



**BAKER TILLY**  
**(GIBRALTAR) LTD**  
*Chartered Accountants*

**Doing Business in Gibraltar**

**2011 / 2012**



**DOING BUSINESS  
IN  
GIBRALTAR**

**The Handbook**

2011/2012



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*Preface*

*Doing Business in Gibraltar – The Handbook, has been prepared by Baker Tilly (Gibraltar) Limited, an independent member of Baker Tilly International.*

*The handbook was written to give the busy executive a quick 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 an intimate 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 current and detailed information from experienced professionals.*

*Unless otherwise indicated, this book reflects information current at 1st October 2011. For additional copies or for further information on our complete range of services please contact Baker Tilly (Gibraltar) Limited at the following address:*

*Regal House,  
Queensway, Gibraltar  
Tel: (+350) 200 74015  
Fax: (+350) 200 74016*

*PO Box 191  
E-mail: [info@bakertillygibraltar.gi](mailto:info@bakertillygibraltar.gi)  
[www.bakertillygibraltar.gi](http://www.bakertillygibraltar.gi)*

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# Executive Summary on Gibraltar

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## A. General

Location	<ul style="list-style-type: none"><li>• Southern Tip of Iberian Peninsula</li></ul>
Land Area	<ul style="list-style-type: none"><li>• 7 square kilometres (approx.)</li></ul>
Population	<ul style="list-style-type: none"><li>• 29,000 (approx.)</li></ul>
Languages	<ul style="list-style-type: none"><li>• English (official), Spanish</li></ul>
Climate	<ul style="list-style-type: none"><li>• 23 - 35°C (summer), 10 - Mid 20°C (winter)</li></ul>
Time Zone	<ul style="list-style-type: none"><li>• Hours ahead of or behind Gibraltar: Bonn +0 / Buenos Aires -4 / Hong Kong +7 / London -1 Los Angeles -9 / Madrid +0 / New York -6</li></ul>
Status	<ul style="list-style-type: none"><li>• UK Overseas Territory</li><li>• Local Government responsible for internal affairs</li><li>• UK Government responsible for defence, external affairs and internal security</li></ul>
Economy	<ul style="list-style-type: none"><li>• Leading activities: Financial services, tourism, shipping and on-line gaming</li><li>• Joined European Union with United Kingdom in 1973 but exempted from: Common Customs Tariff, Common Agricultural Policy and Harmonisation of turnover taxes (notably VAT)</li></ul>
Legal system	<ul style="list-style-type: none"><li>• Based on common law and the rules of equity (as the United Kingdom)</li></ul>
GDP	<ul style="list-style-type: none"><li>• £1 billion (estimate for year to 31 March 2011)</li></ul>
Inflation	<ul style="list-style-type: none"><li>• 3.8% (year to July 2011)</li></ul>



## **B. Foreign Investments**

Currency & Exchange Controls	<ul style="list-style-type: none"><li>• Official currency is Sterling</li><li>• No exchange control</li><li>• Residents and non-residents may maintain accounts denominated in foreign currencies</li></ul> <hr/>
Banking Services	<ul style="list-style-type: none"><li>• Well established</li> <li>• Total assets of Banking Sector approx. £9.02 billion</li> <li>• Standards of supervision and regulation match UK practice</li> <li>• Supervision of the banking sector rests with the Commissioner of Banking (who is also the Chief Executive Officer of the Financial Services Commission)</li> <li>• Many major banks (including three UK clearing banks) are represented in Gibraltar</li> <li>• Services offered include retail, private and corporate banking, loans, import finance and mortgages on real estate</li></ul> <hr/>
Investor Protection	<ul style="list-style-type: none"><li>• Deposit Guarantee Scheme (in compliance with EU Deposit Guarantee Directive)</li> <li>• Investor Compensation Scheme (in compliance with EU Directive on Investor Compensation Schemes)</li> <li>• UK standards of supervision and regulation</li></ul> <hr/>
Import & Export Procedures	<ul style="list-style-type: none"><li>• Not part of Customs Territory of EU</li><li>• Few restrictions</li><li>• Import duties generally at rates between 0% (exempt) and 12%</li><li>• No VAT or other sales taxes</li></ul> <hr/>
Excise Duties	<ul style="list-style-type: none"><li>• Levied mainly on spirits, wines and tobacco</li></ul>



### **C. Key Financial Products**

Trusts	<ul style="list-style-type: none"><li>• The concept of a trust is recognised and widely used in Gibraltar</li><li>• Trust legislation is based on English law of equity</li><li>• Residency of trust established by the residency of the beneficiaries only (excluding Category 2 Individuals – see below). A non-resident Trust is only liable to tax on income accrued in or derived from Gibraltar.</li></ul>
Asset Protection	<ul style="list-style-type: none"><li>• Designed to protect a settlor's assets from certain Trust situations</li><li>• Aims to provide a higher degree of certainty in determining legal propriety</li></ul>
High Net Worth Individual (Category 2 Individuals)	<ul style="list-style-type: none"><li>• Only the first £80,000 of assessable income is taxable subject to a minimum tax payable of £22,000 and a maximum of approx. £30,000</li></ul>
High Executive Possessing Specialist Skills (HEPSS)	<ul style="list-style-type: none"><li>• Tax payable limited to the first £120,000 of earned income</li><li>• Conditions on skills, residential accommodation, previous non-residency and managerial position apply.</li></ul>

### **D. Local Tax**

#### **Income Tax**

Tax payers may choose between the traditional Allowance Based System (ABS) and the Gross Income Based System (GIBS) – see section 5.3.1



Income tax rates	<ul style="list-style-type: none"> <li>- GIBS • See appendix 6.2</li> <li>- ABS • See appendix 6.2 (10 year summary)</li> </ul>
Principal allowances	• See appendix 6.3 (10 year summary)
Special concessions	• Elderly persons: no tax is payable on the first £10,887
Corporation tax	<p>Prior to 1st January 2011, companies were generally taxed on a prior year basis. From 1st January 2011 onwards, all 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. In order to move from “prior year” to “actual” special transition rules apply.</p> <p>With effect from 1st January 2011, the standard rate of Corporation tax is 10% (20% in the case of utility, telecom and petroleum companies and companies enjoying a dominant market position).</p> <p>Companies are taxed on profits accrued in or derived from Gibraltar (i.e. territorial basis of taxation).</p> <p>In the case of companies licensed and regulated in Gibraltar, the profits are deemed to accrue in and derive from Gibraltar, except for activities carried out outside Gibraltar by a branch or permanent establishment.</p> <p>No tax payable on dividends between Gibraltar companies</p>
Non-Gibraltar Income	A Company in receipt of income which does not accrue in or derive from Gibraltar is not subject to tax. Upon distribution only resident shareholders would be liable to tax.



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Withholding tax	There is no withholding tax on dividends, interest or royalties.
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Wear and tear

	<b>Initial allowance</b>	<b>Additional allowance</b>
Plant and machinery (including fixtures & fittings)	100% on first £30,000	at 15%* p.a.
IT Investment	100% on first £50,000	at 15%* p.a. on reducing balance
Industrial buildings (Incl. Factories and similar premises)		4% p.a. straight line on cost

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*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 (utility, energy companies etc)*

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Taxation of Capital	<ul style="list-style-type: none"><li>• No estate duty, capital gains tax or other capital taxes</li></ul>
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Savings Income	<ul style="list-style-type: none"><li>• Income of a passive nature is not liable to tax.</li></ul>
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Pensions	<ul style="list-style-type: none"><li>• Income from occupational pensions is tax free</li><li>• Contributions to approved pension schemes are allowable against taxable income (subject to limits)</li><li>• No requirement to buy an annuity – 100% of the capital may be withdrawn tax free on retirement age</li></ul>
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- Stamp Duty
- Only payable on real estate and capital transactions at the following rates.  
*Principal rates:*
    - share capital £10 (flat rate)
    - loan capital £10 (flat rate)
  - On purchase of real estate as follows:
    - up to £200,000 nil
    - between £200,001 & £350,000
      - 2% on first £250,000 and 5.5% on balance
    - over £350,000
      - 3% on first £350,000 and 3.5% on balance
- 

- Gaming Tax
- Levied at the rate of 1% of relevant income (gaming yield for (on-line gaming) on-line casinos and bets placed for on-line bookmakers), capped at £425,000 with a minimum payable of £85,000 per annum, per licence.
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# **1. Introduction and General Information**

## **1.1 - Geography and Climate**

Gibraltar lies at the southern tip of the Iberian Peninsula. It covers seven square kilometres dominated by the famous rock which rises to 1,396 feet above sea-level at its highest point and towers above the Strait of Gibraltar, the strategic waterway which connects the Mediterranean and the Atlantic Ocean.

Africa in the form of the Spanish enclave of Ceuta lies directly opposite just 9 miles away and the Moroccan City of Tangier is 32 miles away at the western end of the Strait. Across the narrow isthmus joining Gibraltar to the Spanish mainland and on which its airport is built, lies the Spanish town of La Linea de la Concepción.

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

## **1.2 - Population and Language**

Gibraltar's population of approximately 29,000 is of diverse origin but mostly are local and of mainly English, Spanish, Portuguese, Maltese or Genoese origin.

English is the official language but 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 Sea. There is archaeological evidence of Neanderthal habitation and in ancient times the Rock became a place of worship where sailors would sacrifice 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



named Gibel Tariq, the mountain of Tariq, of which the modern 'Gibraltar' is a corruption.

The Moors remained in Iberia for over seven centuries and Gibraltar did not fall into Spanish hands until 1462. Spain held 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 re-affirmed in 1783 by the Treaty of Versailles.

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

In the years following the British capture of Gibraltar, Spain has 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 stymied by the refusal of the people of the territory 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 manifested overwhelmingly their desire to preserve their links with the United Kingdom in referenda held in 1967 and 2002. Despite these political differences, cross-border business and social relations are friendly and extensive with over 4,000 Spanish nationals working in Gibraltar and many Gibraltarians owning holiday homes in Spain.

More recently, a tri-partite forum has been established comprising the Governments of Gibraltar, the United Kingdom and Spain to enable co-operation on a practical level whilst putting issues of sovereignty to one side.

On 14 December 2006, after a long process of negotiation between the Gibraltar and United Kingdom governments, a new Constitution was granted



to Gibraltar. This Constitution provides Gibraltar with a much higher degree of self-government whilst preserving British sovereignty. The United Kingdom remains fully responsible for Gibraltar's external relations.

#### **1.4 - Government and Judiciary**

Gibraltar is a self-governing United Kingdom 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 which fall outside the Governor's responsibilities.

The new 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 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 at least seventeen 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 over.

##### **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 Judiciary**

The Supreme Court for 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 specific cases, there is a right of further appeal to the Judicial Committee of the Privy Council in the United Kingdom.

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 he 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, and therefore differs from the Spanish legal system which is based on 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 and shipping. More recently Gibraltar has attracted a large number of blue-chip gaming companies to the extent that this Industry is now an important part of the Gibraltar economy. A brief synopsis of each sector is given below.

The economy has grown steadily over recent years with Government estimating that Gibraltar's GDP presently stands at around £1 billion, representing an increase for the year of just over 4.8%. The Government is predicting similar economic growth for 2011/12.



The number of jobs in Gibraltar increased by 525 from 20,450 to 20,975 (year to October 2010). This effectively represents full employment among Gibraltarians actively and constructively seeking employment so that the level of unemployment would therefore be negligible.

During this period average annual earnings in respect of all employee jobs rose by 2.8% to just under £23,600 (per Employment Survey dated October 2010).

During the year to 1 July 2011 the rate of inflation rose by 3.8%.

Finally, as regards government finances relating to the year ended 31 March 2011, the Government of Gibraltar announced a budget surplus of £28.3m (2010 £29.4 million) and estimates a surplus of £21.5 million for the year 2011/12. As regards public debt (net of cash reserves), this stood at £216.7m (2010 £139.1 million) representing 21.67% of estimated GDP of 1 billion.

### **1.5.2 - Financial Services**

Financial Services is a major activity and vital segment of the economy accounting for around 18.8% (as at October 2010) of the jobs in the private sector.

In recent years the insurance sector has seen the fastest growth with the number of licensed insurance operations (as at March 2011) standing at 63. Gibraltar is now firmly established as a mainstream insurance domicile within the European Union.

As a result of the implementation of Experienced Investor Funds legislation in 2005, the Funds Industry is another area which has experienced growth.

Bank assets and funds under management stood at £9.02 billion and £9.2 billion respectively as of 31 March 2011.

### **1.5.3 - Tourism**

The re-opening 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 the re-opening to 2.8 million in 1986 to 11.5 million in 2010.

### **1.5.4 - Shipping**

The port of Gibraltar has traditionally been a major contributor to the economy,



particularly in bunkering where Gibraltar has become a major fuelling port for the Western Mediterranean. Its operations are monitored and supervised by a Bunkering Superintendent, 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. More recently the Port has seen expanded passenger ferry links and services which should further boost its contribution to the economy.

#### **1.5.5 - On-line Gaming**

The on-line gaming industry has witnessed remarkable growth over the last fifteen 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 will only consider licensing blue-chip entities with a proven track record in gaming. Licensees are required to physically operate and be managed in Gibraltar. As at July 2011 there were twenty-two licensed operators and the number of people employed directly by this sector has grown from around 185 in 1996 to 2,230 in October 2010.

Gibraltar is now firmly established as a leading, reputable and well-regulated jurisdiction for on-line gaming activities.

#### **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. A number of local banks are linked into the United Kingdom clearing system.

There are no exchange controls and residents and non-residents alike 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 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 the result that property prices are high, although these have tailed off slightly as a result of the global economic turmoil. The cost of a three bedroom apartment can be anywhere between £150,000 and £750,000. Some people have opted to buy or rent property in Spain and commute across the land frontier daily.

Gibraltar also boasts of an extensive range of quality modern office accommodation which is available for let at rents ranging from around £17 to £40 per square foot per annum.

A major development in the pipeline is the World Trade Centre. The seven-storey 15,000sqm WTC Gibraltar building will include office space, business club executive lounges and other office facilities.

## **1.8 - Medical Services**

### **1.8.1 - Medical Health Scheme**

The scheme is funded by grant and by compulsory weekly contributions through social insurance. In cases of illness, which cannot be treated locally, patients will be sent for specialist treatment in the UK or Spain.

### **1.8.2 - Private Sector**

There are a number of doctors and medical centres which 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 with the coming into force of European Union Directives to this effect. An independent Regulatory Authority, the Gibraltar Regulatory Authority, was established whose functions include the licensing of operators and the general monitoring and control of electronic communications issues. Currently there are three licensed Internet Service Providers (ISP) in Gibraltar.

The principal ISP in Gibraltar is Gibtelecom, a company jointly owned by the Government of Gibraltar and Telekom Slovenije. Gibtelecom provides the main local fixed line and mobile phone services, as well as providing internet



solutions, including delivery of IP bandwidth and ADSL broadband.

Other communication services are available through the Post Office which is run by the government, and local firms of private couriers.

### **1.10 - Education**

This is modelled on the UK system with Comprehensive schools providing free compulsory education to National Curriculum standard to the children of people ordinarily resident in Gibraltar, up to age 15 and terminating in the examinations and coursework for the General Certificate of Secondary Education (GCSE).

