

Gibraltar tax

Corporate tax return and dividend return filing requirements

06 July 2016

What's changed?

Until recently, Gibraltar's Income Tax Act 2010 only required a company to file a tax return if it had income assessable to tax in Gibraltar. The filing requirement has now been extended to include all companies registered in Gibraltar, regardless of whether they have income assessable to tax.

In addition, the requirement to file a return of dividends has been extended to all companies incorporated in Gibraltar that declare a dividend, with an exception for companies whose shares are listed on a recognized stock exchange. Previously, the requirement to file a dividend return only applied if any of the recipients of a dividend was an ordinarily resident person, or another company incorporated in Gibraltar.

These changes apply to accounting periods **ending** on or after 1 January 2016.

Deadlines

The deadline for filing tax returns and returns of dividends is nine months after the end of the month in which the accounting period ends.

The Income Tax Office in Gibraltar has stated that for companies with no assessable income, no late filing penalties will be levied in respect of tax returns until 1 January 2017. Note that this does not apply to companies with assessable income.

Requirement to file accounts with a tax return

The Income Tax Act 2010 provides that:

- ▶ A company with assessable (gross) income of £1,250,000 or more per annum is required to file audited accounts with its tax return
- ▶ In the case of a company with assessable income of less than £1,250,000 per annum, the return must be accompanied by accounts together with an independent accountant's report

Guidance has been issued by the Income Tax Office setting out the type of accounts that in its view are required to be filed by companies that have no income assessable to tax in Gibraltar. These are as follows:

Large companies are required to file full accounts, including an auditor's report.

Medium companies are required to file the same, except that the profit and loss account may be in "abridged form." Although not stated, it seems likely that the abridged form refers to the modified format in Schedule 14 of the Companies Act 2014. This allows turnover, cost of sales and other operating income to be combined under a single net figure headed "gross profit or loss." Medium companies should consider the impact of such an "abridged form" on the auditor's report before preparing accounts on this basis.

Small companies are only required to file an abridged balance sheet. The guidance does not include a requirement for an independent accountant's report or auditor's report to be filed with such accounts.

The parameters for classifying companies as small, medium or large are those set out in Gibraltar's Companies Act 2014.

This approach limits the additional burden on companies with no assessable income, as the accounts to be filed with a return as stated above are in line with those already required by Companies House, where the company files its own accounts. There will be an additional burden when companies do not file their accounts at Companies House, but instead file group accounts of a parent entity.

	Small	Medium	Large
Net turnover (prorated if more than or less than one year)	Up to £10.2m	Up to £36m	Over £36m
Balance sheet total (total assets)	Up to £5.1m	Up to £18m	Over £18m
Average number of persons employed	Up to 50	Up to 250	Over 250

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. 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.

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