, wines and tobacco



C. Key financial products

Trusts	<ul style="list-style-type: none"> ▶ Recognised and widely used in Gibraltar ▶ Trust legislation based on English law of equity ▶ Residency of trust established by the residency of the beneficiaries only (excluding Category 2 individuals, see below); non-resident trust only liable to tax on income accrued in or derived from Gibraltar
Foundations	<ul style="list-style-type: none"> ▶ Introduced in 2017, by the Private Foundations Act 2017 ▶ An entity with a separate legal personality ▶ Tax treatment very similar to that of a trust
Asset protection	<ul style="list-style-type: none"> ▶ Designed to protect a settlor's assets from certain trust situations ▶ Aims to provide a higher degree of certainty in determining legal propriety
High net worth individual (Category 2 individuals)	<ul style="list-style-type: none"> ▶ Only the first £80,000 of assessable income taxable, (Category 2 individuals) resulting in maximum tax payable of £27,560. Subject to a minimum of £22,000. Additional tax payable on certain income accrued in and derived from Gibraltar
High Executive Possessing Specialist Skills (HEPSS)	<ul style="list-style-type: none"> ▶ Tax payable limited to the first £120,000 of earned income ▶ Conditions relating to skills, residential accommodation, previous non-residency and managerial position apply



D. Local Tax

Income tax

Taxpayers may choose between the traditional allowance-based system (ABS) and the gross income based system (GIBS) (see Section 5.4.1).

Income tax rates

GIBS

▶ See Section 5.6

ABS

▶ See Section 5.7

In almost all cases, the effective (overall) rate never exceeds 25%

Principal

allowances

▶ See Sections 5.6.2 and 5.7.2

Corporation tax

Companies with income taxable in Gibraltar are taxed on an actual basis so that the tax period of assessment is the same as the financial year of the company.

The standard rate of corporation tax is 10% (20% in the case of utility, telecom and petroleum companies and companies which abuse a dominant market position).

Companies are taxed on profits accrued in or derived from Gibraltar (i.e., territorial basis of taxation).

In case of companies licensed and regulated in Gibraltar, profits are deemed to accrue in and be derived from Gibraltar, except for profits from activities conducted outside Gibraltar by a branch or permanent establishment.

No tax is payable on dividends paid between companies.

Non-Gibraltar

income

In the case of companies, income that is not accrued in or derived from Gibraltar is not subject to tax. Upon distribution to individuals or to trusts, only such shareholders who are resident would be liable to tax in Gibraltar.

Resident individuals, trusts and foundations are generally subject to tax on a worldwide basis.

Withholding tax

There is no withholding tax on dividends, interest or royalties.

Wear and tear	Initial allowance	Additional allowance
Plant and machinery (including fixtures and fittings)	100% on first £30,000 (except for non-commercial motor vehicles)	At 15%* p.a.(including fixtures(except for non-commercial reducing balance
Computer equipment	100% on first £50,000	At 15%* p.a. on reducing balance
Industrial buildings (including factories and similar premises)		4% p.a. straight line on cost

Assets are pooled for the purposes of calculating capital allowances and reduced by the proceeds of any disposals.

*The annual capital allowance is given at 20% of the pool value for any company taxable at 20% on profits (for example, utility and energy companies).

Taxation of capital	▶ No estate duty, capital gains tax or other capital taxes
Savings income	▶ Income of a passive nature is not liable to tax
Pensions	<ul style="list-style-type: none"> ▶ Income from approved occupational pensions is tax-free ▶ Income from Approved Qualified Recognised Overseas Pension Schemes (QROPS) are taxed at 2.5% ▶ Contributions to approved occupational and personal pension schemes are eligible for tax relief (subject to limits) ▶ No requirement to buy an annuity – 100% of the capital may be withdrawn tax-free on retirement age



Stamp duty	<p>Stamp duty is payable only on real estate and capital transactions at the following rates:</p> <ul style="list-style-type: none"> ▶ Share capital £10 (flat rate) ▶ Loan capital £10 (flat rate) <p>It is payable on purchase of real estate as follows:</p> <p>First and second-time buyers</p> <table border="1" data-bbox="349 360 1012 480"> <tr> <td>First £260,000 of purchase price</td> <td>Nil</td> </tr> <tr> <td>Balance above £260,000 to £350,000</td> <td>5.5%</td> </tr> <tr> <td>Balance above £350,000</td> <td>3.5%</td> </tr> </table> <p>Other buyers</p> <table border="1" data-bbox="349 568 1012 882"> <tr> <td>Where purchase price does not exceed £200,000</td> <td>Nil</td> </tr> <tr> <td>Purchase price ranging between £200,001 and £350,000</td> <td>2% on first £250,000 and 5.5% on balance</td> </tr> <tr> <td>Purchase price exceeding £350,000</td> <td>3% on first £350,000 and 3.5% on balance</td> </tr> </table>	First £260,000 of purchase price	Nil	Balance above £260,000 to £350,000	5.5%	Balance above £350,000	3.5%	Where purchase price does not exceed £200,000	Nil	Purchase price ranging between £200,001 and £350,000	2% on first £250,000 and 5.5% on balance	Purchase price exceeding £350,000	3% on first £350,000 and 3.5% on balance
First £260,000 of purchase price	Nil												
Balance above £260,000 to £350,000	5.5%												
Balance above £350,000	3.5%												
Where purchase price does not exceed £200,000	Nil												
Purchase price ranging between £200,001 and £350,000	2% on first £250,000 and 5.5% on balance												
Purchase price exceeding £350,000	3% on first £350,000 and 3.5% on balance												
Gaming tax	Levied at the rate of 1% on relevant income (gaming yield for online casinos and bets placed for online bookmakers), capped at £425,000 with a minimum payable of £85,000 p.a., per licence												



1 | Introduction and general information

1.1 Geography and climate

Gibraltar lies at the southern tip of the Iberian Peninsula and covers 7 sq. km. The famous Rock of Gibraltar rises to 426 meters (1,396 feet) above sea level at its highest point and towers above the Strait of Gibraltar, the strategic waterway that connects the Mediterranean and the Atlantic Ocean.

The Spanish enclave of Ceuta in North Africa lies directly opposite just 23 Km (14 miles) away and the Moroccan city of Tangier is 51 Km (32 miles) away at the western end of the strait. The Spanish town of La Linea de la Concepción lies beyond the narrow isthmus joining Gibraltar to the Spanish mainland. Gibraltar airport is built across this isthmus.

The temperature can reach as high as 40°C in the summer months of July and August, with lows of 10°C in January and February. Normally, though, the winter temperature does not fall below 13°C and in summer, it generally ranges between 28°C and 33°C. Climatic conditions are further affected by the pressure differences that can exist between the Mediterranean and the Atlantic, resulting in strong winds. Westerly and southerly winds bring hotter, drier weather, whereas the easterlies produce cooler humid conditions.

1.2 Population and language

Gibraltar's population is of diverse origin, but most are local and of mainly English, Spanish, Portuguese, Maltese or Genoese origin.

English is the official language. However, most Gibraltarians are bilingual in English and Spanish.

1.3 History

Gibraltar has long been a dramatic landmark at the western end of the Mediterranean. There is archaeological evidence of Neanderthal habitation, and in ancient times the Rock of Gibraltar became a place of worship where sailors would offer sacrifices to the gods before venturing into the Atlantic.

However, the modern history of Gibraltar begins in 711 AD when an Islamic force led by the Berber general, Tariq ibn Ziyad, landed at the foot of the Rock and then proceeded to conquer most of the Iberian Peninsula. The Rock was then named Gibel Tariq, the mountain of Tariq, from which the modern "Gibraltar" is derived.

The Moors remained in Iberia for more than seven centuries and Gibraltar did not fall into Spanish hands until 1462. Spain controlled Gibraltar until 1704 when, during the War of the Spanish Succession, it was captured by a combined Anglo-Dutch force. Gibraltar was formally ceded to Britain, in perpetuity, at the end of that war by Article X of the Treaty of Utrecht of 1713. Britain's title was reaffirmed in 1783 by the Treaty of Versailles.

During the subsequent three centuries (2004 marked the tercentenary of British Gibraltar), the Rock has been, and continues to be, an important British defence asset. It has played a key role in conflicts such as the Revolutionary and Napoleonic Wars of the late 18th and early 19th centuries, the First and Second World Wars, and more recently, the Falklands and Gulf Wars. At the start of the 21st century, the importance of Gibraltar in the defence of one of the world's most important strategic locations remains unchanged.

In the years following the British capture of Gibraltar, Spain repeatedly sought to recover the territory. During the 18th century, these attempts were of a military nature, but more recently the Spanish Government has sought to further its claim by applying economic and diplomatic pressure, culminating in the closure of the frontier from 1969 to 1985.

The Spanish claim over Gibraltar has been impeded by the refusal of the people to countenance any change of sovereignty, and by the British Government's refusal to impose any such change against local wishes. The people of Gibraltar overwhelmingly manifested their desire to preserve their links with the UK in the referenda held in 1967 and 2002. Despite these political differences, cross-border business and social relations are friendly and extensive, with circa 7,000 Spanish nationals working in Gibraltar and many Gibraltarians owning holiday homes in Spain.

On 14 December 2006, after a long process of negotiation between the Gibraltar and the UK Governments, a new constitution was granted to Gibraltar. This new constitution provides Gibraltar with a much higher degree of self-government while preserving British sovereignty. The UK remains fully responsible for Gibraltar's external relations.

1.4 Government and judiciary

Gibraltar is a self-governing UK overseas territory. The 2006 Constitution Order provides for a governor as Her Majesty's representative in Gibraltar. The governor is responsible for external affairs, defence, internal security and various public appointments as specified in the Constitution. Elected ministers are responsible for any matters that fall outside the governor's responsibilities.

The Constitution includes an updated chapter on the fundamental rights and freedoms of the individual. It establishes a legislature for Gibraltar consisting of Her Majesty and an elected parliament, and a council of ministers appointed from among the elected members of the parliament. It provides for a supreme court and a court of appeal for Gibraltar, and for appeals to Her Majesty in council. It also makes provision for public finance and for the public service of Gibraltar.

i. The legislature

The legislature for Gibraltar consists of Her Majesty and the Gibraltar Parliament. The Parliament consists of the speaker and 17 elected members. The maximum life of the Parliament is four years. Those entitled to vote in elections for members of Parliament are British citizens, British dependent territories citizens, British overseas citizens or British subjects under the UK Nationality Act 1981 who have been ordinarily resident in Gibraltar for a continuous period of six months ending on the registration day and who are 18 years of age and above.

ii. The executive

The executive authority of Gibraltar vests in Her Majesty and may be exercised by the Government of Gibraltar. The council of ministers (comprising the chief minister and at least four other ministers), together with the governor (representing Her Majesty), constitute the Government of Gibraltar.

iii. The judicature

The Supreme Court of Gibraltar has unlimited jurisdiction to hear and determine civil or criminal proceedings. It consists of the chief justice and a puisne judge.

Appeals are made to the Court of Appeal, consisting of a president and two justices of appeal, and the chief justice of the Supreme Court as an *ex officio* member. In certain cases, there is a right of further appeal to the Judicial Committee of the Privy Council in the UK.

The Court of First Instance and the Magistrate's Court in Gibraltar correspond, respectively, to the county courts and the Magistrate's Court in England.

Judicial appointments are made by the governor, acting upon the advice of the Judicial Services Commission. However, the governor, with the prior approval of a secretary of state, may disregard the advice of the commission if the governor judges that compliance with that advice would prejudice Her Majesty's service.

iv. Legal system

Gibraltar's law is based on common law and the rules of equity, as in England. Therefore, it differs from the Spanish legal system which is based on the Roman Law and the Napoleonic Code.

The application of these general principles and certain specific enactments of English law are covered by the Application of English Law Act 1962. However, statute law is for the most part, based on acts passed by the Gibraltar Parliament.

1.5 Economy

1.5.1 Overview

The Gibraltar economy is largely based on financial services, tourism, shipping and e-gaming. A brief synopsis of each sector is given below.

The economy has grown steadily over recent years, with Gibraltar's GDP for the year to 31 March 2019 estimated at £2.35 billion, up by 8.2% year-on-year.

The number of jobs in Gibraltar recorded as at October 2018 was 29,995, representing an increase of 7% since October 2017. This effectively represents full employment for Gibraltarians actively and constructively seeking employment. Of the total number of persons employed, approximately 13,000 are frontier workers - people living in Spain who cross daily to work.

During the year to 31 July 2019, the average rate of inflation was 2.8%.

Finally, as regards government finances relating to the year ended 31 March 2019, the Government of Gibraltar announced a budget surplus of £82.8 million (for 2018, £36.1 million). Further, Gibraltar's net public debt stood at £314 million on 31 March 2019.

1.5.2 Financial services

Financial services form a vital segment of the economy. The insurance sector has seen the fastest growth, with the number of licensed insurance operations currently standing at 47. Gibraltar is firmly established as a mainstream insurance domicile within the EU.

1.5.3 Tourism

The reopening of the frontier in the mid-1980s was a major catalyst for the tourism industry, with the number of visitors rising from 300,000 before reopening to 2.8 million in 1986 to over 11 million currently.

1.5.4 Shipping

The port of Gibraltar has traditionally been a major contributor to the economy, particularly in bunkering where it has become a major fuelling port for the Western Mediterranean. Its operations are monitored and supervised by a bunkering superintendent, which is one of a number of security and best practice measures included in the Bunkering Code of Practice. Gibraltar also forms part of the Category 1 Red Ensign Group Register and is an attractive register for ships. The port has seen expanded passenger ferry links and services that should further boost its contribution to the economy.

1.5.5 E-gaming

Gibraltar is firmly established as a leading, reputable and well-regulated jurisdiction for online gaming activities. The industry has witnessed remarkable growth over the last 20 years or so, to the extent that it has now become a significant part of the Gibraltar economy. The Gibraltar Government is very selective in its criteria and only considers licensing blue chip entities with a proven track record in gaming. Licensees are required to physically operate and be managed in Gibraltar.

As of 7 January 2019, there were 37 licensed operators and the number of people employed directly by this sector has grown from about 185 in 1996 to over 3,000.

Details on the regulation of the industry are given in Section 3.4.

1.6 Currency and exchange controls

The official currency is sterling. However, the Government of Gibraltar issues sterling notes and coins locally, which circulate alongside those issued by the Bank of England. One local bank is linked to the UK clearing system.

There are no exchange controls and both residents and non-residents may maintain accounts denominated in foreign currencies.

1.7 Housing and office accommodation

Historically, Gibraltar has suffered from an acute shortage of housing. However, with the completion of some luxury developments and some aimed at the local population, this shortage has been alleviated. A large section of the population now lives in privately owned housing.

Demand for residential accommodation has been quite strong in recent years with high property prices. The cost of a three-bedroom apartment can range from £150,000 to £750,000. Some people have opted to buy or rent property in Spain and commute across the land frontier daily.

Gibraltar also boasts an extensive range of quality modern office accommodations available at rents ranging from £21 to £40 per square foot p.a.

1.8 Medical services

1.8.1 Medical health scheme

The scheme is funded by grants and compulsory weekly contributions through social insurance. Under this scheme, in cases of illness that cannot be treated locally, patients are sent for specialist treatment in the UK or Spain.

1.8.2 Private sector

There are a number of doctors and medical centres that provide medical diagnosis and treatment. Private medical insurance is available through schemes, such as the Hospital Savings Association (HSA) and the British United Provident Association (BUPA).

1.9 Telecommunications

The telecommunications industry was liberalised in 2001 and an independent regulatory authority, the Gibraltar Regulatory Authority, was established.

Its functions include licensing of operators and the general monitoring and control of electronic communications issues. Currently, there are five authorised entities to provide electronic communications networks and services (including internet services) in Gibraltar.

The principal Internet Service Provider in Gibraltar is Gibtelecom, which is a wholly owned government company following the Government's acquisition of the remaining 50% stake held by Telekom Slovenije. Gibtelecom provides the main local fixed line and mobile phone services, as well as internet solutions, including delivery of IP bandwidth and ADSL broadband.

In recent years, other players have increased their market profiles, the likes of Sapphire, U-mee and Gibfibre speed.

1.10 Education

Education in Gibraltar is modelled on the UK system, with comprehensive schools providing free compulsory education in accordance with the national curriculum standard. Children of ordinarily resident individuals for up to 15 years of age are provided education, which concludes with examinations and coursework for obtaining the General Certificate of Secondary Education (GCSE).

Students may continue for a further two years to sit for their A-level examinations. Grants or scholarships are given for further study at UK universities and institutions for further education.

Private schooling is also available in Gibraltar and Spain.

In September 2015 the new University of Gibraltar opened its doors to the community. It offers both undergraduate and post-graduate programmes in collaboration with first class universities ensuring a high quality offering to students. The University has extended its academic facilities to include several Associate Campuses including the Gibraltar Botanic Gardens, the Gibraltar Museum and the Gibraltar Garrison Library.

The University of Gibraltar currently hosts the following faculties and institutes:

- ▶ Faculty of Health Studies and Sports Science
- ▶ Faculty of Business

- Faculty for Tourism and Hospitality
- Institute of Life and Earth Sciences
- Institute for Gibraltar and Mediterranean Studies
- Institute of Professional Development and Continuing Education

The faculties also offer locally developed programmes including courses for Certificates in Gibraltar Tax and Gibraltar Law. The University convenes research in key areas associated with Gibraltar's culture, environment and heritage.

1.11 Leisure and tourist information

Tourist and leisure facilities are fairly extensive and can be categorised as follows:

1.11.1 Sports and recreation

Gibraltar boasts a few small, but picturesque beaches, two sailing clubs (one under the control of the armed forces), and health and fitness clubs with training and sauna facilities. Other sports include amateur boxing, athletics, martial arts, cricket, football, hockey, badminton, tennis and squash.

The facilities at Gibraltar's sports centre include tennis and paddle tennis courts, a five-a-side football pitch, golf practice area, an archery range, a fitness trail and a water sports centre building with adjoining pontoon and slipway, together with play areas for children and picnic areas. The Gibraltar Football Association attained FIFA membership in 2016, having previously secured UEFA membership and has focused on upgrading football facilities to UEFA standards. In 2019 the development of the new multi-purpose stadium was completed and became the main venue when Gibraltar hosted the Island Games.

In 2008, a leisure centre was built at the King's Bastion providing leisure and entertainment facilities. The leisure centre has ten-pin bowling alleys for adult and children, restaurants and cafés, an amusement arcade area, two cinemas, an ice-skating rink and a discotheque.

Ocean Village, comprises luxury residential units, and a state-of-the-art marina, including a diverse range of amenities, such as shops, restaurants, cafés and leisure areas.

Rowing is very popular in Gibraltar. Two clubs provide good competition to each other: the Calpe (founded 1876) and the Mediterranean (founded 1899) Rowing Clubs. The Royal Gibraltar Yacht Club, founded in 1829, is one of the oldest sailing clubs in the world.

The western Costa del Sol, which is within a half-hour drive from Gibraltar, boasts some of the best golf courses in Europe and excellent leisure and entertainment facilities.

1.11.2 Shopping

Main Street and its adjoining streets form a large shopping centre, covering foodstuffs, electronics, jewellery, alcoholic beverages and other goods sought after by the duty-free bargain hunter. However, if the shopper has entered from Spain duties may be imposed on goods taken across the land frontier in some circumstances.

1.11.3 Travel and sightseeing

Gibraltar offers visitors a wide variety of attractions and sights, such as St Michael's Cave, the Moorish Castle, the Nature Reserve on the Upper Rock (where the famous Barbary Apes may be observed) and the 1380ft cable car ride to the top of the Rock. Other popular places include the Alameda Botanical Gardens, the City Gates and Fortifications, the Great Siege Tunnels of 1782 and the recently constructed Windsor Bridge, Gibraltar's first suspension bridge. The Gibraltar Museum is also worth a visit.

The Ocean Village Marina hosts numerous pubs, restaurants, nightclubs, as well as an international gaming casino and the Sunborn 5-star Superyacht Hotel.

There has been a vast improvement in the road network in southern Spain, and the whole of the Costa del Sol is now within easy driving distances (Malaga is just over an hour's drive away from Gibraltar).

1.11.4 Time zone

Gibraltar is on Greenwich Mean Time plus one hour, with clocks being advanced by an hour between March and October.

1.11.5 Business hours

Most businesses are open between 9:00 a.m. and 6:00 p.m.

Banks are open for business between 8:30 a.m. and 4:30 p.m.

Most government offices are open from 8:00 a.m. to 3:30 p.m.

1.11.6 Public holidays

Public holidays include the eight public holidays of England as well as Commonwealth Day, Workers Memorial Day, the Queen's Birthday and Gibraltar National Day. Public holidays for 2020 are as follows.

New Year's Day	Wednesday, 1 January
Commonwealth Day	Monday, 9 March
Good Friday	Friday, 10 April
Easter Monday	Monday, 13 April
Workers Memorial Day	Tuesday, 28 April
May Day	Friday, 1 May
75 th Anniversary of VE Day	Friday, 8 May
Spring Bank Holiday	Monday, 25 May
Queen's Birthday	Monday, 15 June
Late Summer Bank Holiday	Monday, 31 August
Gibraltar National Day	Thursday, 10 September
Christmas Day	Friday, 25 December
Boxing Day	Monday, 28 December (in lieu of 26 Dec)

1.11.7 Transport and communications

Links by air are currently maintained with London, Manchester, Bristol and Luton in the UK and Edinburgh (as from March 2020) as well as Morocco. Airlines operating between Gibraltar and the UK are British Airways and EasyJet.

Malaga airport, which has direct flights to key hubs, is an hour and fifteen minutes' drive from Gibraltar.

A ferry service operates from the Gibraltar port to Tangier. Gibraltar is also a port of call for container ships and some of the world's most prestigious cruise liners. A cruise liner terminal provides modern facilities for passengers.

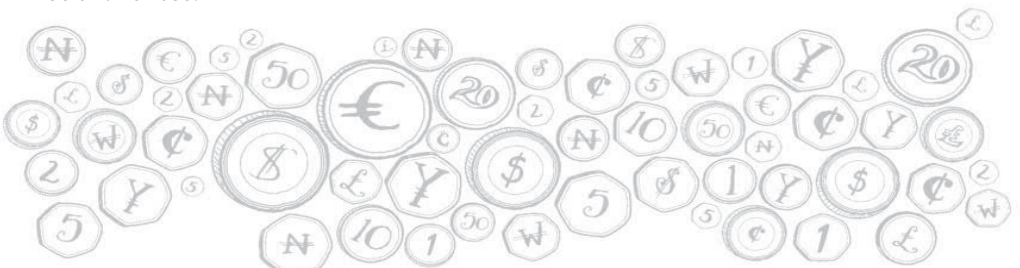
1.11.8 Duty-free allowances

The main duty-free allowances for residents and non-residents importing certain goods into Gibraltar are summarised as follows:

Tobacco	<ul style="list-style-type: none">▶ 200 cigarettes▶ 100 cigarillos▶ 50 cigars
Wine and spirits	<ul style="list-style-type: none">▶ 200 grams of smoking tobacco▶ 1 litre of spirits, liqueurs, cordials▶ 2 litres of fortified wines and sparkling wines▶ 2 litres of still wines (other than fortified wines)
Perfume	<ul style="list-style-type: none">▶ 50 grams of perfume▶ 0.25 litre of toilet water
Other goods	<ul style="list-style-type: none">▶ Articles of any other descriptions to a total value of €32.00

No allowance is given to individuals under the age of 17 years with respect to tobacco products, alcoholic beverages or perfume.

Individuals who regularly (defined as more than once in any calendar month) enter or return to Gibraltar, or have been in Gibraltar during the previous 24 hours, are not entitled to duty-free allowances.



1.12 Civic rights and data protection

Gibraltar has established the Office of the Ombudsman and introduced a Citizens Advice Bureau.

The Office of the Ombudsman was established and is regulated by the Public Services Ombudsman Act 1998. The primary function of the Ombudsman is, in general, the provision of impartial investigations on behalf of citizens who feel unjustly treated through the actions or omissions of the public administration. Corrective action may be recommended if the complaint is justified. The Ombudsman's mandate is contained in the Ombudsman's Charter.

The Citizens Advice Bureau was launched in April 2003 and is designed to offer similar services to those available and operating in the UK. The services include the provision of free, confidential, impartial and independent advice on citizen's rights to services and benefits within the public and private sector in Gibraltar.

During 2004, Gibraltar transposed the EU directive relating to the protection of individuals with regard to the processing of personal data and on privacy rights of that data. The act came into force in 2006 and required all organisations that process and keep personal information to register with the Data Protection Commissioner and have measures in place to ensure that the data is secure and accurate, for defined purposes only and accessible to those individuals about whom information is held.

Data protection has now entered a period of unprecedented change driven by an increasing number of high profile data breaches reported in the media that has led consumers and regulators to be concerned about how personal data is managed.

On 17 December 2015, an informal agreement has been reached between the European Parliament and Council of the European Union on a final draft of the new EU General Data Protection Regulation (GDPR) which became effective on 25 May 2018. The Regulation significantly impacts businesses in all industry sectors, bringing with it both positive and negative changes for business in terms of cost and effort.

1.13 Gibraltar, a premier European finance centre

1.13.1 General

Gibraltar's tax legislation underwent a significant overhaul several years ago, resulting in the Income Tax Act 2010. This Act, which includes a number of updates to reflect EU Directives helps to ensure Gibraltar's position as a key European financial services centre.

All companies, however owned, are taxed on profits accrued in or derived from Gibraltar, thereby preserving the territorial basis of taxation. The activities of companies licensed and regulated under Gibraltar law are deemed to take place in Gibraltar, except for any income from the activities of a branch or permanent establishment outside Gibraltar.

In addition to a favourable fiscal environment, Gibraltar offers a high-quality legal and regulatory infrastructure underpinned by a stable government and the availability of a well-qualified labour force. Gibraltar's attraction is enhanced by its status within the EU and particularly from passporting opportunities (see below).

1.13.2 The EU dimension

Gibraltar is within the EU (unlike Jersey, Guernsey and the Isle of Man), by virtue of Para (4) of Article 355 (3) of the Treaty on the Functioning of the European Union, which provides that the treaty will (with certain exceptions) apply to “European territories for whose external relations a member state is responsible.”

In general, therefore, Gibraltar is treated as a part of the United Kingdom of Great Britain and Northern Ireland. Gibraltar must therefore comply with whatever community agreements are adopted by the UK, as the European Commission will not afford special treatment to separate parts of a member state. The Government of Gibraltar does, however, make representations to the UK Government to safeguard Gibraltar’s interests when the UK is considering new EU edicts.

Gibraltar’s special circumstances were taken into account on accession and Article 28 of the Act of Accession granted three derogations. Gibraltar does not have to apply community rules on:

- a. Common customs tariff
- b. Common agricultural policy
- c. Harmonization of turnover taxes (notably VAT)

The detailed provisions of the various EU treaties were adopted in Gibraltar by passing of the European Communities Act 1972.

Enabling legislation has been enacted to give legal effect to all EU directives. As a result, for instance, Gibraltar can take advantage of the Single European Passport for banking, insurance and investment services (see Sections 3.1 to 3.3).

The implications of the outcome of UK’s Referendum on continued EU membership are covered on page 2.