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

Private schooling is also available in Gibraltar and in Spain.

### **1.11 - Leisure and Tourist Information**

Tourist and leisure facilities are fairly extensive and may 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), as well as health and fitness clubs with training and sauna facilities. Other sports practised include amateur boxing, athletics, the martial arts, cricket, football, hockey, badminton, tennis and squash. The Department of Education also arranges for evening classes in various subjects.

In recent years a state-of-the-art Sports Centre was completed. Its facilities 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.



In 2008 a Leisure Centre was built at the King's Bastion providing leisure and entertainment facilities including adult and children ten-pin bowling alleys, restaurant and café, an amusement arcade area, two cinemas, an ice-skating rink and a discotheque.

Rowing is very popular. Two clubs provide good competition: 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.

A major development in recent years was Ocean Village. This comprises of luxury residential units plus a state of the art marina including a diverse range of amenities such as shops, restaurant, café, chandlery and leisure areas.

#### **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, attention must be given to the possibility of Spanish duties being imposed on goods taken across the land frontier.

#### **1.11.3 - Travel and Sightseeing**

Gibraltar offers the visitor 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 of interest include the Alameda Botanical Gardens, the City Gates and Fortifications and the Great Siege Tunnels of 1782.

There are numerous pubs and restaurants as well as nightclubs and an International Gaming Casino.

In recent years 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 itself is one hour's drive away).



The Gibraltar Museum is well worth a visit.

#### **1.11.4 - Time Zone**

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

#### **1.11.5 - Business Hours**

Most businesses are open between 9:00am and 5:30pm/6:00pm, or 7:00pm in the case of shops. Banks are open for business between 9:00am or 9:30am and 3:30pm or 4:30pm. Some remain open until 6:00pm on Friday evenings.

#### **1.11.6 - Public Holidays**

Public holidays include the 8 public holidays of England and in addition Commonwealth Day, the Queen's Birthday and Gibraltar National Day. Public holidays for 2012 follow:

<i>New Year's Day</i>	<i>Monday 2 January (In lieu of Sunday 1 January)</i>
<i>Commonwealth Day</i>	<i>Monday 12 March</i>
<i>Good Friday</i>	<i>Friday 6 April</i>
<i>Easter Monday</i>	<i>Monday 9 April</i>
<i>May Day</i>	<i>Monday 7 May</i>
<i>Spring Bank Holiday</i>	<i>Monday 4 June*</i>
<i>Queen's Diamond Jubilee</i>	<i>Tuesday 5 June*</i>
<i>Queen's Birthday</i>	<i>Monday 18 June</i>
<i>Late Summer Bank Holiday</i>	<i>Monday 27 August</i>
<i>Gibraltar National Day</i>	<i>Monday 10 September</i>
<i>Christmas Day</i>	<i>Tuesday 25 December</i>
<i>Boxing Day</i>	<i>Wednesday 26 December</i>

*\* The United Kingdom has announced that there will be a special bank holiday in 2012 to celebrate the Queen's Diamond Jubilee. The 2012 late May bank holiday will be moved to Monday 4 June 2012 and an additional Jubilee bank holiday will be on Tuesday 5 June 2012.*

#### **1.11.7 - Transport and Communications**

Links by air are currently maintained with London, Manchester and Luton in the United Kingdom. The airlines operating between Gibraltar and the UK are British Airways, Monarch Airlines and Easyjet.

A major expansion of the Gibraltar Air Terminal is underway. It is anticipated that over the next few years direct flights to continental European destinations



will become available.

A ferry service operates to Tangier, Morocco and, more recently, Algeciras in Spain. Gibraltar is also a port of call for container ships and some of the world's most prestigious cruise liners (e.g. the Cunard Liner QE2 and P&O's Liner Oriana). A cruise liner terminal provides modern facilities for passengers.

#### **1.11.8 - Duty Free Allowances**

Main duty free allowances for residents and non-residents importing certain goods into Gibraltar are summarised below:-

Tobacco	200 cigarettes; or 100 cigarillos; or 50 cigars; or 200 grams of smoking tobacco
Wine/Spirits	1 litre of spirits, liqueurs, cordials; or 2 litres of fortified wines and sparkling wines; and 2 litres of still wines (other than fortified wines)
Perfume	50 grams of perfume 0.25 litres of toilet water
Other Goods	Articles of any other descriptions to a total value of £32.00

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

Persons 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 United Kingdom. This includes 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. In general, with effect from 1 July 2006, all organisations that process and keep personal information must register with the Data Protection Commissioner. In addition such organizations must, inter-alia, ensure that the data is secure, accurate, for defined purposes only and accessible to those individuals about whom information is held.

### **1.13 - Gibraltar, a premier European Finance Centre**

#### **1.13.1 - General**

Gibraltar's new tax laws became effective on the 1 January 2011. These laws, together with the various Exchange of Information Treaties entered into by the Government, completes Gibraltar's transition from tax haven to mainstream European financial services centre. Central to the tax reform is the ending of all distinction between offshore and onshore business.

The new tax law provides that all companies, however owned, will be taxed on profits earned in or derived from Gibraltar thereby preserving the territorial basis of taxation. Notwithstanding, companies licensed and regulated under Gibraltar law are taxed in Gibraltar on their profits, except for any income from a branch or permanent establishment outside Gibraltar.

The standard rate of Company tax has been reduced from 22% to 10% (effective 1st January 2011), except for utility, telecom and petroleum companies and companies seen to be abusing a dominant market position, for which the rate will be 20%.

In addition to a favourable fiscal environment, Gibraltar offers a high quality



legal and regulatory infrastructure under-pinned 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 European Union (EU) (unlike Jersey, Guernsey and the Isle of Man), by virtue of Para (4) of Article 355 (3) of the Treaty of Rome which provides that the Treaty shall (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 member state 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 vis-à-vis the UK were taken into account on accession and Article 28 of the Act of Accession granted three derogations. Gibraltar does not have to comply with Community rules on:

- a) Common Customs Tariff;
- b) Common Agricultural Policy; and
- c) Harmonisation of Turnover Taxes (notably Value Added Tax).

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

The implementation of EU directives has proved a large administrative burden for a small jurisdiction like Gibraltar because of the volume and complexity of legislation required. Nevertheless enabling legislation has been enacted to give legal effect to most of the directives, which apply to Gibraltar. This legislation has been drafted to a standard which is generally higher than the basic EU requirements and which satisfies the UK government which bears ultimate responsibility.

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).





## **2 - Business Entities and Accounting**

### **2.1 - Companies**

Company legislation in Gibraltar is based on the Companies Act 1929 in England but has been subsequently amended to incorporate EU requirements. There are four types of companies which can be incorporated in Gibraltar:

- a) A company limited by shares;
- b) A company limited by guarantee and having a share capital;
- c) A company limited by guarantee and not having a share capital; and
- d) 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 which by their Memorandum or Articles:

- a) Restrict the transfer of shares, and
- b) Limit the number of their members to fifty, not including persons presently or previously in the employment of the company, and
- c) Restrict the right of the public to subscribe for any shares of the company.

In accordance with the Companies (Accounts) Act 1999 (see section 2.11.1) 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 Financial Services Commission 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 2.13.2), Department of Social Services (see 2.13.3) and Income Tax Office (2.13.4). In addition the company may also need to be licensed by the Trade Licensing Authority (see 2.16)



## **2.2 - Partnerships**

A partnership may be created simply by 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) in so far 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 may also be formed under the Limited Partnerships Act. A limited partnership may not consist of more than 20 persons at least one of which, known as 'general partners', would be liable for all debts and obligations of the firm. The remaining partners, known as 'limited partners', would normally only be liable to the extent of the capital contributed to the partnership. However, a limited partner will be deemed to be a general partner whilst he or she is 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 resident in Gibraltar to appoint a secretary resident in Gibraltar. It also provides, inter-alia, for:

- (i) 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; and
- (ii) giving separate legal existence to the registered limited partnership.

Accounts need only be filed with the Companies Registry if all the partners are limited companies. A copy of the accounts must, however, be submitted to the Income Tax Office for Income Tax purposes.

## **2.3 - Sole Proprietorships**

Sole traders are subject to similar requirements to partnerships and companies in so far 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 Income Tax Office for the purpose of verifying liability to tax.



## **2.4 - Trusts**

### **2.4.1 - Trusts**

Gibraltar trust law is based on Anglo-Saxon legal concepts, which recognises and gives full legal effect to the concept of a trust. The Trustee Act, the main legislation governing trusts, 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 registration fee is payable (£50) 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 that the registration was made.

Up to 31 December 2010, the income received by any trust or beneficiary under a trust is exempt from taxation provided:

- a) it is created by or on behalf of a non-resident of Gibraltar (other than Category 2 Individuals; and
- b) residents of Gibraltar (other than Category 2 Individuals) are expressly excluded as beneficiaries either specifically or under the discretionary powers of the trustees.

In addition, the capital of the trust is not liable to tax in Gibraltar.



As from 1 January 2011 a trust is tax resident in Gibraltar if one or more of the beneficiaries is ordinarily resident in Gibraltar or the class of beneficiaries includes, or may include, an ordinarily resident person. The residency of the settlor or trustees is inconsequential.

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

A trust which is not tax resident in Gibraltar is taxable only on income which accrues in or is derived from Gibraltar.

Finally, no stamp duty is payable on the transfer of any assets (other than on real estate situated in Gibraltar) held by such a trust.

#### **2.4.2 - Asset Protection Trusts**

This type of trust is a structure which 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 out of 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. It is the matter of legal propriety which has a very long and complicated history in Anglo-Saxon common law jurisdictions dating back to the Statute of Elizabeth (the Fraudulent Conveyances Act 1571). Gibraltar has sought to reduce the uncertainties when determining propriety by shifting the focus from the subjective test of intent contained in the above statute to the objective test of solvency contained in the Bankruptcy Act, s 42A.

Under 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 his or her own adequate financial and administrative resources and adequate professional indemnity insurance. Thereafter the trustee must be able to show that due and sufficient enquiry had been 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 together with payment of an annual fee (currently £100).

This higher degree of certainty makes Gibraltar a favourable location for



setting up Asset Protection Trusts.

## **2.5 - Branches**

Overseas companies wishing to set up a branch in Gibraltar register by filing a notarised 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, is covered in section 3.2.

Gibraltar is in a unique position to offer the multi-national company the possibility for its Captive to write one insurance policy for all its EU risks. Additionally the Captive may write large non-life 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 the multi-national which is contemplating setting up a Captive Insurance company.

An annual license fee of £4,345 is presently payable to the Financial Services Commission.

## **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 would be limited to the assets of the cell of which they are creditors.

In addition, the PCC may, in respect of any of its cells, create and issue shares (the "cell shares") the proceeds of which ("the cell share capital") are comprised in the cellular assets attributable to the cell in respect of 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 would 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 Financial Services Commission before operating as a PCC.

An annual license fee of £4,345, plus £1,625 per cell, is presently payable to the Financial Services Commission.

## **2.8 European Public Limited Liability Companies**

The European Public Limited Liability Company Act 2005 transposes 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 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 country's different legal systems.

An SE is an equity company with legal personality and limited liability. Its issued share capital must be at least €120,000 and the SE may be listed.

An SE may be formed in various ways including conversion from 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 the SE is registered with the registrar in Companies House.

SE's are governed by the national tax laws of the relevant member state and specific and detailed rules exist governing employees of SE's.



## **2.9 European Economic Interest Groupings (EEIG's)**

An EEIG is a vehicle which allows companies or individuals of different member states to combine and register a grouping which has a legal personality and can operate across national frontiers.

The EEIG is set up in much the same way as a normal company but has unlimited liability. A number of restrictions apply including the prohibition to seek 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. The EEIG is not subject to any accounting or auditing requirements and does not have to file an annual return with the Registrar of Companies.

## **2.10 - Re-domiciliation**

The Companies (Re-domiciliation) Regulations 1996 (as amended by the Companies (Re-Domiciliation) Amendment No 2) Regulations 1999 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 XI 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 whom a certificate has been issued in accordance with Regulation 8(1) may apply to the Registrar of Companies, for consent to cease being registered in Gibraltar and will cease to be so registered with effect from the date of issue of a certificate (Regulation 10(1)).

Relevant states are defined as all countries in the European Economic Area, other British dependent or overseas territories, States that are members of the British Commonwealth and Liberia, Panama, Singapore, Switzerland, Hong Kong, and the United States of America.



## **2.11 - Accounting and Audit Requirements**

### **2.11.1 - General**

The principal accounting and audit requirements applicable to Companies are contained in sections 180 to 182 of the Companies Act, the Companies (Accounts) Act 1999 and the Companies (Consolidated Accounts) Act 1999 ("the Companies Accounts Acts"). The Companies Accounts Acts transpose into Gibraltar law the EU 4th and 7th Council Directives on Company accounts and consolidated accounts respectively and apply to accounting periods commencing on or after 1 April 2000. The Companies Accounts Acts prescribe the presentation and format of the balance sheet and profit and loss account and the necessary disclosures. The Acts also introduced the requirement to file accounts with the Registrar of Companies (see section 2.12).

The Companies Accounts Acts do 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 Insurance Companies Act 1987 (specifically the Insurance (Accounts Directive) Regulations 1997).

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

All companies are required under 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 general meeting not later than eighteen months after incorporation and subsequently once at least in every calendar year.

The directors of a company must also prepare an annual report for each financial year which includes at least 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, any important events which may have occurred since the end of the last financial year, any



likely future developments, state what dividend, if any, is recommended for payment and the amount which has been transferred to reserves.

There are no statutory provisions governing the preparation and presentation of accounts for unincorporated businesses or filing thereof.

### **2.11.2 - Accounting Principles and Standards**

As a large number of accountants and auditors in Gibraltar are members of two of the United Kingdom's major accounting bodies, guidance on accounting principles is generally obtained from pronouncements of the United Kingdom Accounting Standards Board. However, in certain circumstances, other internationally recognised accounting standards may be followed. Legislation also permit companies to follow International Financial Reporting Standards.

The Gibraltar Society of Accountants ('GSA') follows a process of adopting Accounting Standards issued in the UK, tailoring them where necessary to Gibraltar's circumstances. For instance, GSA has developed a formal framework of accounting standards, known as Gibraltar Accounting Standards ("GASs"), which members have agreed to follow in the preparation of accounts. The standards are accompanied by Interpretative Notes which "cite the recommended practice in situations where Gibraltar and United Kingdom legislation conflict and also in situations where reference is made in the ASB's accounting standards to United Kingdom legislation and no corresponding Gibraltar legislation has been enacted" [Extract from the Explanatory Foreword to Gibraltar Accounting Standards].

In the case of entities licensed or authorised by the Financial Services Commission, accounts are typically drawn up in accordance with GASs, UK GAAP or International Financial Reporting Standards. At the FSC'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 is likely to generate such income in the future. However, banks, insurance companies and other companies licensed by the Financial Services Commission ("licensed



entities”) are subject to audit even if they are small. In general, therefore, all local limited trading companies require an audit, but small tax exempt companies (other than licensed entities) do not.

