

# Gibraltar payroll requirements

## Requirement to operate a payroll

All employers in Gibraltar are required to calculate the correct amount of tax, based on prescribed tax-tables, to be deducted from their employees' wages and salaries. They must pay this over, together with Social Insurance ("SI"), to the Income Tax Office ("ITO") on a monthly basis.

## Registration of employers

All employers are required to be registered with both the:

- ▶ Employment Service - this is a department of the Government that administers and enforces Gibraltar's labour laws, and
- ▶ Income Tax Office - this can be done either by ticking the appropriate box when the company first registers with the Income Tax Office, or requested subsequently.

## Registration of employees with the Employment Service

An employer is required to ensure that any employee working in Gibraltar for them - even on a temporary basis - is registered in advance with the Employment Service. There are significant penalties for non-compliance.

## Registration of employees with the Income Tax Office

An employer must also notify the ITO of the engagement of any employee. In order to do so, the employee must first be registered with the Employment Service (unless they will not be working at all in Gibraltar).

On notification of the engagement, the ITO will register the employee for PAYE and SI.

The ITO will issue a tax code for the employee (PAYE Allowance & SI Contribution Class Certificate). An employee may visit the Income Tax Office to ensure that the tax code takes account of all allowances to which they are entitled; otherwise it will be issued by the Income Tax Office based on the information that they hold.

## Pay as you Earn ("PAYE")

PAYE must be calculated using the tax code issued. This can be done manually by reference to tax tables produced by the ITO - or processed using locally-available computer software. In the absence of a tax code, the emergency rate of tax of 20% must be applied.



## Social Insurance

Social insurance is payable in respect of all individuals who are working in Gibraltar - even on a temporary basis. This also applies to any employees on the payroll of a Gibraltar-registered company who are working overseas. The only exceptions to the above are where:

- ▶ the employee is also employed elsewhere in Gibraltar, and their social insurance obligations (employee's and employer's contributions) are fully met by the other employer; or
- ▶ the employee holds a valid A1 certificate issued by another EEA jurisdiction, in which case social security contributions continue to be made in the employee's home country.

The amount paid monthly should be based on the certificate issued by the ITO containing the employee's tax code. In the case of the above exceptions, an application must be made to the ITO, so that they may amend the tax code accordingly.

## Payments

PAYE and SI for a given month must be paid by the employer by the 15th of the subsequent month.

## Reporting requirements

Following the end of the tax year on 30th June each year, an employer must complete and submit the following forms to the Income Tax Office by 31st July:

- ▶ P8 - Employers Annual Statement Declaration and Certificate - this declares the gross salaries, PAYE and SI by employee, and the total PAYE and SI deducted and paid over by the employer
- ▶ P10/P10A - this lists the BIKs by employee
- ▶ P12 - Details of Pension Scheme Contributions.

Employers must also give each employee a completed Form P7 - Certificate of Pay, Tax Deducted & SI Contributions. The employee should retain this - as well as certifying the amount of PAYE & SI paid, the information is needed to complete the employee's tax return.



## Benefits-in-kind ("BIKs")

Benefits received by employees in connection with their employment are treated as part of their earnings, and are taxable accordingly. The Income Tax Act 2010 contains a comprehensive list of items which are considered BIKs, as well as a "catch-all" clause for any other items that are not specifically mentioned.

The legislation states that BIKs should be included in earnings for the purposes of calculating and paying PAYE. However, accepted practice is that instead of this, an employer simply declares BIKs at the end of the tax year, and the ITO will then include the BIKs in the final assessment issued to the employee.

The legislation states that where total BIKs for an employee amount to less than £250, those BIKs are not taxable. In practice, the Income Tax Office generally treats the first £250 as being exempt from tax.