1.13.3 Tax transparency

Gibraltar’s success as a finance centre is underpinned by its commitment to ensuring highest standards of regulation, business ethics and mainstream international consensus. Tax transparency has become a focal point in recent years for the G20 and the wider international community, as countries have sought to underpin confidence in the fairness and effectiveness of their tax systems and to bolster their tax revenues.

Gibraltar is fully committed to the tax transparency agenda and the fight against tax evasion and fraud.

In July 2019, the OECD agreed to Gibraltar becoming a full member of the Inclusive Framework on Base Erosion Profit Shifting (BEPS)

The OECD Global Forum on transparency and exchange of information gave Gibraltar a rating of “Largely Compliant” in their Phase II report - the same rating as that of the UK, Germany and the US.

Gibraltar was one of the “Early Adopters” that gave a formal commitment to the OECD Common Reporting Standard on the automatic exchange of information.

It is on the G20-instigated OECD “White List,” having signed a total of 27 tax information exchange agreements (TIEAs) to date (25 of which are in force).

Gibraltar has enacted legislation to put in place a number of tax transparency measures, including:

- ▶ US and UK (“CDOT”) FATCA
- ▶ The OECD Common Reporting Standard (“CRS”)
- ▶ The EU “Common Reporting Standard” or “DAC”
- ▶ EU Council Directive 2011/16/EU on administrative co-operation
- ▶ The OECD and Council of Europe Convention on Mutual Administrative Assistance in Tax Matters.
- ▶ Country by Country Reporting (an initiative by the OECD)

In October 2019, Gibraltar signed a Tax Treaty with the United Kingdom. This will enter into force once both Gibraltar and the United Kingdom have notified each other that the necessary legal steps to implement the treaty have been put in place.

In March 2019, the United Kingdom and Spain signed an International Agreement concerning tax matters relating to Spain and Gibraltar. This includes provisions for the exchange of information and administrative assistance in tax matters. The agreement will enter into force once the parties notify each other that they have completed their internal procedures required in order to implement the Agreement.

See 5.2.1 for further details.



2 | Business entities and accounting

2.1 Companies

Until 30 October 2014, company legislation in Gibraltar was based on the 1930 Companies Act (that was principally based on the 1929 Companies Act of England and Wales). On 01 November 2014, the Companies Act 2014 came into force and the 1930 Companies Act was repealed.

There are four types of companies that can be incorporated in Gibraltar:

- ▶ A company limited by shares
- ▶ A company limited by guarantee and having a share capital
- ▶ A company limited by guarantee and not having a share capital
- ▶ An unlimited company with or without a share capital

A private company limited by shares needs to have only one subscriber, whereas a public company limited by shares must have at least seven. The distinction between public and private companies is much the same as in England, the latter being companies that by their memorandum or articles:

- ▶ Restrict the transfer of shares
- ▶ Prohibit any invitation of the public to subscribe for any shares or debentures of the company

All companies must file accounts at the Companies Registry (see Section 2.12). In general, the extent of documents that need to be filed is determined by the size of the company. A company classified as “small” is only required to file an abridged balance sheet. The exemption does not apply to licensed entities.

A company must register the name under which the trade is carried on at the Registry of Companies and Business Names (see Section 2.13.1). In general, a company must also be registered with the Employment Service (see Section 2.13.2), the Department of Social Services (see Section 2.13.3) and the Income Tax Office (ITO) (see Section 2.13.4). In addition, the company may need to be licensed by the Business Licensing Authority (see Section 2.16).

2.2 Partnerships

A partnership may be created simply by the execution of a deed by all the partners concerned or even by mutual oral agreement.

Partnerships are subject to similar requirements to companies (and sole traders) insofar as the business must be registered and, if applicable, must obtain a trade license as explained in Sections 2.13 and 2.16, respectively.

Limited partnerships

Limited partnerships may also be formed under the Limited Partnerships Act. A limited partnership must have at least one person known as the “general partner,” who is liable for all debts and obligations of the firm. The remaining partners, known as “limited partners”, are normally only liable to the extent of the capital contributed to the partnership. However, a limited partner will be deemed to be a general partner if they are involved in the management of the partnership’s business. Application for registration must be made to the Registrar of Limited Partnerships at the Registry of Limited Partnerships.

The Limited Partnerships Act requires a limited partnership to have a registered office in Gibraltar, and if none of the partners are residents of Gibraltar, it requires the appointment of a secretary resident in Gibraltar. The act provides, inter alia, for:

- ▶ The registration as a limited partnership of a company previously registered under the Companies Act and for the limited partnership so registered to be a continuation of the company
- ▶ Giving separate legal existence to the registered limited partnership

Limited liability partnerships

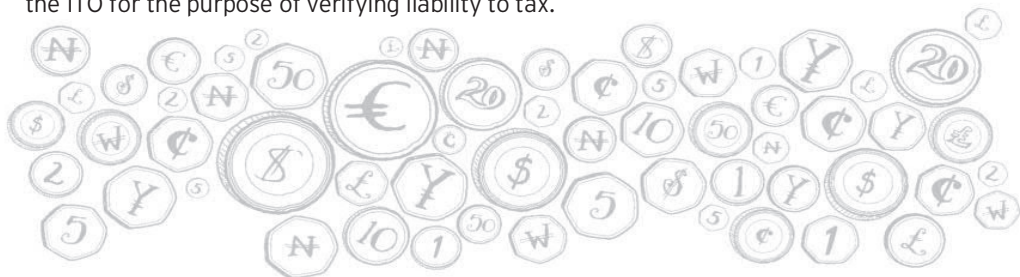
Limited liability partnerships are regulated under the Limited Liability Partnerships Act 2009. All of the partners in a Limited Liability Partnership benefit from limited liability in respect of the partnership. Their liability is limited to funds they have invested in the partnership, undrawn profits and any guarantees they have given to raise finance. All the partners may participate in its management.

On 20 July 2015, the Partnerships and Unlimited Companies (Accounts) Regulations 2015 came into force. These regulations cover the statutory provisions governing the preparation and filing of accounts for qualifying unincorporated businesses (see section 2.11.3 and 2.12).

2.3 Sole proprietorships

Sole traders are subject to similar requirements to partnerships and companies insofar as the business must be registered and, if applicable, must obtain a trade license as explained in Sections 2.13 and 2.16, respectively.

There is no public filing requirement, though a copy of the accounts must be submitted to the ITO for the purpose of verifying liability to tax.



2.4 Trusts and Foundations

2.4.1 Trusts

Gibraltar trust law, which is based on Anglo-Saxon legal concepts, recognises and gives full legal effect to the concept of a trust. The Trustee Act, the main legislation governing trusts in Gibraltar, is based on the English legislation incorporated in the Trustee Act 1893.

There have been certain amendments to the legislation, and the Variation of Trusts Act 1958 has been introduced in Gibraltar under the English Law (Application) Act.

The concept of a discretionary trust is known and widely applied in Gibraltar and the provisions of the Perpetuities and Accumulations Act 1964 in England apply with some amendments. The perpetuity period and the accumulation period now stand at 100 years (see also Section 2.4.2 on Asset Protection Trusts).

The Registered Trust Act 1999 provides a facility for the registration of a trust deed (where registration is required by the trust deed) and for the keeping of an index of the names of such trusts. A prescribed registration fee is payable together with the submission of a form of Short Particulars and the Deed of Trust. The latter is simply endorsed with the date of registration and returned; no copy is retained. The register will thereafter contain only the following details for public inspection: the name and date of creation of the trust, the amount of the initial settlement, the name of the trustee(s), a Gibraltar address for service and the date on which registration was made.

Until 31 December 2010, the income received by any trust or beneficiary under a trust was exempt from taxation provided the following conditions were met:

- ▶ The trust was created by or on behalf of a non-resident of Gibraltar (other than Category 2 individuals)
- ▶ Residents of Gibraltar (other than Category 2 individuals) were expressly excluded as beneficiaries either specifically or under the discretionary powers of the trustees

The capital of a trust is also not liable to tax in Gibraltar.

The position regarding residency and tax of a trust as from 1 January 2011 is explained in Section 5.12.

2.4.2 Asset protection trusts

This type of trust seeks to protect the assets of a settlor from such situations as political strife, forced repatriation, confiscatory taxes, exchange controls and, most recently, risks associated with litigation arising from malpractice or negligence suits or from vexatious litigants.

Such a trust may be invaded by a creditor of the settlor, should it be shown that transfers into the trust lacked legal propriety. Gibraltar has sought to reduce the uncertainties that can arise when determining propriety by shifting the focus to the objective test of solvency contained in the Insolvency Act 2011, Section 419A.

Under the provisions contained in the Bankruptcy (Register of Dispositions) Regulations 1990, an application may be made to register the trust by an approved trustee who has demonstrated adequate financial and administrative resources and professional indemnity insurance. Thereafter, the trustee must be able to show that due and sufficient enquiry was made to establish the propriety of the disposition and the solvency of the settlor at the time it was made. The registration of the disposition is renewable annually on payment of an annual fee.

This higher degree of certainty makes Gibraltar a favourable location for setting up asset protection trusts.

2.4.3 Private Trust Company

Until recently, Private Trust Companies could be established in Gibraltar and any limited company could act as a trustee provided that it was not carrying on a licensable activity. Typically, however, such a company would notify the Gibraltar Financial Services Commission (“GFSC”) that it had been formed to administer a trust set up by one or more individuals, that that was its sole purpose, and that it would not receive remuneration for providing trusteeship.

Whilst that mechanism provided a simple and cost-effective process for establishing a private trust company, the lack of a formal registration procedure was a drawback, given that there was no legislative or regulatory framework from within which the private trust company could be formally recognised and could operate.

The Private Trust Companies Act 2015 governs the operation of private trust companies and provides greater legislative protection and certainty. It also establishes a voluntary system of registration which could benefit certain private trust companies in submitting to a legal framework within which it can be officially established and operated.

This legislative developments positions Gibraltar as an attractive jurisdiction in which to establish a private trust company structure.

2.4.4 Purpose Trusts

The Purpose Trusts Act 2015 provides for the creation and enforcement of trusts whereby the trustees hold property on trust to carry out a specific purpose which is not of a charitable nature. Under the new legislation a purpose trust must be established for purposes that are capable of being carried out and are sufficiently certain to be capable of being carried out. It is also a requirement that at least one trustee of a purpose trust must be a licensed trustee. The legislation also sets up particular powers that a trustee will need in the context of a purpose trust, such as, the discretion to formulate the means by which to give effect to the purpose trust. In common with other jurisdictions that had adopted purpose trust legislation the law also provides for the disapplication of the rule against perpetuities.

2.4.5 Trusts (Private International Law) Act 2015

The trusts industry worldwide is a large, mature and increasingly competitive one. In this marketplace many jurisdictions have enacted so-called firewall legislation designed to attract substantial investment and deposited trust funds, by providing a secure environment in which local law trusts are free from attack by foreign laws and foreign courts.

This legislation sets out rules that limit the circumstances under which any foreign law can affect a local law trust; and secondly, it prevents the enforcement of foreign judgements that undermine these principles. The passing of this legislation, which sets out the conditions under which Gibraltar courts will have jurisdiction over trusts and, further, the extent to which foreign law will have an impact on local law trusts (in the specific and peculiar contexts of Gibraltar's membership of the EU, the requirement of recognition of judgement and the applications of the Hague Convention), is considered a milestone in the plan to strengthen Gibraltar as a finance centre.

2.4.6 Private foundations

Foundations were introduced in Gibraltar in 2017 by the Private Foundations Act 2017. This Act provides the legal framework for the establishment and operation of foundations. A foundation has a separate legal personality and as such can hold property in its own right, as the absolute and beneficial owner.

The Foundation Charter and Foundation Rules establish the foundation and set out its purposes and rules for its administration. They also set out details of the beneficiaries and the guardian of the foundation.

The founder provides the initial assets as an irrevocable endowment. They may reserve powers for themselves, for example, to appoint or remove the Guardian or Councillors, or to amend the constitution.

The Foundation Council manages the foundation and makes distributions to the beneficiaries. The Council comprises of a number of Councillors, which must include a Gibraltar resident company that is licensed as a Professional Trustee in Gibraltar.

Beneficiaries may be either enfranchised or disenfranchised. The former are entitled to copies of the accounts and other documents relating to the Foundation.

A guardian may be appointed to provide protection for the beneficiaries. In certain cases, for example, if there are no designated beneficiaries, or more than 50 beneficiaries, a guardian is required to be appointed.

The Income Tax Act 2010 was amended to provide for the manner in which foundations and beneficiaries are treated in respect of taxation in Gibraltar. This closely follows the treatment of trusts and their beneficiaries - see Section 5.12.

2.5 Branches

Overseas companies wishing to set up a branch in Gibraltar register by filing a notarized or suitably certified copy of its memorandum and articles of association (translated into English if necessary), a list of directors and secretary, and the name and address of the person authorised to accept service on behalf of the company in Gibraltar.

2.6 Captive insurance companies

(For general information on companies, see Section 2.1)

Insurance services and the conduct of insurance business, including an outline of the fiscal and legal advantages of setting up and administering an insurance company in Gibraltar, are covered in Section 3.2.

Gibraltar is in a unique position to offer the multinational insurance companies the possibility for their captive unit to write one insurance policy for all their EU risks. Additionally, a captive unit may write large nonlife risks in another member state, only requiring them to advise those countries of the risk to be covered.

This “passport” through the EU is an invaluable tool for multinational companies contemplating setting up a captive insurance company.

The annual base fee is £7,502 or £21,433 for captive insurers and open market insurers respectively, with additional fees calculated on gross premium income brackets, gross technical provisions and number of jurisdictions the insurer passports to.

2.7 Protected cell companies

The Protected Cell Companies Act provides, inter alia, that a protected cell company (PCC) may create one or more cells for the purpose of segregating and protecting cellular assets. As a result, the rights of creditors are limited to the assets of the cell of which they are creditors.

In addition, the PCC may, with respect to any of its cells, create and issue shares (cell shares) the proceeds of which (cell share capital) are comprised in the cellular assets attributable to the cell with respect to which the cell shares were issued. A PCC may also pay a dividend on individual cells (a cellular dividend), subject to available profits, and by reference to the assets and liabilities of the cell.

A company may be incorporated as a PCC or converted, if permitted by its articles, into a PCC. The name of the company must include reference to its PCC status and each cell must have its own distinct name or designation.

Insurance companies and collective investment schemes require the consent and approval from the GFSC before operating as a PCC, although private collective investment schemes cannot be PCCs as they are not deemed authorised collective investment schemes.

2.8 European public limited liability companies

The European Public Limited Liability Company Act 2005 transposed into Gibraltar law the corresponding EU council directive.

The European Public Limited Liability Company (or Societas Europaea (SE)) is a corporate structure introduced by the EU that enables the legal structure within which a business is carried out to develop and reflect the economic framework of the single European market. This will allow companies incorporated in different member states to merge or form a holding company or joint subsidiary, while avoiding the legal and practical constraints arising from member countries' different legal systems.

An SE has legal personality and limited liability. Its issued share capital must be at least €120,000 and it may be listed.

An SE may be formed in various ways, including conversion from the public limited liability company status. It may be registered in any member state (including Gibraltar) and must have both its registered office and central administration in that member state. In Gibraltar, an SE is registered with the registrar at Companies House.

SEs are governed by national tax laws of the respective member state and specific and detailed rules apply in relation to SE employees.

2.9 European economic interest groupings (EEIGs)

A European economic interest grouping (EEIG) is a vehicle that allows companies or individuals of different member states to combine and register a grouping that has a legal personality and can operate across national frontiers.

An EEIG is set up in much the same way as a company but has unlimited liability. A number of restrictions apply in case of EEIGs. For example, they are prohibited from seeking funds from the public.

Organisations from non-EU countries may not become members of an EEIG.

Any profits, losses or gains must be split between the members according to their share and taxed on the members according to national law in the normal way. An EEIG is not subject to any accounting or auditing requirements and does not need to file annual return with the Registrar of Companies.

2.10 Re-domiciliation

The Companies (Re-domiciliation) Regulations provide that a company domiciled outside Gibraltar and in a relevant state may, provided it meets certain conditions, establish its domicile in Gibraltar. A re-domiciled company, once registered under Part XIII of the Companies Act, becomes a Gibraltar company.

Similarly, a company incorporated or domiciled in Gibraltar may apply to establish domicile outside Gibraltar in a relevant state. Upon completion and approval of all formalities to establish a foreign domicile, a company registered under the Companies Act and to which a certificate has been issued may apply to the Registrar of Companies, for consent to cease being registered in Gibraltar.

Relevant states are defined as states that regulate companies in a manner compatible with the provisions and regulations in Gibraltar in relation to re-domiciliation. It would also include any states so prescribed by the minister.



2.11 Accounting and audit requirements

2.11.1 General

The Companies Act 2014 came into force on 1 November 2014 and has repealed all previous Company Law legislation in Gibraltar as of this date. Companies with accounting periods commencing on or after 1 November 2014 will apply the requirements set out in Part VII of the Act. See Section 2.11.4 for the main changes to the Accounting and Audit requirements introduced by the new Act. Companies with accounting periods commencing before 1 November 2014, continue to apply the accounting and audit requirements contained in Sections 180 to 182 of the Companies Act 1930, the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999 (the Companies Accounts Acts).

The Companies Act transposed into Gibraltar law the EU 4th and 7th Council Directives on company accounts and consolidated accounts. The Act prescribes the presentation and format of the balance sheet, the profit and loss account, and the necessary disclosures. The Act requires the filing of accounts with the Registrar of Companies (see Section 2.12).

The Act does not apply to banks or insurance companies. Instead, such companies must, respectively, follow the accounting, auditing and filing requirements contained in the Financial Services (Banking) Act (specifically the Banking (Accounts Directive) Regulations 1997) and the Financial Services (Insurance Companies) Act (specifically the Insurance Companies (Accounts Directive) Regulations 1997).

In addition, all companies licensed and regulated by the GFSC under the Financial Services (Investment and Fiduciary Services) Act must comply with any additional disclosure requirements contained in that Act and with regulations made thereunder.

All companies are required by law to keep proper books and records. In addition, a company must prepare annual accounts (including group accounts if applicable), which give a true and fair view of the company's (group's) state of affairs and profit or loss for the financial reporting period. A balance sheet and profit and loss account must be set before the company in a general meeting not later than 18 months after incorporation and subsequently once at least in every financial year.

The directors of a company must also prepare an annual report for each financial year. This annual report should include a fair review of the development and state of affairs of the company's business (and its subsidiary undertakings, if applicable) and its financial position as at the end of that financial year. The directors' report must also contain particulars of, inter alia, the principal risks and uncertainties facing the company, any important events that may have occurred since the end of the last financial year, any likely future developments, what dividend (if any) is recommended for payment, and the amount transferred to reserves.

On 20 July 2015, the Partnerships and Unlimited Companies (Accounts) Regulations 2015 came into force. These regulations cover the statutory provisions governing the preparation and filing of accounts for qualifying unincorporated businesses (see section 2.11.3 and 2.12).

2.11.2 Accounting principles and standards

The Companies Act requires the use of generally applicable accounting standards in the preparation of financial statements. Most Gibraltar entities use UK Financial Reporting Standards issued by the Financial Reporting Council (“FRC”) as adopted by the Gibraltar Society of Accountants (“GSA”).

The GSA has a formal process for adopting UK accounting standards. The current UK accounting standards available for use in Gibraltar are FRS 100-FRS 104. These accounting standards, together with interpretative notes developed by the GSA which deal with “the recommended practice in situations where Gibraltar and United Kingdom legislation conflict and also in situations where reference is made in FRC’s accounting standards to United Kingdom legislation and no corresponding Gibraltar legislation has been enacted” comprise Gibraltar Accounting standards (“GASs”).

In the case of entities licensed or authorised by the GFSC, accounts are typically drawn up in accordance with GASs, UK GAAP or IFRS. At the GFSC’s discretion, other reputable accounting standards may be followed.

2.11.3 Audit requirement and the Auditors Public Oversight Body

General

In general, all limited companies must appoint auditors and have their accounts audited except small companies (as defined in Section 2.12 below), which do not have income liable to assessment for tax under the Income Tax Act, or trade or transact business in Gibraltar in such a way as it is likely to generate such income in the future. However, banks, insurance companies and other companies licensed by the GFSC (licensed entities) are subject to audit even if they are small. In general, therefore, all local limited trading companies require an audit, but not small companies that have no or limited income liable to tax in Gibraltar (other than licensed entities).

From 1 January 2011, the new Income Tax Act exempted companies (other than licensed entities) that do have income assessable to tax, but whose turnover is less than £500,000, from the requirement to submit audited accounts to the Commissioner of Income Tax in Gibraltar. The threshold was raised to £1 million for accounting periods ending on or after 1 July 2013 and increased further to £1.25 million for accounting periods on or after 1 July 2015. Such companies are required to submit accounts accompanied by an independent accountant’s report.

*Extract from the Explanatory Foreword to Gibraltar Accounting Standards

Where applicable, auditors must be appointed by the company annually in a general meeting. No director, officer or secretary of the company may be appointed as its auditor. Every auditor of a company has the right of access to the books, accounts and vouchers of the company at all times, and is entitled to require from the directors and officers of the company such information and explanations as may be deemed necessary for the performance of their duties.

In certain circumstances, a company (excluding licensed entities) that is a subsidiary undertaking may be exempted from preparing audited accounts. For the exemption to apply, the company's parent undertaking must, inter alia, include the Gibraltar subsidiary in its consolidated accounts. The consolidated accounts must be filed with the Gibraltar Registrar of Companies.

For financial years beginning on or after 1 January 2016, qualifying partnerships and qualifying companies are subject to the same requirements as a limited company in respect of preparation and filing of accounts. Qualifying partnerships and qualifying companies are essentially those which are formed or incorporated under the laws of Gibraltar each of whose members or general partners is a limited company or an unlimited company (each of whose members is in turn a limited company). Exemptions applicable to limited companies are generally also available to qualifying partnerships and qualifying companies.

Group accounts

There is a legal requirement for limited companies with subsidiary undertakings to prepare consolidated accounts. These accounts must include a consolidated profit and loss account, a consolidated balance sheet and notes. Small and medium-sized groups need not prepare group accounts unless they include a listed company, a bank or an insurance company. If advantage is to be taken of this exemption, then the auditors must confirm that they are entitled to do so.

As from 1 January 2016 groups are classified according to the following parameters.

	Small group	Medium-sized group
Turnover	Up to £10.2 million net* or £12.2 million gross	Up to £36 million net* or £43.2 million gross
Aggregate balance sheet total	Up to £5.1 million net* or £6.1 million gross	Up to £18 million net* or £21 million gross
Total number of employees	Up to 50	Up to 250

*Net of consolidation set-offs and adjustments

In order to qualify as small or medium sized, a group must fall within two of the three parameters listed above in the financial year in question and the preceding year. The rules for applying the criteria are similar to those for establishing the size classification of an individual company (see Section 2.12). All other groups are treated as large.

In addition, a company is not required to prepare group accounts if it is a subsidiary of a parent undertaking, provided certain conditions are met.

The auditors are also entitled to attend any general meeting of the company at which the statutory accounts examined or reported by them are to be laid before the company and to make any statement or explanation they desire with respect to the accounts.

2.11.4 Key changes to the Accounts and Audit section introduced by the Companies Act 2014

The Companies Act 2014 consolidated the previous Companies Act 1930, Company (Accounts) Act 1999 and Companies (Consolidated Accounts) Act 1999 and has removed a number of inconsistencies between those Acts and other legislation, including the Income Tax Act.

Penalties faced by directors for not drawing up, signing or circulating the accounts now apply to both IAS accounts and non-IAS accounts, whereas previously they applied only to non-IAS accounts.

Accounts may now be filed at Companies House in a number of primary currencies (USD, JPY, CHF, EUR). Directors are now permitted to voluntarily revise defective accounts.

On 20 July 2015, the Companies Act 2014 (Amendment) Regulations 2015 came into force. The key amendments included a change in the period allowed for filing of accounts of a private company as well as changes to the content of the auditor's report.

The Auditors Public Oversight Body

The Financial Services (Auditors) Act 2009 (the Act) came into force on 28 May 2009 and repealed the Financial Services (Auditors Approval and Registration) Act 1988. The Act, which implemented the European Directive on Statutory Audits of Annual Accounts and Consolidated Accounts, provides, inter alia, for the establishment of a Public Oversight Body (POB) comprised of a majority of non-practitioners with responsibility for the oversight of:

- ▶ The approval and registration of auditors and audit firms
- ▶ The adoption of standards on professional ethics, internal quality control of audit firms and auditing
- ▶ Continuing education, quality assurance, and investigative and disciplinary systems

Statutory auditors and audit firms approved under the Financial Services (Auditors Approval and Registration) Act 1988 were automatically grandfathered under the transitional rules.

In September 2009, the GFSC was appointed by the Government to be the POB (also referred to as the Competent Authority). In March 2012, the GFSC was accepted as a member of the International Forum of Independent Audit Regulators.

2.12 Filing requirements

Companies (excluding banks and insurance companies) are classified as small, medium or large, and the documents to be filed at the Companies Registry vary according to their classification as set out below:

	Small	Medium-sized	Large
Net turnover (pro-rated if more than or less than a year)	Up to £10.2 million	Up to £36 million	Over £36 million
Balance sheet total (total assets)	Up to £5.1 million	Up to £18 million	Over £18 million
Average no. of persons employed	Up to 50	Up to 250	Over 250

A new classification of “micro-entity” was also introduced, defined as a company with net turnover, total assets and employees of less than £632,000, £316,000 and 10, respectively. The filing requirements are the same as for “small” companies. Gibraltar has not adopted FRS 105 “The Financial Reporting Standard applicable to the Micro Entities Regime” accordingly such entities continue to apply Gibraltar Accounting Standards (see 2.11.2). A company must fall within two of the three parameters in the financial year in question and the preceding year in order to be classified as small or medium sized. However, if a company exceeds or ceases to exceed the limits of more than one of the parameters, it will continue to qualify for the relevant year unless that continues to be the case in two consecutive years. For a newly incorporated company, the conditions need only be met in its first financial year.

Large companies, Banks and Insurance companies: These must file full accounts, including the balance sheet, profit and loss account, notes, directors’ report and auditors’ report.

Medium-sized companies: Filing for medium-sized companies is the same as that for large companies, except that the profit and loss account may be in abridged format. The audit report on the full accounts cannot be filed with the abridged accounts since the latter cannot be deemed to give a “true and fair view.” Instead a special auditors’ report must be filed confirming that, in the opinion of the auditors, the company is entitled to and has properly prepared the accounts in accordance with the Companies Act 2014.

Micro and small companies: They are required to file an abridged balance sheet only.

The relevant documents must be filed within 12 months in the case of a private company and 10 months of the financial year-end in the case of a public company. Special rules apply in the case of a company’s first reporting period. The fee for filing of accounts is £17.50. The penalty for late filing is £58.50 (if more than 13 months but not more than 24 months of the financial year-end) and £117.50 (if more than 24 months of the financial year-end).

2.13 Business registration

2.13.1 Registration of business names

Whether trading as an incorporated company, or other type of corporate body, a partnership, or simply a sole trader, the name under which the trade is carried on must be registered at the Registry of Business Names within 14 days of commencement of business. Application is made on the prescribed form for a fee of £20.00. The registrar may refuse to register a name that bears too close a similarity to one already in existence or which is considered sensitive or misleading. The words Limited, Ltd. PLC, SA or SL or similar may not appear as a suffix to a business name.