In addition, as from 1 January 2011, the new income tax act exempts companies (other than licensed entities) which 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 Tax in Gibraltar. Such companies will be required to submit accounts accompanied by an independent accountant’s report.

Where applicable, auditors must be appointed by the company annually in general meeting. No director or officer of the company may be appointed as its auditor. If the company is not a private company, a person who is a partner of or in the employment of an officer of the company may not be appointed auditor.

Every auditor of a company has the right of access at all times to the books, accounts and vouchers of the company, 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.

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.

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.

### **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.



Groups are classified according to the following parameters:

	<b>Small group</b>	<b>Medium-sized group</b>
Turnover	Up to £6.5 million net* or £6.72 million gross	Up to £25.9 million net* or £31.1 million gross
Aggregate balance sheet total	Up to £3.26 million net* or £3.9 million gross	Up to £12.9 million net* or £15.5 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, the group must fall within two out 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 itself a subsidiary of a parent undertaking provided certain conditions are met.

### **The Auditors Public Oversight Board**

The Financial Services (Auditors) Act 2009 [the 'Act'] came into force on the 28 May 2009 and repealed the Financial Services (Auditors Approval and Registration) Act 1988. The Act, which implements 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; and
- 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 are automatically grandfathered in under the transitional rules.

In September 2009, the Financial Services Commission was appointed by the Government to be the POB (also referred to as the Competent Authority).



## **2.12 - Filing Requirements**

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

	<b>Small</b>	<b>Medium-sized</b>	<b>Large</b>
Net turnover (pro-rated if more than or less than a year)	up to £6.5 million	up to £25.9 million	over £25.9 million
Balance Sheet total (total assets)	up to £3.26 million	up to £12.9 million	over £12.9 million
Average No. of persons employed	up to 50	up to 250	over 250

A company must fall within two out 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 it occurs in two consecutive years. For a newly incorporated company, the conditions need only be met in its first financial year.

*Large Companies* - must file full accounts including the balance sheet, profit and loss account, notes, directors' report and auditors' report.

*Medium-Sized Companies* - filing as for large companies except that the profit and loss account may be in abridged format. The audit report on the full accounts would not be filed with the abridged accounts since the latter cannot be deemed to give a 'true and fair view'. Instead a special auditors' report would 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 (Accounts) Act 1999.

*Small Companies* - required to file abridged balance sheet only.

Banks and insurance companies must file full accounts irrespective of the size of the company.

The relevant documents must be filed within 13 months of the financial year

end 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 penalty for incorrect or late filing is £100. In addition a fine up to level 3 on the standard scale (£500) may be incurred.

## **2.13 - Business Registration**

### **2.13.1 - Registration of Business Names**

Whether trading as an incorporated company, or other type of body corporate, 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 fourteen 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 which 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 1st 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 internet service provider 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 3 months of commencement of business: -

- (i) The name(s) of the persons carrying on the business or, if a company, the name of the company.  
In the case of partnerships, the names of all the partners.
- (ii) The business name under which the business is carried on.
- (iii) The address of the place of business.



- (iv) The nature of the business.
- (v) 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 that a business has been registered. 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 person, he/she 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 PAYE purposes a company or business must submit the following documentation to the Income Tax Office: -

*For a company:*

- (i) Certificate of Incorporation;
- (ii) Employment Service Certificate of Registration;
- (iii) Letter requesting that the Company be registered for PAYE purposes, giving details of Directors and commencement date of trading; and
- (iv) Registered address.

*For a business:*

- (i) Business Registration Certificate;
- (ii) Employment Service Certificate of Registration; and
- (iii) Letter requesting that the business be registered for PAYE purposes, giving commencement date of trading.

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



## **2.14 - Company Formation**

The applicable legislation is the Companies Act under which only barristers or acting solicitors of the Supreme Court of Gibraltar may incorporate companies for gain. Along with at least one subscriber (seven in the case of a public company), 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.

As from 1st July 2005, stamp duty is only 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:

- i) the situation of the registered office and any changes thereto;
- ii) the allotment of shares;
- iii) the registration of certain mortgages and charges, including a mortgage or charge on real property, ships and book debts; and
- iv) the names and addresses of the actual directors, secretary and share holders of the company.

Every company must submit an annual return in the prescribed format, the first within fifteen months of incorporation and thereafter once every year. The current fee payable is £45 rising to £65 if submitted later than 28 days of the return date.

## **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**

### **Trade Licensing**

Any person who wishes to buy or sell, whether by wholesale or retail of any goods by way of business, or importing of goods in commercial quantities, or who wishes to carry on one of certain specified businesses must be the holder of a licence issued by the Trade Licensing Authority as stipulated by the Trade Licensing Act 1978.

Other businesses requiring licences are hoteliers, caterers, publicans, clubs and canteens, general building contractors and other more specific commercial activities.

Application for a new licence 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, fourteen days before the application is made.
2. Any person wishing to object to the issue of the licence must give notice of such to the licensing authority and to the applicant within fourteen 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 seven days notice has been given to the interested parties.

The latter may be legally represented if so desired and may give evidence, call and cross-examine witnesses. They may not be present, however, during any subsequent deliberation of the authority.

A trade licence is issued on the premises and not the applicant; an application will not be accepted unless suitable commercial premises have been obtained.



Licences run out on 31st December and must be renewed annually.

The fee for a new licence is £40 if effected during the first six months of the year or £20 during the last six months. The levy for renewal of the licence is £25.

## **2.17 - Financial Services - Regulatory Framework & Licensing**

Most classes of financial services businesses in Gibraltar require licensing by the Financial Services Commission (FSC) in accordance with the regulatory framework.

The following are the Supervisory Acts established under the Financial Services Commission Act:

- a. the Insurance Companies Act 1987;
- b. the Financial Services (Investment and Fiduciary Services) Act 1989;
- c. the Financial Services (Banking) Act 1992;
- d. the Financial Services (Collective Investment Schemes) Act 2005;
- and
- e. the Financial Services (Markets in Financial Instruments) Act 2006.

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

The Commission is a statutory Corporation comprising eight members, including the Chief Executive Officer who is also the Chairman. 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 also responsible for the supervision of banks and insurance companies under the requirements of the corresponding acts. Commission personnel include individual supervisors for banking and investment services, insurance and controlled activities.

The Financial Services (Licensing) Regulations, 1991, issued under the Financial Services (Investment and Fiduciary Services) Act, lists several categories of financial services business/activities which require licensing ('licensable activities'). These are shown in the table on the following page.



<b>Class</b>	<b>Description</b>	<b>Financial Services Business</b>
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 Scheme 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 mediation
vi(b)	Life Assurance Intermediary	Insurance or reinsurance mediation
vii	Professional Trustee	Acting as trustee 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	Money Transmitter	Providing money service business activities of money transmitter

### **External reviews**

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 by a team of nine individuals from the IMF during March 2006 and looked at the Financial Services Commission’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 as well as a high level of compliance with the revised FATF recommendations on the prevention of money laundering and combating terrorist financing.

#### **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) to assess the supervisory activities of the Financial Services Commission. This was the third independent review commissioned and the team's report published in January 2005 emphasised the good standard of financial services regulation achieved by the FSC in Gibraltar, its clear commitment to meeting international standards, determination to tackle the risks faced and implement a high quality regulatory regime within the context of the Gibraltar market. Further endorsement of Gibraltar's regulatory regime is evidenced by the FSC'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) were reviewed and approved by the US Internal Revenue Service for the purposes of Qualified Intermediary ("QI") status in October 2002. QI status enables banks to continue investing in U.S. Securities on behalf of their clients.



## **3 - Finance and Investment**

### **3.1 - Banking Services**

Gibraltar has a well-established banking sector with total assets and third party Funds under Management of approx. £9.0 billion and £9.2 billion respectively. Most 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 the Deposit Guarantee Directive. (See section 3.8).

In 1999 the UK government agreed that Gibraltar had implemented the necessary standards of supervision and regulation with regards to banks which matched UK practice. This paved the way for Gibraltar to take advantage of the Single European Passport for Banking. The passport allows Gibraltar licensed banks to set up subsidiaries and branches in other EEA member states.

Responsibility for the supervision of the banking sector rests with the Commissioner of Banking (who is also the Chief Executive Officer of the Financial Services Commission). Day to day supervision is carried out by the Head of Banking & Investment Services Supervision.

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

In addition to the banks there are three building societies operating in Gibraltar all of which are branches of well known UK societies. The Commissioner of Banking is also responsible for supervising 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 EU directives which apply to this sector. Insurance business in Gibraltar is licensed and controlled by the Commissioner of Insurance (who is also the Chief Executive Officer of the Financial Services Commission) and is responsible for administering the Act and its Regulations. The day-to-day supervision is carried out by the Head of Insurance Supervision.

The United Kingdom government has agreed that Gibraltar has implemented the necessary standards with regards to the supervision of insurance companies which 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 offshore insurers include the following:

- Gibraltar insurers can underwrite risks in EEA states direct;
- With effect from 1 January 2011, insurance companies are subject to Corporation tax at the rate of 10% on underwriting profits. Investment income is exempt from tax.
- Gibraltar possesses local insurance expertise together with a well-developed legal, accounting and banking infrastructure;
- Stamp duty of £10 on nominal share capital, whether on initial creation or subsequent increase;
- Legal system is based on English common and statute law, with variations enacted by local statutes;
- Official language is English, but the local population is bi-lingual, also speaking Spanish;
- The Gibraltar cost base is highly competitive. The annual license fee ranges from from £4,345 to £27,250 depending on the type of business carried out;
- There are no job quota requirements for insurance companies or managers;
- Specialist personnel may apply for a preferential tax status (see Section 5.7.4 on High Executives Possessing Specialist Skills);
- The official currency is Sterling and there are no exchange controls.



The number of companies licensed to carry on insurance business in Gibraltar has increased significantly in recent years from 13 in March 2000 to 63 in September 2011.

## **Solvency II**

In July 2007, the European Commission (EC) published the draft Solvency II Framework Directive. The Framework Directive presents the preliminary views of the EC on the supervision of insurance and reinsurance undertakings, which is intended to replace the current Solvency I framework.

As opposed to Solvency I, the new approach emphasises an economic or risk-based methodology to assess the capital requirements of insurance companies. The framework includes not just underwriting risk, but operational, investment, currency and other risks. Similar to Basel II for banking, there are three pillars in Solvency II - quantitative requirements, supervision and disclosure/governance.

The draft Directive issued in July 2007 did not yet include all the specific measures or principles. Instead the EC has retained power to implement these in due course. Although there will be transitional arrangements, implementation of the Directive is expected by January 2013.

### **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 harmonised investment funds within a European context.

Gibraltar has enjoyed passporting rights in respect of Investment Services for several years now. This means that providers of Investment Services may, based on the authorisation granted locally by the Financial Services Commission, operate in other EEA member states.

Fiscal advantages for both the fund vehicle and the fund manager contribute



to Gibraltar's attraction for operating collective investments. Gibraltar operates a territorial basis of taxation whereby income accrued and derived in Gibraltar is subject to tax. A Gibraltar based corporate fund manager providing investment services which require to be licensed and regulated in Gibraltar is subject to 10% tax on their 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 will derive their income from capital gains (which are not subject to tax in Gibraltar) or passive investment income such as bank interest, dividends from listed investments or dividends from other companies all of which are exempt from tax under the Income Tax Act 2010.

Funds and their administration is a sector of the finance industry that has witnessed steady growth in recent years. Investors in an EIF must have a net worth in excess of €1million or invest a minimum of €100,000. Within 14 days of the establishment of the fund, the fund's Administrator must provide the FSC with written notification of the establishment of the fund, 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 FSC. An EIF must have two Gibraltar resident directors who have been pre-approved by the FSC, a custodian or prime broker and be administered by an FSC licensed administrator.

Proposed changes to the EIF regime are expected to include the widening of the definition of EIF investor to include professional advisors under MIFI and investors who invest a minimum of Euros 50,000 on the advice of a professional adviser. EIF's will be able to appoint non-Gibraltar licensed fund administrators provided they are connected to a credit institution or alternatively are subject to equivalent legislative and regulatory regime as Gibraltar.

### **3.4 - On-line Gambling**

All gambling operations in Gibraltar require licensing under the Gambling Act 2005. Remote Gambling licences are issued by the Licensing Authority. The government only licences 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. As at July 2011 there were twenty-two licensed operators.

Gaming tax on fixed-odds betting and betting exchanges is levied at 1% of turnover. For internet casinos, tax is levied at 1% of the gaming yield and 1% of the rake in the case of poker operators. In all cases, there is a minimum tax of £85,000 payable and a cap on tax payable of £425,000 per annum, per licence.

Conditions and licensing requirements at present cover areas such as advertising, payout of prize money, customer privacy and data protection, audit and accounts.

The Gambling Act 2005 legislates for all forms of gambling (including betting, bookmaking, gaming and lotteries) in Gibraltar.

The Act 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 licence holder, various other requirements to help prevent problem gambling
- Licence holders not permitting persons to gamble unless that person has registered giving full name, residential address, age, etc
- Licence 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, it is lawful for them to use the facilities provided.

A Code of Practice for the Gambling Industry was issued in December 2008, providing interpretive guidance to the Gambling Act, as well as a guide to what is regarded as good practice for operators in the industry. A Code of Practice for Anti Money Laundering Arrangements was issued in early 2011.

Gibraltar continues to thrive as an attractive base for blue-chip remote gambling operators, principally as a result of Gibraltar's reputation as a



reputable and well-regulated jurisdiction, a legal framework based on UK law, well developed telecommunications, a favourable 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 Govt. & EU Funds**

The Gibraltar government is keen to encourage inward investment particularly in those areas which 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**

##### **European Union Funds**

European Union funding has been a major source of finance for economic regeneration in Gibraltar in recent years. Gibraltar has been entitled to support through the European Regional Development Fund (ERDF) (for business development, tourism, technology transfer and infrastructure projects) and the European Social Fund (ESF) (for training and retraining projects).

Gibraltar currently participates in the Objective 2007-2013 EU Programme.

Gibraltar also benefits from funding under the European Social Fund which primarily targets development of training activities and development of skills.

The present Structural Fund Programmes focus mainly on employment and skills issues and will support projects to increase competitiveness, employment and skills and encourage diversification and use of new technology Both the ERDF and ESF will operate within the Competitiveness and Employment Objective which is where Gibraltar becomes eligible.

Under the present programme Gibraltar has been allocated €5.8 million with an equivalent amount contributed by Government. Therefore monies available under the objective amount to €11.6 million.

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



### **Small Grants Scheme**

The Small Grants Scheme is a Government initiative that provides a fast track approval process for small enterprises to access funding with a total grant element not exceeding £10,000. The Scheme offers assistance in the form of cash grants. The Scheme does not contribute more than 30% of the cost of the investment.

### **3.5.2 - Fiscal Incentives**

#### **Qualifying (Category 2) Individuals commonly known as ‘High Net Worth Individuals’ (See section 5.7.4)**

#### **High Executive Possessing Specialist Skills (HEPSS) (See section 5.7.6)**

#### **Development Aid**

The Development Aid Act provides that licences may be granted for certain development projects. Applications for a Development Aid licence must be made to the Development Aid Advisory Committee which is headed by the Minister for Trade and Industry. If the application is successful and a Development Aid licence is granted, the Development Aid Advisory Committee will determine what portion (in percentage terms) of the total qualifying capital expenditure is available for tax relief. The percentage reflects the perceived economic and social benefits that the project will bring to Gibraltar.