Employers may apply for a "dispensation" to the effect that they pay the tax on BIKs on behalf of the employees. In this case, tax is payable on benefits received by an employee between £250 and £15,000 per annum at the rate of 20%. Benefits in excess of this are taxed at the rate of 29%. The tax paid under a dispensation is not treated as a further benefit (otherwise the tax itself would also be taxable). Tax paid under such a dispensation is not a deductible expense for the employer for corporation tax purposes.

There are several benefits which are specifically excluded; these include:

- ▶ Accommodation provided by an employer to a re-located employee, for up to seven years from the date of re-location. Further conditions apply, but it can be well-worth taking this into account when agreeing a package for expatriates (or locals re-locating back to Gibraltar).
- ▶ Relocation expenses for re-located employees - again conditions apply.
- ▶ Health insurance premiums up to a certain limit, which is subject to change each year. Use of this exemption will limit the employee's allowance for health insurance, if they are taxed under the Allowance Based System (see below).
- ▶ Employer's contributions to approved personal pension schemes within prescribed limits.
- ▶ Motorcycles and scooters.
- ▶ Staff parties or similar, where the annual cost per attendee does not exceed £75.



## Tax rates and allowances

Gibraltar has two alternative personal tax systems – the Gross Income Based System (“GIBS”) and the Allowance Based System (“ABS”). On final assessment, the Income Tax Office will apply whichever system results in the lower tax payable for a given tax year. Employees can elect either system to be applied to their tax code during the year – this can help to ensure that they are not overpaying PAYE, which can take some time to recover.

For details of current tax rates, allowances and deductions, please refer to our “Gibraltar tax facts” publication.

## Ordinary residence

An individual is defined as being “ordinarily resident” for tax purposes if they are present in Gibraltar in:

- ▶ 183 days or more in a tax year, or
- ▶ three consecutive tax years, for more than 300 days in total

Being ordinarily resident for tax purposes is not the same as being “resident” for immigration or other purposes.

Also, being ordinarily resident in Gibraltar, and/or paying tax in Gibraltar does not mean that one is not regarded by another jurisdiction as being resident and subject to tax in their jurisdiction. This is of particular relevance to employees living in Spain and working in Gibraltar.

Gibraltar’s tax authorities automatically provide information to other jurisdictions under the Convention on Mutual Administrative Assistance in Tax Matters. So, for example, where an individual’s residential address is in Spain, the Gibraltar tax authorities will automatically disclose information to the Spanish tax authorities regarding that individual’s earnings in Gibraltar.





## Income from occasional presence

If an individual is not ordinarily resident in Gibraltar and is present in Gibraltar in less than 30 days during the tax year, no tax is payable in Gibraltar on:

- ▶ Director's fees, or
- ▶ Wages or salaries where the duties of employment, other than those that are ancillary to the employment, are performed exclusively outside Gibraltar

Note that this does not apply to social insurance – and it does not remove the requirement for such individuals to be registered with the ITO and the Employment Service. To give the exemption in advance, the ITO often insists on an affidavit being submitted by the individual, stating that they will meet the conditions for the exemption.

## Short-term business travellers

Subject to the “income from occasional presence” exemption above, individuals working in Gibraltar on a temporary basis are taxable in Gibraltar from day one.