Under the Business Names Registration Act, every business name registered on or after 1 January 2000 must submit an annual statement of particulars accompanied by a fee of £15.00. When a business ceases to operate, a form of notice of cessation of business must be presented to the registrar with a fee of £15.00. The term “business” includes a profession, the establishment or operation of a website in or from within Gibraltar or via an ISP in Gibraltar or the promotion of any trade, business or profession from Gibraltar regardless of where it is situated.

2.13.2 Registration with the Employment Service

Businesses must register their own and employee details with the Employment Service at the Ministry of Employment. Any business, whether a company, partnership or sole trader, must register the following details with the Employment Service within three months of commencement of business:

- ▶ The name(s) of the persons carrying on the business or, if it is a company, the name of the company; in case of partnerships, the names of all the partners
- ▶ The business name under which the business is carried out
- ▶ The address of the place of business
- ▶ The nature of the business
- ▶ Other particulars as may be prescribed

Employment registrations expire within the first 12 months of registration, and thereafter, the registrations must be renewed during the course of the first month after expiry. The annual registration fee is £20, with a penalty of £20 if the fee is not paid within the first month after expiry.

2.13.3 Registration for social insurance purposes

After the business or company has been registered with the Income Tax Department (see Section 2.13.4), the latter notifies the Department of Social Services. The Employment Service will notify the Department of Social Services (by sending a copy of the approved terms of engagement form) of employees hired by a company or partnership, so that the employees are registered for social insurance purposes. In the case of a self-employed individual, they would need to complete an application form for a self-employed insurance card at the Department of Social Services.

2.13.4 Registration for income tax (PAYE) purposes

To register for Pay As You Earn (PAYE) purposes, a company or business must submit the following documentation to the Income Tax Office.

For a company:

- ▶ Certificate of Incorporation
- ▶ Employment Service Certificate of Registration
- ▶ Letter requesting that the company be registered for PAYE purposes, giving details of directors and commencement date of trading
- ▶ Registered address

For a business:

- ▶ Business Registration Certificate
- ▶ Employment Service Certificate of Registration
- ▶ Letter requesting that the business be registered for PAYE purposes, giving commencement date of trading

See Sections 4.2 and 4.3 on work permits and engagement (and dismissal) of employees, respectively.

Various applications forms relevant to business employment can be downloaded directly from the Gibraltar Government website. These application forms can be scanned and emailed to the relevant departments for processing.

HM Government of Gibraltar announced the introduction of “E-Gov” whereby government services would be fully accessible online. Visit www.egov.gi for the current services available.

2.14 Company formation

The Companies Act sets out the requirements by which any one or more persons may form an incorporated company with or without limited liability. A company must have at least one subscriber. The company name must be approved by the Registrar of Companies, and a Gibraltar address must be given as the registered office where notice may be served on the company and the statutory registers maintained and kept available for inspection. Companies may be limited either by shares, by guarantee or be unlimited.

From 1st January 2018, the fee for incorporation, registration (including registration under Part XII of the Act) or submission of any change in status of a company, that is to say, the fact of its being public or private or limited or unlimited or limited by shares or by guarantee or de-registering on registering as limited partnership (except on re-domiciliation) regardless of share capital is £100. In addition, stamp duty is payable at a flat rate of £10 on any issue or increase in nominal share capital or loan capital.

Other statutory requirements include filing of notices relating to:

- ▶ The situation of the registered office and any changes thereto
- ▶ The allotment of shares
- ▶ The registration of certain mortgages and charges, including a mortgage or charge on real property, ships and book debts
- ▶ The names and addresses of the directors, secretary and shareholders of the company

Every company must submit an annual return in the prescribed format, the first within 12 months of incorporation and thereafter once every year. The current fee payable is £86. As of 1 February 2015, all annual returns must be filed within 30 days of when they are made up. Late filings carry a statutory penalty as follows:

- ▶ If return is filed within the first year: £36.5 (total £122.5)
- ▶ If return is filed within the second year: £71.5 (total £157.50)
- ▶ If return is filed within the third year: £106.5 (total £192.50)
- ▶ If return is filed after three years: £141.50 (total £227.50)

2.15 Purchase of own shares

Gibraltar company law permits companies to purchase their own shares subject to having an express power to do so in the articles of association and following statutory requirements.

In general, the purchase price must be drawn out of the company's distributable profits, although it may be possible to fund the purchase price from the proceeds of a fresh issue of shares or even "out of capital" (though, the latter only applies to private companies and triggers additional requirements, such as, inter alia, a statutory declaration of solvency by the directors, passing of a special resolution by the members of the company, preparation of accounts, an auditors' report and publication of a notice in the Gazette. The statutory declaration and auditors' report must be delivered to the Registrar of Companies).

2.16 Competition policy

Business licensing

The Fair Trading Act 2015 was enacted on the 1st July 2015. The Act streamlined and simplified the business licensing system by, among other things, establishing a single point of contact as part of the business licensing procedure. The functions of the old Trade Licensing Authority were transferred and subsumed within the remit of the Office of Fair Trading and renamed the Business Licensing Authority (“BLA”).

Any person who wishes to buy or sell, whether wholesale or retail, any goods by way of business, or importing of goods in commercial quantities, or who wishes to provide services (widely defined in the Act), must be the holder of a license issued by the BLA.

However, persons carrying on investment business, regulated or controlled activities as defined in financial services legislation do not require to be additionally licensed under the Fair Trading Act 2015.

Application for a new license involves the following:

1. A notice of intention in the prescribed form must be published in the *Gibraltar Gazette* and at least one other newspaper circulating in Gibraltar, seven days before the application is made.
2. Any individual wishing to object to the issue of the license must give notice of such to the BLA and to the applicant within seven days from the date of the above publications. This written notice must state the grounds for objection.
3. The application and objections (if any) are considered at a hearing, of which not less than five days’ notice has been given to the interested parties.

Both the applicant and the objector and their legal advisors have the right to attend the hearing, give evidence and call witnesses and cross examine witnesses for the other party and address the BLA. They may not be present, however, during any subsequent deliberation of the BLA.

A license is issued for the premises and not for the applicant; an application will not be accepted unless suitable commercial premises have been obtained. Businesses that do not need premises from which to operate may apply for a waiver.

Licenses are in force for a year from the date of issue and are renewable annually.

2.17 Financial services: regulatory framework and licensing

The Gibraltar Financial Services Commission (“GFSC”) is a statutory corporation comprising eight members, including the chief executive officer. The work of the commission is subject to independent audit by experts appointed by the minister responsible for financial services.

The chief executive officer is responsible for the supervision of banks and insurance companies under the requirements of the corresponding acts. The commission’s structure is divided into four sections which cover (1) Legal, policy and enforcement; (2) Regulatory operations; (3) Specialist regulation; and (4) Operations. Regulatory operations cover the areas of intensive supervision, conduct of business supervision, prudential supervision, and authorisations over banking, e-money, investment services and funds, fiduciary, insurance and other controlled activities.

Most classes of financial services businesses in Gibraltar require licensing by the GFSC in accordance with the regulatory framework. The following are the Supervisory Acts established under the Financial Services Commission Act:

- ▶ The Financial Services (Insurance Companies) Act
- ▶ The Financial Services (Investment and Fiduciary Services) Act
- ▶ The Financial Services (Banking) Act
- ▶ The Financial Services (Collective Investment Schemes) Act 2011
- ▶ The Financial Services (Occupational Pensions Institutions) Act 2006
- ▶ The Financial Services (Markets in Financial Instruments) Act 2018
- ▶ The Financial Services (Listing of Securities) Act 2006
- ▶ The Financial Services (Auditors) Act 2009
- ▶ The Financial Services (Temporary Administration of Companies) Act 2010
- ▶ The Financial Services (Insurance Companies) (Solvency II Directive) Act 2015

Regulations, including detailed rules on Conduct of Business, have been issued under the various acts.

Financial services business and activities that require licensing specifically under the Financial Services (Licensing) Regulations, 1991 are summarised in the following page. Note that the summary is not an exhaustive list of all licensable activities, for example, activities undertaken by banks, e-money institutions or collective investment schemes are covered under other acts and/or regulations.

Legislative Reform Programme (“LRP”)

In recent years, the GFSC have launched the LRP which is the single largest review and reform of the Gibraltar’s financial services legislation. It consolidates and rationalises over 90 financial services legislative instruments into one Act and additional supporting, sector specific regulations.

In July 2019 the Financial Services Bill which was a key part of the LRP was passed by Parliament and became the Financial Services Act 2019. The Act provides a legislative framework for all financial services sectors that fall within the GFSC’s supervisory perimeter. The Act and the LPR Regulations will be coming into effect on 15 January 2020.

Financial services business and activities that require licensing specifically under the Financial Services (Licensing) Regulations, 1991

Class	Description	Financial service business
i	Investment dealer	Dealing in investments
ii (a)	Investment broker	Arranging deals in investments
ii (b)	Collective investment scheme intermediary	Arranging deals in investments
iii	Investment manager	Managing investments
iv	Investment adviser	Investment advice
v (a)	Collective investment scheme manager	Establishing, acting as the manager of, or as operator of, or winding up a collective investment scheme
v (b)	Collective investment depository	Acting as the trustee of a unit trust scheme or the depository of any other collective investment scheme
v (c)	Collective investment scheme administrator	Acting as the administrator of a collective investment scheme
vi (a)	General insurance intermediary	Insurance or reinsurance distribution
vi (b)	Life assurance intermediary	Insurance or reinsurance distribution
vi (c)	Ancillary insurance intermediary	Insurance or reinsurance distribution
vii	Professional trustee	Acting as trustee or foundation councillor or soliciting such business
viii	Company manager	Provision of management and/or administrative services for companies
ix	Insurance manager	Exercising management or advisory functions in relation to one or more insurer or reinsurer
x	Stock exchange	Establishing and conducting the business of an investment exchange
xi	Clearing house	Establishing and conducting the business of a clearing house
xii	Bureau de change	Providing money service business activities of bureau de change
xiii, xiv	Gibraltar-authorized or registered payment institution	Providing money service business activities of money transmitter
xv (a)	Mortgage creditor	Mortgage credit activity
xv (b)	Mortgage creditor intermediary	Mortgage credit activity
xv (c)	Mortgage advisory services provider	Mortgage credit activity
xvi	Personal pension scheme controller	Establishing, operating or winding up a personal pension scheme
xvii	Pension adviser	Advising pensions (personal or occupational)
xviii	DLT provider	Providing distributed ledger technology services

External reviews

In October 2014, the OECD published its Phase II review report that focused on the effectiveness of actual tax exchange information by Gibraltar. The review included an on-site visit to Gibraltar by OECD's Global Forum assessment team.

The Phase II review focused on 10 essential areas of tax information exchange and found Gibraltar to be "compliant" (highest grading) in 7 of those areas and "largely compliant" (second-highest grading) in the other 3, resulting in an overall rating in line with the UK, the US and Germany. The Phase II review follows on from the Phase I review in 2011, which focused on the legal framework for exchange of information.

More recently, Gibraltar has formed part of the Common Reporting Standard (CRS) Early Adopters Group since its inception and, as such, first automatically exchanged tax-relevant financial account information with approximately 50 jurisdictions in September 2017. This will be followed by first automatic exchange of financial account information with a further 50 or so jurisdictions in September 2018.

As regards Exchange of Information on Request (EOIR), Gibraltar has developed a network of the equivalent of over 150 agreements with over 100 EOIR-partner jurisdictions worldwide over the years. Gibraltar Finance and the Income Tax Office jointly handle the day-to-day exchange of information under the various international mechanisms for exchange: bilateral agreements for the exchange of information in tax matters, Council Directive 2011/16/EU and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Other external reviews

During 2004, an independent team, comprising four financial services regulatory consultants and three secondees from the UK Financial Services Authority, was appointed by His Excellency the Governor under the Financial Services Act 1989 (now replaced by the Financial Services Commission Act 2007). The team assessed the supervisory activities of the GFSC and was the third independent review commissioned.

The team's report published in January 2005 emphasized the good standard of financial services regulation achieved by the GFSC in Gibraltar, its clear commitment to meeting international standards, determination to tackle the risks faced and implementation of a high-quality regulatory regime in the context of the Gibraltar market. Further endorsement of Gibraltar's regulatory regime is evidenced by the GFSC's acceptance as a member of the International Organisation of Securities Commissions (IOSCO) in April 2005.

Gibraltar's "Know Your Customer" rules and procedures (and anti-money laundering laws and regulations in general) have been reviewed and approved in the past by the US Internal Revenue Service for the purposes of Qualified Intermediary status. The Qualified Intermediary status enables banks to continue investing in U.S. Securities on behalf of their clients.

In May 2007, the International Monetary Fund (IMF) published its report on the assessment of Gibraltar's financial sector supervision and regulation.

The assessment was carried out by a team of nine individuals from the IMF during March 2006, and it looked at GFSC's supervisory and regulatory practices in the areas of banking and insurance as well as a jurisdiction-wide review of the anti-money laundering and terrorist financing regime.

The report concluded that Gibraltar has a well-regulated financial sector and noted a high level of banking and insurance supervision, compliance with applicable international standards and a high level of compliance with the revised Financial Action Task Force (FATF) recommendations on the prevention of money laundering and combating terrorist financing.

More recently, the commission's regulatory processes and supervisory procedures over licensed activities are being assessed as part of its ongoing Legislative Reform Programme which is a joint initiative by HM Government of Gibraltar and GFSC to deliver a streamlined legislative and regulatory framework for financial and professional services in Gibraltar.

In 2016/2017, another statutory review was carried out by the Statutory Review Team appointed by the Government. The review team's remit was to assess the effectiveness of the GFSC in meeting its statutory and strategic objectives and to determine whether the GFSC is in the best position to deal with the future challenges that it will face. The report was considered by Parliament earlier this year.

2.18 Insolvency Act

The Insolvency Act 2011 came into force on 1 November 2014. The act replaced the Bankruptcy Act 1934 and the sections in the Companies Act that dealt with liquidations (with the exception of members' voluntary liquidations which remain under the Companies Act).

The Act consolidated and modernized previous insolvency legislation and introduced new remedies, procedures and options such as creditor voluntary arrangements, administration and administrative receiverships aimed at allowing the rescue, and turnaround of entities facing financial difficulties. The act also introduced directors' disqualification provisions, as well as a licensing regime for insolvency practitioners.



3 | Finance and investment

3.1 Banking services

Gibraltar has a well-established banking industry with a strong presence in the wealth management and private banking sector (see App. 6.4). Some of Gibraltar's banks are branches or subsidiaries of major UK and other European and US banks or financial institutions.

The conduct of banking business in Gibraltar is governed by the Financial Services (Banking) Act. Detailed rules and regulations have been issued under this Act to give effect to all EU directives relating to banking, including, inter alia, Capital Requirements Directive IV, Mortgage Credit Directive, Bank Recovery and Resolution Directive and Deposit Guarantee Directive. (see Section 3.8).

In 1999, the UK Government agreed that Gibraltar had implemented regulatory and supervisory practices with regard to banks that matched UK standards. This paved the way for Gibraltar to take advantage of the single European passport for banking. The passport allows Gibraltar's licensed banks to set up subsidiaries and branches in other European Economic Area (EEA) member states.

The banking sector provides a wide range of facilities, such as private banking and investment services, as well as retail and corporate banking, including import and export finance and commercial loans.

In addition to banks, there is a building society operating in Gibraltar which is a branch of a well-known UK society. The GFSC also supervises building societies.

3.2 Insurance services

Insurance business conducted in Gibraltar is governed by the provisions of the Financial Services (Insurance Companies) Act, and by rules and regulations made thereunder. Legislation has been put in place to implement all the EU directives that apply to this sector.

The UK Government has agreed that Gibraltar has implemented standards with regard to the supervision of insurance companies that match UK practice. As a result, Gibraltar has the approval from the UK Government to take advantage of the single European passport for insurance. This means that an insurance company licensed in Gibraltar can, with the approval of the Commissioner of Insurance, do business in EEA states either by setting up a branch in those states or by providing insurance from Gibraltar to residents of those states.

The fiscal and legal advantages of using Gibraltar as a jurisdiction for setting up and administering captives and other types of insurers include the following:

- ▶ Gibraltar insurers can underwrite risks in EEA states directly
- ▶ Insurance companies are subject to corporation tax at the rate of 10% on profits from income accrued and derived in Gibraltar
- ▶ Gibraltar possesses local insurance expertise together with a well-developed legal, accounting and banking infrastructure
- ▶ A stamp duty of only £10 is levied on nominal share capital, whether on initial creation or subsequent increase
- ▶ The legal system is based on English common and statute law, with variation enacted by local statutes
- ▶ Official language is English, but the local population is bilingual and speaks Spanish as well
- ▶ The Gibraltar cost base is highly competitive. Depending on the type of business carried out, the annual base fee can start from £7,502 and £21,433 for a Captive insurer and Open Market insurer, respectively, with additional fees calculated based on number of cells, gross premium income brackets, gross technical liabilities, number of jurisdictions the insurer passports into and internal capital model fee where an internal capital model has approved.
- ▶ There are no job quota requirements for insurance companies or managers
- ▶ Specialist personnel may apply for a preferential tax status (see Section 5.11.4 on high executives possessing specialist skills)
- ▶ The official currency is sterling and there are no exchange controls

The number of registered insurance companies in Gibraltar has increased significantly in recent years from 13 in March 2000 to 47.

Solvency II

In 2015, the Solvency II Directive was transposed into Gibraltar legislation, the Financial Services (Insurance Companies)(Solvency II Directive) Act 2015. The effective date of the directive was 1 January 2016.

Solvency II is a fundamental review of the capital adequacy and risk management regimes for the European insurance industry. It aims to establish a revised set of EU-wide capital requirements and risk management standards that replaces the previous Solvency I requirements.

The framework includes not just underwriting risk, but operational, investment, currency and other risks as well. Similar to Basel II for banking, there are three pillars in Solvency II – qualitative & quantitative, governance & risk management and disclosure & transparency.

3.3 Investment services, fund management and collective investment schemes

The conduct of investment services, fund management and administration in Gibraltar is governed by the Financial Services Legislation. Detailed rules and regulations have been issued under several acts to give effect to all EU directives relating to investment services and the regulation of all types of collective investments, including Undertakings for Collective Investment in Transferable Securities (UCITS) which are harmonized investment funds within a European context.

Gibraltar transposed the Alternative Investments Fund Managers Directive in July 2013, firmly placing the jurisdiction as an EU domicile of choice for managers and funds in the changing regulatory landscape.

On 03 July 2017, MiFID II, which came about as a response to the financial crisis and the evolution of the financial markets, was transposed into Gibraltar's legislation.

Gibraltar enjoys passporting rights with respect to investment services. This means that providers of investment services may, based on the authorization granted locally by the GFSC, operate in other EEA member states.

Fiscal advantages for both the fund vehicle and the fund manager contribute to Gibraltar's attractiveness for operating collective investments. Gibraltar operates a territorial basis of taxation whereby only income accrued and derived in Gibraltar is subject to tax.

A Gibraltar-based corporate fund manager providing investment services is required to be licensed and regulated in Gibraltar and is subject to 10% tax on its profits (except that the profits of any branch or permanent establishment of the licensee would not be subject to tax in Gibraltar, to the extent that those activities are carried out outside Gibraltar).

Most Gibraltar funds are set up as corporate vehicles and derive their income from capital gains (which are not subject to tax there) or passive investment income, such as bank interest, dividends from listed investments or dividends from other companies, all of which are not subject to tax in Gibraltar under the Income Tax Act 2010.

Investors in an EIF must have a net worth in excess of €1m or invest a minimum of €100,000 (either in a single fund or across a number of EIFs).

Within 10 days of the establishment of the fund, its administrator must provide the GFSC with written notification of the fund's establishment, a copy of the offering document, an opinion from a Gibraltar lawyer that the fund complies with the EIF regulations and any other document required by the GFSC. A pre-approval option is now available whereby a fund may file the above for registration with the regulator at least 10 working days before the establishment of the fund, thereby enabling the fund to be deemed authorised at the time it launches. An EIF must have two Gibraltar ordinarily resident directors who have been pre-approved by the GFSC, an administrator and a depository (unless the fund is a closed fund or the regulator exempts the fund from this requirement).

In April 2012, the definition of an EIF investor was widened to include professional clients under the Markets In Financial Instruments Directive and investors who invest a minimum of €50,000 on the advice of a professional adviser. Funds may appoint non-Gibraltar licensed administrators, subject to certain conditions, for instance, that they are established in the EEA or jurisdictions subject to an equivalent legislative and regulatory regime in relation to the administration of funds.

3.4 E-gaming

The Gambling Act 2005 legislates for all forms of gambling (including betting, bookmaking, gaming and lotteries) in Gibraltar. All gambling operations in Gibraltar require licensing under the act.

Remote gambling licenses are issued by the Licensing Authority. The Government only licenses operators with a proven track record in gaming, of reputable standing and with a realistic business plan. Licensees are required to physically operate and be managed in Gibraltar. There are currently 35 licensed operators in Gibraltar. Licenses are issued mostly for either fixed-odds betting or for casinos (including poker), with many operators holding both types of license. In addition, there is one license in issue for a betting exchange and one for financial spread betting.

With effect from 1 April 2018, licence fees are fixed at £100,000 for business to customer ("B2C") licences and £85,000 for business to business "B2B") licences. In addition, B2C licensees pay Betting Duty or Gaming Duty (depending on the activity) of 0.15% of gross revenue (this generally being gross win for online bookmakers and gaming yield for online casinos). The first £100,000 per annum of gross revenue is exempt from this Duty.

Previously, gaming tax on fixed-odds betting and betting exchanges was levied at 1% of turnover. For online casinos, tax was levied at 1% of the gaming yield or gross profit and 1% of rake in the case of poker operators. In all cases, there was a minimum tax of £85,000 payable and a cap on tax payable of £425,000 p.a., per licence.

At present, conditions and licensing requirements cover areas such as advertising, pay out of prize money, customer privacy and data protection, audit and accounts.

The Gambling Act 2005 contains extensive provisions, particularly for remote gambling, including requirements for:

- ▶ Certification of testing of gambling equipment and software
- ▶ Security of computer equipment and data
- ▶ Direct link on the home page to at least one organisation dedicated to assisting problem gamblers, systems to enable a person to request to be self-excluded from gambling with the license holder and various other requirements to help prevent problem gambling

- ▶ License holders not permitting a person to gamble unless that person has registered giving full name, residential address, age, etc.
- ▶ License holders to inform registered participants that it is their responsibility to ensure that, under the laws of the jurisdiction to which they are personally subject to, it is lawful for them to use the facilities provided

Further requirements are contained in various publications:

- ▶ Generic Code of Practice for the Gambling Industry, updated in 2012, providing interpretive guidance to the Gambling Act, as well as a guide to what is regarded as good practice for operators in the industry
- ▶ Code of Practice for Anti-Money Laundering Arrangements, updated July 2016, providing interpretive guidance to the industry in respect of the Gambling Act 2005, and the Proceeds of Crime Act 2015 Act, which is Gibraltar's legislation that implements the EU's Fourth Anti-Money Laundering Directive
- ▶ Remote Technical and Operating Standards, issued in 2012, which includes technical, responsible gambling and other operating guidelines

Gibraltar continues to thrive as an attractive base for blue-chip remote gambling operators, principally as a result of its reputation as a reliable and well-regulated jurisdiction, its legal framework based on the UK law, well-developed telecommunications, its tax regime, a multilingual labour force with experience in the gaming industry, and freedom of movement of labour from within the EU.

3.5 Investment incentives including government and EU funds

The Gibraltar Government is keen to encourage inward investment particularly in those areas that will generate significant job opportunities for the local workforce. There is a wide range of fiscal and financial incentives as shown below.

3.5.1 Financial incentives

EU funds

EU funding has been a major source of finance for economic regeneration in Gibraltar in recent years. Gibraltar has been eligible for support under the European Regional Development Fund (ERDF) and under the European Social Fund (ESF).

Gibraltar currently participates and benefits from the 2014-2020 Programming Period under the Investment for Growth & Jobs Goal.

The ERDF Program's aim is to enhance the competitiveness of small and medium-sized enterprises (SMEs) and to support a shift towards a low-carbon economy, while the ESF Program will focus on promoting sustainable and quality employment and supporting labour mobility together with investing in education, training and vocational training for skills and lifelong learning.

Detailed information is available from the Gibraltar EU Programmes Secretariat website.

Wholesale, retail, financial services and mobile investments are areas of business activity that, typically, are not eligible for funding.

Gibraltar also participates in the Interreg program, whose aim is to strengthen transnational and cross-border cooperation via joint local and regional initiatives.

3.5.2 Fiscal incentives

Qualifying (Category 2) Individuals commonly known as "high-net-worth individuals" (see Section 5.11.3)

High Executive Possessing Specialist Skills (HEPSS) (see Section 5.11.4)

Development aid (see Section 5.3.5)

Joint venture companies

Amounts invested in companies of which the Gibraltar Government is a member may, subject to such conditions as the Government prescribes, be offset against assessable income.

3.6 The law and money laundering/terrorist financing

Gibraltar's main legislation covering the prevention, detection and reporting of money laundering activity is the Proceeds of Crime Act 2015 ("POCA 2015"). This legislation was updated in 2016 to implement the EU's Fourth Anti-Money Laundering Directive (2015/849). The Act defines various types of business as being "relevant financial business" for the purposes of the application of many of its provisions. In March 2018, it was further updated to include as a relevant financial business, undertakings that receive proceeds from the sale of tokenised digital assets involving the use of distributed ledger technology or similar digital representation of an asset. Other relevant legislation includes:

- ▶ The Drug Trafficking Offences Act
- ▶ The Counter-Terrorism Act 2010
- ▶ The Orders made under the Export Control Act 2005

Money laundering offences include assisting another to retain the benefit of criminal conduct, acquisition, possession or use of property representing (the same), concealing or transferring the proceeds of criminal conduct or tipping-off. Terrorism-related offenses include raising funds for terrorism, use or custody of money or property for terrorism, or arranging funding for terrorism.

For suspicious transactions in Gibraltar, the central reporting authority is the Gibraltar Financial Intelligence Unit (GFIU), which is staffed by officers from Gibraltar Customs and the Royal Gibraltar Police. All regulated entities are required by law to report to the GFIU, known or suspected illegal transactions or attempted transactions.

Financial services

Under POCA 2015, individuals and entities carrying out relevant financial business (including banks and building societies, investment businesses and fiduciary service providers, life and general insurance companies, insurance intermediaries, bureaux de change and money transmission services) are required to put into place measures to ensure the prevention, detection and reporting of suspicious transactions.

The GFSC has issued Anti-Money Laundering Guidance Notes, which cover sectors that are regulated by the commission. The Guidance Notes represent “relevant guidance” for the financial sector under POCA 2015, which must be considered by a court in deciding whether a person has committed an offence under that Act. The Guidance Notes are currently subject to a substantial update to take account of latest developments in the sector.

In 2018, new regulations were introduced making businesses that received proceeds from token sales relevant financial businesses under POCA 2015, with the GFSC being designated as the relevant supervisory authority. These regulations became effective on 16 March 2018.