The Development Aid licence entitles the developer to exemption from corporation tax in respect of any gains or profits from the relevant development until aggregate gains less losses first exceed the approved portion of capital expenditure on the project. The profits of the concern may also be distributed to the beneficial owners free of any taxes up to the amount granted under the licence.

Interest received on loans made to any person for the purposes of a development project to which Development Aid applies is exempt from income tax, provided the terms and conditions of the loan have been approved by the Minister responsible for Trade and Industry.

In addition, occupiers of property relating to a project which has been granted a Development Aid licence are automatically entitled to relief on the rates payable. This takes the form of an allowance (in percentage terms) of the amount which would normally be payable on rates as follows:



Commercial Premises		Residential premises	
Year	Relief	Year	Relief
1st year	100%	1st year	100%
2nd year	80%	2nd year	90%
3rd year	60%	3rd year	80%
"	"	"	"
"	"	"	"
"	"	"	"
6th year (and after)	0%	11th year	0%

### **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.

### **Tax Deductible Property Zones**

Expenditure that has been approved and certified by the Town Planner is fully allowable as a deduction in computing the claimants' income chargeable to tax. This deduction is in addition to any deduction, relief or allowance which may be available in accordance with any other provision of the Income Tax Act in respect of the same expenditure. In effect the claimant gets double relief for the approved expenditure.

The expenditure must relate to painting, decorating, repairing and, in general, enhancing the appearance of the frontage of the premises.

### **3.6 - The Law and Money Laundering / Anti Terrorism**

In 1996 the Criminal Justice Act 1995 came into force. This extended money-laundering offences from drug trafficking to all crimes. In 2004 the Criminal Justice (Amendment) Act 2004 extended the professions and activities (referred to as "relevant financial business") covered by the legislation.

Anti-Money Laundering Guidance notes have been prepared by the FSC in consultation with the finance sector. These facilitate compliance with the provisions of the Act but emphasize the need for a risk-based approach. The guidance notes are regularly being reviewed to take account of latest

developments.

In meeting its international obligations under the EU 3rd Money Laundering Directive and towards combating the financing of terrorism Gibraltar has passed legislation including:

- The Drug Trafficking Offences Act
- The Crime (Money Laundering and Proceeds) Act amended by the Criminal Justice (Amendment) Act 2007
- The Terrorism Act
- The Terrorism (United Nations Measures) (Overseas Territories) Order 2001, and
- The Al-Qaeda and Taliban (United Nations Measures) (Overseas Territories) Order 2002

Money Laundering offences including 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 offences include raising funds for terrorism, the use or custody of money or property for terrorism or arranging funding for terrorism.

Persons carrying on relevant financial business (including banks and building societies, investment businesses and fiduciary service providers, life 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.

In addition to being fully in compliance with the revised FATF Recommendations, the Basle Principles, the Vienna Convention and the EU 3rd Money Laundering Directive, Gibraltar has in recent years been subject to external reviews by the Financial Action Task Force (“FATF/GAFI”) and the International Monetary Fund (“IMF”) (see section 2.17).

The central reporting authority in Gibraltar for suspicious transactions is the Gibraltar Financial Intelligence Unit (GFIU) 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.



### **3.7 - Import and Export Procedures**

Gibraltar does not form part of the Customs Territory of the EU and is therefore not required to comply with the various quota and tariff restrictions which the Union imposes. Nevertheless, Gibraltar is regarded as a developing country for GATT purposes and 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 table in Section 5.8.2 which summarises the current position on a range of goods).

Gibraltar is outside the Customs Union and therefore Customs procedures and tariffs vary from other EU territories. However, Gibraltar has adopted the Single Customs Declaration and other procedures which are common to all countries which have participated in the Automatic Systems Customs Data (ASYCUDA) Project promoted by the United Nations.

### **3.8 - Investor Protection**

#### **3.8.1 - General**

The Chief Executive Officer of the Gibraltar Financial Services Commission (FSC) is responsible for the supervision, licensing and regulation of all companies and individuals who offer financial services or products to the public (see section 2.17).

The United Kingdom government has agreed that Gibraltar has implemented the necessary standards with regards to the supervision of regulated entities which match UK practice.

#### **3.8.2 - Deposit Guarantee Scheme**

Gibraltar has implemented the European Union Directive on Deposit Guarantee Schemes which 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 total liability to a depositor in respect of qualifying deposits subject to a limit of €100,000.

### **3.8.3 - Investor Compensation Scheme**

Gibraltar has implemented the European Union Directive on Investor Compensation Schemes which covers eligible investments made by an investor but specifically excludes deposits qualifying under the Deposit Guarantee Scheme (see 3.8.2 above). In general, the compensation scheme will cover 90% of all eligible investments held by the claimant with the investment firm subject to a maximum payment to any one individual of €20,000.

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

### **3.9 - Patents & Trademarks**

The Patents Act of 1924 and Trade Marks Act 1948, provide for any patent or trade-mark duly granted and registered as such by the Comptroller-General of the United Kingdom Patent Office being extended to Gibraltar upon application, production of the appropriate documents and payment of the requisite fee.

A certificate of registration is issued and an entry made in the Register of Patents or Register of Trade Marks as appropriate and such privileges and rights as would be conferred by the law for time being in force in the United Kingdom are conferred in Gibraltar.



## **4 Residency, Employment Regulations and Social Security Contributions**

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### **4.1 - Establishing Residency**

Immigration and the right to enter Gibraltar are governed by the Immigration Control Act. All persons registered as having Gibraltarian status or who are British Dependent Territory 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.

European Economic Area (EEA) nationals are entitled to enter or remain in Gibraltar in any case in which they are entitled to do so by virtue of an enforceable European Community right (including workers, students and retired persons). Initially they may stay in Gibraltar for three months after which time they will be granted a residence permit valid for five years which is renewable, on condition that they have found suitable employment or established a business. People in this category are entitled to bring their immediate family (normally the 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 dependant territory; and
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 person not having the right of abode in Gibraltar may be refused admission (or after admission be required to leave) in the interests of public policy, public security or public health.

Residence permits may be granted at the governor's discretion to non-EEA nationals who do not have a work permit if he is satisfied that the applicants are of good character and that it is in the interest of Gibraltar that residency



should be granted. Non-EEA nationals who have obtained Qualifying (Category 2) Individual tax status (commonly known as a High Net Worth Individual) (see section 5.7.4) are likely to obtain residence permits on this basis.

Citizens of the United Kingdom can, also at the Governor's discretion, be granted a certificate of permanent residence providing 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 he/she has:

- Full risk private medical insurance (except eligible UK nationals - see note\* below);
- Adequate financial resources; and
- Adequate accommodation in Gibraltar. In practice, this would involve the purchase of a quality property.

*\* 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 the visa list. These countries are mainly in Africa, Asia and Eastern Europe. A full list of these countries may be obtained from the Passport Office.

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

Applications are reviewed based on the 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 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 European Economic Area (EEA); or
- a non-EEA national working in Gibraltar since before 1st July 1993; and
- authorised to work in Gibraltar under the Immigration Control Act.

A non-entitled worker is simply a worker who is not an entitled worker.

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

In the case of a non-entitled worker, a work permit will only be granted if there are no entitled workers able and willing to take up the particular employment. Such persons may be granted residential permits on an annual basis and are normally renewable only if the person is still in possession of a work permit. The non-EEA national may be refused permission to buy real estate in Gibraltar; 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 that may be required.

Where government employment is offered, priority will be afforded in all cases to Gibraltarians.

## **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 2 weeks from the date on which the vacancy is registered.

If the 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/wages, interval of pay, hours of work, holiday entitlement and minimum period of notice for termination of employment. 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 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 the employee at the Department of Social Security (“DSS”) and the Income Tax Office (“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 DSS and 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 his licence)
- 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 reason connected with her pregnancy.
- 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.
- A claim has been 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. It is a precondition that the claim must be done 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.

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 which is less than the statutory minimum) the following statutory minimum periods of notice must be given by the employer.

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

<b>Years of continuous employment</b>	<b>Notice to be given (minimum)</b>
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

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

<b>Years of continuous employment</b>	<b>Notice to be given (minimum)</b>
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. Additionally, if the employer has lost confidence in the employee.

#### **4.4 - Working Conditions**

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

There is a policy of equal pay for women and minimum wage protection for certain sectors. The statutory minimum wage is presently £5.40 per hour equivalent to £210.60 weekly (based on 39 hour week) and £912.60 monthly). Also, in general, an employee cannot be required to work more than an average of 48 hours a week unless this 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**

Minimum holiday entitlement according to law is as follows:

<b>Period in Employment</b>	<b>Minimum Leave (days) p.a.*</b>
<3 Years	15
3 to 5 Years	20
5 to 8 Years	22
>8 Years	25

*\*based on a 5 days per week employment*



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 the 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 bandings:

<b>Years Employed</b>	<b>Weeks pay per year*</b>
< 1 year	0
First 5 Years	2
Next 5 Years	3
Over 10 Years	4

The maximum entitlement is 1 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 & Painting or Mechanical & Electrical sectors.

#### **4.4.3 - Sick Pay Entitlement**

Employees who have worked for more than 3 months are entitled to sick leave consisting of 2 weeks full pay and 4 weeks half pay over a 12 month period of employment. An employee must report his/her 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 employees' 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 and any person 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, which is always without pay, consists of 13 weeks leave, provided that no more than 4 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 employees' absence.

#### **4.4.5 - Maternity Leave and Allowance**

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

Maternity allowance is a weekly benefit of £87.64 paid by Government for a period of 18 weeks and can be claimed as early as 11 weeks before the expected week of birth but not later than 6 months after the right to maternity leave has been exercised. Provided appropriate Social Insurance contributions had been paid by the claimant in the year prior to the birth a Maternity Grant of £400 is also available.

#### **4.4.6 - Time off Work for Urgent Family Reasons**

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

An employee is entitled to up to five working days in 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 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 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 persons 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 his or her 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 which basically requires the production of the requisite documentation and completion of a form.

EU nationals also benefit 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 which are additional to the social security arrangements. Company directors are also entitled to be included as are partners of firms.

All self-employed persons 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 persons under 65 years who are incapable of supporting themselves.

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

In April 2007 the Social Insurance contribution system was merged with the Income Tax PAYE system and is managed by the Income Tax Office.

Under the Social Insurance contribution system, weekly rates of contributions payable, subject to a predetermined minimum and maximum rate, are earnings related. The contributions are calculated as follows:

- i) Employee Social Insurance contributions are payable at 10% of gross earnings, subject to a maximum adult rate contribution of £25.16 per week and subject to a minimum of £5.00 per week.
- ii) Employer Social Insurance contributions are payable at 20% of gross earnings, subject to a maximum of the current maximum adult rate of contribution of £32.97 per week and subject to a minimum of £15.00 per week.

Employees will receive a certificate determining the level of contribution required, contribution codes are as follows:

Contribution Class	Code	Weekly rate of contribution	
		Employee	Employer
<b>Earnings related</b> Men / Women between 18 and 59	<b>ER</b>	10% Gross earnings min £5.00 max £25.16	20% Gross earnings min £15.00 max £32.97
<b>Married Women</b> Married women and Widows who have elected Not to pay contributions under The Social Insurance Act Prior to 1 January 1985	<b>MW</b>	£13.10	20% Gross earnings min £15.00 max £32.97
<b>Pensioner</b> Men / Women Age 60 and over (as from 1 July 2006 exempt from payment of contribution)	<b>PN</b>		20% Gross Min £15.00 max £32.97

### Self employed contributors and Voluntary contributors

Class of employed insured person	Weekly rate of contribution	
	Self Employed	Voluntary Contributor (incl. contribution to Short Term benefit fund)
Men aged between 18 and 64 Women aged between 18 and 59	20% Gross earnings min £10.00 max £30.17	£13.71

### Casual / Part time workers

Employees working less than 15 hours in any week will now contribute to the Open Long - Term Benefits Scheme and Fund. All such persons will therefore be entitled to the prescribed benefit payments under that Scheme.

## **5 - Taxation**

### **5.1 - General Principles**

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

The new tax law 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 which give rise to the profits. In the case of companies licensed and regulated under Gibraltar law, the preponderance of activities which give rise to the profits are deemed to take place in Gibraltar, with the exception of profits generated by overseas branches or permanent establishments.

The Commissioner of Income Tax has responsibility for administration of the Income Tax Act and for the assessment and collection of income tax. Except for bringing a prosecution for a tax offence, there is power to authorise any persons 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 permitted only for carrying into effect the provisions of the Act or in accordance with EU Council Directives regarding exchange of information (principally the Mutual Assistance and Savings Directives) or International Tax Information Exchange Agreements. 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 Principal Auditor access to documents as necessary for the performance of his 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.

The Government of Gibraltar has indicated its commitment to exchange of



information on the basis of the OECD Model Agreement. The Government of Gibraltar has concluded Tax Information Exchange Agreements (TIEA) with nineteen countries including the United States, the United Kingdom and Ireland. This should ensure that Gibraltar is categorized as a jurisdiction that has substantially implemented the OECD internationally agreed tax standard.

### **5.1.1 - Taxation of Income and Gains**

The Act sets out different classes of income as follows:

#### **Table A**

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

#### **Table B**

- i) Any office or employment, including any allowances, perquisites or benefits in kind specified in Schedule 7 of the Act;
- ii) Any trade, business, profession or vocation all or part of the activities, administration, marketing or support functions of which are performed in Gibraltar;

#### **Table C**

- i) Dividends, except for dividends:
  - paid or payable by a company to another company; or
  - paid to a person who is not ordinarily resident in Gibraltar; or
  - paid by a company whose shares are listed on a Recognised Stock Exchange;
- ii) Funds Income from a fund which is not marketed to the general public, including shares in or securities of an open-ended investment company. Any income from the fund is chargeable to tax in accordance with the provisions of the Income Tax Act which apply to the entities which form the arrangements under which the fund is structured;
- iii) Income from any right to and interests in anything falling within items (i) or (ii) above;
- iv) 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;

- v) Any profits or gains to be treated as income under the anti-avoidance clauses of the Income Tax Act.

### **Companies**

Companies are only chargeable to tax in Gibraltar on income in the above Tables accruing in or derived from Gibraltar.

In other words, companies are taxed on a territorial basis with regards to the activities giving rise to the income.

### **Persons (other than companies)**

Persons are also chargeable to tax upon income specified in Tables A to C accruing in or derived from Gibraltar. However, all ordinarily resident persons are subject to tax on income specified in Tables B and C which accrues in, derives from or is received outside Gibraltar (i.e. on a worldwide basis).

In other words, persons (for example, trusts or individuals) are taxed on all income in the above tables if the income is from Gibraltar, irrespective of the residence of the person. But if the person is ordinarily resident then they are also taxable on all income in the above tables whether generated in or outside Gibraltar. The exception is rental income, which is only taxable if the property concerned is located in Gibraltar.