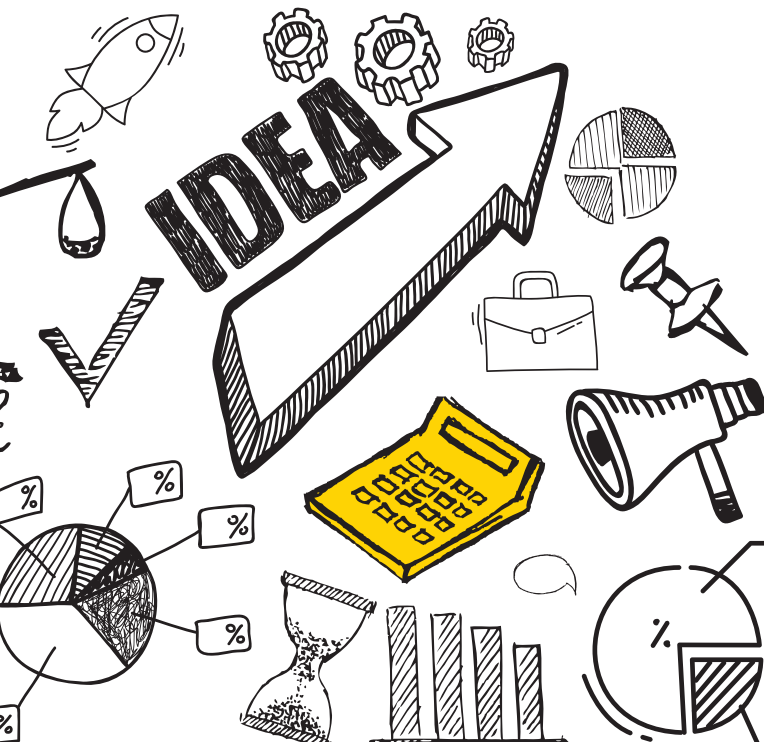
There is also a requirement for any person working in Gibraltar to be registered in advance as an employee with the Employment Service (see above).

Persons working temporarily in Gibraltar who are employed by an overseas company may be put on the payroll and registered locally as the employee of the local company. Such workers are known as “detached workers”. Common examples are:

- ▶ employees of an overseas subcontractor that is not registered as a branch or company in Gibraltar, who are registered locally as employees of the main contractor
- ▶ employees of a related overseas company, who are registered with a Gibraltar company/branch in the group.

## High Executives Possessing Specialist Skills (“HEPSS”)

This is a special tax status for individuals with skills and experience that are not available in Gibraltar and that are necessary to promote and sustain economic activity in Gibraltar. The employee must earn more than £120,000 p.a. and have residential accommodation of a certain standard in Gibraltar. The tax payable on their earnings from their employer is limited to tax on the first £120,000 of income. This status must be applied for; it is not automatic.



## How EY can support your business

Achieving an advantage in a competitive market has never been so demanding of time and expertise. To be successful, you need to focus on the commercial and strategic aspects of your business. All this must be achieved with a keen eye on ever-shifting regulation and a compliance landscape which cannot be ignored.

More and more businesses recognise the value in outsourcing routine yet demanding processes such as payroll. Outsourcing frees up resources - in particular when payroll is just one part of an employee's role. It ensures continuity and confidentiality. In addition, it allows the employer to rely on the provider for the latest understanding of relevant legislation and regulation, putting compliance in the hands of experts.

How EY can support your firm

We offer a specialist, tailored service that fits your needs. Our services include:

- ▶ Monthly processing of payroll, calculation of PAYE, Social Insurance, any other deductions and net pay
- ▶ Production of payslips for your employees
- ▶ Setting up bank payments
- ▶ Providing monthly reporting to you, for example, gross to net printouts and accounting journals
- ▶ Dealing with starters and leavers
- ▶ Completion of annual returns and forms, and filing these with the Income Tax Office
- ▶ Providing advice on an ad-hoc basis

## Further information

For further information on many of these items please refer to our publications "Doing Business in Gibraltar" and "Gibraltar tax facts" - or contact us.



## Useful Gibraltar websites

EY Gibraltar	<a href="http://ey.com/gi">ey.com/gi</a>
HM Government of Gibraltar	<a href="http://gibraltar.gov.gi">gibraltar.gov.gi</a>
Gibraltar Income Tax Office	<a href="http://gibraltar.gov.gi/taxation">gibraltar.gov.gi/taxation</a>
Employment Service	<a href="http://gibraltar.gov.gi/new/employment">gibraltar.gov.gi/new/employment</a>
Laws of Gibraltar	<a href="http://gibraltarlaws.gov.gi">gibraltarlaws.gov.gi</a>

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