Non-financial sector

Gibraltar’s Office of Fair Trading (“OFT”) issued Guidance Notes for High-Value Dealers (“HVDs”) in June 2017 and Guidance Notes for Real Estate Agents (“REAs”) in April 2018. The Guidance Notes for HVDs apply to businesses that accept cash payments of £8,000 or more in exchange for goods, as well as to the employees of such businesses. The Guidance Notes for REA apply to all real estate agents, as defined within the Guidance Notes, who are operational in Gibraltar, as well as to the employees of those real estate agents.

The Guidance states that HVDs (even those that never accept high-value cash payments) and REAs should appoint a nominated officer (also known as Money Laundering Reporting Officer or MLRO and have internal policies on anti-money laundering and combatting the financing of terrorism, and for reporting activity.

Further, HVDs and REAs are required to put in place controls, including carrying out customer due diligence, monitoring of client's activities, assessing risk and keep customer, transactional and staff training records.

Where an HVD has made one or more transactions over the £8,000 threshold during a calendar year, it is required to prepare and submit an annual report to the OFT, providing information and data about cash payments received by the business during that year. For companies, the filing deadline for the report is 31 October following the relevant year. For non-companies (for example, individuals, or partnerships), the deadline is 30 November. Annual reports from companies are required to be accompanied by an independent accountant's verification to the effect that the reports have been drawn up accurately.

MONEYVAL evaluation

MONEYVAL is the permanent monitoring body of the Council of Europe (CoE) tasked with the assessment of compliance with international standards to counter money laundering and the financing of terrorism. In 2015, the CoE agreed to evaluate Gibraltar, and during 2019, a delegation of the CoE's Committee of Experts carried out their onsite visit.

The delegation is tasked with analysing, in the form of a mutual evaluation report, Gibraltar's level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Gibraltar's AML/CFT system, and with providing recommendations on how the system could be strengthened. The report will be scheduled for discussion and adoption at MONEYVAL's 59th Plenary meeting on December 2019.

3.7 Import and export procedures

Gibraltar does not form part of the Customs Territory of the EU and is therefore not required to apply the various quota and tariff restrictions that the EU imposes. Also, Gibraltar is regarded as a developing country for the General Agreement on Tariffs and Trade (GATT). In 1994, the GATT was replaced by the World Trade Organisation (WTO). However, the original GATT test is still in effect under the WTO framework.

Gibraltar-sourced goods are entitled to various tariff and quota concessions. The Gibraltar Government levies import duties on most goods, except foodstuffs and medical supplies, at rates between 0% (exempt) and 12%.

There are special procedures covering goods-in-transit and temporary importation (see the table in Section 5.13.2, which summarises the current duty payable on a range of goods).

Gibraltar's customs procedures and tariffs vary with regard to other EU territories. However, Gibraltar has adopted the Single Customs Declaration and some other procedures that are common to all countries that have participated in the Automatic Systems Customs Data (ASYCUDA) project promoted by the United Nations.

3.8 Investor protection

3.8.1 General

The GFSC is the appointed Resolution Authority (RA) for Gibraltar. The powers of the GFSC as RA are delegated to the Financial Services Resolution and Compensation Committee (the FSRCC), which was established in 2016.

The FSRCC is responsible for resolution planning for credit institutions and some investment firms as well as decision-making relating to the reorganisation of institutions experiencing financial difficulties. The FSRCC is also the authority responsible for the Deposit Guarantee Scheme in Gibraltar (see also 3.8.2 and 3.8.3 below).

The FSRCC is operationally independent from the supervisory function of the GFSC, with the Resolution and Compensation Unit carrying out its day to day functions and reporting directly to the Committee.

3.8.2 Deposit guarantee scheme

Gibraltar has implemented the EU Directive on deposit guarantee schemes. This ensures that there is a level of deposit protection for depositors with credit institutions in Gibraltar.

In general, the Gibraltar Deposit Guarantee Scheme covers 100% of a credit institution's liability to a depositor in respect of qualifying deposits subject to a limit of €100,000.

3.8.3 Bank recovery and resolution directive (BRRD)

Gibraltar has also implemented BRRD through the Financial Services (Recovery and Resolution) Regulations 2014. BRRD provides a framework to deal with banks which are in crisis and builds on the measures taken to ensure firms have a recovery plan in place that, in turn, minimises disruption to the financial system at large. Institutions are required under the regulations to draw up and maintain recovery plans on an annual basis.

3.8.4 Investor compensation scheme

Gibraltar has implemented the EU Directive on investor compensation schemes that cover eligible investments made by an investor but specifically excludes deposits qualifying under the deposit guarantee scheme (see Section 3.8.2 above). In general, the compensation scheme will cover 90% of the total amount of all eligible investments held by a claimant with the investment firm in default subject to a maximum payment of the sterling equivalent of €20,000 to any one individual.

As a result of the financial crisis, the European Commission has been looking into a possible increase in the compensation limits at a level consistent with the Deposit Guarantee Schemes Directive.

The Gibraltar Investor Compensation Board is charged with administering the Scheme and is independent of the GFSC or the Government of Gibraltar.

3.9 The Gibraltar Stock Exchange

The Gibraltar Stock Exchange (GSX) was launched on 1 November 2014 and currently operates two markets, the Main Market which is an EU regulated market recognised by ESMA and by the United Kingdom's tax authority (HMRC) under S1005 (1)(b) Income Tax Act 2007; and the Global Market, a self-regulated market which is a Multilateral Trading Facility (MTF) as defined under the Markets in Financial Instruments Directive 2004 (MiFID).

GSX admits open-ended and closed-ended funds to listing, including all types of debt securities such as insurance-linked securities, asset-backed securities, project bonds and derivative securities.

The principal decision making body of GSX is its board of directors. The board is accountable to GSX, the GFSC, its Member Firms, securities admitted to the Official List, and the public in respect of the smooth operation of the stock exchange. The Listing Authority is the body responsible for the regulatory approval of listings and is completely independent from GSX and is constituted by officers from the GFSC.

3.10 New Regulatory Framework for Distributed Ledger Technology ("DLT")

On the 12th October 2017 HM Government of Gibraltar published legislation to regulate individuals and firms engaging in activities (from Gibraltar) not otherwise subject to regulation under another framework and that for business purposes use Distributed Ledger Technology ("DLT") for the transmission or storage of value belonging to others.

The legislation came into effect on 1 January 2018. It recognises the challenges posed in regulating activities that use rapidly evolving technology and addresses this by adopting an outcome focused, principles based approach, rather than a prescriptive rigid framework that can very quickly become obsolete and not fit for purpose. The regulatory bar for new applicants is high, consistent with expectations across other Financial Services providers and the new regime should not be confused with a soft or light touch regime.

The legislation sets out 9 key principles that all DLT Provider licence holders need to comply with at all times. The principles cover conduct of business, consumer protection and communication, financial resources, protection of customer assets and money, corporate governance arrangements, systems and security, measures to address financial crime risks and contingency plans. The principles are intended to be applied proportionately and on a risk-based approach. The legislation requires that the GFSC issue guidance on its application of the regulatory principles, including any criteria to which it will refer in determining whether a person will comply, is complying or has complied with those principles.

The new DLT regime reflects the collaborative efforts of the GFSC, the private sector and Cryptocurrency Working Group over a period of three years.

3.11 Initial coin offerings (“ICO’s)/Initial token offerings (“ITOs”)

Gibraltar has seen considerable interest since Quarter 2 of 2017 from businesses wishing to conduct an ICO to raise funding for IT development, marketing and business development in the Fintech space.

A number of well-known IT developers, entrepreneurs and management teams have decided to launch their ICOs and where applicable seek to licence their business under the new DLT regulatory framework.

HM Government of Gibraltar have committed to bringing in a separate regulatory framework covering ICOs/ITOs undertaken from Gibraltar that is aligned with the new DLT framework.

The consultation document setting out the proposed regime sets out three key objectives:

- Protect consumers
- Protect Gibraltar’s reputation
- Support the safe use of tokens as a means of crowdfunding

The proposed regime will seek to deliver these objectives by regulating three activities, namely:

- Promotion, sale and distribution of tokens by persons connected with Gibraltar;
- Secondary market trading activities relating to tokens carried out in/from Gibraltar; and
- Provision, by way of business, in or from Gibraltar of investment advice relating to tokens



4 | Residency, employment regulations and social security contributions

4.1 Establishing residency

Immigration and the right to enter Gibraltar are governed by the Immigration, Asylum & Refugee Act. All individuals registered as having Gibraltar status or who are British-Dependent Territories citizens by virtue of their connection with Gibraltar are exempt from having to hold any permit or certificate of residence required by the act. Exemption is also granted to Commonwealth citizens employed in Gibraltar in HM Services, HM Government Service or Gibraltar Government Service.

EEA nationals (including workers, students and retired persons) are entitled to enter or remain in Gibraltar if they have an enforceable European Community right to do so. Initially, they may stay in Gibraltar for three months after which they will be granted a renewable residence permit valid for five years, provided that they have found suitable employment or established a business. People in this category are entitled to bring their immediate family (normally spouse and children) with them. However, family members who are not EEA nationals require an EEA family permit. Exceptions to the general entitlement of EEA nationals, however, are the following:

1. French nationals solely by birth in, or by other connection with, a French overseas dependent territory.
2. Nationals of the Netherlands solely by birth in, or by other connection with, Surinam or the Netherlands Antilles.

Other nationals require both work permits (see Section 4.2 below) and residence permits. Any individual not having the right to reside in Gibraltar may be refused admission (or after admission be required to leave) in the interests of public policy, security or health.

Residence permits may be granted at the governor's discretion to non-EEA nationals who do not have a work permit if the governor is satisfied that the applicants are of good character and that granting them residency is in the interest of Gibraltar. Non-EEA nationals who have obtained Qualifying (Category 2) Individual tax status (commonly known as a high-net-worth individual) (see Section 5.11.3) are likely to obtain residence permits on this basis.

UK Citizens can, also at the governor's discretion, be granted a certificate of permanent residence provided they are of good character and are likely to be an asset to the community.

If an EEA national wishes to retire in Gibraltar, the person must prove to the satisfaction of the authorities that they have:

- ▶ Full risk private medical insurance (except eligible UK nationals – see note below)
- ▶ Adequate financial resources

► Adequate accommodation in Gibraltar (in practice, this would involve purchase of a qualifying property)

Note: Under a reciprocal agreement between the UK and Gibraltar, eligible UK nationals retiring in Gibraltar may be entitled to free medical services in Gibraltar.

Only citizens of countries that appear on the EU Common Visa List require visas to enter Gibraltar. Approximately 100 countries appear on this visa list, mainly including those in Africa, Asia and Eastern Europe. A complete list of these countries may be obtained from the passport office.

Normally, visa applications are handled by the UK Embassy in the applicant's home country. Visa requirements are similar to those in the UK.

Applications are reviewed on the basis of intention of the visit and whether the applicant has proof of return or onward travel out of Gibraltar. In particular, any practical difficulties that could arise if forcible deportation became necessary are taken into consideration.

4.2 Work permits

Under the Control of Employment Act, the Gibraltar Government may control the employment of "non-entitled" workers by means of work permits.

An entitled worker means a worker who is:

- A national of a country belonging to the EEA
- A non-EEA national working in Gibraltar since before 1 July 1993
- A non-EEA national authorised to work in Gibraltar under the Immigration Control Act

EEA nationals are allowed to stay in Gibraltar for three months; after which they will be granted a renewable residence permit for five years, provided that they have found suitable employment or established a business.

In the case of a non-entitled worker, the prospective employer is required to request for the issue of a work permit before commencement of employment. A work permit will only be granted if there are no entitled workers able or willing to take up any particular employment. A work permit is issued for a period not exceeding 12 months. The employment of a worker for whom a work permit is required without the employer having first obtained such a permit is an offence and fixed penalty notice of £3,000 may be issued to the employer.

Non-entitled workers may be granted residential permits on an annual basis and are normally renewed only if the individual is still in possession of a work permit. A non-EEA national may be refused permission to buy real estate in Gibraltar. However, such permission cannot be refused to residents of EEA countries. Work permits for non-EU nationals are only issued after a (refundable) deposit is paid to the Employment Service to cover any repatriation, etc., which may be required.

4.3 Engagement and dismissal

4.3.1 Engagement

In order to engage an employee, the employer must first register the vacancy (ies) at the Employment Service by completing and submitting a “Notification of Vacancy” form. The commencement date for the new employee(s) cannot be earlier than two weeks from the date on which the vacancy is registered.

If an employee is a non-entitled worker (see Section 4.2), the employer must obtain a work permit (see Section 4.2) from the Employment Service for that worker. This involves, inter alia, completing a “Request for the Issue of a Work Permit” form.

In all cases, the employer must complete a “Notice of Terms of Engagement” form, which includes particulars of the terms of employment, such as salary or wages, interval of pay, hours of work, holiday entitlement and minimum period of notice for termination. This notice must be accepted and signed by the employee before it is filed at the Employment Service. Employee details have to be registered within 14 days of the commencement of the employee’s engagement. On termination of employment of any employee, the Employment Service must similarly be notified within 14 days.

The process for registering an employee at the Department of Social Security and the ITO has been simplified in recent years with the introduction of a scheme commonly known as the “one-stop shop.” Under this scheme, in cases where an employee is simply moving jobs within Gibraltar, the records at the Department of Social Security and the ITO are automatically updated internally without the need for the employee to visit each department in turn.

4.3.2 Dismissal

The Employment and Training Act contains provisions regarding the “right not to be dismissed unfairly” and the “meaning of Fair and Unfair Dismissal and Onus of Proof.”

The law provides instances where, generally, the employer would be justified in dismissing an employee. These include the following:

- ▶ Unacceptable conduct of the employee (for example, a poor attendance record)
- ▶ Lack of capability or qualifications for performing the kind of work for which they were employed
- ▶ A legal or other restriction imposed upon the employee that prevents that person from working (for example, where a van driver loses their license)
- ▶ Termination of a fixed-term contract
- ▶ Some other substantial reason

It is important to note that the onus always falls on the employer to prove the fairness of the dismissal. Termination without good reason and without following disciplinary procedures may result in a claim for unfair dismissal.

The law also provides instances where dismissal would automatically be deemed unfair. These include the following:

- ▶ Trade union related, such as becoming or indicating an intention to become a member of a trade union or other organisation of workers or taking part in any trade union activities
- ▶ Maternity related, such as pregnancy or any other connected reason
- ▶ Health and safety related, such as taking, or proposing to take, reasonable action to protect oneself or others in dangerous circumstances or refusing to return to work, where the employee reasonably believes a danger exists
- ▶ Claims made or alleged against the employer under employment regulations
- ▶ Proceedings brought by the employee against the employer to enforce a legal right or prevent the infringement of a legal right provided the claim is made to in good faith

Claims for unfair dismissal may also follow from situations where an employee resigns because of the conduct or actions of the employer. This is known as constructive dismissal.

4.3.3 Notice period for termination of employee

The period of notice for the termination of employment may have been determined by mutual agreement or contract. However, if the contract is for an indefinite period with no specific agreement as to the notice period (or the contract stipulates a period of notice that is less than the statutory minimum), the following statutory minimum periods of notice must be given by the employer:

- ▶ Where the payment period is not greater than once a fortnight (for example, weekly paid employees)

Years of continuous employment	Notice to be given (minimum)
Less than 2 years	1 week
From 2 to less than 5 years	2 weeks
From 5 to less than 8 years	4 weeks
From 8 to less than 10 years	8 weeks
10 years and over	13 weeks

- ▶ For other payment periods (for example, monthly paid employees):

Years of continuous employment	Notice to be given (minimum)
Less than 8 years	1 month
From 8 to less than 10 years	2 months
10 years and over	3 months

Notice need not be given if there is good and sufficient cause. This could be lack, loss or impairment of skill, ability or efficiency that makes the fulfilment of the contract impossible. This also applies in cases where the employer has lost confidence in the employee.

4.4 Working conditions

Government employees are paid at a rate on parity with the UK, and the private sector is broadly in line with the Gibraltar Government.

There is a policy of equal pay for women and minimum wage protection for certain sectors. The statutory minimum wage has been increased from £6.75 per hour to £7.00 per hour from 1 August 2019. This is equivalent to £273.00 weekly (based on a 39-hour week) and £1,183.00 monthly. Also, in general, an employee cannot be required to work more than an average of 48 hours a week, unless otherwise has been agreed in writing with the employer. Employees working in certain sectors are excluded.

Consultation is encouraged between employees and employers over working conditions, and there are provisions for involving statutory wage fixing in the event of a breakdown in negotiations.

Employers are required to keep their premises in a reasonable and safe condition for their workers, as laid down in the Factories Regulations. There is also legislation governing the storage and use of explosives and petroleum products.

4.4.1 Holiday entitlement

Statutory holiday entitlement is as follows:

Period in employment	Minimum leave (days) p.a.*
Less than 3 years	15
From 3 to 5 years	20
From 5 to 8 years	22
More than 8 years	25

*Based on a 5 day working week

The holiday entitlement is generally in addition to the public holidays listed in Section 1.11.6. The main exception relates to employees whose terms of employment require them to work on public holidays (for example, employees of companies that provide emergency services). Such employees are allowed, in accordance with their terms of engagement, predetermined rest days and periods. Holiday entitlement cannot be replaced by a payment in lieu.

An employer can determine the starting date(s) and duration of holiday leave. This information must, however, be notified to the employee (either directly or via a public notice) within a reasonable period of time.

4.4.2 Redundancy pay entitlement

Minimum redundancy pay entitlement is based on the number of years employed and in accordance with the following bands.

Years employed	Weeks' pay per year*
Less than 1 year	0
First 5 Years	2
Next 5 Years	3
Over 10 Years	4

The maximum entitlement is one year's salary.

*Week's pay means the average of the gross weekly payments made to that employee in the 13 weeks immediately prior to the termination of the employment.

Note: These are the standard conditions that can vary, notably in the retail, wholesale, licensed non-residential, building and painting, or mechanical and electrical sectors.

4.4.3 Sick pay entitlement

Employees who have worked for more than three months are entitled to sick leave consisting of two week's full pay and four week's half pay over a 12-month period of employment. An employee must report their illness to the employer within three days of absence from employment and supply a certificate of illness from a medical practitioner in the European Community.

The employer may deduct from the employee's sick pay any benefits received from social security.

4.4.4 Parental leave entitlement

Although not legally defined, parental leave relates to a period of unpaid leave taken by the mother or father of a child, or any individual who has obtained formal parental responsibility of a child. An employee who has been continuously employed for at least one year and has, or will have, the responsibility of a child, is entitled to be absent from work on unpaid parental leave.

Parental leave is always without pay and consists of 4 months' leave, provided that no more than four weeks are taken after the birth or adoption of a child in any one year.

Parental leave is only permitted until the child's fifth birthday or fifth anniversary of adoption, where relevant.

The employee must give minimum periods of notice and an employer may postpone the leave if the operation of the business would be substantially prejudiced by the employee's absence.

4.4.5 Maternity leave and allowance

Statutory maternity leave, which is unpaid, consists of 14 weeks leave.

Maternity allowance is a weekly benefit of £87.64 paid by the Government for a period of 18 weeks. It can be claimed as early as 11 weeks before the expected week of birth but not later than six months after the right to maternity leave has been exercised. Provided appropriate social insurance contributions have been paid by the claimant in the year prior to the birth, a maternity grant of £ 700.00 is also available.

4.4.6 Time off work for urgent family reasons

Time off work must normally be allowed to employees for urgent family reasons, such as sickness or an accident affecting a member of the employee's immediate family which makes the employee's immediate presence with the family indispensable.

An employee is entitled to up to five working days each year. The employer may require proof of the necessity for the leave.

Employees are not entitled to be paid during the time off work. The absence from work with employer's approval is considered a special type of unpaid leave.

4.5 Labour relations and trade unions

Trade unions are recognised in Gibraltar, but it is not compulsory for workers to join a union. Unions must be registered under the Trade Unions and Trade Disputes (Conciliation and Arbitration) Act. Employees and unions are entitled to withhold labour when there is a dispute.

4.6 Social security contributions

In general, everyone over the age of 15 years who is self-employed or employed in Gibraltar or, in certain cases, on a ship registered in Gibraltar, is required to make social security contributions. These individuals are known as "contributors." Non-residents employed in Gibraltar are also subject to the employment laws and social security legislation.

An individual may be exempted from contributing to the local system if the local authorities are satisfied that the individual is keeping up contributions to their home country's scheme, and if the scheme offers benefits that are at least equivalent to those offered by the Gibraltar social security system. In the case of an EU national, it is a fairly straightforward process that basically requires production of the requisite documentation and completion of a form.

EU nationals also get aid from EU aggregation rules for certain benefits, including unemployment benefits. However, they are not entitled to claim social assistance or other non-contributory benefits.

Gibraltar does not have bilateral social security arrangements with other countries; it is regarded as a part of the UK for EU purposes.

All employees are entitled to be included in approved pension schemes in Gibraltar. Company directors and partners of firms are also entitled to be included.

All self-employed individuals are entitled to retirement pensions from the social security scheme as long as the appropriate contributions have been paid.

Unemployed workers are granted credits against their social security contributions.

If they satisfy the required conditions, they may also claim unemployment benefit and, in cases of hardship, may receive supplementary benefit.

Social security benefits also include maternity grants, death grants, guardian's allowance for orphaned children and widower's allowance for individuals aged below 65 years who are incapable of supporting themselves.

Industrial injuries benefit and disablement benefits are also available and vary according to the disablement.

Employees receive a certificate determining the level of contribution required.

Social insurance contributions are based on a percentage of earnings, but subject to a minimum and a maximum weekly amount. In practice, contributions in respect of many employees are fixed at the maximum (capped) amounts.

Contributions were increased with effect from 1st July 2018 by approximately 10%, after a period of fifteen months without change. At the time of writing, contributions are calculated as set out below:

Contribution class	Code	Weekly rate of contribution	
		Employee	Employer
Earnings related Men or women aged between 18 years and 59 years	ER	10% gross earnings min £6.05 max £30.25	20% gross earnings min £18.15 max £40.15
Married women Married women and widows who have elected not to pay contributions under the Social Insurance Act prior to 1 January 1985	MW	£15.95	20% gross earnings min £18.15 max £40.15

Contribution class	Code	Weekly rate of contribution	
		Employee	Employer
Pensioner Men or women aged 60 years or above	PN	Exempt	20% gross min £18.15 max £40.15

Self-employed contributors and voluntary contributors

Class of employed insured person	Weekly rate of contribution
	Self-employed
Men aged between 18 and 64	20% gross min £12.10 max £36.85
Women aged between 18 and 59	20% gross min £12.10 max £36.85
Additional voluntary contributions By self-employed women for the purpose of Maternity Allowance	£2.20

Social insurance credit for smaller companies

From 1 July 2015 a credit of £100 per employee per annum applies to companies with 10 or less employees, or if in the first year of operation, to companies with up to 20 employees.

Secondary employment

With effect from 1 July 2015, neither the employer nor employee is required to pay social insurance contributions in respect of secondary employment, where full contributions are already paid in Gibraltar.

4.7 Private Sector Pensions legislation

In July 2019, the Private Sector Pensions Act was passed into law. The Act ensures that private sector workers are entitled to have a choice on whether they wish to make a contribution to a pension plan, thereby reducing the discrepancy that exists between private sector workers and public sector workers in respect of pension provisions.

Should an employee choose to participate in a pension plan, the law will require the employer to contribute towards that employee's pension plan. Employers in the private sector will therefore have an obligation to provide a pension to employees and they also have a duty to notify the Pensions Commissioner if an employee opts out. The Act is currently not yet in force.

The key provisions of the Act are that a pension must be made available for employees who:

- Earn more than £10,000 per year;
- Are at least 15 years of age; and
- Have been in continuous employment with the employer for one year

5 | Taxation

5.1 Changes for 2019-20

The principal changes that impact on tax year 2019-20 are as follows.

Personal taxation

No changes were made to the tax bands, tax rates or allowances available under the gross income based system.

No changes were made to the tax bands or tax rates that apply under the allowance-based system. Most allowances and deductions under the Allowance-based system were increased slightly to reflect cost of living increases (see 5.7.2 for details).

Corporation tax

Legislation to implement the EU “Anti-tax avoidance Directive” was implemented in December 2018; this applies to accounting periods commencing on or after 1 January 2019 (see 5.19 for details).

HM Government of Gibraltar introduced new rules and guidance in respect of applications for tax rulings from the Commissioner of Income Tax and the processing of such rulings (see 5.20 for details).

Anti-avoidance provisions in Gibraltar’s tax legislation were amended in October 2018 to include a specific definition of “artificial and fictitious”. This specifically refers to the OECD’s transfer pricing guidelines.

In November 2018 the Income Tax Office published guidance on the interpretation of “accrued and derived” in the context of determining whether profits and gains are assessable to tax in Gibraltar.

As from 22 November 2018, the non-trading rental income of a company registered in Gibraltar from movable property became taxable.

As part of his budget address in June 2019, the Chief Minister announced consultation processes to consider the introduction of:

- ▶ A notional interest deduction for companies in respect of funding by equity
- ▶ Additional allowances for research and development expenditure.

UK-Spain international tax agreement

On 4 March 2019 the UK and Spanish governments signed an international agreement on taxation regarding Gibraltar. This includes “tie-breaker” provisions that would apply in the case of dual residency of individuals, provisions relating to Gibraltar companies with defined links to Spain and also for the exchange of information and administrative co-operation. The agreement will not take effect until it has been ratified, which at the time of writing has not yet occurred, nor is a certainty. (See 5.21 for details).

Gift aid

The limit on gifts that may be made within the scheme was increased from £5,000 to £10,000 as from 1 July 2019.

Stamp duty

An exemption from stamp duty on initial purchases of residential properties in Government-developed affordable housing estates was announced in the Chief Minister's budget address in June 2019. (See 5.13.3 for details)

Import duties

Changes to import and excise duties included the following:

	Change
Cigarettes	From £14.00 to £14.50 per carton
Rolling tobacco	From £60 per kg to £65 per kg
Diesel fuel	From 37p to 40p per litre
Diesel premium	From 34p to 37p per litre
Petrol (unleaded 95 octane)	From 35p to 38p per litre
Petrol (unleaded 98 octane)	From 34p to 37p per litre
Household vacuum cleaners, sewing machines, electric toothbrushes and shavers, hair clippers, mobile phone chargers, fans with output not exceeding 125W, musical and camera cases	From various to nil
Unmounted precious stones (private importations or importations without a Business Licence)	From nil to 12%
Works of art and collectors' pieces (private importations of value over £1,000)	From nil to 3%

5.2 General principles

On 1 January 2011, the Income Tax Act 2010 came into effect. The new act ended the distinction between offshore and onshore businesses and moved Gibraltar to a system of self-assessment for companies and self-employed individuals.

The Act provides that all companies, however owned, are taxed on profits accruing in or derived from Gibraltar, thereby preserving the territorial basis of taxation. "Accrued in and derived from" is defined by reference to the location of the activities that give rise to the profits. In the case of companies licensed and regulated under Gibraltar law, activities that give rise to their profits are deemed to take place in Gibraltar, with the exception of profits generated by overseas branches or permanent establishments. Guidance was issued by the Income Tax Office in November 2018 on the interpretation of "accrued and derived".

The Commissioner of Income Tax is responsible for the administration of the Income Tax Act and for the assessment and collection of income tax. Except for bringing a prosecution for a tax offence, the Commissioner can authorise any individual to carry out any duties imposed by the Act.