### **Income not taxable**

No income tax is payable on the following:

- a) Non-trading investment income;
- b) Royalty income;
- c) Income received in respect of directors 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;
- d) Funds income from a fund that is marketed to the general public, or
- e) Other income specifically exempted by rules made under the Act.

#### **5.1.2 - The Tax Year**

The year of assessment runs from 1 July in any year to 30 June of the next year.

#### **5.1.3 - Assessments**



As from 1 January 2011 income tax is levied on an actual basis. In the case of companies tax is levied on the net taxable income earned in the company's accounting year. In the case of the self-employed it is levied on the twelve month period ending on 30 June, and, in the case of income from employment it is assessed on an actual basis through the Pay-As-You-Earn (PAYE) system.

#### **5.1.4 - Payment Dates**

##### **Income from employment**

Tax is deducted from wages and salaries under a PAYE system.

##### **Income from self-employment**

The taxpayer should make two payments on account\* (by 31 December and 30 June, respectively, in the year of assessment). Any balance remaining is payable by 30 November (i.e., five months after the end of the tax year).

##### **Companies**

A company is required to make two payments on account (by 28 February and 31 August, respectively, in the calendar year) of its future liabilities. Any balance remaining is payable within six months of the end of the company's accounting period.\*

*\*Payments on account 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 he may apply to the Commissioner to be discharged in whole or in part from his 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.*

## **5.2 - Companies and Branches**

### **5.2.1 - Gibraltar Companies**

#### **Taxable base**

The taxable base of a company is as defined in Section 5.1.1.



## **5.2.2 - Rate of Income Tax for Companies**

### **From 1 January 2011**

From 1 January 2011 onwards all companies are chargeable to tax on income which accrues in or is derived from Gibraltar at the rate of 10%, except for utility and energy companies and companies deemed to be abusing a dominant market position, for which the applicable rate is 20%.

### **Until 31 December 2010**

In 2010 the standard rate of tax charged on the adjusted profits of an incorporated entity was 22%, with small companies chargeable to a reduced rate of Corporation Tax of 20%. This lower rate applied to companies whose taxable profits did not exceed £35,000 and which derived at least 80% of their turnover from trading. Between £35,000 and £44,333 the full rate of 22% applied less marginal relief of  $\frac{3}{40}$  (7 1/2%) on the difference between £44,333 and taxable profits. Property holding companies were not eligible for the small companies rate.

Companies commencing trading on or after 1 July 2007 benefit from “start-up” relief, subject to conditions, under which the 10% tax rate applied prior to 2011 (see Section 5.2.14)

## **5.2.3 - Exempt Companies**

Exempt company status was phased out by 31 December 2010.

## **5.2.4 - Capital Allowances for Business Assets**

The first £30,000 of plant and machinery (including fixtures and fittings, commercial motor vehicles etc) acquired in a year of assessment is fully deductible within the year. An annual allowance is given for any remaining balance over this amount.

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

The following table summarises the position both pre and post 1 January 2011:



		<i>Until 31.12.10</i>	<i>From 1.1.11</i>
	<b>Initial allowance</b>	<b>Additional allowance</b>	<b>Additional allowance</b>
Plant and machinery (including fixtures & fittings)	100% on first £30,000	at 25% p.a. straight line on balance	at 15%* p.a. on reducing balance
IT Investment	100% on first £50,000	at 25% p.a. straight line on balance	at 15%* p.a. on reducing balance
Industrial buildings (Incl. Factories hotels and similar premises)		4% p.a. straight line on cost	4% p.a. straight line on cost

*As from 1 January 2011, all assets are pooled for tax purposes. The pool is increased in respect of any additions 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. There is no initial allowance on motor vehicles.*

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

An amount paid to the principal landlord (which is taxable on 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 amortised in respect of goodwill and other intangible assets are not tax deductible.

### **5.2.5 - Deductions allowed against Income**

As a general rule a deduction in computing the profits or gains shall only be allowed in respect of any disbursement or expense, which is wholly and exclusively incurred for the purposes of the production of the income of the trade, business, profession or vocation. Significant allowable deductions include:

- Rent and other outgoings paid by any tenant of land or buildings occupied by him for the purpose of acquiring income.
- Debts which have become bad or doubtful so far as they are estimated to have become so during the period less any amounts



recovered on debts previously written off.

- Repair costs for premises, plant, machinery or fixtures employed in acquiring the income.
- Interest payments on capital employed in acquiring the income.
- Employer's contributions to approved provident or pension funds.

At the time of writing, 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.

We understand that this clause will only apply to deductions of a general nature and direct expenses should be deducted against the income they relate to and not apportioned.

#### **5.2.6 - Capital Gains**

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

#### **5.2.7 - Losses**

Under both the previous Tax Act and 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 such losses. Losses made by Exempt Companies (prior to 2011) do not give rise to tax losses.

#### **5.2.8 - Dividends Paid to Shareholders**

Dividends paid to resident shareholders attract a tax credit equivalent to the tax paid by the company on those profits out of which the dividend was paid. For this purpose, profits earned at an earlier date are deemed to be paid over as a dividend before profits earned at a later date and dividends are deemed to be paid out of taxed or taxable income before other income. Detailed rules that take account of non-taxable income must be followed for determining the amount of the tax credit.



### 5.2.9 - Transitional Rules

As from 1 January 2011 all incorporated and unincorporated businesses are assessable to tax on an actual basis. Prior to this, many companies were assessed on a prior year basis (i.e. for a given tax year, the profits assessed were those for the financial year ending in the prior tax year).

Businesses which were assessed on a prior year basis up to 31 December 2010 are subject to transitional rules. Under those rules, a company is deemed to have ceased trading on 31 December 2010 and restarted on 1 January 2011. These businesses will therefore be subject to cessation rules as set out in the previous Income Tax Act, as follows:

<b>Tax Year</b>	<b>Basis of assessment</b>
Last (2010/2011)	Beginning of tax year to date of cessation. <i>(1 July 2010 to 31 December 2010)</i>
Penultimate (2009/2010)	The greater of: (i) the actual income of the penultimate tax year <i>(1 July 2009 to 30 June 2010)</i> , or (ii) the actual income of the pre-penultimate tax year <i>(1 July 2008 to 30 June 2009)</i> .

Special transitional rules apply for businesses established after 1 July 2007 (see section 5.2.14). Moreover, companies commencing to trade after 1 July 2008 (where the special transitional provisions are not applied) and companies which lost Exempt Tax status after 1 July 2007, are generally assessed on an actual basis.

### 5.2.10 - Double Tax Relief

There are no double tax agreements in force between Gibraltar and any other jurisdiction. However, tax relief is available in respect of foreign income tax paid, deducted from or liable to be paid on income which is similarly 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 jurisdiction in which the income is generated.

### 5.2.11 - 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, if the services are performed in Gibraltar the recipient will be chargeable to tax and the Commissioner may instruct the payer to withhold tax on any future payments.

#### **5.2.12 - Parent-subsidiary rules 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 (minimum shareholding apply) within EU. 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 Corporation Tax on any income derived from that company. Similarly any dividends paid by a Gibraltar registered company to a company in another member state do not suffer withholding tax. The relevant participation means an interest in the voting share capital equal to at least 20% until 31 December 2006, 15% until 31 December 2008 and 10% thereafter.

[Note: the company of the member state must be one listed under the Directive. This 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.]

Apart from legislation arising from these two EU Directives, there is, in any case, no requirement to withhold tax on dividends paid by Gibraltar companies, and no Gibraltar tax on companies' dividend income. Similarly, no tax is payable on royalties, or on non-trading interest income.



<b>5.2.13 - Computation of Taxable Profits</b>	<b>£</b>
Profit per accounts	X
Add: Disallowable expenses included in accounts	X
<b>Less:</b> Non taxable income	(X)
<b>Less:</b> capital allowances	(X)
Profits subject to Corporation Tax	— P
Taxation Payable = 10%/ 20%* x P	— X
<b>Less:</b> Double Taxation Relief	(X)
<b>Net Tax Payable</b>	— <b><u>X</u></b>

(\*see section 5.2.2)

#### 5.2.14 - “Start-up” relief

Companies that commenced trading on or after 1 July 2007 may benefit from “start-up” relief, subject to conditions, under which the 10% tax rate applies prior to 2011. This relief is only available where the business relates to a bona-fide new activity in Gibraltar. It is not available where a person connected to the company previously carried out a similar business in Gibraltar, or where, in the opinion of the Commissioner of Income Tax, the new company or commencement of business is an artificial or fictitious arrangement.

Tax rates applying under “start-up” relief are as follows:

<b>Date business established</b>	<b>Tax Year</b>	<b>Profits taxed</b>	<b>Rate</b>
Between 1 July 07 and 30 June 09	2008/09 2009/10	1 July 2007 to 30 June 2008 1 July 2008 to 30 June 2009	27% 10%
	2010/11	1 July 2010 to 31 December 2010	10%
On or after 1 July 09	2009/10 2010/11	1 July 2009 to 30 June 2010 1 July 2010 to 31 December 2010	10% 10%

#### 5.2.15 - 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 corporation tax to the extent of the activities so conducted outside Gibraltar.

### **5.3 - Individuals - General**

#### **5.3.1 - Overview**

As from 1 January 2011 an individual who is present in Gibraltar for at least 183 days in a tax year or more than 300 days in total during three consecutive tax years is deemed to be Ordinarily Resident and taxable in Gibraltar on his or her worldwide income (subject to double-tax relief).

As a result of measures introduced by Government in 2007, taxpayers may choose between the Gross Income Based System (see Section 5.4) or the more traditional Allowance Based System (see Section 5.5).

Under the Gross Income Based System the tax payer is not entitled to any allowances and/or reliefs but generally the tax rates applicable are lower. According to Government estimates, around 86% of personal taxpayers currently benefit and are taxable under the Gross Income Based System.

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

#### **5.3.2 - Sole Traders**

The self-employed are liable to income tax on their profits, as adjusted for tax purposes, in broadly the same way as profits are adjusted for corporate entities. Interest on loans to provide capital for the business is an allowable deduction.

The Gibraltar tax year runs from 1 July to 30 June and an individual must draw up his accounts for a year ended on 30 June.

#### **5.3.3 - Partnerships**

Partnerships are taxed in the same way as the self-employed, so that the individual partners are taxed on their share of the profits as adjusted for tax purposes. A partner is not liable for the unpaid tax of another partner.



### **5.3.4 - Benefits-in-kind**

Under the Income Tax Act 2010 benefits-in-kind are extensively listed and defined.

#### **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

In addition the new Act includes a “catch-all” provision for benefits not specifically covered under the legislation.

Benefits in kind are taxable as if they were income from an office or employment, and therefore are subject to PAYE. They apply to benefits that are quantifiable in monetary terms. Employment related benefits received by prospective or former employees are included by the legislation.

#### **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%.

#### **Living accommodation**

Living accommodation provided to an employee or a member of their family or household is a taxable benefit. However, the benefit is exempt if:

- The employer is an individual and he/she 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 the accommodation is customary for that type of employment, or

- 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.

### **Cars and vans**

Cars and vans provided to an employee by an employer 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% per annum of the cost of the vehicle to the employer. After four years there is no remaining benefit. Tax is payable on the cash benefit.

Where a car is shared between employees for their private use, then 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.

### **Cheap loans**

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 that which 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 to the employer at regular intervals.

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

There are specific provisions relating to loans to director and shareholders. If an advance is made to a director or shadow director (or any connected person) then the loan is treated as earnings as soon as it is made. Loans to shareholders are deemed to be dividends unless their commercial purpose can be justified.

#### **5.4 - Gross Income Based (GIB) System**

Under the Gross Income Based (GIB) System the taxpayer is not entitled to any allowances and/or reliefs, with tax being payable depending on the individual’s gross income.

In general, where a taxpayer opts for the GIB system and the spouse does not, the availability of allowances to the spouse opting for the Allowance Based (AB) System are restricted. In such a case any allowances claimed by the spouse up to 30 June 2007 and now opting for the GIB system may not be ‘transferred’ to the spouse opting for the AB system.

However, persons opting for the AB system will always be able to benefit from the following allowances/reliefs even if their spouse opts for the GIB system (list not exhaustive):

- Personal (and ‘top-up’ allowance, if applicable) allowance
- Low income earners allowance

- Special deduction for senior citizens
- In general, any other allowances which was being claimed up to 30 June 2007.

The principal restrictions apply to spouses where one opts for the GIB system and the other for the AB system. In such situations the following applies:

1. Mortgage Interest Relief and Home Purchase Allowance (HPA),  
In connection with the purchase of a home after 1 July 2007 in Gibraltar where neither spouse had previously claimed mortgage interest relief or HPA, a maximum of 50%\* of:

(a) the eligible mortgage interest paid (see section above on Interest Relief on Loans for the Purchase, Improvement or Development of Property); and

(b) Home purchase allowance,  
may be claimed by the spouse that opted for the AB system, subject to an aggregate maximum allowance of 1/7th of the claimant's assessable income.

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

2. 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 AB system is not entitled to claim relief on the life insurance premiums.
3. Medical insurance policy covering both spouses:  
As above, the spouse that has opted for the AB system cannot claim any allowances.
4. Pension contributions:  
The spouse of a person contributing to a pension scheme that opts for the GIB system cannot claim tax relief on contributions.

#### 5.4.1 Tax Bands and Rates (Gross Income Based System only)

Tax rates for 2011/2012

- (a) Persons on Gross Income up to £25,000

<b>Taxable Income Bands</b>	<b>Rate %</b>	<b>Tax on band</b>
First £10,000	6%	£600
£10,001 - £17,000	20%	£1,400
Balance	28%	

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

<b>Taxable Income Bands</b>	<b>Rate %</b>	<b>Tax on band</b>
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
£700,001 - £1m	10%	30,000
Balance	5%	

The effective rate of tax on taxable income of £1m is 19%, with taxable income in excess of this being taxed at 5%. All tax payers pay an effective rate of tax of less than 25%.

#### **Tax rates for 2010/11**

The tax rates and bandings were significantly more complex in 2010/11.

(a) Persons with gross income of up to £16,000

<b>Taxable Income Bands</b>	<b>Rate %</b>	<b>Tax on band</b>
0- £10,000	8%	£800
£10,001 - £16,000	20%	£1,200

(b) Persons on Gross Income between £16,001 and £25,000

<b>Gross Income Between</b>	<b>On First</b>	<b>Rate</b>	<b>Balance at 20%</b>	<b>Tax Payable</b>
£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) Persons 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) Persons 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 which gives a maximum effective tax rate of 26.25% on gross income of £100,000.

The tax liability is arrived at by (a) calculating the effective tax rate using the 2009/10 tax bands (see below) and (b) then reducing this by 0.5% and (c) 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).*

- (e) Persons 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) Persons on Gross Income over £353,000

Gross income is taxed as follows:-

First £25,000	20%
£25,001 -£353,000	29%
£353,001 - £704,800	20%
£704,801 -£1,000,000	10%
Excess over £1,000,000	5%

The effective rate of tax on £1 million income was 20% with any excess at 5%.