Documents, information and returns are regarded as secret and confidential, and any official or other employee of the administration who does not observe this rule is guilty of an offence. Communication of such information is, however, permitted for carrying into effect the provisions of the Act or in accordance with the EU Council Directives regarding exchange of information (principally the Mutual Assistance) or international tax information exchange agreements (see below). Communication is also permitted for the purposes of a prosecution or for enabling proper double tax relief to be given.

The Commissioner may allow the Financial Secretary, Principal Auditor or any other officer properly authorised on their behalf access to documents deemed necessary for the performance of their official duties.

An independent tax tribunal hears appeals brought by taxpayers. The members of the tribunal and a clerk are subject to a statutory declaration not to disclose any information except for the purposes of any prosecution for an offence relating to the Income Tax Act, or in such other cases as may be required by law. Proceedings before a tribunal are not open to the public.

5.2.1 Information exchange and compliance with international requirements

As at 30 June 2019, Gibraltar has:

- ▶ Concluded Tax Information Exchange Agreements (TIEA) with 27 countries, including the US, the UK and Ireland. Of these, 26 are in force.
- ▶ Enacted legislation for the automatic exchange of information with the United States ("FATCA") and all EU Member States (the "EU Common Reporting Standard" or "DAC").

- ▶ Enacted legislation for the exchange of information under the Common Reporting Standard (“CRS”). Gibraltar was one of the “Early Adopters Group,” who made the initial formal commitment to this initiative by the OECD.
- ▶ Enacted legislation to implement Country by Country Reporting. This is an OECD initiative that requires entities that belong to multi-national groups with total consolidated revenue of €750m or more to notify tax authorities if they are members of such groups, and if so, the identity and jurisdiction of the ultimate parent entity. Further, the ultimate parent (or the member entity in some circumstances) is then required to report financial information relating to the group, analysed on a country-by-country basis.
- ▶ Transposed EU Council Directive 2011/16/EU on administrative cooperation in the field of taxation, which relates to the exchange of information between all EU member states. This includes the automatic exchange of information on advance cross-border rulings and pricing arrangements issued by the Gibraltar tax authorities.
- ▶ Implemented the OECD and Council of Europe Convention on Mutual Administrative Assistance in Tax Matters, providing for tax information exchange between Gibraltar and all countries and territories that have ratified the Convention.

In 2009, Gibraltar was placed on OECD’s White List of territories that had substantially implemented the internationally agreed standard on tax information exchange.

In June 2013, the EU Code of Conduct Group and the ECOFIN fully endorsed the Income Tax Act 2010.

In 2013 the EU launched a state aid investigation into the tax treatment of passive interest and royalty income. (These have been taxable on companies since 1 July 2013 and 1 January 2014, respectively). In 2014, the investigation was extended to cover Gibraltar’s procedures for giving advance tax rulings. In December 2018, the EU Commission announced that:

- ▶ Of 165 tax rulings investigated, five were found to contain State aid. The remaining 160 rulings were found not to contain any State aid.
- ▶ The non-taxation of corporate royalty income in the years 2011 to 2013 was found to be State aid;
- ▶ The non-taxation of inter-company interest income in the years 2011 to 2013 was found to be State aid. However, the *situs* of loan principle was held to be applicable to interest income in those years (which in practice is likely to mean that in many cases such interest would not be subject to tax and therefore did not represent State aid.

The Phase II report issued in 2014 by the OECD’s Global Forum on transparency and exchange of information for tax purposes gave an overall rating of “Largely Compliant” – the same rating as that of the UK, Germany and the US. Gibraltar was found to be “compliant” in seven out of ten essential elements examined and “largely compliant” in the remaining three.

In July 2019 Gibraltar formally joined as a member of the OECD Inclusive Framework on Base Erosion and Profits Shifting.

5.2.2 Classes of income

The Income Tax Act 2010 sets out the following different classes of income.

Table A

- ▶ Gains or profits of a company or a trust from any trade, business, profession or vocation
- ▶ Any rents, premiums and other profits (not being capital gains) arising from any interest in real property

Table B

- ▶ Income from any office or employment, including any allowances, perquisites or benefits in kind specified in Schedule 7 of the Act
- ▶ Income from a trade, business, profession or vocation

Table C

Class 1 – Dividends, except for dividends:

- ▶ Paid or payable by a company to another company
- ▶ Paid to a person who is not ordinarily resident in Gibraltar
- ▶ Paid by a company whose shares are listed on a recognised stock exchange
- ▶ Paid out of profits or gains on which no tax was payable in Gibraltar, to the extent that the dividend represents the distribution of such profits or gains.

Class 1A – intercompany loan interest (see Section 5.3.21 below)

Class 2 – income from a fund that is not marketed to the general public, including shares in or securities of an open-ended investment company; taxability of the income depends on whether the underlying income of the entity or entities forming the structure of the fund is taxable

Class 3 – income from any right to and interests in anything falling within classes 1 or 2

Class 3A – royalties received or receivable by a company (see Section 5.3.22)

Class 3B – income from movable property - this refers to non-trading rental income from movable property located outside of Gibraltar, received or receivable by a company. This is deemed to accrue and derive in Gibraltar in the case of a Gibraltar-registered company

Class 4 – any pension, charge or annuity that is not maintenance, alimony or other payment to a spouse or child under a court order or deed of separation

Class 5 – any profits or gains to be treated as income under the anti-avoidance clauses of the Act

Class 6 – State aid recovery - this refers to Class 1A and Class 3A income arising in the years 2011 to 2013 only for the purposes of ensuring compliance with recovery procedures arising from a specific State aid decision.

Companies

Companies are subject to tax in Gibraltar only on income falling within the above classes accruing in or derived from Gibraltar. In other words, companies are taxed on a territorial basis with regard to the activities giving rise to the income.

Persons other than companies

Persons other than companies, for example, individuals, trusts and foundations) are subject to tax upon income as mentioned in Tables B and C on a worldwide basis. Income in Table A is only taxable when accruing in or derived from Gibraltar.

Income not taxable

Income tax is not payable on the following:

- a. Most non-trading investment income – notable exceptions to this being Class 1A intercompany loan interest (see Section 5.3.21 below) and dividends received by individuals, trusts or foundations from non-quoted securities
- b. Companies' income that is not accrued in or derived from activities carried out in Gibraltar
- c. Rental income from properties located outside Gibraltar
- d. Capital gains - these are outside the scope of the Income Tax Act 2010
- e. Income received in respect of director fees, provided the director earning the income is not ordinarily resident in Gibraltar, and is present in Gibraltar for less than 30 days in the year of assessment
- f. Funds income from a fund that is marketed to the general public
- g. Income earned by full time students
- h. Other income specifically exempted by rules made under the Act.

5.2.3 The tax year and basis of assessment

For individuals, trusts and foundations, the year of assessment runs from 1 July in one calendar year to 30 June in the following year, with taxpayers being assessed on an actual basis. Companies are assessed on an actual basis according to their financial year.

5.2.4 Payment and filing dates

Individuals

Payment of tax

With respect to income from employment, tax is deducted from wages and salaries under a PAYE system. Any additional tax due is generally payable by the employee once assessed by the ITO.

Income from self-employment is payable under self-assessment. A taxpayer should make two payments on account*, the first by 31st January and the second by 30th June in the year of assessment. Any balance remaining is payable by 30th November following the end of the tax year.

Filing requirements

Individuals are required to file their tax return for a tax year by 30th November following the end of that tax year. Individuals with income from self-employment must draw up their accounts to 30th June each year.

Trusts and foundations

Payment of tax

The trustees of a trusts or a foundation are required to pay any tax due in respect of the trust or foundation under self-assessment.

Payments on account* are due by 31st January and by 30th June in the year of assessment. Any remaining balance is payable by 30th November following the end of the tax year.

Filing requirements

The trustees of a trust or foundation with assessable income are required to file a trust tax return by 30th November. Trusts or foundations with assessable income must draw up their accounts to 30th June each year.

Companies

Payment of corporate tax

A company is required to make two payments on account* of corporate tax, the first by 28th February and the second by 30th September each year. These are payments towards the tax liability for the financial year in which those payments are due. Any balance of tax remaining is payable within nine months of the end of the company's accounting period.

*Payments are in two equal instalments of 50% of the tax payable for the last relevant accounting period. If the taxpayer believes that the tax payable on account on this basis will exceed the liability payable for the year, they may apply to the Commissioner to be discharged in whole or in part from their obligation to make the advance payment. However, if it is subsequently found that the application has been made erroneously and that the final liability is higher than predicted by the taxpayer, a surcharge on late payment of the difference may apply.

Filing requirements

For accounting periods ending on or after 1 January 2016 all companies registered in Gibraltar and all companies (whether Gibraltar-registered or not) with income assessable to tax in Gibraltar are required to file a tax return. Prior to this date, the filing requirement only applied to companies with income assessable to tax in Gibraltar.

The filing deadline is nine months after the end of the month in which the accounting period ended.

Companies with assessable income of £1.25 million or more (or equivalent on a pro rata basis if the accounting period is less than one year) are required to file audited accounts with its tax return. Companies with assessable income of less than £1.25 million (or equivalent on a pro rata basis) are required to file accounts accompanied by an independent accountant's report with their tax return (in practice, audited accounts would be accepted as an alternative).

The audit threshold, which was introduced in 2011, was initially £0.5 million of turnover. The threshold was changed to £1 million of assessable income for accounting periods ending on or after 1 July 2013, with an increase to £1.25 million of assessable income applying to accounting periods ending on or after 1 July 2015.

Guidance has been issued by the Income Tax Office setting out the accounts that, in its view, would be required to be filed by companies that have no income assessable to tax in Gibraltar. For small companies (as defined in the Companies Act 2014) with no assessable income, only an abridged balance would be required to be filed with the tax return.

5.2.5 Appeals

A taxpayer may appeal against an assessment by notice in writing addressed to the Commissioner of Income Tax within 28 days of the date of service of the assessment. Such an appeal is formally made to the Income Tax Tribunal, although in practice if there are clear grounds for an appeal, it is usually resolved by the ITO before being referred to the Tribunal.

5.3 Corporate tax

5.3.1 Taxable base

The taxable base of a company is as defined in Section 5.2.2.

5.3.2 Ordinary residence

A company is considered to be ordinarily resident in Gibraltar if the management and control of that company take place in Gibraltar, or if the management and control is exercised outside Gibraltar by persons who are ordinarily resident in Gibraltar. Management and control mean the highest level of oversight, usually as exercised by the board, rather than day-to-day management.

Ordinary residence, in itself, is not what determines if a company is taxable in Gibraltar. This is determined by whether the income is accrued in or derived from Gibraltar, which in turn depends on the location of the activities giving rise to the company's profits (see Section 5.2). However, the Gibraltar tax authorities are increasingly looking at how the activities of management relate to the activities giving rise to profits or gains of the company. Therefore, the nature and location of management's activities can be a factor in determining whether income is accrued in and derived from Gibraltar.



5.3.3 Corporate tax rates

All companies are chargeable on taxable profits at a rate of 10%, except for utility, energy and fuel supply companies and for companies deemed to be abusing a dominant market position, for which the applicable rate is 20%.

Prior to 2011, higher rates of corporate tax applied.

5.3.4 Exempt companies

Exempt company status was phased out by 31 December 2010.

5.3.5 Deductions allowed against income

As a general rule, a deduction in computing the profits or gains will only be allowed with respect to any disbursement or expense that is wholly and exclusively incurred for the production of income from a trade, business, profession or vocation. In addition, deductions are available with respect to the below items.

Approved expenditure on premises

Expenditure incurred on painting, decorating, repairing and, in general, enhancing the appearance of the frontage of premises entitles the claimant to a deduction in computing the taxable income. This deduction is in addition to any other deduction that may already be available as a business expense, for example, if the expenditure already meets the criteria as a deductible repairs expense.

The expenditure must be certified by the town planner and the claim for the deduction must be made within two years after the end of the year of assessment for which the deduction is claimed.

Architect's fees

A capped 200% credit was introduced for tax year 2015-16 onwards in respect of the cost of architect's fees for successful planning applications under the Town Planning Act (and any fees charged by Government for such an application) made by a company in respect of its own property in the first 24 months of operation of a start-up company. The credit, capped at £5,000, is deductible against tax liabilities in the first three years of operation of the company.

Training costs

For 2015-16 onwards, 150% of costs in respect of "qualifying training" (as approved by the Commissioner of Income Tax) are allowable against the profits of a business as a deduction.

Improvement to Energy Performance Coefficient (EPC) rating

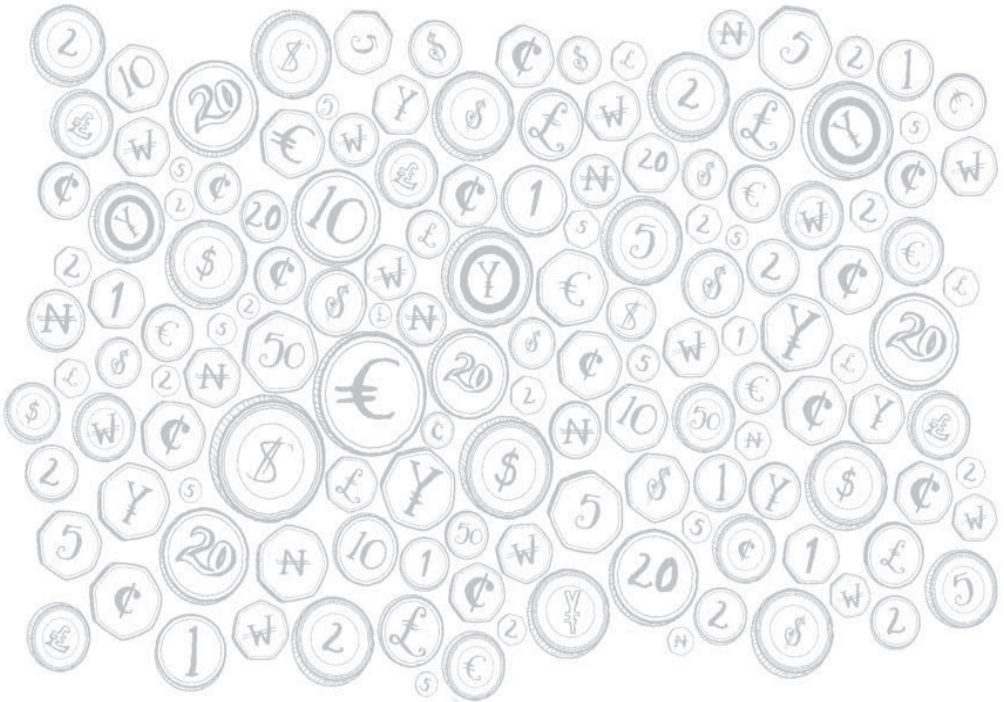
For 2015-16 onwards, a one-off deduction is available against assessable income on the investment made by an individual, company or business in order to make a significant improvement to the EPC rating of their premises, subject to conditions.

Development Aid

The objective of Development Aid is to encourage investment in Gibraltar by way of development that brings a tangible and substantial benefit to the economy.

Once a licence is granted, the relevant Government Minister, on the advice of the Development Aid Advisory Committee, determines what proportion of the total capital expenditure in percentage terms is available for tax relief.

The amount calculated on this basis is available as a deduction against taxable profits, with any unused amount being available to use as a deduction in future years. The amount of profits that have been offset by Development Aid, once distributed to the beneficial owners of the development company, is treated as non-taxable in the hands of those beneficial owners.



In addition, first-time occupiers of property that was the subject of a Development Aid licence are entitled to rates relief at the following rates:

Commercial premises		Residential premises	
Year	Relief	Year	Relief
1	100%	1	100%
2	80%	2	90%
3	60%	3	80%
4	40%	4	70%
5	20%	5	60%
6 (and after)	0%	and so on, until year 11	0%

5.3.6 Deductions not allowed against income

The Income Tax Act 2010 includes a list of expenses that are not deductible, or for which the deduction may be restricted. These expenses include:

- ▶ Losses not connected with, or not arising from trade, business, professional or vocation
- ▶ Capital withdrawn from a business
- ▶ Capital employed in the improvement of premises
- ▶ Sums recoverable under insurance or a contract of indemnity
- ▶ Interest paid or payable to a person not resident in Gibraltar, to the extent that the interest charged is at more than a reasonable commercial rate
- ▶ Interest paid or payable on funds borrowed other than for the purpose of trade or a profession that generates the income
- ▶ Depreciation and amortisation of assets (instead capital allowances are given – see Section 5.3.7)
- ▶ Taxation charged under the Income Tax Act 2010, or tax charged by other jurisdictions in respect of which double tax relief may be given (generally this means tax on profits)
- ▶ Contributions to a provident, pension or other fund for the benefit of employees where the fund has not been approved by the Commissioner of Income Tax
- ▶ Entertaining expenses – generally, the cost of entertaining clients is deductible, but there are detailed rules that restrict this; the Act does not appear to allow a deduction unless the person being entertained is a client (as opposed to, for example, a business introducer). However, it is understood that in practice – within reason – a deduction will be available in respect of such an expense if it is incurred wholly and exclusively in the production of income. This area should be treated with caution, with comprehensive records kept, if it is intended to be claimed for a deduction

- ▶ In the case of a branch, or a company with a branch, the deduction of certain head office expenses or expenses incurred by a branch for the purpose of the company in excess of 5% of gross income
- ▶ The Income Tax Act 2010 states that “In the case of person who has income, some of which is chargeable to tax and some of which is not chargeable to tax, in computing the profits and gains liable to tax, the deductions allowed ... shall be apportioned on a pro rata basis between the chargeable and non-chargeable income.” This could be interpreted as meaning that all otherwise deductible expenses should be apportioned such that no deduction would be obtained for the portion of costs that are allocated against non-chargeable income. The Commissioner of Income Tax has, however, stated that this clause will only be applied to deductions of a general nature and that direct expenses should be deducted against the income they relate to and not apportioned.

5.3.7 Capital allowances for business assets

The first £30,000 of capital expenditure on plant and machinery (including fixtures, fittings and equipment acquired in a year of assessment is fully deductible within the year. An annual allowance is given for any remaining balance over this amount. From 1 January 2016 this includes commercial motor vehicles, and private motor vehicles only if for hire or the carriage of members of the public in the ordinary course of business or trade. Prior to that date, there were no initial allowance is given for motor vehicles, but an annual allowance is given as set out below.

In addition, the first £50,000 of qualifying capital expenditure on computer equipment is also fully deductible within the year. As for plant and machinery, an annual allowance is given for any remaining balance over this amount.

From 1 July 2015 onwards, new businesses may claim the amount of the capital allowances arising in the first year of trading as a deduction against the amount of tax payable in respect of that year. This is subject to conditions - see 5.15 for details.



The following table summarises the position from 1 January 2011 onwards.

	Initial allowance	Additional allowance
Plant and machinery (including fixtures and fittings) ¹	100% on first £30,000	At 15% ² p.a. on reducing balance
Computer equipment	100% on first £50,000	at 15% ² p.a. on reducing balance
Industrial buildings (including factories, hotels and similar premises)		4% p.a. straight line on cost

As of 1 January 2011, all assets are pooled for tax purposes. The pool is increased by relevant capital expenditure in excess of the initial allowance in the period, and is reduced by the proceeds of any disposals during the period. The allowance for the year is then calculated at 15% of the value of the pool. The pool value is then reduced by that allowance and the remaining balance is carried forward to next year.

In addition to the above, from 1 July 2013, capital allowances are given with respect to the construction of office accommodation in Gibraltar where construction commenced on or before 31 March 2015. From 1 July 2014, this was extended to "high-value accommodation" where ground was broken before 31 December 2015. In the first year following the completion of construction, 30% of the construction costs are given as an allowance, with the remaining 70% over the subsequent seven years. This allowance can be claimed in part or in full by either the developer or the occupant. It is limited to those costs wholly and exclusively laid out or expended in the construction of the accommodation, including all preliminary planning, design and associated costs, but excluding the cost of the land.

The amount paid to a principal landlord (which is taxable for the landlord) in acquiring leasehold premises may be written off over the period of the lease, provided the lease is for 12 years or less.

Amounts amortized with respect to goodwill and other intangible assets (excluding any software in respect of which capital allowances apply) are not tax deductible.

¹ This does not include motor vehicles (except for - from 1 January 2016 onwards - commercial motor vehicles, and private motor vehicles if for hire or the carriage of members of the public in the ordinary course of business or trade).

² For companies taxed at 20% (utilities, energy companies, etc.), an annual allowance of 20% is given instead of 15%.

5.3.8 Capital gains

There is no capital gains tax legislation in Gibraltar. Capital gains are, therefore, not subject to taxation.

5.3.9 Losses

Under the Income Tax Act 2010, losses can be carried forward indefinitely to be offset against future profits arising from the same or similar trade, profession or vocation. There are no provisions for carrying back tax losses.

In the case of a company, losses cannot be carried forward if, within a period of three years, there is both a change in the ownership of the company and a major change in the nature or conduct of a trade of the company.

The tax losses of a company may only be offset against future profits of the same company - with the exception of a tax measure announced in July 2018. This measure is to allow companies to transfer tax losses as part of a group restructure. This would only apply where there is no change in ultimate ownership and no change of business within a period of three years.

5.3.10 Computation of taxable profits

	£
Profit per accounts	X
Add: disallowable expenses included in accounts	X
Less: non-taxable income	(X)
Less: capital allowances	(X)
= Profit for the year subject to corporate tax	X
Less: losses brought forward	(X)
= Taxable profit	P
Taxation payable = $10\%/20\% \times P$	X
Less: double tax relief	(X)
Less: new business start-up relief (see 5.3.18)	(X)
Net tax payable	X

5.3.11 Dividends paid to shareholders

Tax treatment

There is no withholding tax on dividends paid by a Gibraltar company.

Dividends received by companies from other companies are not taxable.

Dividends received by Gibraltar-resident shareholders who are individuals, trusts or foundations may be taxable. Such dividends are taxable on the recipient to the extent that the dividend represents the distribution of income derived from profits that were chargeable to tax in Gibraltar.

Where a dividend is taxable in the hands of the shareholder, the dividend has a tax credit equivalent to the tax suffered by the underlying company on the profits out of which the dividend was paid.

Any part of a dividend that represents the distribution of income derived from profits that were not taxable in Gibraltar is not taxable on the recipient.

Complex rules are applied to determine how a dividend is matched to historical underlying profits. This in turn determines how much of a dividend is taxable or not taxable, and the amount of any tax credit available. These rules have changed in recent years.

Current rules for matching dividends to accumulated profits

These rules apply to dividends paid or payable by a company during accounting periods ending on or after 1 January 2018.

Accumulated profits of the company are grouped by reference to the applicable headline tax rate for the year in question. Within those groups, profits are split between distributable and non-distributable profits. The distributable profits are then analysed between taxable profits and non-taxable profits, together with the Gibraltar corporation paid or payable on the taxable profits.

The dividend is allocated to the groups of profits on a first-in-first-out basis. Within the groups in question, the dividend is allocated between taxable and non-taxable profits on a pro-rata basis. Similarly, where taxable profits are allocated to the dividend, the tax credit for the total taxable profits in the group is used on a pro-rata basis.

Rules for prior years

In the case of dividends declared in accounting periods ending up to 31 December 2015, dividends are deemed first to be paid out of taxable income before non-taxable income. Within those two groups of income, profits earned at an earlier date are allocated first.

For dividends declared in accounting periods ending on or after 1 January 2016:

- The legislation is silent on the order in which profits from different years should be allocated, although the applicable dividend returns state that earlier years should be used before later years (following the previous wording in the legislation)
- Taxable and non-taxable income should be allocated to the dividend for the relevant years on a pro-rata basis.

Dividend returns

For accounting periods ending on or after 1 January 2016, a dividend return is required to be filed by any Gibraltar-registered company if it declares a dividend.

Prior to this date, a dividend return was only required to be filed by a company if it declared a dividend in favour of a person ordinarily resident in Gibraltar, or to a Gibraltar incorporated company.

Dividend returns are required to be filed within nine months of the end of the month in which the relevant accounting period ends.

Companies listed on a recognised stock exchange are exempt from filing a dividend return.

5.3.12 Loans made to shareholders

If a loan is made by a company to a shareholder, or to a person connected to a shareholder (in either case, the borrower not being a company), then the amount of the advance will be treated as a dividend, if in the opinion of the Commissioner of Income Tax this represents a distribution of income. The amount deemed to be a dividend is taxed accordingly.

5.3.13 Transitional rules

From 2011 onwards, all incorporated and unincorporated businesses are assessable to tax on an actual basis. Prior to this, many companies were assessed on a preceding year basis (i.e., for a given tax year, the profits assessed were those for the financial year ending in the prior tax year).

Specific transitional rules applied to the taxation of profits generated by companies between 2008 and 2010 (please refer to earlier editions of this publication for details).



5.3.14 Double tax relief

There are no double tax agreements in force between Gibraltar and any other jurisdiction. However, tax relief is available with respect to foreign income tax paid, deducted from, or liable to be paid on, income that is also chargeable to Gibraltar tax, up to the lower of Gibraltar tax or foreign tax on the income. This only applies where the jurisdiction imposing the foreign tax is the same as the jurisdiction in which, or from, the revenue arose.

A tax treaty was signed in October 2019 between the United Kingdom and Gibraltar, which follows the OECD Model. Once in force, this will provide for double taxation relief in a similar manner to the existing unilateral double tax relief that applies in Gibraltar.

5.3.15 Group tax relief

There is no provision for group relief in Gibraltar.

5.3.16 Service fees paid to non-residents

There is no automatic requirement to withhold tax on any payment due to a non-resident under an agreement for management or consultancy services or services of a similar nature performed in Gibraltar.

However, the recipient will be liable to tax and the Commissioner may instruct the payer to withhold tax on any future payments.

5.3.17 Parent-Subsidiary Directive and EU Directive on interest and royalties

Gibraltar has implemented the EU Parent-Subsidiary Directive and the EU Directive on interest and royalties, so that no tax or withholding taxes apply on dividends, royalty and interest payments paid between associated companies within the EU (minimum shareholding, residency and establishment rules apply).

In the case of dividends, in general, a Gibraltar-registered company holding, directly or indirectly, a relevant participation of the voting capital of a company registered in another member state does not pay corporate tax on any income derived from that company.

Similarly, any dividends paid by a Gibraltar-registered company to a company in another member state are not subject to withholding tax. The relevant participation means an interest equal to at least 10% in the voting share capital.

The company of the member state must be of a type listed under the directive. The directive lists specific types of companies acceptable in each jurisdiction as well as the kind of tax those companies must be subject to in their respective states.

Irrespective of the application of these two EU Directives, there is, in any case:

- ▶ no requirement to withhold tax on dividends paid by Gibraltar companies

- ▶ no Gibraltar tax on dividends received by a company from another company (other than by the application of any anti-avoidance provisions under the Parent-Subsidiary Directive)
- ▶ no tax on non-trading interest income (other than Class 1A – intercompany loan interest – see Section 5.3.21).

5.3.18 Start-up relief

An incentive scheme is available to companies for business start-ups which commenced between 5 July 2016 and 30 June 2017. The business will be eligible for a tax credit equal to the tax otherwise payable up to a maximum of £50,000 over each of the first three years of trading, subject to conditions. See 5.15 for details.

5.3.19 Branches

The tax treatment of profits accrued and derived in Gibraltar by branches (or any form of permanent establishment) established by foreign companies in Gibraltar is similar to companies. Similarly, profits accrued and derived by branches or permanent establishments of Gibraltar companies in another jurisdiction are not liable to Gibraltar corporate tax to the extent of the activities so conducted outside Gibraltar.

5.3.20 Protected cell companies

Protected cell companies are taxed as if each cell were a separate company.

5.3.21 Class 1A: interest on intercompany loans and advances

Interest from loans or advances by one company to another company are taxable where the interest from the individual company concerned is £100,000 or more per annum. As an anti-avoidance measure, interest received or receivable from different companies will be considered to be from the same company for the purposes of the £100,000 threshold where those companies are “connected persons” as defined elsewhere in the Income Tax Act 2010.

For the above purposes, interest will be deemed to be accrued and derived in Gibraltar where the company in receipt of the interest is a Gibraltar-registered company.

This applies from 1 July 2013 onward.

5.3.22 Class 3A: royalties

With effect from 1 January 2014, royalties received or receivable by a company registered in Gibraltar are deemed to accrue in and derive from Gibraltar and are therefore assessable to tax.

5.3.23 Ownership, chartering or operation of ships and aircraft

Gains or profits derived by a non-resident person (including companies) from the carriage of passengers or cargo to or from Gibraltar in any ship or aircraft owned, chartered or operated by that person is not taxable.

5.4 Individuals: general

5.4.1 Overview

Taxpayers may choose between the gross income based system (“GIBS”) and the more traditional allowance-based system (“ABS”) (see Sections 5.5 to 5.7). In addition to income tax, social insurance contributions are payable by employers, employees and self-employed persons (see Section 4.6).

5.4.2 Ordinary residence

As of 1 January 2011, an individual is deemed to be ordinarily resident in Gibraltar if he or she:

- (a) is present in Gibraltar for at least 183 days in a tax year, or
- (b) is present in Gibraltar in three consecutive tax years for more than 300 days in total during those years.

“Present” means being in Gibraltar at any time during a 24 hour period commencing at midnight, whether or not accommodation is used.

An individual who is ordinarily resident is generally taxable in Gibraltar on their worldwide income (subject to double tax relief and to the exceptions below):

- Rental income is only taxable if the property is located in Gibraltar.
- Self-employed income is in principle taxable where the activity is located in Gibraltar. However, the legislation provides that where any part of the activity, including administration, marketing or support is carried out in Gibraltar, then the whole activity is treated as being performed in Gibraltar. Further, for this purpose, where any activities of a similar business, trade, profession or vocation are carried on outside Gibraltar, those will be treated as part of the activities carried out in Gibraltar.

An individual who is not ordinarily resident is only taxable on income accruing in or derived from Gibraltar (see Section 5.10 for some further exemptions for non-residents).

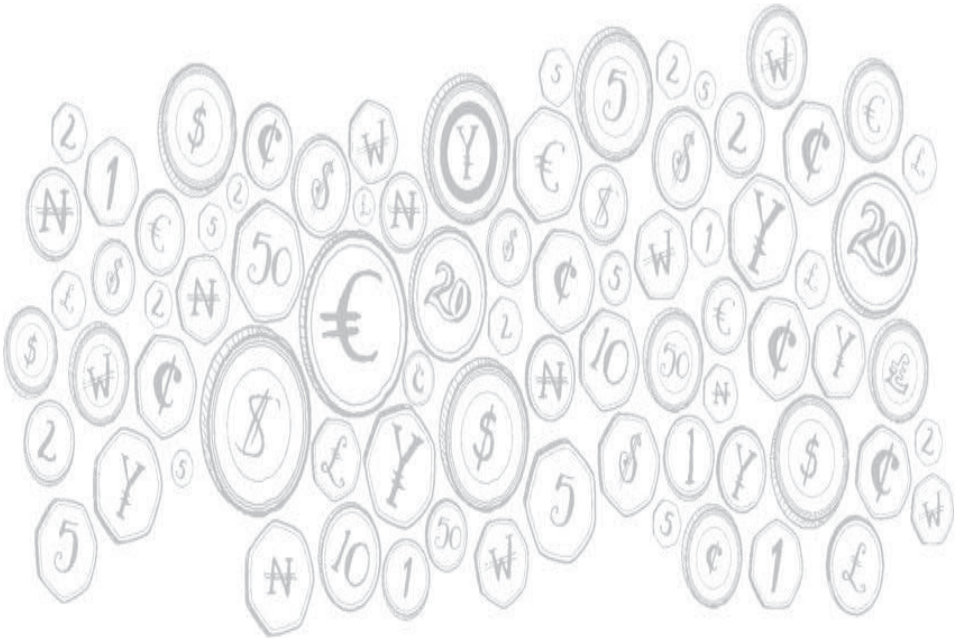
5.4.3 Sole traders

Self-employed individuals are liable to income tax on their profits, as adjusted for tax purposes in a similar manner as is the case for companies:

- ▶ Deductions are allowed against income – as described in Section 5.3.5
- ▶ Certain items are not deductible, or the deductions may be restricted – as described in Section 5.3.6
- ▶ Losses may be carried forward indefinitely against future profits. Losses cannot be carried back
- ▶ There are specific rules that apply to tax years 2009-10 and 2010-11 to transition the basis of assessment from the preceding year basis that generally applied up to 2010, to the actual basis applying from 2011 onward
- ▶ Capital allowances are available as described in Section 5.3.7

5.4.4 Partnerships

If a partnership carries out a trade, business or profession, it is treated as a transparent entity; individual partners are taxed on their share of the partnership's profits as adjusted for tax purposes. A partner is not liable to the unpaid tax of another partner.



5.5 Alternative methods of personal taxation

Under the GIBS, a taxpayer is entitled to very few allowances and/or reliefs, but generally the applicable tax rates are lower. The majority of taxpayers are taxed under the GIBS, under which the effective (i.e., overall) tax rate is never more than 25%.

Irrespective of the system that is opted for, on final assessment, the ITO will apply the system most beneficial to the taxpayer.

In general, where a taxpayer opts for the GIBS and the spouse does not, the availability of allowances to the spouse opting for the ABS is restricted. In such a case, any allowance claimed by the spouse up to 30 June 2007 who now opts for the GIBS may not be "transferred" to the spouse opting for the ABS. Other restrictions include:

1. **Mortgage Interest Relief:** In relation to the purchase of a home after 30 June 2007 in Gibraltar where neither spouse had, by that date, claimed mortgage interest relief for the year ended 30 June 2007, mortgage interest relief available to the spouse being taxed under ABS is restricted to the lower of 50%* of the eligible mortgage interest paid and one-sixth of that spouse's assessable income.
2. **Home Purchase Allowance (HPA):** In relation to the purchase of a home after 30 June 2007 in Gibraltar where neither spouse had, by that date, claimed the HPA for the year ended 30 June 2007, the HPA available to the spouse being taxed under ABS is restricted to a maximum of 50%* of the deduction that could otherwise be claimed. The ITO also restricts the HPA to one-sixth of the assessable income of the spouse claiming the allowance.
3. **Life insurance policies taken after 1 July 2007 on the lives of both spouses:** In such a case, the spouse that has opted for the ABS is not entitled to claim relief on the life insurance premiums.
4. **Medical insurance policy covering both spouses:** As mentioned above, the spouse that has opted for the ABS cannot claim any allowances.
5. **Pension contributions:** The spouse of a person contributing to a pension scheme that opts for the GIBS cannot claim tax relief on contributions.

*The party claiming the allowance must have at least a 50% legal interest in the property.

However, individuals opting for the ABS will always be able to benefit from the following allowances or reliefs even if their spouses opt for the GIBS (note that this list is not exhaustive):

- ▶ Personal allowance (and "top-up" allowance, if applicable)
- ▶ Low-income earners' allowance
- ▶ Special deduction for senior citizens
- ▶ In general, any other allowance that was being claimed up to 30 June 2007

5.6 Gross income based system: tax rates and deductions

5.6.1 Tax rates for 2019-20 and 2018-2019

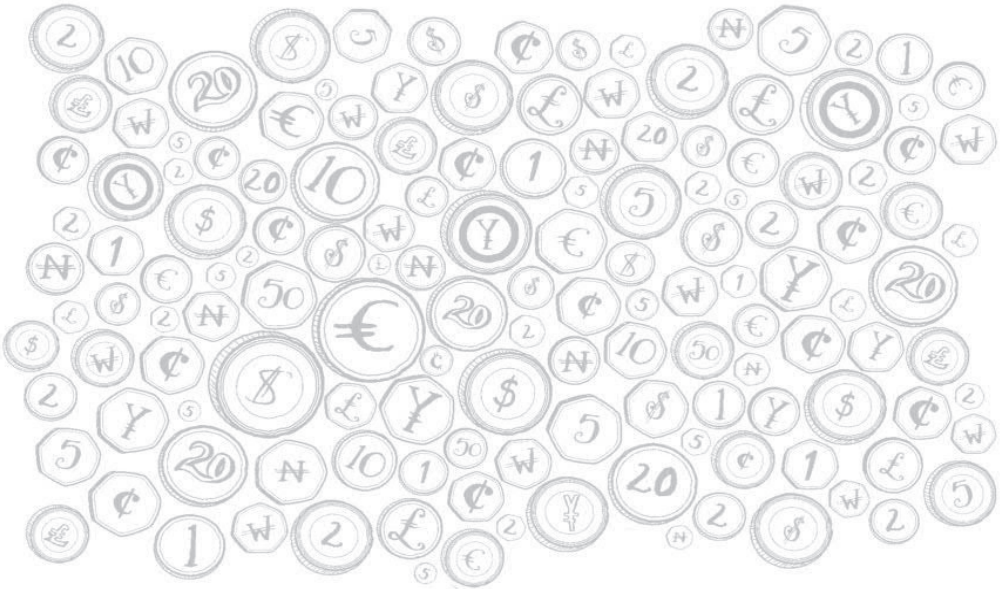
(a) Individuals with gross income up to £25,000

Taxable income bands	Rate %	Tax on band
First £10,000	6%	£600
£10,001-£17,000	20%	£1,400
Balance	28%	

(b) Individuals with gross income of more than £25,000

Taxable income bands	Rate %	Tax on band
First £17,000	16%	£2,720
£17,001-£25,000	19%	£1,520
£25,001-£40,000	25%	£3,750
£40,001-£105,000	28%	£18,200
£105,001-£500,000	25%	£98,750
£500,001-£700,000	18%	£36,000
Balance	5%	

The effective rate of tax on taxable income of £1 million is 17.6%. All taxpayers pay an effective (overall) rate of tax of less than 25%.



5.6.2 Deductions

Approved expenditure on premises

This deduction extends to taxpayers under the GIBS, but the deduction is restricted to a maximum of £5,000 (see Section 5.3.5 for further details).

Purchase of main residential property in Gibraltar

A deduction is available with respect to mortgage interest payments up to a maximum of £1,500. There is also a deduction of up to £7,500 (2018-19: £6,500) for first-time buyers with respect to approved expenditure toward the purchase of their home.

Pension contributions

There is a deduction of up to £1,500 p.a. with respect to contributions to approved pension schemes.

Medical insurance

There is a deduction available with respect to private medical insurance of up to £3,000 p.a.

Installation of solar energy for boilers

There is an allowance of up to £3,000, given over two years, for the installation of solar energy for boilers.

Electric vehicle charging installation

There is a deduction against tax liabilities for the first £2,000 of the cost of installing a mechanism for the electric charging of a vehicle in the taxpayer's home, or in a parking space or garage owned by them, subject to approval.



5.7 Allowance-based system

5.7.1 Tax rates

The below bands and rates are in force for both 2019-20 and 2018-19. For both those tax years, all taxpayers under the ABS receive a tax credit amounting to the greater of £300 or 2% of the tax payable based on the below table.

Taxable income bands	2010-20		2018-19	
	Rate %	Tax on band	Rate %	Tax on band
On first £4,000	14%	£560	14%	£560
On next £12,000	17%	£2,040	17%	£2,040
On remainder	39%		39%	

Apportionment of tax bands and allowances

When an individual moves to or from Gibraltar and/or takes up or ceases employment in Gibraltar, rules are applied that result in the apportionment of tax bands and allowances (see Section 5.11.1).



5.7.2 Principal allowances and reliefs

The following are the principal allowances and reliefs available to individuals for the tax year 2019-20 (from 1 July 2019 to 30 June 2020). They also apply to 2018-19 unless otherwise indicated. These figures are based on the Budget Measures announced by HM Government of Gibraltar on 10th June 2019 and may be affected by subsequent legislation. Appendix 6.2 provides an eight-year summary of the principal allowances and reliefs.

Personal allowances

A single taxpayer is entitled to a personal allowance of £3,455 (2018-19: £3,385). An individual who has a spouse, either living with or maintained by them, is entitled to a spouse allowance of £3,455 (2018-19: £3,385). This is subject to the proviso that only one of the spouses may claim the spouse allowance. Taxpayers who prove that they pay alimony to their wife or former wife may opt for the single taxpayer's allowance and, in addition, deduct the alimony actually paid up to a maximum of £3,455 (2018-19: £3,385).

Individuals whose total allowances are less than £4,343 (2018-19: £4,273) have their personal allowances "topped up" to that amount.

Elderly persons (men aged 65 years or above and women aged 60 years or above) have their allowances "topped up" to £12,510 (2018-19: £12,370) irrespective of the level of assessable income.

Other allowances and reliefs

Child relief

With respect to the first of any children of the taxpayer (including a stepchild or adopted child) who meets the criteria set out below, the taxpayer is entitled to a deduction of £1,190 (2018-19: £1,165). The relief is increased to £1,355 (2018-19: £1,325) with respect to each child educated outside Gibraltar.

The relief is given to an unmarried child who was:

- ▶ Under the age of 16 at the commencement of the year of assessment, or
- ▶ Receiving full-time education within or outside Gibraltar during the year of assessment. The child need not be the claimant's own child, but must be maintained during the year by the taxpayer, who must be an ordinarily resident individual in Gibraltar.

If the child's income in their own right, exclusive of any income from a scholarship, bursary or other educational allowance and earnings from employment at an approved educational establishment, exceeds the specified reliefs, no relief is given unless another child of the claimant meets the criteria. However, the income received by a student from a holiday job during school or university vacations is exempt from income tax.

If an individual proves to the satisfaction of the Commissioner that they have paid maintenance for a child under a court order or deed of separation maintenance to a child, the individual is entitled to claim a deduction from assessable income of the amount of maintenance so paid, up to a maximum of £1,190 (2018-19: £1,165).

Disabled person relief

With respect to each disabled unmarried individual, the parent is entitled to relief in the amount of £9,475 (2018-19: £9,285). In order for a parent to qualify for the relief, the disabled individual must be suffering from specific bodily or mental disability, be residing with the parent and is either eligible for a disability allowance paid by the Gibraltar Government, or would be eligible for a disability allowance if they satisfied the five-year residency period required for a disability allowance.

Nursery school allowance

An allowance of £5,400 (2018-19: £5,290) is available to ordinarily resident individuals with respect to each child attending a private registered nursery during the preschool academic year.

Relief with respect to individuals taking charge of children (single parent's allowance)

A relief of £5,690 (2018-19: £5,575) is given to a man who is not entitled to a deduction for a spouse, or to a woman with respect to whom no man is entitled to claim such a deduction,* who has the custody of, and maintains during the year of assessment, an unmarried child for whom a deduction for child allowance is available. This only applies if the taxpayer is an ordinarily resident in Gibraltar.

Low-income earner's tax credit

Individuals with income of less than £11,450 (2018-19: £11,200) are entitled to an additional allowance so that no tax is payable by them. Allowances of lower amounts are available to taxpayers whose earned income for the tax year is between £11,451 (2018-19: £11,200) and £19,500.

Dependent relative relief

A relief of £335 (2018-19: £325), or £220 (2018-19: £215) for non-residents is available to a claimant with respect to a relative of the claimant or of their spouse who is incapacitated by old age or infirmity from maintaining herself (if the relative is a widowed mother, then whether incapacitated or not), whose income from all sources does not exceed £3,455 (2018-19: £3,385 (subject to confirmation at the time of writing) and who is maintained by the claimant at their own expense.

The relief is reduced by the excess of the dependent's total income from all sources over a certain amount and is restricted if the dependent is not a resident of Gibraltar.

*This restriction does not apply if the only deduction for a spouse claimed by a man with respect to the (female) taxpayer in question is in relation to alimony or maintenance following divorce, or in relation to payments under a court order or separation agreement.

Deduction for blind person

An allowance of £5,395 (2018-19:£5,285) is available to an individual who proves to the satisfaction of the Commissioner, by producing a certificate signed by a qualified medical practitioner, that the individual or their spouse has effectively lost their sight.

Disabled individuals' tax allowance

An additional earned income allowance effectively exempts individuals in employment from tax, if they are recipients of disability allowance paid by the Department of Social Security.

Deduction for purchase or construction of a house or flat

Individuals ordinarily resident in Gibraltar who purchase or enter into an agreement to purchase, construct, or are in the process of constructing a house or flat in Gibraltar for their own residential occupation, are entitled, in any one or more years of assessment, to claim a deduction or deductions from their taxable income, or that of their spouse, or of both*, in whichever proportion is most beneficial. The total amount is the deduction available is £13,000 (2018-19: £12,000) subject to the following restrictions:

1. The deduction is only granted once and is not granted for more than one dwelling at any one time.
2. The deduction is only allowed for any payment or payments made toward the purchase or construction of the dwelling.
3. The deduction amount cannot, in any year of assessment, exceed the aggregate amount paid by the individual towards the purchase or construction of the dwelling.

The "aggregate amount" mentioned in point 3 includes:

- ▶ A deposit
- ▶ The repayment of any loan or part of a loan advanced for the purpose of purchasing or constructing the dwelling
- ▶ The interest on such a loan (this is not affected by the fact that the interest may have been relieved under a different section of the Income Tax Act).

Further restrictions apply where the spouse of the taxpayer is taxed under the GIBS (see Section 5.5).

*If also taxed under the ABS

Once the right to the deduction has been established, the taxpayer may choose over how many tax years they wish to spread the deduction.

The allowance is claimed back if the taxpayer relinquishes the legal estate of the dwelling with respect to which the deduction has been granted within 12 months of obtaining it or if the taxpayer ceases to reside in the dwelling within 12 months of obtaining the legal estate.

The deduction is available, determined as above, for accommodation occupied or being constructed for each child of the taxpayer subject to certain provisos concerning occupation by that child and the stipulation mentioned above concerning disposal within 12 months.

Interest relief on loans for the purchase, improvement or development of property

Interest paid by an individual or their spouse who occupies property in Gibraltar for residential purposes on a loan to defray money applied in purchasing or on improving or developing that property is allowable, subject to the following restrictions:

- ▶ Interest on new mortgages granted from 1 July 2008 onward is restricted to a maximum of the interest on £350,000 of the loan amount
- ▶ Interest on pre-1 July 2008 mortgages where the principal exceeds £350,000 are grandfathered, with the amount over the relevant limit being reduced gradually

Restrictions also apply where the spouse of the taxpayer is taxed under the GIBS (see Section 5.5).

Interest relief on loans for the purchase or construction of a parking bay or garage

Interest paid by an individual on a loan to purchase or construct a garage or parking bay in Gibraltar is allowable against the assessable income of that person, their spouse or of both in whichever proportion is most beneficial.

Approved expenditure on premises

This deduction, which is described in Section 5.3.5, also applies to individuals, whether as part of the business of a self-employed person, or with respect to property held for non-business purposes.

Life insurance relief

Premiums or contributions (or both) payable during the year of assessment are allowable as a deduction, subject to the following restrictions.

The deduction is given with respect to premiums payable by the claimant for an insurance contract on the claimant's or spouse's life. However, relief is restricted to:

- ▶ One-seventh of the assessable income of the taxpayer
- ▶ Seven percent of the capital sum assured at death

Pension contributions: personal pension schemes and retirement annuity contracts

Aggregate contributions to such schemes are eligible for tax relief subject to a limit of the lower of 20% of earned income or £35,000. In order to allow members of these schemes to top up unused tax relief, a one-year carry-back provision is available.

Contributions by the employer to approved personal pension schemes within the above limits are not taxable on the employee as a benefit in kind. This exemption does not apply to retirement annuity schemes.

Pension contributions: occupational pension schemes

Contributions in respect of proprietary directors and shareholders by an employer and employee in total of up to 25% of assessable income are eligible for tax relief.

In case of other employees, the maximum tax relief available with respect to contributions is the difference between one-sixth of the taxpayer's assessable income and any deduction for life assurance premiums already claimed (the deduction for life assurance premiums being restricted to one-seventh of assessable income).

Contributions by the employer are not taxable on the employee as a benefit in kind.

Pension contributions: other

A deduction is available in respect of contributions to a pension scheme, provident society or fund approved by the Commissioner, with such contributions not being related to a statutory pension scheme, or personal pension scheme. The deduction available, together with any deduction for life insurance premiums (see above), is restricted to:

- One-sixth of the assessable income of the taxpayer
- Seven percent of the capital sum assured at death (in respect of any policy securing a capital sum on death)

Medical insurance allowance

The first £5,395 (2018-19: £5,285) of eligible premiums paid in the tax year by a taxpayer to an approved medical insurance scheme providing health insurance for the taxpayer, spouse or dependent children is fully allowable from the taxpayer's assessable income.

5.8 Exemptions and concessions

Income from pensions

Income from state pensions is not taxable.

Occupational pensions received from an approved pension scheme by individuals aged 60 or above, or by retired policemen, firemen, prison officers, Royal Gibraltar Regiment or customs officers who are aged 55 or over, and who are in employment will not be taken into account in establishing tax due on their earned income. In addition, all such pensions are taxed at 0%.

There is no requirement to buy an annuity from the capital value of a pension fund and pensioners may withdraw the entire capital tax-free on reaching retirement age.

Pensions received from an approved pension scheme imported from another jurisdiction Recognised Overseas Pension Schemes (“ROPS” – previously referred to as QROPS) are taxed at the rate of 2.5% insofar as they form part of an individual’s taxable income.

Savings income

Income of a passive nature is not liable to tax – this includes bank interest and dividends and interest from securities quoted on a recognised stock exchange.

Gibraltar Government debentures

Income from investments in various Government of Gibraltar debentures is tax-exempt.

Rental income from property outside Gibraltar

Income from the rental of property located outside Gibraltar is not taxable in Gibraltar.

Other exemptions

- ▶ Compensation for unfair dismissal, redundancy payments and in some circumstances other termination payments may be approved as non-taxable by the Commissioner of Income Tax.
- ▶ Income received by a full-time student from employment.

Gift aid and charitable giving

Where donations are made under this scheme, the Government pays the charity in question the equivalent of the tax suffered by the donor on the amount of the gift grossed up at the standard rate of tax (20%). The limit on gifts under the scheme is £10,000 p.a. (2018-19: £5,000).

5.9 Benefits in kind

5.9.1 Scope

Schedule 7 of the act describes the tax treatment of specific taxable benefits provided to employees and/or their families, including:

- ▶ Cash and non-cash vouchers
- ▶ Credit tokens
- ▶ Living accommodation
- ▶ Cars, vans and related benefits
- ▶ Employment-related loans
- ▶ Expense payments

In addition, the act includes a “catch-all” provision for benefits not specifically covered under the legislation. Employment-related benefits received by prospective or former employees are included by the legislation.

5.9.2 Tax payable

Benefits received by an employee of less than £250 in a year of assessment are not taxable. Employers may apply for a dispensation from the Commissioner of Income Tax, and as part of this, opt to pay the tax on benefits on behalf of the employee. If an employer is paying the tax under a dispensation, the benefits received by an employee between £250 and £15,000 in the year of assessment are taxed at the rate of 20%. If the benefits exceed £15,000, then tax is payable at the rate of 29%.

5.9.3 Living accommodation

Living accommodation provided to employees or a member of their family or household is a taxable benefit. However, the benefit is exempt in the following circumstances:

- ▶ The employer is an individual and is providing accommodation in the normal course of a domestic family or personal relationship
- ▶ The accommodation is necessary for the proper performance of the employee’s duties
- ▶ The accommodation is provided for the better performance of the duties of employment and is customary for that type of employment
- ▶ The accommodation has been provided by an employer to an employee who has relocated in order to take up that employment, and:
 - The relocation is from a residence that was not within a reasonable commuting distance of work to one that is within a reasonable commuting distance
 - The change in residence arose from either employment, a change in duties of employment, or alteration of the normal place of employment duties

In this case, the exemption applies for seven years from the date of relocation.

5.9.4 Cars and vans

Cars and vans provided by an employer to an employee or any member of their family or household is a taxable benefit if made available for their private use. The cash benefit is calculated as 25% p.a. of the purchase cost of the vehicle to the employer. After four years, there is no remaining benefit. There are separate rules relating to the provision of fuel by employers. Tax is payable on the cash benefit.

Where a car is shared between employees for their private use, the taxable benefit on each employee is apportioned on a “just and reasonable basis.”

There is an exemption for “pooled cars.” These are cars:

- ▶ Available to and actually used by more than one employee by reason of their employment

- ▶ Not ordinarily used by one employee to the exclusion of others
- ▶ Whose private use is merely incidental to the employee's other use of the car
- ▶ Not normally kept overnight in the vicinity of the home of one of the employees (unless the vehicle is kept on premises occupied by the employer)

Motorcycles and scooters provided for employees are specifically excluded from being a benefit in kind.

5.9.5 Cheap loans and loans to directors

If a loan is made by an employer to an employee or a relative of an employee, this is treated as a cheap loan if there is no interest payable, or if the interest payable is below what would be charged on the open market by a bank or building society. The tax benefit is the difference between any interest payable by the employee and the interest that would be payable at the market rate.

"Employer" as stated above, extends to various parties connected to the employer, for example, a company controlled by the employer or a person with a material interest in the employer.

No taxable benefit arises on advances to cover necessary expenses, where the amount on all such advances in the year never exceeds £1,000, the advance is spent within six months and the employee accounts for the expenditure to the employer at regular intervals.

If an employee-related loan is written off or released, it is treated as earnings.

The Income Tax Act 2010 previously contained specific provisions relating to loans to directors, to the effect that such loans were treated as a taxable benefit-in-kind irrespective of whether any interest is charged or not. In 2015, the legislation was amended to remove this provision with effect from 1 July 2014; now loans to directors are treated the same as loans to other employees.

There is provision elsewhere in the Income Tax Act to treat loans to shareholders as if they were dividends (see Section 5.3.12) in the event that such loans are not already taxed as a benefit in kind.

5.9.6 Contributions by employers to medical insurance

There is an exemption in respect of approved health insurance premiums paid by an employer on behalf of employees (including coverage for their spouse and children). This applies to premiums of up to £5,395 (2018-19: £5,285) under the Allowance Based System, and of up to £3,000 under the Gross Income Based System. In either case, the exemption would be reduced by any amount claimed by the taxpayer as a deduction for health insurance.

5.9.7 Relocation expenses

There are a range of expenses connected with relocation that are specifically excluded from being treated as a benefit in kind, for example, expenses in connection with the purchase or disposal of property, costs of transporting belongings, traveling and subsistence.

In order to qualify for such exclusion, the following conditions must be met:

- ▶ The expenses must be for an employee who has relocated in order to take up employment
- ▶ The relocation must be from a residence that was not within a reasonable commuting distance of work to one that is within a reasonable commuting distance
- ▶ The change in residence must arise from the employment, a change in duties of employment or alteration in the normal place of employment duties

5.10 Non-residents

See Section 5.4.2 for the definition of ordinary residence for an individual for tax purposes.