## **5.5 - Allowance Based (AB) System**

### **5.5.1 - Tax bands and rates**

The below bands and rates are in force for 2011/12 and 2010/11. However, for 2011/12, all taxpayers under the AB System receive a tax credit amounting to the greater of £300 or 2% of the tax payable based on the below table.



<b>Taxable Income Bands</b>	<b>Rate %</b>	<b>Tax on band</b>
On first £4,000 - £0 - £4,000	17 (reduced rate)	£680
On next £12,000 - £4,001 - £ 16,000	30 (standard rate)	£3,600
On remainder - Over £ 16,000	40	

### **Apportionment of Tax Bands and Tax Allowances**

When a person obtains employment in Gibraltar the basic rule is:

- (i) If he or she is ordinarily resident in Gibraltar the personal allowances will be apportioned, but the tax bands will not.
- (ii) If he or she is not ordinarily resident in Gibraltar both the allowances and the tax bands will be apportioned.

*(Note: as from 1 January 2011 an individual is considered to be ordinarily resident if he or she is present in Gibraltar for 183 days or more in a tax year or more than 300 days in three consecutive tax years. An ordinarily resident individual is taxable in Gibraltar on his/her worldwide income [subject to double-tax relief]).*

When allowances are apportioned the individual is given 1/12th of the annual allowance for each month, or part of a month, that he or she is resident in Gibraltar.

When tax bands are apportioned the individual is given 1/12th of the annual tax band for each month, or part of a month, that he or she is working in Gibraltar.

### **5.5.2 - Principal Allowances and Reliefs**

*(applicable to the Allowance Based System only)*

The following are the principal allowances and reliefs available to individuals for the tax year 2011/12 (from 1st July 2011 to 30th June 2012). These figures are based on the Budget Measures introduced by the Government in July 2011 and may be affected by subsequent legislation. Appendix 6.3 provides a ten year summary of the principal allowances and reliefs.

#### **Personal Allowances**

A single taxpayer is entitled to a personal allowance of £2,812 and married taxpayers are entitled to a personal allowance of £5,444. A taxpayer who

proves that he pays alimony to his 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 £2,632.

Individuals whose total allowances are less than £3,700 have their personal allowances 'topped up' to £3,700.

Elderly persons (men aged 65 or over and women aged 60 or over) have their allowances 'topped-up' to £10,887 irrespective of the level of assessable income. In practice, therefore, the first £10,887 of assessable income earned by elderly persons is tax free.

### **Other Allowances and reliefs**

#### **Child relief**

In respect of the first of any children of the taxpayer (including a stepchild or adopted child) that meets the criteria set out below, the taxpayer is entitled to relief (deduction) in the amount of £997. The relief is increased and extended to £1,105 in respect of each child educated outside Gibraltar.

The relief is given in respect of 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 him and must be resident in Gibraltar.

If the child's income in his 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 claimants' 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 he has paid under a court order or deed of separation maintenance to a child, he/she is entitled to claim a deduction from his assessable income of the amount of maintenance so paid up to a maximum of £997.

**Disabled person relief**

In respect of each disabled unmarried individual, the parent is entitled to relief in the amount of £2,724.

In order for a parent to qualify for relief, the disabled individual must be suffering from specific bodily or mental disability and be residing with the parent.

**Nursery school allowance**

An allowance of £1,023 is available to ordinarily resident individuals in respect of each child attending a private registered nursery during the pre-school academic year.

**Wife's earned income relief or separate taxation**

All the income of a husband together with the investment income of his wife is normally taxed jointly in the name of the husband. He can claim the Married Person Allowance (personal allowance plus spouse allowance) of £5,444. The wife is treated as a single woman in respect of her earned income which is taxed separately in her name and against which she can claim the Single Persons Allowance of £2,812.

However, provided no part of the husband's income is exempt from tax, the wife may elect for her earned income to also be taxed in the name of her husband. Where such an election is made, the husband will be granted an additional maximum allowance of £2,812 (wife's earned income relief), but she will forgo her Single Persons Allowance.

Where a husband proves to the satisfaction of the Commissioner that he earns less than his wife then all the allowances, except for the personal allowance of £2,812 and the Nursery School Allowance, can be transferred to the wife.

**Relief in respect of persons taking charge of children**

A relief of £2,632 is given to a widow(er) or a married man separated from his wife, and not entitled to the married persons' relief, who has the custody of, and maintains during the year of assessment, an unmarried child for whom a deduction in respect of child allowance is available and who maintains or employs some person for the purpose of having the charge and care of the child.

**Low income earner's tax credit**

Persons on income of less than £8,000 are entitled to an additional allowance

so that no tax is payable by such persons. An additional allowance is also given to taxpayers whose earned income for the tax year is less than £19,500.

### **Dependent relative relief**

A relief of £190 (£139 for non-residents) is available to a claimant in respect of a relative of the claimant or of his wife 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 £2,812 and who is maintained by the claimant at his 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 resident in Gibraltar.

### **Deduction for blind person**

An allowance of £627 is available to an individual who proves to the satisfaction of the Commissioner, by producing a certificate signed by a qualified medical practitioner, that he or his wife has effectively lost his or her sight.

### **Deduction for purchase or construction of a house or flat**

An individual ordinarily resident in Gibraltar who purchases, or enters into an agreement to purchase, constructs, or is in the process of constructing a house or flat in Gibraltar for his own residential occupation is entitled in any one or more years of assessment to claim a deduction or deductions from his taxable income, or that of his spouse, or of both in whichever proportion is most beneficial.

The deduction, which presently amounts to £11,500 plus an additional one-off deduction of £4,000 (the latter cannot exceed £1,000 in any year of assessment), is:

1. Only granted once and is not granted in respect of more than one dwelling at any one time;
2. Only allowed in respect of any payment or payments made towards the purchase or construction of the dwelling; and
3. 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 3 includes:-

- a) A deposit;

- b) The repayment of any loan or part of a loan advanced for the purpose of purchasing or constructing the dwelling; and
- c) The interest on such a loan, and is not affected by the fact that such a payment, as in this case, may have been relieved under a different section of the Income Tax Act.

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

There is a provision to claw-back the allowance if the taxpayer relinquishes the legal estate of the dwelling in respect of which the deduction has been granted within 12 months of obtaining it or if he ceased 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 his wife 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 is restricted to a maximum of £300,000.
- interest on pre 1 July 2008 mortgages where the loan exceeds £300,000 will be grandfathered with the amount over the limit which is allowable being reduced by 1/10th per annum. The first reduction is effective on 1 July 2008.

### **Interest Relief on Loans for the Purchase or Construction of a Parking Bay or Garage**

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



### **Life Insurance relief**

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

The relief is given in respect of premiums payable by the claimant for an insurance contract on the claimants or spouses life, and, in the case of a man, in respect of contributions to a widow's or orphan's pension scheme or to a provident society or fund approved by the Commissioner. However, premiums must not exceed:

- one seventh (pre 1 July 2008 - 1/6th ) of the assessable income; or
- 7% of the capital sum assured at death.

In respect of policies purchased on or after 3 June 2008 (or policies whose term, value or premium are increased after that date) the allowance is limited to basic rate tax of 17%.

### **Pension Contributions and Income**

Aggregate contributions by employer (if applicable) and employee to approved personal or occupational pension schemes are eligible for tax relief subject to a limit of the lower of 20% of earned income or £35,000. Contributions by the employer are not taxable on the employee as a benefit in kind.

In addition:

- Income from statutory or approved occupational pensions is taxed at 0% (*see note below*) for persons aged 60 or over and persons compulsorily retired at age 55 (*note*); and
- There is no requirement to buy an annuity from the capital value of a pension fund and pensioners may withdraw the whole of the capital tax-free on reaching retirement age.

*Note: Pension income is part of assessable income (though taxed at 0%) and therefore will determine the marginal rate of tax payable on any other taxable income of the pensioner.*

### **Medical Insurance Allowance**

The first £1,120 of eligible premiums paid in the tax year by a tax payer to an approved medical insurance scheme providing health insurance for the taxpayer, spouse or dependant children is fully allowable from the taxpayer's assessable income.

## **5.6 - Trusts**

*For general information on Trusts see section 2.4.*

As from 1 January 2011 a trust is tax resident in Gibraltar if one or more of the beneficiaries is 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 of the trustees or settlor is inconsequential.

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

A trust which is not tax resident in Gibraltar is taxable only on income which accrues in or is derived from Gibraltar. By contrast, a trust which is 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 addition, the capital of the trust is not liable to tax since Gibraltar has no wealth or gift taxes, estate duty or other capital taxes.

Trusts of a public nature, on the other hand, 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 business is 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.

## **5.7 - Expatriates**

### **5.7.1 - Non Residents - General**

Non-residents are liable to tax on income accruing in or derived from Gibraltar except:

- Income arising from an occasional presence in Gibraltar
- Income from directors' fees if present in Gibraltar for less than 30 days in a tax year.
- Income derived from the ownership, chartering or operation of any ship (whether registered at the Port of Gibraltar or elsewhere)



- Dividends received from a Gibraltar company.
- Interest from banks, building societies and other financial services institutions.

### **5.7.2 - Permitted Individuals (pre 2011)**

Permitted individuals were non-resident persons who carried on, exercised or undertook in Gibraltar any trade, business, vocation or employment. They were liable to taxation on their Gibraltar income only. Permitted individuals legislation came to an end on 31 December 2010. Thereafter the new definition of ordinary residence applies (see section 5.3.1.).

### **5.7.3 - Qualifying (Category 2) Individuals**

*(Commonly known as High Net Worth Individuals (HNWI))*

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 fulfill the following conditions:

1. Have available for their exclusive use, and that of their families, approved residential accommodation in Gibraltar;
2. Have not been resident in Gibraltar for the previous 5 years;
3. Have not been engaged for the previous 5 years, and will not be engaged in the future whilst a Category 2 Individual, in a trade, business or employment in Gibraltar (other than, in general, duties which are incidental to any trade, business or employment based outside Gibraltar, or providing consultancy services from Gibraltar in certain circumstances (see below);

As a general principle, a Category 2 Individual may be a shareholder and/or director of a Gibraltar company, subject to the company trading and doing business outside Gibraltar.

The Category 2 Individual may, however, be a shareholder of a company carrying out licensable activities in Gibraltar, companies carrying out business in Gibraltar which are not in competition with other businesses in Gibraltar or companies which, directly or indirectly invest in properties situated in Gibraltar (although in the case of the latter any rental income would be taxed separately and not



be covered by the certificate). A Category 2 Individual may also provide consultancy services from Gibraltar to companies trading outside Gibraltar where the Individual has a significant shareholding. In all other cases, any consultancy or employment work must be physically and exclusively carried out outside Gibraltar.

4. Must submit two character references from recognised and established professionals (a bank plus a law or accountancy firm), a copy of passport, a curriculum vitae and proof of financial standing.
5. Pay an application fee of £1,000; and
6. Have received a certificate from the Finance Centre Director confirming their status.

In practice the applicant must also demonstrate a financial standing in excess of £2 million.

An individual who has obtained a Category 2 Individual certificate is assessable to income tax on the first £80,000 (2010/11 - £80,000) of income only. Therefore the maximum tax payable in a full year is approximately £30,000 (2010/11 - £30,000). The minimum tax payable is £22,000 (2010/11 - £22,000), though this will be pro-rated if the certificate was obtained 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 2.4.1).

#### **5.7.4 - High Executive Possessing Specialist Skills - HEPSS**

Introduced by the Government in 2007, the tax payable by a HEPSS is limited to the first £120,000 (2010/11 - £120,000) of earned income.

The individual must possess skills or experience which are not available in Gibraltar and assessed as necessary to promote and sustain economic activity of particular economic value to Gibraltar.

The person must also occupy a high executive or senior management position and have accommodation available for their exclusive use, and their families,



in Gibraltar. Moreover the person may not have been resident or employed in Gibraltar during the three years prior to the year in which the application is made (the FCD may, however, waive this requirement). There is a non-refundable fee for the issue, or renewal, of the certificate.

HEPSS are taxed under the Gross Income Based system.

## **5.8 - Indirect Taxes**

### **5.8.1 - Value added tax**

There is no value added tax in Gibraltar.

### **5.8.2 - 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.

<b>Product</b>	<b>Duty payable</b>	
	<b>Private imports</b>	<b>Dealer imports</b>
<b>Petrol/diesel Motor vehicles</b>		
Engine not exceeding 1500cc	25%	15%
More than 1500cc but not exceeding 2000cc	30%	18%
Over 2000cc	35%	22%
<b>Hybrid cars</b>		
Engine not exceeding 1500cc	12.5%	6.25%
More than 1500c but not exceeding 2000cc	15%	7.5%
Over 2000cc	17%	8.5%
<b>Electric cars and pedal cycles</b>		
	zero	zero
<b>Motor cycles</b>		
<i>Four stroke engine</i>		
Under 50cc	12%	6%
50cc and over	30%	15%
<i>Two-stroke engine</i>		
	30%	30%
Petrol	£0.29p per litre	
Diesel	£0.155p per litre	



Cigarettes	£2.48 per kilo plus £8.00 per 200 cigarettes
Rolling Tobacco	£33.00 per kilo
Bulk exports of tobacco	5%
Whisky and spirits	80p per litre
Printed matter	12% (imports for educational purposes, newspapers, journals and periodicals are exempt)
Gold bullion, clocks, watches, soaps and perfumes	6%
Building materials	12%
Photographic equipment	Exempt
Computer equipment	6%
Computer software	6%
Clothing	6%
Foodstuffs and medical supplies	Exempt

### 5.8.3 - 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 share capital (on nominal 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:

- up to £200,000 - nil
- between £200,001 & £350,000 - 2% on first £250,000 and 5.5% on balance
- over £ 350,000 - 3% on first £350,000 and 3.5% on balance

Stamp duty on mortgages as follows:

- mortgages not exceeding £200,000 - 0.13%
- mortgages over £200,000 - 0.2%



## **5.9 - Other Taxes**

There are no capital taxes in Gibraltar. In particular there is no estate duty, capital gains tax or wealth tax. Estate Duty was abolished in respect of the Estate of any person who died on or after 1st April 1997. There are no other wealth, gift or inheritance taxes in Gibraltar.

## **5.10 - Withholding Taxes**

### **Dividends**

With effect from 1 July 2005 there is no withholding tax on dividends paid by Gibraltar companies.

### **Interest**

As from 1 January 2011 there is no withholding tax on interest.

Up to 31 December 2010 interest payments were generally subject to a withholding tax levied at the standard rate of the recipient (company 22% and individual 30%) unless the lender was (principally) a local bank or the situs of the loan on which the interest was paid was outside Gibraltar.

The situs of a loan is determined on the balance of the following criteria:

- a) place of residence of the debtor;
- b) place where the interest is paid;
- c) location of the security (if any); and
- d) source from which the interest is paid.

### **Royalties**

There is no withholding tax on royalties.

## **5.11 Construction Sub-Contractors**

Note: At the time of writing the Income Tax (Construction Sub-Contractors) Regulations are in the process of being revised in line with the stricter requirements of the new tax regime. The comments below describe the current regulations and not the (as yet unpublished) new regulations.

Companies operating as sub-contractors in any construction operation are

subject to the Income Tax (Construction Sub-Contractors) Regulations. Under these Regulations the main contractor is obliged to deduct, and pay over to the Income Tax Office, 25% from any payment made to the sub-contractor that does not represent the direct cost of materials.

This deduction is not required if the Sub-Contractor holds a valid exemption certificate issued by the Income Tax Office. Sub-Contractors need to apply to the Income Tax Office for the exemption certificates and must meet the requirements prescribed prior to these being issued.

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

### **5.12 Penalties**

The new Act incorporates an extensive range of punitive penalties and surcharges.

Under the previous Income Tax Act surcharges were only applied by the Commissioner of Income Tax on amounts remaining unpaid by the due date. Under the new Income Tax Act, surcharges also apply to the non-payment or late payment of any amounts which should have been paid by a due date under self-assessment.

Penalties (i.e., as opposed to surcharges) only apply from 1 July 2012 onwards.

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). Thereafter there is a 10% annual surcharge on the amount unpaid, compounded daily.

#### **Late or incomplete returns**

If a company does not make a full and complete return of income and, if applicable, of its liability to tax within six months of the end of its accounting period then it is liable to a penalty of £50. If the failure continues for three



months then there is a further penalty of £300. If the failure continues for more than ten months then a further penalty of up to 150% of the estimated tax liability will arise.

### **Incorrect returns or information**

If a person 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 he is liable then he will be liable to a penalty of up to 150% of the difference between the amount of tax due and that which he has declared. In arriving at 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 co-operation afforded by the taxpayer during the investigation.

### **Tax evasion**

If a person is knowingly concerned in the fraudulent evasion of income tax by himself or another person he commits an offence. If found guilty of such an offence he 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. He may request the Commissioner of Income Tax to issue a Compounding Order before the Court Hearing, provided he or she admits in writing that he committed the offence, settles the amount due (including penalties, surcharges and interest) and consents that full details of the Compounding Order shall be published in the Gibraltar Gazette.

### **Non-payment of PAYE or Social Insurance**

If a company fails to pay to the Commissioner by the due date any PAYE or Social Insurance which has been or should have been withheld or collected, then any director or shadow director of that company is committing an offence and subject to the same penalties as persons 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 a person fails to pay PAYE or Social Insurance which he has deducted or should have 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, he must first provide 14 days written notice to the offender of his intention to 'name and shame'.

### **Failure to report notifiable arrangements**

A person who fails to notify the Commissioner of reportable tax planning arrangements (as defined in Section 41 of the Act) will be liable to a fine of £100 on the day the failure occurs and a continuing daily penalty of up to £200 per day while the failure continues.

### **Information Requests**

A person who does not comply with a request for information (in connection with his tax affairs or those of other persons) by the Commissioner of Income Tax by the due date will be liable to a fine of £200 on the day the failure occurs and a continuing daily penalty of up to £500 per day. If the failure continues for more than three months the person may be liable to imprisonment for up to five years as well as a fine equivalent to the amount of any tax evaded.

The Commissioner has the power, in his absolute discretion, to waive, reduce or discharge any penalty incurred if he is satisfied that the act or failure to act which incurred the penalty was purely inadvertent.

The penalty regime is subject to an eighteen month moratorium from the 1st January 2011. However the moratorium does not extend to surcharges which therefore apply as from the date of commencement of the Act.

## **5.13 Anti-avoidance**

Section 40 of the new Act empowers the Commissioner to disregard part or all of any arrangements which are deemed to be artificial and/or fictitious and whose purpose is to reduce or eliminate the tax payable in Gibraltar.

In addition, the new Act includes specific anti-avoidance provisions in areas such as thin capitalisation, transactions with connected persons and back-to-back loans.

Moreover, section 41 includes a requirement for promoters of a scheme to notify the Commissioner of any arrangements or proposals which will reduce the tax due by a tax payer.





## 6 - Appendices

### App. 6.1 - Social Insurance Contributions

Category	Payable By:	1998	1999	2000	2001	2002	2003	2004	2005	2006
		£	£	£	£	£	£	£	£	£
Men aged:										
Between 18 & 64*	Insured	18.87	18.87	18.87	18.87	18.87	18.87	18.87	20.75	20.75
Between 18 & 59**	Employer	23.47	23.47	23.82	23.82	23.82	23.82	23.82	26.20	26.20
Women aged between 18 & 59										
Persons aged from 15 to 17	Insured	17.29	17.29	17.29	17.29	17.29	17.29	17.29	19.02	19.02
	Employer	21.90	21.90	22.25	22.25	22.25	22.25	22.25	24.48	24.48
Married women & widows who elected not to pay Social Insurance	Insured	10.33	10.33	10.33	10.33	10.33	10.33	10.33	10.81	10.81
	Employer	23.47	23.47	23.82	23.82	23.82	23.82	23.82	26.20	26.20
Men aged:	Insured	10.33	10.33	10.33	10.33	10.33	10.33	10.33	.	.
65 and over*	Employer	23.47	23.47	23.82	23.82	23.82	23.82	23.82	26.20	26.20
60 and over**										
Women aged 60 and over	Insured	10.33	10.33	10.33	10.33	10.33	10.33	10.33	.	.
	Employer	23.47	23.47	23.82	23.82	23.82	23.82	23.82	26.20	26.20
Self Employed	Insured	21.80	21.80	21.80	21.80	21.80	21.80	21.80	23.98	23.98

\* up to 2 July 2006; \*\* With effect from 3 July 2006

**Note: With effect from 1 April 2007 contributions are earnings related subject to a predetermined minimum and maximum (see section 4.6)**

## App. 6.2 - Income Tax Bandings & Rates

### A. Allowance Based System:

Rate of Tax in Bands	Amount of Taxable Income in Bands												
	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08 to 2011/12	2001/02	2002/03	2003/04	2004/05	2005/06	
	£	£	£	£	£	£	£	£	£	£	£	£	£
17% (reduced rate)	.	3,000	4,000	4,000	4,000	4,000	4,000	.	.	.	.	.	4,000
20% (reduced rate)	3,000	.	.	.	.	.	.	.	.	.	.	.	.
30% (standard rate)	4,000	4,000	6,000	6,000	6,000	9,000	12,000	.	.	.	.	.	.
35%	8,000	8,000	5,000	5,000	5,000	.	.	.	.	.	.	.	.
40%	.	.	.	.	.	.	.	.	.	.	.	.	Balance
42%	.	.	.	.	.	.	.	.	.	.	.	.	Balance
45%	4,500	8,000	Balance	Balance	Balance	.	.	.	.	.	.	.	.
47%	.	Balance	.	.	.	.	.	.	.	.	.	.	.
48%	Balance	.	.	.	.	.	.	.	.	.	.	.	.

### B. Gross Income Based System

Note: No allowances apply under the Gross Income Based System. Where a tax payer opts for the gross income based system and the spouse does not, the availability of allowances to the spouse are restricted (see section 5.4 and refer to Government web site - [www.gbtraltar.gov.gi](http://www.gbtraltar.gov.gi)).

2008/2009	Rate	Tax on band
<b>Taxable Income Bands</b>	<b>Rate</b>	<b>Tax on band</b>
£0 - £25,000	20%	£5,000
£25,001 - £100,000	30%	£22,500
Over - £100,000	38%	.

## B. Gross Income Based System (continued)

2009/2010

(a) Persons on Gross Income up to £16,000

Taxable Income Bands	Rate	Tax on band
£0 - £10,000	10%	£1,000
£10,001 - £16,000	20%	£1,200

(b) Persons on Gross Income between £16,001 and £25,000

Gross Income Between	On First	Rate	Balance at 20%	Tax Payable
£16,001 - £17,000	£5,000	0%	£11,001 - £12,000	£2,200 - £2,400
£17,001 - £18,000	£4,000	0%	£13,001 - £14,000	£2,600 - £2,800
£18,001 - £19,000	£3,000	0%	£15,001 - £16,000	£3,000 - £3,200
£19,001 - £20,000	£2,000	0%	£17,001 - £18,000	£3,400 - £3,600
£20,001 - £25,000	£1,000	0%	£19,001 - £24,000	£3,800 - £4,800

(c) Persons on Gross Income over £25,000

Taxable Income Bands	Rate	Tax on band
£0 - £25,000	20%	£5,000
£25,001 - £100,000	29%	£21,750
Over £100,000	35%	.

## B. Gross Income Based System *(continued)*

2010/2011

(a) Persons on Gross Income up to £16,000

<b>Taxable Income Bands</b>	<b>Rate</b>	<b>Tax on band</b>
£0 - £10,000	8%	£800
£10,001 - £16,000	20%	£1,200

(b) Persons on Gross Income between £16,001 and £25,000

<b>Gross Income Between</b>	<b>On First</b>	<b>Rate</b>	<b>Balance at 20%</b>	<b>Tax Payable</b>
£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) Persons 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.

## B. Gross Income Based System (continued)

### 2010/2011 (continued)

(d) Persons 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 which gives a maximum effective tax rate of 26.25% on gross income of £100,000.

The tax liability is arrived at by (a) calculating the effective tax rate using the 2009/10 tax bands (see below) and (b) then reducing this by 0.5% and (c) 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).*

2009/2010 tax bands	Rate
£0 - £25,000	20%
£25,001 - £100,000	29%

(e) Persons 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) Persons on Gross Income over £353,000

Gross income is taxed as follows:-

	Rate
First £25,000	20%
£25,001 -£353,000	29%
£353,001 - £704,800	20%
£704,801 -£1,000,000	10%
Excess over £1,000,000	5%

Therefore, the effective rate of tax on £1 million income is 20% with any excess at 5%.

### 2011/2012

See Section 5.4

### App. 6.3 - Principal Tax Allowances & Reliefs

	2001/02	2002/03	2003/04	2004/05
	£	£	£	£
<b>Personal allowances</b>				
Personal	2,300	2,370	2,430	2,505
Spouse	2,150	2,215	2,275	2,345
<b>Minimum personal allowance</b>				
('top-up' allowance)	-	-	-	-
<b>Elderly persons</b>				
Additional Single Person	550	670	585	605
Additional Wife	780	805	830	855
<b>Special senior* citizens</b>				
<b>(top-up allowance)</b>	-	-	-	-
<i>*Men aged 65 and over &amp; women aged 60 and over</i>				
<b>Child relief</b>				
First child educated in Gibraltar	800	825	850	880
First child educated abroad	900	930	955	985
Each additional child	750	775	795	820
Each child educated abroad	-	-	-	-
<b>Disabled person relief</b>				
Disabled person	1,350	1,390	1,425	1,470
<b>House purchase allowance</b>				
Deduction	11,500	11,500	11,500	11,500
Additional (£1,000 max p.a)	-	-	4,000	4,000
<b>Social insurance allowance</b>				
Employee	335	335	335	335
Self-employed	432	432	432	432
<b>Other reliefs &amp; allowances</b>				
Nursery school allowance	650	850	875	905
Blind person	500	515	530	550
Single parent	2,150	2,215	2,275	2,345
Medical insurance allowance	300	500	515	1,000



	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11 2011/12
	£	£	£	£	£	£
	2,580	2,660	2,660	2,660	2,735	2,812
	2,415	2,490	2,490	2,490	2,560	2,632
	.	3,500	3,500	3,500	3,600	3,700
	.	.	.	.	.	.
	.	.	.	.	.	.
	10,000	10,300	10,300	10,300	10,590	10,887
	910	940	940	940	970	997
	.	.	.	.	.	.
	.	.	.	.	.	.
	1,015	1,045	1,045	1,045	1,075	1,105
	2,500	2,575	2,575	2,575	2,650	2,724
	11,500	11,500	11,500	11,500	11,500	11,500
	4,000	4,000	4,000	4,000	4,000	4,000
	335	335	335	335	335	335
	432	432	432	432	432	432
	935	965	965	965	995	1,023
	570	590	590	590	610	627
	2,415	2,490	2,490	2,490	2,560	2,632
	1,030	1,060	1,060	1,060	1,090	1,120



## App. 6.4 - General Index of Retail Prices

General index of retail prices at:		1 Jan 08	1 July 08	1 Jan 09	1 July 09	1 Jan 10	1 July 10	1 Jan 11	1 July 11
<b>Component Groups</b>									
Foodstuffs		130.94	135.05	144.12	146.69	150.11	153.69	154.65	162.36
Alcoholic drinks & tobacco		130.39	138.15	140.55	154.24	154.36	162.01	171.17	188.83
Clothing & footwear		95.16	97.23	90.62	94.95	90.27	96.99	98.41	102.58
Durable household goods		109.89	115.27	118.13	117.34	114.94	114.93	113.28	113.03
Housing		119.89	120.31	107.39	110.58	107.31	109.60	109.93	110.87
Services		135.71	135.83	138.60	141.59	142.39	143.17	144.08	144.27
Other Goods		117.91	119.81	123.25	127.80	128.80	129.21	130.20	132.86
Transport & vehicles		116.89	131.76	124.40	135.35	132.71	143.46	139.20	148.31
Weighted average		120.78	125.83	124.13	129.12	128.41	133.00	132.91	138.10
<b>Increase/(decrease)</b>									
over the 6 months (%)		0.51%	4.18%	(1.35%)	4.02%	(0.58%)	3.58%	(0.07%)	3.91%
Increase over the year (%)		2.56%	4.71%	2.77%	2.61%	3.40%	3.00%	3.50%	3.80%

**6.5 Institutions Licensed under the Financial Services  
(Banking) Act to carry on Deposit-Taking Business in  
or from within Gibraltar**

*Banque Jacob Safra (Gibraltar) Limited*

*Banque Audi (Suisse) SA*

*Barclays Bank PLC (Trading as Barclays Wealth)*

*Credit Suisse (Gibraltar) Limited*

*EFG Bank (Gibraltar) Limited*

*IDT Financial Services Limited*

*Jyske Bank (Gibraltar) Limited*

*Leeds Building Society*

*Lloyds TSB Bank Plc*

*Lloyds TSB Bank (Gibraltar) Limited (Trading as Lloyds Banking Group, Lloyds TSB International and Lloyds TSB Offshore Private Banking)*

*Lombard Odier Darier Hentsch Private Bank Limited*

*Newcastle Building Society*

*Norwich & Peterborough Building Society*

*SG Hambros Bank (Gibraltar) Limited*

*The Royal Bank of Scotland International Limited (trading as Natwest and RBS International)*

*The Royal Bank of Scotland (Gibraltar) Limited*

*Turicum Private Bank Limited*

## **App. 6.6 - Useful Addresses and Contact Details**

### **Government of Gibraltar**

#### **Chief Minister's Office**

6 Convent Place  
Tel: 20070071  
Fax: 20076396

#### **Finance Centre Licensing Unit**

Suite 761A Europort  
Tel: 20051163  
Fax: 20076599

#### **Gibraltar Finance Centre Ministry of Finance**

Suite 761, Europort  
Tel: 20050011  
Fax: 20051818  
E: [info@financecentre.gov.gi](mailto:info@financecentre.gov.gi)

#### **Financial Secretary**

No. 6 Convent Place  
Tel: 20051168  
Fax: 20079901  
E: [financialsec@gibtelecom.net](mailto:financialsec@gibtelecom.net)