5.10.1 Non-residents: general

Non-residents are liable to tax on income accruing in or derived from Gibraltar, although there are a number of exemptions as described in Sections 5.10.2 to 5.10.4 below.

In the case of a non-resident individual, the ABS applies a rate of tax of 17% on taxable income of up to £16,000 and 39% on taxable income in excess of that. For a non-resident with income from employment or from a “trade, business, profession, or vocation” (i.e., self-employed), it is likely that GIBS would be applied instead.

However, in the case of a non-resident individual with taxable income other than from employment, or self-employment the Income Tax Office’s view is that GIBS cannot be applied. Rental income is generally treated as a separate type of income from a “trade, business, profession or vocation”. Therefore, the income of a non-resident from rental income from a Gibraltar property may be taxed at up to 39%.

5.10.2 Income from occasional presence in Gibraltar

Individuals who are not ordinarily resident in Gibraltar and who are present in Gibraltar for less than 30 days in a tax year are not taxable on:

- ▶ Fees with respect to the office of director of a company
- ▶ Emoluments from employment where the duties of the employment, other than duties ancillary to the employment, are performed exclusively outside Gibraltar (subject to anti-avoidance rules on dual-employment contracts)
- ▶ Remuneration from a trade, profession, business or vocation where the trade or service, other than activities ancillary to that trade, profession, business or vocation, is performed or provided exclusively outside Gibraltar (subject to some restrictions)

5.10.3 Ownership, chartering or operation of ships and aircraft

Gains or profits derived by a non-resident individual (or company) from the carriage of passengers or cargo to or from Gibraltar in any ship or aircraft owned, chartered or operated by that person is not taxable.

5.10.4 Investment income from Gibraltar

Dividends from a Gibraltar company and interest from banks, building societies and other financial services institutions received by an individual who is not ordinarily resident, are not taxable in Gibraltar.

5.10.5 QROPS and QNUPS

Refer to Sections 5.11.5 and 5.11.6, for QROPS and Qualifying Non-UK Pension Schemes (QNUPS), respectively.

5.11 Expatriates

5.11.1 Apportionment of tax bands and tax allowances

When a person obtains employment in Gibraltar, who was not resident in Gibraltar immediately prior to obtaining employment:

- ▶ the tax bands that apply to them are apportioned on a pro-rata basis according to the number of months that they are in employment or self-employment here in the first tax year. The taxpayer is given one-twelfth of the annual tax band for each month, or part of a month, that they are working in Gibraltar.
- ▶ allowances and deductions are apportioned according to the number of months they are resident here. The taxpayer is given one-twelfth of the annual allowance for each month, or part of a month, that they are resident in Gibraltar.

5.11.2 Relocated employees: exemptions from benefits in kind

There are generous tax breaks available with respect to the provision of accommodation and payment of relocation expenses by employers, as described in Sections 5.9.3 and 5.9.7.

5.11.3 Category 2 (high-net-worth) individuals

Under the Qualifying (Category 2) Individuals Rules 2004, an individual may apply to the Finance Centre Director for a Category 2 individual certificate. Such a certificate can only be granted to applicants who:

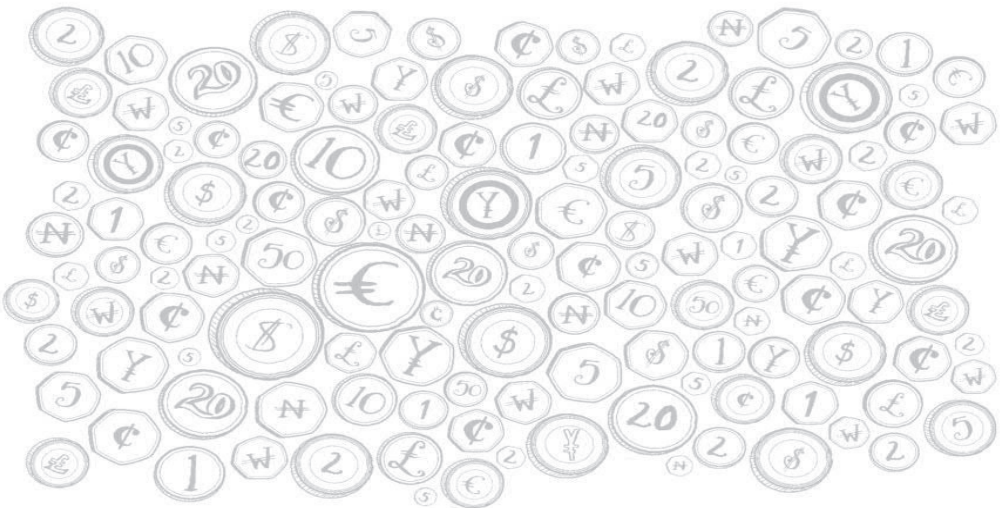
1. Have available, for their exclusive use and that of their families, approved residential accommodation in Gibraltar.

2. Have not been a resident in Gibraltar for the previous five years.
3. Have not been engaged for the previous five years, and will not be engaged in the future while being a Category 2 individual in a trade, business or employment in Gibraltar, other than, in general, duties that are incidental to any trade, business or employment based outside Gibraltar, or providing consultancy services from Gibraltar in certain circumstances (see below) - unless otherwise agreed by the Finance Centre Director.
4. Submit two character references from recognised and established professionals (a bank and a law or accountancy firm), a copy of passport, a curriculum vitae and a proof of financial standing (in practice this should be in excess of £2 million).
5. Pay an application fee of £1,000.
6. Have received a certificate from the Finance Centre Director confirming their status.

An individual who has obtained a Category 2 individual certificate is assessable to income tax on the first £80,000 of income only, resulting in a maximum amount of tax payable of £27,560. This cap on taxable income generally does not apply to income accrued in or derived from Gibraltar, for example, director's fees and rental income from properties located in Gibraltar, which would be taxed separately. Category 2 Individuals are taxed under the ABS system.

The minimum tax payable under the scheme is £22,000, which is prorated if the certificate was obtained or expired partway during the tax year.

In certain circumstances, the income of the spouse and children will be deemed to be that of the certificate holder so that no additional tax will be payable on that income. Finally, there are tax advantages for individuals with Category 2 status in connection with trusts (see Section 5.12 below).



5.11.4 High executive possessing specialist skills (HEPSS)

The tax payable by an HEPSS is limited to the first £120,000 of earned income (maximum tax payable of £29,940). The GIBS is applied to HEPSS individuals.

The individual must have skills or experience that are not available in Gibraltar and deemed necessary to promote and sustain economic activity of particular economic value to Gibraltar.

The individual must also occupy a high executive or senior management position, earn more than £120,000 p.a. and have approved residential accommodation available for the exclusive use in Gibraltar. Moreover, the individual may not have been a resident or employed in Gibraltar during the three years prior to the year in which the application is made (the Finance Centre Director (FCD) may, however, waive this requirement). There is a non-refundable fee of £1,000 for the issue or renewal of the certificate.

5.11.5 Imported pension schemes (“ROPS” – previously referred to as “QROPS”)

Under the UK legislation, persons not resident in the UK, or who are planning to live permanently outside the UK may transfer their UK pension scheme to a non-UK pension scheme that is recognised by the UK tax authorities (HMRC), potentially avoiding some of the restrictions that apply to UK schemes. In 2012, the HMRC confirmed that Gibraltar was a jurisdiction with the requisite tax and pension rules in place. This has enabled pension schemes to be set up in Gibraltar and registered with the HMRC. Such schemes are known as ROPS. As of 5th August 2017, there were 41 Gibraltar schemes listed by HMRC as having notified the HMRC that they meet the conditions to be a ROPS.

Members of a ROPS may be resident in Gibraltar or elsewhere.

The following are the main features of a Gibraltar ROPS:

- ▶ The income received by the scheme, as well as capital growth in the scheme, is not taxed in Gibraltar
- ▶ The transfer of funds to the scheme is not taxable in Gibraltar
- ▶ Any member of a scheme has the right to commence drawing benefits from the scheme at any time after attaining the age of 55 years. Such benefits may include lump-sum payments, not exceeding 30% of the pension fund value
- ▶ Lump-sum payments received in accordance with the scheme rules are not subject to tax in Gibraltar. Other pension benefits payable to members are taxed in Gibraltar at 2.5%
- ▶ On the death of a member, the trustee or administrator of the scheme may, subject to the scheme rules, pay death benefits in the form of a lump sum or by pension payments. Any such lump sum is not taxable in Gibraltar, while the pension payments are taxed at the rate of 2.5%. Other than this, any funds remaining in the scheme at the time of death are not taxable in Gibraltar.

5.11.6 Qualifying Non-UK Pension Schemes

A QNUPS is defined in the UK as a pension scheme established outside the UK that is not a UK-registered scheme, but meets the requirements of the Inheritance Tax (Qualifying Non-UK Pension Schemes) Regulations 2010. Such schemes may be established in Gibraltar.

5.12 Trusts and Foundations

For general information on trusts and foundations see Section 2.4.

Foundations were introduced in Gibraltar in 2017 by the Private Foundations Act 2017. The Income Tax Act 2010 provides for the Gibraltar tax treatment of such foundations and their beneficiaries in a very similar to that of trusts and their beneficiaries.

As of 1 January 2011, a trust or foundation is tax resident in Gibraltar if one or more of the beneficiaries are ordinarily resident in Gibraltar or the class of beneficiaries may include an ordinarily resident person or the issue of an ordinarily resident person. The residency status of the trustees, settlor (in the case of a trust) or founder (in the case of a foundation) is, in itself, not relevant.

An individual who has Category 2 status or the spouse or child of such an individual (provided the individual has elected to include their spouse or child under the Category 2 rules) is not deemed to be a tax resident in Gibraltar for the purposes of determining the taxation of a trust or foundation, or of the beneficiaries of a trust or foundation.

A trust or foundation that is not tax resident in Gibraltar is taxable only on income that accrues in or is derived from Gibraltar. By contrast, a trust or foundation that is ordinarily resident in Gibraltar is taxable on its worldwide income. As for individuals, non-trading interest income, dividends from listed companies, non-Gibraltar property-based rental income and capital gains are not taxable in Gibraltar.

The capital of the trust or foundation is not liable to tax since Gibraltar has no wealth or gift taxes, estate duty or other capital taxes.

Trusts of a public nature are completely exempt from income tax provided that the profits from any trade or business are only used for the purposes of the trust, and either this trade or business is exercised in the cause of carrying out a primary purpose of the trust, or the work is mainly carried out by the beneficiaries of the trust.

Trusts and foundations are taxed at the rate of 10% on any taxable income.

See Section 5.2.4 for filing requirements and tax payment deadlines.

5.13 Indirect taxes

5.13.1 Value added tax

There is no VAT in Gibraltar.

5.13.2 Import duties and excise duties

Import duties are levied on goods imported into Gibraltar mostly at rates between 0% and 12%. A notable exception applies to motor vehicles. Excise duties are levied mainly on spirits, wines, tobacco and mineral oils.

The following table summarises the current position on a range of goods at the time of writing.

Product	Duty Payable	
	Dealer imports (new vehicles only)	General imports
Petrol motor vehicles		
Engine up to 1500cc	15%	25%
More than 1500cc, but not exceeding 2000cc	18%	30%
Over 2000cc	22%	35%
Diesel motor vehicles		
Engine up to 1500cc	35%	35%
More than 1500cc, but not exceeding 2000cc	30%	30%
Over 2000cc	35%	35%
Hybrid cars	0%	5%
In addition, there is a £250 cashback available on the importation of a hybrid car, with cashback available on fully electric vehicles of £2,500, £150 in the case of a hybrid/all-electric motorcycle, on registration in Gibraltar.		
Electric cars and pedal cycles	0%	0%
Motor cycles		
Two-stroke engines (all sizes)	50%	50%
Four-stroke engine, 50cc and under	6%	12%
Four-stroke engine, scooters up to 250cc	6%	12%
Four-stroke engines, other	15%	30%
Petrol (unleaded 95 octane)		£0.38p per litre
Petrol (unleaded 98 octane)		£0.37p per litre
Diesel		£0.40p per litre
Biofuels		Nil
Marine fuel		Nil
Cigarettes		£14.50 per carton (200 cigarettes)
Rolling tobacco		£65.00 per kilo
Bulk exports of tobacco		5%
Waterpipe Tobacco		£45.00 per kilo

Product	Duty Payable
	General imports
Bourbon whiskey	£2.00 per litre
Whisky and spirits	£1.00 per litre
Printed matter for educational purposes, newspapers, journals and periodicals	Nil
Paper-based stationery, writing Implements	Nil
Other printed matter	12%
Recycled or approved environment friendly or eco-paper	Nil
Gold bullion	1%
Perfumes, beauty and makeup preparations, clothing, footwear, watches, , hair clippers, mobile phone chargers, household vacuum cleaners & sewing machines, electric toothbrushes and shavers and fans with output not exceeding 125W	3%
Single use plastic items	200%
Sunglasses	Nil
Loose gemstones	Nil
Building materials	12%
Photographic equipment, televisions, hi-fi and other electronic or electrical audio or visual equipment, DVDs and CDs, mobile phones, musical instruments, musical and camera cases	Nil
Portable computers (laptops, tablet PCs and memory cards) and software	Nil
Other computer equipment	6%
Foodstuffs, pet food and medical supplies	Nil
Seagoing vessels	Nil
LED lighting	Nil
Single-use plastic bags	£0.10 per bag
Artwork	Nil
Pre-shave, Shaving, After-shave preparations, Personal deodorants, Antiperspirants, Perfumed Bath salts and other Bath preparations	Nil
Yachts and other vessels for pleasure or sports: Rowing boats and canoes	Nil

5.13.3 Stamp duty

The Stamp Duties Act 2005, which came into force on 12 January 2006, revoked and replaced the Stamp Duties Act 1932. Stamp duty is now payable only on instruments relating to real estate property in Gibraltar and on capital transactions. The following are the principal rates:

- ▶ On initial authorised share capital and increases thereof – flat rate of £10
- ▶ On loan capital (on each issue, e.g., debenture stock) – flat rate of £10

On conveyance or transfer of real estate property as follows:

First- and second-time buyers:

- ▶ First £260,000 of purchase price – nil
- ▶ Balance above £260,000 to £350,000 – 5.5%
- ▶ Balance above £350,000 – 3.5%

Other buyers:

- ▶ Where purchase price does not exceed £200,000 – nil
- ▶ Where total purchase price is between £200,001 and £350,000
 - 2% on first £250,000 and 5.5% on balance
- ▶ Where total purchase price is over £350,000
 - 3% on first £350,000 and 3.5% on balance

Stamp duty on mortgages

- ▶ Mortgages not exceeding £200,000 – 0.13%
- ▶ Mortgages over £200,000 – 0.2%

As from 2 July 2018, a Special Stamp Duty of 7.5% applies to the sale of any property which was sold as an “affordable home” for and on behalf of the Government in the four years preceding the introduction of this measure. This will not apply in certain circumstances, for example, forced sale. Initial purchases of residential properties in Government-developed affordable housing estates are exempt from stamp duty (this is likely to apply from 10 June 2019, but subject to confirmation at the time of writing).

5.13.4 Rates

Rates are levied on business and residential properties in Gibraltar. There are discounts for early payment of rates for businesses, generally 20% (2018-19:15%). Early payment discounts of 50% apply to retail, distributive trades and catering establishments and 30% (2018-19:15%) for hotels. Start-ups benefit from a 65% discount in their first year of trading, and 25% for the second year; this must be applied for first.

5.13.5 Gaming tax

With effect from 1 April 2018, licence fees are fixed at £100,000 for business to customer ("B2C") licences and £85,000 for business to business "B2B") licences. In addition, B2C licensees pay Betting Duty or Gaming Duty (depending on the activity) of 0.15% of gross revenue (this generally being gross win for online bookmakers and gaming yield for online casinos). The first £100,000 per annum of gross revenue is exempt from this Duty.

Previously, gaming tax on fixed-odds betting and betting exchanges was levied at 1% of turnover. For online casinos, tax was levied at 1% of the gaming yield or gross profit and 1% of rake in the case of poker operators. In all cases, there was a minimum tax of £85,000 payable and a cap on tax payable of £425,000 p.a., per licence.

5.14 Other taxes

There is no estate duty, capital gains tax, inheritance tax, wealth, gift or other capital tax. Estate duty was abolished for the estate of any individual who died on or after 1 April 1997.



5.15 Business start-ups

Social insurance

Companies in their first year of operation and with up to 20 employees may apply for a credit of £100 per employee against their social insurance payments due.

This is conditional on all monthly payments of social insurance during the relevant tax year (ended 30th June) having been made on time - that is, by the 15th of each month, following the month in respect of which the payment is for.

This is also available in subsequent years of trading to companies with ten or less employees.

Capital allowances

From 1 July 2015 onwards, new businesses may claim 100% of eligible capital allowances as a reduction in their corporate tax liability - i.e., as opposed to a deduction against taxable profits - in the first year of trade. No claim may be made where a claim has already been made for the same expenditure to be deducted from taxable profits.

This does not apply where a person connected to the company carried on a similar business, or that the incorporation of the company or commencement of business is an artificial or fictitious arrangement.

Business rates

Start-up businesses may benefit from a 65% discount on rates payable in their first year of trading, and 25% for their second year of trading. This must be applied for first.

Start-ups between 5 July 2015 and 30 June 2016

A tax credit equal to the tax that would otherwise be payable by a company, limited partnership or limited liability partnership for the first three years, restricted to a maximum of £50,000 per annum, is available. The business must have commenced business on or after 5 July 2015 but before 1 July 2016, and have had at least five employees in its first year. Any unused tax credit in any year is not available for carry forward. There are anti-avoidance measures to ensure that it is only applied to genuinely new businesses in Gibraltar.

Architect's fees

A capped 200% credit was introduced for tax year 2015-16 onwards in respect of the cost of architect's fees for successful planning applications under the Town Planning Act (and any fees charged by Government for such an application) made by a company in respect of its own property in the first 24 months of operation of a start-up company. The credit, capped at £5,000, is deductible against tax liabilities in the first three years of operation of the company.

5.16 Withholding taxes

Dividends

There is no withholding tax on dividends paid by Gibraltar companies.

Interest

There is no withholding tax on interest payments.

Royalties

There is no withholding tax on royalties.

5.17 Construction subcontractors

Companies operating as subcontractors in any construction operation are subject to the Income Tax (Construction Subcontractors) Regulations. Under these regulations, the main contractor is obliged to deduct and pay over to the Income Tax Office 25% of any payment made to the subcontractor that does not represent the direct cost of materials.

This deduction is not required if the subcontractor holds a valid exemption certificate issued by the Income Tax Office. A certificate will generally only be issued if the subcontractor meets the requirements prescribed by the Regulations. Subcontractors need to apply to the Income Tax Office for the exemption certificates.

A contractor who fails to make the appropriate deductions from payments to any subcontractor who does not hold a valid exemption certificate commits an offence under the Regulations and may be subject to penalties.



5.18 Penalties

The Income Tax Act 2010 incorporates an extensive range of penalties and surcharges. The Commissioner has the power, in his absolute discretion, to waive, reduce or discharge any penalty (as opposed to surcharge) incurred if they are satisfied that the act or failure to act, which triggered the penalty, was purely inadvertent.

Circumstances in which penalties and surcharges apply include the following.

Late payment of tax

Late payment of tax will result in a surcharge of 10% of the tax payable on the day immediately after it is due. After 90 days, there is a further surcharge of 20% of the amount unpaid (tax plus initial surcharge).

Late or incomplete returns

If a company does not file a complete tax return (which includes accounts and, if applicable, a P8 reconciliation) within the deadline, then it is liable to a penalty of £50. If the failure continues for three months, then there is a further penalty of £300, with a further £500 penalty payable if the failure continues for a further three months.

Incorrect returns or information

If an individual fraudulently, recklessly or negligently delivers an incorrect return or incorrect accounts, information, statement or declaration in connection with the ascertainment of the taxation to which they are subject to, they will be liable to a penalty of up to 150% of the difference between the amount of tax due and that which they have declared. In calculating the penalty percentage to be applied, the Commissioner will take into account the amount of tax lost, the gravity of the offence (innocent error, negligence, recklessness or deliberate omission) and the degree of cooperation afforded by the taxpayer during the investigation.



Tax evasion

It is an offence for an individual to knowingly get involved in fraudulent evasion of income tax, whether alone or with another individual. If found guilty of such an offence, the individual will be liable, on summary conviction, to imprisonment for up to six months or a fine, or both and on conviction on indictment to imprisonment for up to seven years or a fine, or both. The individual may request the Commissioner of Income Tax to issue a compounding order before the court hearing, provided they admit in writing that they committed the offence, settle the amount due (including penalties, surcharges and interest) and consent that full details of the compounding order will be published in the *Gibraltar Gazette*.

Non-payment of PAYE or social insurance

If a company fails to pay to the Commissioner any PAYE or social insurance that has been or should have been withheld or collected by the due date, then any director or shadow director of that company is committing an offence and is subject to the same penalties as individuals who are knowingly concerned in evasion of income tax (see above). However, there is no requirement that the compounding order be published in the *Gibraltar Gazette* unless tax evasion is involved.

If an individual fails to pay PAYE or social insurance that has been deducted or should have been deducted and if the amount payable has been outstanding for three months or more and amounts to more than £5,000, then the Commissioner can publish details of the offence and of the offender in the *Gibraltar Gazette*. However, the Commissioner must first provide a 14-day written notice to the offender of the intention to “name and shame.”

Failure to report notifiable arrangements

An individual who fails to notify the Commissioner of reportable tax planning arrangements (as defined in Section 41 of the act – see Section 5.18) will be liable to a fine and/or imprisonment.

Information requests

An individual who does not comply with a request for information (in connection with their tax affairs or those of other persons) by the Commissioner of Income Tax by the due date, will be liable to a fine and/or imprisonment.

5.19 Anti-avoidance

General anti-avoidance provision

Section 40 of the Income Tax Act 2010 empowers the Commissioner of Income Tax to disregard part or all of any arrangements that are deemed to be artificial and/or fictitious and whose purpose is to reduce or eliminate tax payable.

Artificial and fictitious is defined as meaning:

- ▶ Not real and not genuine, or
- ▶ Not consistent with the international standard of the arms-length principle as defined by the Organisation for Economic Co-operation and Development as part of their Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration.

Notifiable arrangements and proposals

Section 41 of the act includes a requirement for promoters of a scheme to disclose to the Commissioner any “notifiable arrangement” or “notifiable proposal.”

The act defines a notifiable arrangement as being any arrangement or arrangements that:

- ▶ Enable, or may be expected to enable, a person to obtain an advantage in relation to any tax under the act
- ▶ Are such that the main benefit, or one of the main benefits, expected from the arrangement is to obtain a tax advantage

A notifiable proposal is defined as being any proposal that, if entered into, would be a notifiable arrangement.

Guidance notes produced by the ITO state that, “For the purposes of the Act, a notifiable arrangement will not include advice provided in respect of specific allowances, deductions and/or exemptions.”

A “promoter” is either a bank, a person providing taxation services or a person involved in the provision of financial products capable of reducing tax, that is, to any extent, responsible for:

- ▶ Designing a notifiable arrangement or proposal
- ▶ Making such an arrangement or proposal available for implementation by others
- ▶ Organising or managing the implementation of an arrangement or intended implementation of a proposal

Disclosure of a notifiable arrangement or proposal must be made within 30 days from the earlier of:

- ▶ The date on which the promoter makes the proposal available for implementation by any other individual, or the date on which the promoter first becomes aware of any transaction forming part of the arrangements

If the promoter is not a Gibraltar resident or when there is no promoter, the taxpayer is responsible for the disclosure of the arrangement or proposal to the Commissioner.

There are detailed procedures for seeking clearance in advance of any notifiable arrangements, setting out a timetable for the Commissioner to either:

- ▶ Request further information
- ▶ Notify the applicant that anti-avoidance provisions either will or will not apply to the arrangement
- ▶ Notify the applicant that they need a further 21 days to make a decision

Where such an application is made, the Commissioner may publish a description of the arrangement and their decision in such a way that the taxpayer concerned will remain anonymous.

EU Mandatory Disclosure Regime

The EU's Mandatory Disclosure Regime ("MDR") has not yet been implemented in Gibraltar (it is not required by the EU to be implemented into legislation until 31 December 2019).

Despite Brexit, at the time of writing it is likely that MDR, or a comparable regime, will be implemented by 31 December on the basis that:

- ▶ The UK has clearly signalled an intention that it will apply MDR regardless of Brexit
- ▶ Gibraltar is committed to tax transparency initiatives
- ▶ The international agreement signed by the UK and Spain regarding Gibraltar (though not yet ratified) contains a commitment to implement MDR in Gibraltar.

MDR places a requirement on intermediaries and in some cases the taxpayer to disclose any cross-border arrangement or transaction that has any one of a number of defined "hallmarks".

An intermediary includes any person who designs, markets, organises, makes available for implementation, manages the implementation of such an arrangements. It also extends to anyone who knowingly advises or helps with the above. If there is no intermediary required to report, then the obligation to report shifts to the taxpayer.

Such hallmarks are designed to identify arrangements that could denote tax avoidance or the gaining of a tax advantage.

Once implemented, MDR will apply to any such arrangements or transactions where the first step of implementation was made from 25 June 2018 onwards.

EU Anti-Tax Avoidance Directive

Gibraltar has implemented the EU Anti-Tax Avoidance Directive (“ATAD”), by including the relevant provisions from the Directive in the Income Tax Act 2010. The provisions, which apply to accounting periods commencing on or after 1 January 2019, include the following:

Interest deduction limitation

A limitation on the deduction for interest expense available to companies within a group to the greater of:

- ▶ 30% of the taxpayer’s EBITDA (earnings before interest, tax, depreciation or amortisation) and
- ▶ €3,000,000 for the entire group

Interest costs not deductible in a tax year may be carried forward indefinitely to future tax years. Unused interest capacity may be carried forward for up to five years.

The above does not apply to single entities, nor to financial undertakings.

Controlled foreign company rule

For the purposes of the ATAD rules, a controlled foreign company (“CFC”) is an entity or permanent establishment not resident in Gibraltar which is controlled by the taxpayer, whose profits are not taxable in Gibraltar and which pays tax of less than 50% of the tax that would be payable in Gibraltar were the entity taxable in Gibraltar.

Where a company is treated as a “CFC”, the non-distributed profits of the CFC arising from non-genuine arrangements put in place for a tax advantage will be included as income of the taxpayer.

The above does not apply to a CFC with accounting profits of no more than €750,000 and non-trading income of no more than €75,000, or if its accounting profits amount to no more than 10% of its operating costs for the tax period.

Hybrid mismatch rule

This rule applies where, due to differences in the legal characterisation of a financial instrument or entity between two EU Member states, there is either:

- ▶ A deduction in both EU Member states for the same expense, payment or loss, or
- ▶ A deduction in one EU Member state without the inclusion of the corresponding income in the other Member state.

In the former case, the deduction would only be given where Gibraltar is the source of the payment. In the case of the latter, a deduction would not be given.

Thin capitalisation rules

These rules apply to interest payable by a company to individuals or trusts that are connected parties, and to interest payable by a company where the loan is secured on assets belonging to individuals or trusts that are connected persons. Further, the rules apply only where the loan is not on an arms-length basis either by reference to the rate of interest or the terms and conditions of the loan.

Interest paid by the company may be treated as a dividend and not as a deductible expense, if the loan capital to equity ratio of the company is greater than 5 to 1.

This does not apply to credit institutions or deposit takers licensed under the Banking Act.

Transactions with connected persons

In certain circumstances, the deduction for expenses incurred in relation to a transaction with a connected person or connected persons may be restricted by the Commissioner to the lowest of:

- ▶ The amount of the expense
- ▶ Five percent of turnover
- ▶ Seventy-five percent of profit before taking into account the expense in question

Interest paid to a connected person in excess of the amount that would have been charged on an arms-length basis is deemed to be a dividend, and not a deductible expense.

Back-to-back loans

Interest expense is not deductible in cases where:

- ▶ Interest is paid on a loan
- ▶ The loan is secured by a cash deposit made with the lender (or party connected to the lender) or secured by certain investments
- ▶ The income from the cash deposit or investment is not assessable to tax

Parent-subsidiary directive

Anti-avoidance provisions included in the Parent-subsidiary directive in late 2015 are included in the Income Tax Act 2010.

Dual employment contracts

When an employee of an ordinarily resident employer in Gibraltar has contracts with that employer or with a party connected to that employer, then the employee's income from all of the employers or the connected person is taxable in Gibraltar.

Transfer of assets abroad

There are rules to prevent avoidance of tax by transferring assets abroad.

5.20 Tax rulings

HM Government of Gibraltar published the Income Tax (Tax Rulings) Rules in 2018. These apply to applications for tax rulings, as well as to the processing of such rulings. The Rules are effective as of 25 October 2018.

Under the Rules, the purpose of rulings is limited to the interpretation and application of the law in specific circumstances. The Commissioner is neither required nor permitted to derogate or deviate from the provisions of any legislation. This effectively reiterates the Commissioner's stated position prior to the publication of the Rules.

An applicant for a ruling must provide specified detailed information, including:

- ▶ A comprehensive description of the relevant facts and circumstances
- ▶ Information sufficient to demonstrate the applicant's interest in obtaining the ruling
- ▶ A description of the underlying business activities, including the nature and place of the activities, place of effective management of the business, the human and technical means used in pursuing the business activities and the classes of customer at which the business activities are targeted
- ▶ Evidence to support any assertion, including benchmarks or thresholds applied for determining arms-length equivalence or other matters
- ▶ Sufficient explanation of the operation to satisfy the Commissioner of the commercial plausibility of the operation

A standard form is provided to be used to request a ruling.

In determining whether sufficient evidence has been provided, the Commissioner must take into account any relevant OECD¹ or other international benchmarks or standards.

A tax ruling will specify a period, not exceeding three years, during which it may be relied upon. There is no specific provision in the Rules that automatically invalidates a ruling if the underlying tax law changes to the extent that it would no longer support such a ruling. However, it is in our view likely that the wording of any ruling issued would make it conditional upon there being no relevant changes in underlying legislation, as was previously the practice.

The Commissioner has several grounds on which he may refuse to give a ruling.

The Rules provide for the possibility of fees being charged by the Gibraltar Income Tax Office for making an application for a ruling. However, we understand that fees are not currently being charged and we are not aware of any specific plans to do so.

The Rules set out a time limit of 21 days from date of receipt of the application by which the Commissioner should respond; either with a decision, or a request for further information. There is no stated time limit by which the ruling would be issued should the decision be positive, although in such cases it is expected that in most circumstances the intention would be to issue the ruling within the 21 days.

5.21 International agreement on taxation between Spain and the UK regarding Gibraltar

On 4 March 2019 the UK and Spanish governments signed an international agreement on taxation regarding Gibraltar. The agreement will not take effect until it has been ratified, which at the time of writing has not yet occurred, nor is a certainty.

The agreement covers a number of areas.

Residency of individuals

The agreement recognises that individuals shall be recognised as being resident in Gibraltar or in Spain according to the domestic law of those jurisdictions.

However, the agreement provides a number of rules which shall be applied in the case where an individual is resident in both jurisdictions under those domestic rules. Those “tie-breaker” rules will determine in which one of the two jurisdictions the individual is resident.

The agreement provides that:

- ▶ Spanish nationals who move their residency to Gibraltar after the date on which the agreement is signed will remain Spanish tax resident
- ▶ Non-Spanish nationals who move their residency to Gibraltar will remain tax resident in Spain for the remainder of the tax year and for the subsequent four tax years. This will not apply to individuals who spend less than one complete tax year in Spain, or registered Gibraltarians who spend less than four years in Spain. This would not apply until the first tax year commencing after the agreement enters into force.

Residency of companies and other legal entities

Entities will be considered to be resident only in Spain when any one of the following circumstances exist:

- ▶ The majority of assets, whether directly or indirectly held, are located in Spain, or consist of rights that may or must be exercised in Spain.
- ▶ The majority of income accrued in a calendar year derives from sources in Spain
- ▶ The majority of individuals in charge of effective management (normally the directors) are tax resident in Spain.
- ▶ The majority of ownership or control (“interests in the capital or equity, voting or profit share rights”) is directly or indirectly held by individuals who are tax resident in Spain, or by entities “linked to tax residents in Spain”

There are exceptions to the above that may apply for entities incorporated before 16 November 2018 and that at 31 December 2018, and who meet all of the following conditions:

- ▶ They have a fixed place of business in Gibraltar with real substance (adequate number of employees with necessary qualifications and adequate operating expenditure)
- ▶ They are subject to corporation tax in Gibraltar
- ▶ They have from incorporation until 31 December 2018 operated in or from Gibraltar without interruption or a change in its trade since 1 January 2011
- ▶ More than 75% of their income in the financial year immediately preceding 31 December 2018 accrued and derived from sources in Gibraltar
- ▶ Have less than a certain proportion of their income in the financial year immediately preceding 31 December 2018 from sources in Spain (the exact proportion ranges from 5% to 15% depending on the amount of annual turnover).

In order to apply the above exception, details of the entities to whom the above would apply shall be provided by the Gibraltar tax authorities to the Spanish tax authorities by 31 March 2020.

The implication of an entity being tax resident in Spain is that it would be subject to tax in Spain. The agreement provides that, where relevant, double taxation would be applied following domestic legislation.

Information exchange and co-operation

The agreement provides for “enhanced administrative cooperation”. This includes:

- ▶ Both Spain and Gibraltar will continue to apply EU Directives regarding administrative assistance (i.e., exchange of information). This specifically includes the EU Mandatory Disclosure Regime (see 5.19)
- ▶ Simultaneous tax examinations and participation in tax examinations abroad
- ▶ Assistance with collection and the serving or transfer of documents
- ▶ Exchange of annual information on workers registered in Gibraltar as residents of Spain (such information has already been exchanged for a number of years)
- ▶ Direct access to beneficial ownership information as is public, or otherwise available to the Commissioner of Income Tax.

6 | Appendices

App. 6.1 Historical income tax rates and bandings

A. Allowance-based system:

Amount of taxable income in bands					
Rate of tax in bands	2009-10 to 2011-12	2012-13	2013-14	2014-15	2015-16 to 2019-20
14%	-	-	-	-	4,000
15%	-	£4,000	£4,000	£4,000	-
17%	£4,000	-	-	-	12,000
18%	-	-	-	£12,000	-
24%	-	-	£12,000	-	-
30%	£12,000	£12,000	-	-	-
39%	-	-	-	-	Balance
40%	Balance	Balance	Balance	Balance	-

From 2011-12 onwards, all taxpayers under the allowance-based system receive a tax credit amounting to the greater of £300 or 2% of the tax payable based on the above table.

B. Gross income based system (introduced in 2008-09)

Note: No allowances applied under the GIBS until 2014-15. In case a taxpayer opts for this system and the spouse does not, the availability of allowances to the spouse are restricted (see Section 5.5 and refer to the Government website – www.gibraltar.gov.gi).



a. Individuals on gross income up to £16,000

Taxable income bands	Rate	Tax on band
£0-£10,000	8%	£800
£10,001-£16,000	20%	£1,200

b. Individuals on gross income between £16,001 and £25,000

Gross income between	On first	Rate	Balance at 20%	Tax payable
£16,001-£17,000	£6,000	0%	£10,001-£11,000	£2,000-£2,200
£17,001-£18,000	£5,000	0%	£12,001-£13,000	£2,400-£2,600
£18,001-£19,000	£4,000	0%	£14,001-£15,000	£2,800-£3,000
£19,001-£20,000	£3,000	0%	£16,001-£17,000	£3,200-£3,400
£20,001-£25,000	£2,000	0%	£18,001-£23,000	£3,600-£4,600

c. Individuals on gross income between £25,001 and £35,000

Rate of 20% applies less tapering relief* on gross income between £25,001 and £26,000.

*Tapering relief (on gross income of £25,000 there is a tax-free amount of £2,000 which reduces by £2 for every £1 increase in gross income).

d. Individuals on gross income between £35,001 and £100,000

The effective (average) tax rate is reduced by 0.5% from 2009-10 using a formula that gives a maximum effective tax rate of 26.25% on a gross income of £100,000.

The tax liability is arrived at by:

- ▶ Calculating the effective tax rate using the 2009-10 tax bands (see below)
- ▶ Reducing this by 0.5%
- ▶ Applying the resulting rate to taxable income (gross income less tapering relief*)

*Tapering relief (on gross income of £35,001 there is a tax-free amount of £3,284 which reduces by £2 for every £1 increase in gross income).

2009-10 tax bands	Rate
£0-£25,000	20%
£25,001-£100,000	29%

e. Individuals on gross income between £100,001 and £353,000

Rate of 20% on first £25,000 of gross income with the balance taxed at 29%.

Tapering relief applies (on gross income of £100,001 there is a tax-free amount of £1,722 which reduces by £2 for every £1 increase in gross income).

f. Individuals on gross income over £353,000

	Rate
First £25,000	20%
£25,001-£353,000	29%
£353,000 - £704,800	20%
£704,801 - £1,000,000	10%
Excess over £1,000,000	5%

The effective rate of tax on a gross income of £1 million is 20%, with any excess taxed at 5%.

2011-12, 2012-13, 2013-14 and 2014-15

a. Individuals with gross income of up to £25,000

Taxable income bands	Rate	Tax on band
First £10,000	6%	£600
£10,001-£17,000	20%	£1,400
Balance	28%	

b. Individuals with gross income of more than £25,000

Taxable income bands	Rate	Tax on band
First £17,000	16%	2,720
£17,001-£25,000	19%	1,520
£25,001 - £40,000	25%	3,750
£40,000 - £105,000	28%	18,200
£105,001 - £500,000	25%	98,750
£500,001 - £700,000	18%	36,000
£700,001 - £1million	10%	30,000
Balance	5%	

a. Individuals with gross income of up to £25,000

Taxable income bands	Rate	Tax on band
First £10,000	6%	£600
£10,001-£17,000	20%	£1,400
Balance	28%	

b. Individuals with gross income of more than £25,000

Taxable income bands	Rate	Tax on band
First £17,000	16%	2,720
£17,001-£25,000	19%	1,520
£25,001 - £40,000	25%	3,750
£40,000 - £105,000	28%	18,200
£105,001 - £500,000	25%	98,750
£500,001 - £700,000	18%	36,000
Balance	5%	



App. 6.2 Principal tax allowances and reliefs (ABS only)

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	£	£	£	£	£	£	£	£	£
Personal allowances									
Personal	2,812	2,812	3,000	3,100	3,200	3,215	3,300	3,385	3,455
Spouse	2,632	2,632	3,000	3,100	3,200	3,215	3,300	3,385	3,455
Minimum personal allowance	3,700	3,700	3,888	3,988	4,088	4,103	4,188	4,273	4,343
(top-up allowance)									
Special senior* citizens (top-up allowance)	10,887	10,887	11,443/ 11,075	11,643/ 11,175	12,000	12,030	12,200	12,370	12,510
Child relief									
First child educated in Gibraltar	997	997	997	997	1,100	1,105	1,135	1,165	1,190
Each child educated abroad	1,105	1,105	1,105	1,105	1,250	1,255	1,290	1,325	1,355
Disabled person relief									
Disabled person	2,724	2,724	5,000	6,000	9,000	9,040	9,285	9,285	9,475

App. 6.2 Principal tax allowances and reliefs (ABS only)

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	£	£	£	£	£	£	£	£	£
House purchase allowance									
Deduction	11,500	11,500	11,500	11,500	12,000	12,000	12,000	12,000	13,000
Additional (£1,000 max p.a.)	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000
Social insurance allowance									
Employee	335	335	335	335	335	335	335	335	335
Self employed	432	432	432	432	432	432	432	432	432
Other reliefs and allowances									
Nursery school allowance	1023	2,000	3,000	4,000	5,000	5,025	5,160	5,290	5,400
Blind person	627	627	3,000	4,000	5,000	5,020	5,155	5,285	5,395
Single parent	2,632	2,632	3,000	4,000	5,264	5,290	5,435	5,575	5,690
Medical insurance allowance	1,120	1,500	2,000	4,000	5,000	5,020	5,155	5,285	5,395

App. 6.3 General index of retail prices

General index of retail prices at:		1 Jan 16	1 Jul 16	1 Jan 17	1 Jul 17	1 Jan 18	1 Jul 18	1 Jan 19	1 Jul 19
Component groups									
Foodstuffs		172.97	176.78	178.55	181.17	186.42	188.36	189.73	190.43
Alcoholic drinks and tobacco		213.80	209.10	214.33	219.05	219.27	225.23	227.82	233.54
Clothing and footwear		104.67	106.76	98.97	102.85	95.24	95.35	96.10	97.93
Durable household goods		116.28	117.79	119.91	120.31	120.19	119.53	117.05	117.01
Housing		114.06	114.52	115.09	115.38	116.42	119.07	119.70	120.16
Services		160.67	161.63	162.92	163.66	172.99	174.37	176.18	177.11
Other goods		137.85	137.85	138.95	140.32	141.44	141.74	142.19	143.60
Transport and vehicles		153.55	157.39	164.00	165.53	167.35	173.64	173.37	176.09
Weighted average		145.41	147.45	149.07	150.87	152.98	155.60	156.26	157.63
Increase/decrease									
Over the 6 months (%)	(.85%)		1.4%	1.1%	1.2%	1.4%	1.7%	0.42%	0.88%
Increase over the year (%)	(.01%)		.54%	2.52%	2.32%	2.62%	3.14%	2.14%	1.30%

App. 6.4 Institutions licensed under the Financial Services (Banking) Act to carry on deposit-taking business in or from within Gibraltar

Bank J. Safra Sarasin (Gibraltar) Limited

G-Rock Limited (trading as Golden Sand Bank)

Gibraltar International Bank Limited

IDT Financial Services Limited

Jyske Bank (Gibraltar) Limited

Leeds Building Society

Lombard Odier & Cie (Gibraltar) Limited

Moneycorp Bank Limited

SG Kleinwort Hambros Bank (Gibraltar) Limited

The Royal Bank of Scotland International Limited (trading as NatWest and RBS International)

Turicum Private Bank Limited

App. 6.5 Useful addresses and contact details

Government of Gibraltar

Chief Minister's Office

6 Convent Place

Tel: + 350 200 70071

Fax: + 350 200 79901

Finance Centre

Licensing Unit

Suite 761A Europort

Tel: + 350 200 51163

Fax: + 350 200 76599

Gibraltar Finance Centre

Ministry of Finance

Suite 761, Europort

Tel: + 350 200 50011

Fax: + 350 200 51818

Email:

info@financecentre.gov.gi

Blake House 19C

Authority

Town Range

2nd floor, Eurotowers,

Tel: + 350 200 51168

Fax: + 350 200 79901

Email:

financialsec@gjbtelecom.net

Gibraltar Financial Services Commission

PO Box 940

Suite 3, Ground Floor

Atlantic Suites,

Europort Avenue

Tel: + 350 200 40283

Fax: + 350 200 40282

Email: info@fsc.gi

Europort Road

Tel: + 350 200 74636

Fax: + 350 200 72166

Email: info@gra.com

Auditors Public Oversight Board

Financial Services

Commission Suite 3,

Ground Floor

Atlantic Suites,

Europort Avenue

Tel: + 350 200 41062

Fax: + 350 200 40282

Email: arb@fsc.gi

Accountant**General's Office**

206-210 Main Street
Tel: + 350 200 48396
Fax: + 350 200 77147
Email:
treasury@gibtelecom.net

Principal Auditor's Office

Gibraltar Audit Office
Elmslie House
51/53 Irish Town
Tel: + 350 200 51137
Fax: + 350 200 51136
Email: gao@audit.gov.gi

**Attorney General's
Chambers**

Joshua Hassan House
Secretary's Lane
Tel: + 350 200 78882
Fax: + 350 200 79891
Email: info.agchambers@
gibraltar.gov.gi

Judiciary

The Law Courts
227 Main Street
Tel: + 350 200 78808
Fax: + 350 200 77118

Statistics Office

99 Harbours Walk
New Harbours
Rosia Road
Tel: + 350 200 75515
+ 350 200 75490
Fax: + 350 200 51160
Email:
statistics@gibraltar.gov.gi

Income Tax Office

St Jago's Stone Block
331 Main Street
Tel: + 350 200 75260
Fax: + 350 200 40020
Email:
incometax@gibraltar.gov.gi

**Department of Social
Security**

14 Governor's Parade
Tel: + 350 200 51149
Fax: + 350 200 74941
Email: dss@gibraltar.gov.gi

Ministry of Employment

Units 76 & 77
Harbours Walk
New Harbours
Tel: + 350 200 11000
Fax: + 350 200 73981
Email: employment.
service@gibraltar.gov.gi

Customs

Custom House, Waterport
Tel: + 350 200 78879
Fax: + 350 200 78362
Email:
hmcustoms@gibraltar.gov.gi

Education and Training

23 Queensway
Tel: + 350 200 77486
Fax: + 350 200 71564
Email:
info.edu@gibraltar.gov.gi

Gibraltar Tourist Board

Duke of Kent House
Cathedral Square
Tel: + 350 200 74950
Fax: + 350 200 74943
Email:
information@tourism.gov.gi

**Technical Services
Department**

Joshua Hassan House
Secretary's Lane
Tel: + 350 200 59800
Fax: + 350 200 50917

Official Receiver's Office

206-210 Main Street
Tel: + 350 200 67315

**Department of Consumer
Affairs**

10 Governor's Lane
Tel: + 350 200 50788
Fax: + 350 200 47995
Email: info@consumera
ffairs.gov.gi

**Registry of Companies and
Business Names**

Companies House (Gibraltar)
Limited
1st Floor, Don House,
The Arcade,
30-38 Main Street
Tel: + 350 200 78193
Fax: + 350 200 44436
Email:
mail@companieshouse.gi

**Registry of Co-operative
Societies and Friendly
Societies**

Financial Secretary's Office
No 6 Convent Place
Tel: + 350 200 51168
Fax: + 350 200 79901
Email: financialsec@gibtele.
com.net

**Department of Enterprise
and Development**

Suite 631, Europort
Tel: + 350 200 52052
Fax: + 350 200 71406
Email:
info@investgibraltar.gov.gi

Trade Licensing Office

Suite 631, Europort
Tel: + 350 200 76358
Fax: + 350 200 71950
Email: licensing.mttp@
gibraltar.gov.gi

**Royal Gibraltar
Police Headquarters**
New Mole House
Rosia Road
Tel: + 350 200 72500
(Emergency 199 and 112)
Fax: + 350 200 72428
Email: supportservices@
royalgib.police.gi

Central Police Station
Irish Town
Tel: + 350 200 79395
(Emergency 199 and 112)

Immigration Department
Joshua Hassan House
Secretary's Lane
Tel: + 350 200 76948
Fax: + 350 200 43053
Email: immigration.csro@
gibraltar.gov.gi

Post Office
104 Main Street
Tel: + 350 200 75714
Fax: + 350 200 40027
Email: info@post.gi

**Philatelic Bureau
Gibraltar Philatelic
Bureau Ltd,**
Suite 9/11
Watergardens 2
Waterport Wharf
Tel: + 350 200 75662
Fax: + 350 200 42149
Email:
info@gibraltar-stamps.com

Hospitals

St. Bernard's Hospital
Harbour Views Road
Tel: + 350 200 79700

Primary Care Centre
2nd Floor
International Commercial
Centre (ICC)
Tel: + 350 200 72355
Fax: + 350 200 43948
Email: info@gha.gi

Environmental Health

**Environmental Agency
Limited**
37 Town Range
Tel: + 350 200 70620
Fax: + 350 200 74119
Email: admin@eag.gi

Emergency services

Fire	190
Ambulance	190
Police	199
All emergencies	112

Air terminal

**Gibraltar International
Airport**
British Lines Road
Tel: + 350 200 12345
Fax: + 350 200 73925
Email:
info@gibraltarairport.com

Public utilities

Telephone

Gibtelecom
15/21 John Mackintosh
Square
Tel: + 350 200 52200
Fax: + 350 200 71673
Email: info@gibtele.com

Water and electricity

**Gibraltar Electricity
Authority
(Connections, etc.)**
Gibelec House,
North Mole Road
Tel: + 350 200 74191
Fax: + 350 200 48935
Email: consumer@gibelec.gi

AquaGib Limited
Suite 10B, Leanse Place
50 Town Range
Tel: + 350 200 40880
Fax: + 350 200 40881
Email:
main.office@aquagib.gi

Business

**Gibraltar Chamber of
Commerce**
Watergate House
2/6 Casemates
Square P.O Box 29
Tel: + 350 200 78376
Fax: + 350 200 78403
Email: info@gibraltar
chamberofcommerce.com

Gibraltar Federation of Small Businesses

122 Irish
Town PO Box 211
Tel: + 350 200 47722
Fax: + 350 200 47733
Email: gfsb@gfsb.gi

**Gibraltar Stock
Exchange**
Suite 834
Europort
Tel: + 350 200 67822
Fax: + 350 200 67821
Email: info@gsx.gi

App. 6.6 Useful Gibraltar websites

EY Limited	www.ey.com
Government of Gibraltar Information Services	www.gibraltar.gov.gi
General information on Gibraltar	www.gibraltar.gi
The Gibraltar Financial Services Commission	www.fsc.gi
The Gibraltar Society of Accountants	www.gibraltaraaccountants.com
The Gibraltar Federation of Small Businesses	www.gfsb.gi
The Gibraltar Chamber of Commerce	www.gibraltarchamberofcommerce.com
The Gibraltar Banker's Association	www.gba.gi
Gibraltar Companies House	www.companieshouse.gi
Gibraltar Insurance Association	www.gia.gi
Gibraltar Laws	www.gibraltarlaws.gov.gi
Gibraltar Regulatory Authority	www.gra.gi
Gibraltar Stock Exchange	www.gsx.gi
Gibraltar Finance	www.gibraltarfinance.gi

App. 6.7 About EY

EY Gibraltar practice profile

EY Limited commenced trading in Gibraltar on 5 September 2013. The EY Gibraltar office is one of the leading providers of audit, tax, accounting and business advisory services in the jurisdiction.

Our clients include businesses in the following sectors: financial services (insurance companies, banks, insurance brokers, asset management and funds, trust and company managers), online gaming, retail/wholesale, shipping, property and construction.

EY Limited is a limited company registered in Gibraltar with registered number 110110 and is a member firm of Ernst & Young Global.

EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services that we deliver help build trust and confidence in the capital markets and in economies the world over. We develop exceptional leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, our clients and our communities.

Global headquarters: London

Global Chairman and CEO: Mark Weinberger

Number of people globally: 260,000 (over FY 2017)

Global revenues: US\$34.8 billion (FY18, ending 30 June 2018)

Geographic areas: Americas; Europe, the Middle East, India and Africa; Asia-Pacific; and Japan

Offices: 728 offices in more than 150 countries

Service lines: Assurance, Advisory, Tax and Transaction Advisory Services

Founded: in 1989 through the merger of Ernst & Whinney and Arthur Young & Co.; oldest component from 1849



App. 6.8 Biographies of directors



Angelique Linares, BSc (Hons.), FCA

A graduate from the University of East Anglia, Angelique qualified as a chartered accountant in Leicester. In 1997, she joined a predecessor firm where she worked on a large portfolio of locally based clients, particularly in the financial services industry (including banking and insurance). She was appointed as a partner/director of Baker Tilly (Gibraltar) Limited in 2006 and joined EY in 2013. In 2018, she was appointed Managing Partner.

She specialises in provision of auditing, accounting and advisory services within the financial services sector and, together with co-partner Dale Cruz, leads the specialised team providing services to a large portfolio of insurance clients.

Her expertise in the insurance field has contributed significantly to making EY a leading organisation in the provision of audit and advisory services to the insurance industry in Gibraltar.

She also provides services to companies in the gaming, construction and civil sectors.



Neil M. Rumford, BAdmin (Hons.), CA

Having graduated from Dundee University, Neil trained as a Chartered Accountant with EY in Dundee. On attaining qualification in 1991, he moved to Gibraltar. In 2006, he was appointed as a partner/director of Baker Tilly (Gibraltar) Limited. He re-joined the EY network in September 2013, and now heads the Tax Services team, having established the Tax Services team in EY's new office in Gibraltar.

Neil is Deputy President of the Gibraltar Society of Accountants, having recently completed six years as Chair of the Association's Tax Faculty. Neil has participated in a number of working groups in the tax arena. He also chairs the Tax Committee of the Gibraltar Insurance Association.



Johann Olivera, BA (Hons.), FCA

A graduate from Exeter University, Johann trained as a chartered accountant with Robson Rhodes in London, qualifying in 1998. He joined a predecessor firm in Gibraltar in 1998 and was appointed as a partner/director of Baker Tilly (Gibraltar) Limited in 2006 and joined EY in 2013.

At EY Gibraltar, he is responsible for the provision of audit and accountancy services to financial services clients (including banks, funds, fund administration, asset management and trust and company managers) as well as audit services to a number of government-owned companies and local subsidiaries of listed entities. He also leads the Fintech team advising entities who will fall within the scope of the new Distributed Ledger Technology regulatory framework and entities conducting their ICOs/ITOs from Gibraltar.

Johann has been involved in the development of the funds industry in Gibraltar since its inception, having served on the executive committee of the Gibraltar Funds & Investments Association. He is also the partner responsible for audit quality in the EY Gibraltar office and is the Country Practice Protection Director.



Dale Cruz, BA (Hons.), FCA

After graduating from the University of Kent at Canterbury, Dale went on to train as a chartered accountant in London, qualifying in 2003. Since his return to Gibraltar, he has been involved in audit and assurance services for both local and international clients. He has mainly worked in financial services, specialising in the insurance industry. He co-leads the provision of services within Gibraltar to a large portfolio of insurance clients.

Dale is the Talent Leader of the EY Gibraltar office and is also responsible for Learning & Development.

In 2012, he was appointed as a director and became partner as from 01 July 2019. He is an active member of the Gibraltar Society of Accountants. He is currently a member of the audit faculty and is a former secretary and treasurer. Dale is also Chair of the technical committee of the Gibraltar Insurance Association.

Notes

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organisation, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organisation, please visit [ey.com](https://www.ey.com).

© 2019 EY Limited.
All rights reserved.

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

[ey.com](https://www.ey.com)