#### **Financial Services Commission**

PO Box 940  
Suite 3, Ground Floor  
Atlantic Suites, Europort  
Avenue  
Tel: 20040283  
Fax: 20040282  
E: [info@fsc.gi](mailto:info@fsc.gi)

#### **Gibraltar Regulatory Authority**

Suite 603, Europort  
Tel: 20074636  
Fax: 20072166  
Email: [info@gra.com](mailto:info@gra.com)

#### **Auditors Public Oversight Board**

Financial Services Commission  
Suite 3, Ground Floor  
Atlantic Suites, Europort  
Avenue  
Tel: 20041062  
Fax: 20040282  
Email: [arb@fsc.gi](mailto:arb@fsc.gi)

### **Accountant General's Office**

Treasury Building  
23 John Mackintosh  
Square  
Tel: 20048396  
Fax: 20077147  
Email: [treasury@gibtelecom.net](mailto:treasury@gibtelecom.net)

### **Principal Auditor's office**

Gibraltar Audit Office  
Treasury Building  
23 John Mackintosh Square  
Tel: 20051137  
Fax: 20051136  
E-mail: [gao@audit.gov.gi](mailto:gao@audit.gov.gi)

### **Attorney General's Chambers**

Joshua Hassan House  
Secretary's Lane  
Tel: 20078882  
Fax: 20079891  
Email: [info.agchambers@gibraltar.gov.gi](mailto:info.agchambers@gibraltar.gov.gi)

### **Judiciary**

The Law Courts  
277 Main Street  
Tel: 20078808  
Fax: 20077118

### **Statistics Office**

99 Harbours Walk  
New Harbours  
Rosia Road  
Tel: 20075515/20075490  
Fax: 20051160  
E-mail: [statistics@gibraltar.gov.gi](mailto:statistics@gibraltar.gov.gi)

### **Income Tax Office**

St Jago's Stone Block  
331 Main Street  
Tel: 20075260  
Fax: 20040020  
Email: [incometax@gibraltar.gov.gi](mailto:incometax@gibraltar.gov.gi)

### **Department of Social Security**

14 Governor's Parade  
Tel: 20051149  
Fax: 20074941  
Email: [dss@gibraltar.gov.gi](mailto:dss@gibraltar.gov.gi)

### **Ministry of Employment**

Units 76 & 77  
Harbours Walk  
New Harbours  
Tel: 20040408  
Fax: 20073981  
Email: [employment.service@gibraltar.gov.gi](mailto:employment.service@gibraltar.gov.gi)

### **Customs**

Custom House, Waterport  
Tel: 20078879;  
Fax: 20078362  
Email: [hmcustoms@gibraltar.gov.gi](mailto:hmcustoms@gibraltar.gov.gi)

### **Education & Training**

23 Queensway  
Tel: 20077486  
Fax: 20071564  
Email  
[info.edu@gibraltar.gov.gi](mailto:info.edu@gibraltar.gov.gi)

### **Gibraltar Tourist Board**

Duke of Kent House  
Cathedral Square  
Tel: 20074950  
Fax: 20074943  
Email:  
[information@tourism.gov.gi](mailto:information@tourism.gov.gi)

### **Technical Services Department**

Joshua Hassan House  
Secretary's Lane  
Tel: 20059800  
Fax: 20040386

### **Official Receiver's Office**

Treasury Department  
23 John Mackintosh Square  
Tel: 20043016  
Fax: 20070764



**Department of Consumer Affairs**

Ground Floor  
10 Governor's Lane  
Tel: 20050788  
Fax: 20047995  
Email: conaffairs@gibtelecom.net

**Registry of Companies & Business Names**

Companies House (Gibraltar) Limited  
1st Floor, The Arcade,  
30-38 Main Street  
Tel: 20078193  
Fax: 20044436  
Email: mail@companieshouse.gi

**Registry of Co-operative Societies & Friendly Societies**

Financial Secretary's Office  
No 6 Convent Place  
Tel: 20051168  
Fax: 20079901  
Email: financialsec@gibtelecom.net

**Department of Enterprise and Development**

Suite 631, Europort  
Tel: 20052052;  
Fax: 20071406  
Email: info@investgibraltar.gov.gi

**Trade Licensing Office**

Suite 631, Europort  
Tel: 20076358  
Fax: 20071950  
Email: licensing@dti.gov.gi

**Royal Gibraltar Police Police Headquarters**

New Mole House  
Rosia Road  
Tel: 20072500  
(Emergency 199 & 112)  
Fax: 20072428  
Email: rgpadmin@gibtelecom.net

**Central Police Station**

Irish Town  
Tel: 20079395  
(Emergency 199 & 112)

**Immigration Department**

Joshua Hassan House  
Secretary's Lane  
Tel: 20076948  
Fax: 20043053  
Email: immigration.csro@gibraltar.gov.gi

**Post Office**

104 Main Street  
Tel: 20075714  
Fax: 20072476  
Email: info@post.gi

**Philatelic Bureau Gibraltar Philatelic Bureau Ltd,**

Suite 9/11  
Watergardens 2  
Tel: 20075662  
Fax: 20042149  
Email: info@gibraltar-stamps.com

**Hospitals****St. Bernard's Hospital**

Harbour Views Road  
Tel: 20079700

**Primary Care Centre**

2nd Floor  
International Commercial Centre (ICC)  
2A Main Street  
Tel: 20072355  
Fax: 20043948  
Email: info@gha.gi

**Environmental Health****Environmental Agency Limited**

37 Town Range  
Tel: 20070620  
Fax: 20074119  
Email: admin@environmental-agency.gi

**Emergency Services**

Fire	190
Ambulance	190
Police	199
All emergencies	112

**Air Terminal****Terminal Management Ltd**

Winston Churchill Avenue  
Tel: 20073026  
Fax: 20073925  
Email: info@gibraltar-airport.com

**Public Utilities****Telephone:****Gibtelecom**

13/21 John Mackintosh Square  
Tel: 20052200  
Fax: 20071673  
Email: info@gibtele.com

**Water & Electricity:****Gibraltar Electricity Authority (Connections, etc.)**

Gibelec House,  
North Mole Road  
Tel: 20074191  
Fax: 20048935  
Email: consumer@gibelec.gi

**AquaGib Limited**

Suite 10B, Leanse Place  
50 Town Range  
Tel: 20040880  
Fax: 20040881  
E-mail: main.office@aquagib.gi



## **Business**

### **Gibraltar Chamber of Commerce**

Watergate House  
2/6 Casemates Square  
P O Box 29  
Tel: 20078376  
Fax: 20078403  
E-mail:  
info@gibraltarchamberofcommerce.com

### **Gibraltar Federation of Small Businesses**

122/2 Irish Town  
PO Box 211  
Tel: 20047722  
Fax: 20047733  
E-mail: gfsb@gfsb.gi

## **App. 6.7 - Useful Gibraltar Websites**

<b>Baker Tilly (Gibraltar) Limited</b>	<i>www.bakertillygibraltar.gi</i>
<b>Government of Gibraltar Information Services</b>	<i>www.gibraltar.gov.gi</i>
<b>General information on Gibraltar</b>	<i>www.gibraltar.gi</i>
<b>The Gibraltar Financial Services Commission</b>	<i>www.fsc.gi</i>
<b>The Gibraltar Society of Accountants</b>	<i>www.gibraltaraaccountants.com</i>
<b>The Gibraltar Federation of Small Businesses</b>	<i>www.gfsb.gi</i>
<b>The Gibraltar Chamber of Commerce</b>	<i>www.gibraltarchamberofcommerce.com</i>
<b>The Gibraltar Banker's Association</b>	<i>www.gba.gi</i>
<b>Gibraltar Companies House</b>	<i>www.companieshouse.gi</i>
<b>Gibraltar Insurance Association</b>	<i>www.gia.gi</i>
<b>Gibraltar Laws</b>	<i>www.gibraltarlaws.gov.gi</i>
<b>Gibraltar Regulatory Authority</b>	<i>www.gra.gi</i>



## **App. 6.8 - About Baker Tilly**

### **Baker Tilly Gibraltar - Practice Profile**

Baker Tilly Gibraltar Limited (“Baker Tilly Gibraltar”) and its predecessors have been in Gibraltar since the 1920’s. Over the years the practice has gathered in-depth knowledge and experience in all key areas of the local economy.

Baker Tilly Gibraltar is one of the foremost providers of audit, accountancy and taxation services in Gibraltar. Clients range from small retailers to companies involved in property and construction, shipping, wholesale trade, insurance, funds, banks, financial service intermediaries and online gaming. Many of these businesses are branches or subsidiaries of major international corporations.

The directors have been in practice in Gibraltar for many years and have extensive knowledge of the local business environment. In addition to their experience in general practice, individual directors have developed specialist knowledge in key areas such as taxation, corporate recovery, online gaming and financial services generally (including insurance, funds management and banking). The directors are committed to maintaining the highest professional standards and are supported by comprehensive technical resources.

Baker Tilly Gibraltar is an independent member of Baker Tilly International (see below), one of the world’s top ten accountancy and business services networks, currently comprising 150 independent member firms in 120 countries.

Our affiliation allows us to access a considerable international network of experience, knowledge and technical support. We are required to maintain the professional standards set by Baker Tilly International but as an autonomous country practice, policy decisions are taken locally. This allows us to deal with client and other issues expeditiously.

## **Baker Tilly International**

Baker Tilly International is one of the world's top ten accountancy and business advisory networks by combined fee income, and is represented by 150 firms in 120 countries and around 25,000 personnel worldwide. Its members are high quality, independent accountancy and business services firms, all of whom are committed to providing the best possible service to their clients, both in their own marketplace and across the world.

### **List of countries represented by Baker Tilly International**

Albania	Czech Republic	Lebanon	Qatar
Algeria	Denmark	Libya	Romania
Andorra	Dominican Republic	Liechtenstein	Russia
Angola	Ecuador	Lithuania	Saudi Arabia
Argentina	Egypt	Luxembourg	Serbia
Armenia	Estonia	Macau	Seychelles
Australia	Finland	Macedonia, FYR	Singapore
Austria	France	Malaysia	South Africa
Azerbaijan	Georgia	Maldives	Spain
Bahamas	Germany	Malta	Sri Lanka
Bangladesh	<b>GIBRALTAR</b>	Mauritius	Sudan, Republic of
Belarus	Greece	Mexico	Sweden
Belgium	Guatemala	Moldova	Switzerland
Belize	Hong Kong	Mongolia	Taiwan
Bermuda	Hungary	Morocco	Tajikistan
Botswana	India	Nepal	Tanzania
Brazil	Indonesia	Netherlands	Thailand
British Virgin Islands	Iraq	New Zealand	Trinidad & Tobago
Bulgaria	Ireland	Nigeria	Turkey
Cambodia	Isle of Man	Northern Ireland	Uganda
Canada	Israel	Norway	Ukraine
Cayman Islands	Italy	Oman	United Arab Emirates
Channel Islands	Japan	Pakistan	United Kingdom
Chile	Jordan	Panama	United States of
China	Kazakhstan	Paraguay	America
Colombia	Kenya	Peru	Uruguay
Costa Rica	Korea, Republic of	Philippines	Venezuela
Croatia	Kuwait	Poland	Vietnam
Curacao	Kyrgyz Republic	Portugal	Zambia
Cyprus	Latvia	Puerto Rico	Zimbabwe



## App. 6.9 - Biographies of Directors



### **JOSE JULIO PISHARELLO BSc (Hons) ACIB FCCA Board Chairman**

Jose Julio qualified as a Chartered Certified Accountant in 1991. He has been working in practice in Gibraltar ever since and has acquired in-depth knowledge and experience of the local commercial and business environment particularly in the field of financial services. He has been a partner/director since 1999.

Jose Julio's has specialised in Banking and Insurance and, together with co-director Angelique Linares, leads the specialist audit teams in these areas. Their expertise in Insurance has resulted in Baker Tilly Gibraltar becoming the leading firm in the provision of audit and advisory services to the Insurance Industry in Gibraltar. He also heads the Payroll Services department and is the director responsible for the Learning and Development programme for the firm.

Jose Julio was admitted as an Associate Member of the Institute of Financial Services (Chartered Institute of Bankers) after qualifying in 2006. He was, in 2008 and 2009, President of the Gibraltar Society of Accountants, having also served as Deputy President of the Society in 2006 and 2007. Jose Julio has also been a member of the Society's Executive and Technical Committees and has served as Chairman of the latter. Currently, he is a member of the Tax Faculty of the GSA.



### **IAN P COLLINSON BSc(Econ) (Hons) FCA FMAAT Managing Director**

A graduate of Hull University, Ian trained as a Chartered Accountant in London, qualifying in 1986.

On his return to Gibraltar he joined one of the predecessor firms of Baker Tilly (Gibraltar) Limited and has been a partner/director since 2000.

Ian has extensive experience in general audit accountancy and tax and looks after, amongst other things, the firm's portfolio of construction and development companies and has been involved in a number of international tax restructures.

Ian is a member of the Executive of the Gibraltar Society of Accountants and a former Chairman of the Society's Training Committee. Currently, he is the Chairman of the Finance Faculty.

Ian has also been the Honorary Auditor of the Gibraltar Football Association for many years.



### **ANGELIQUE LINARES BSc (Hons) FCA**



A graduate of the University of East Anglia, Angelique qualified as a Chartered Accountant in Leicester. In 1997 she joined one of the predecessor firms of Baker Tilly (Gibraltar) Limited 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 in 2006.

Angelique specialises in provision of auditing, accounting and advisory services within the insurance and captive administration sector and, together with co-director Jose Julio, leads the specialised team providing services to a large portfolio of clients. Their expertise in this field has resulted in Baker Tilly Gibraltar becoming the leading firm in the provision of audit and advisory services to the Insurance Industry in Gibraltar.

Angelique is the director responsible for Human Resources.

Angelique is currently Vice Chairman of the Gibraltar Insurance Association and sits on the Government Discretionary Scholarship Awards Committee. She is a former Chairperson of the Training Committee of the Gibraltar Society of Accountants and has sat on the Government Training Advisory Council. Having been involved with Young Enterprise Gibraltar branch in judging the finalists, she has now been appointed as a judge for Young Enterprise in UK.

### **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 one of the predecessor firms of Baker Tilly (Gibraltar) Limited and was appointed as a partner/director in 2006.

Johann is responsible for the provision of audit, accountancy and tax services to a wide range of local clients, including financial services, funds and Public Services companies.

Johann is a member of the Insolvency Faculty of the Gibraltar Society of Accountants and Treasurer of the St John Ambulance.



**NEIL M RUMFORD BAdmin (Hons) CA**

Having graduated from Dundee University, Neil trained as a Chartered Accountant with Ernst & Young in Dundee. On qualification in 1991, Neil joined one of the predecessor firms of Baker Tilly (Gibraltar) Limited, and in 2006 was appointed as a director.

Neil has been involved in the provision of audit, management reporting, tax and business consultancy services to clients in a wide range of industries, with particular emphasis on the e-gaming sector.

More recently Neil has been specialising in tax and heads our Tax Unit, recently formed to help our clients meet the challenges of the new Income Tax Act in Gibraltar.



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