



## International tax

# Gibraltar Tax Highlights 2014

### Investment basics:

**Currency** – Gibraltar Pound (GIP)

**Foreign exchange control** – There are no exchange controls in Gibraltar. Residents and nonresidents may maintain accounts denominated in foreign currencies.

**Accounting principles/financial statements** – IAS/IFRS and Gibraltar GAAP. Financial statements must be prepared annually.

**Principal business entities** – These are the public and private limited company, partnership, limited partnership, sole trader, branch and nonresident company.

### Corporate taxation:

**Residence** – A company is resident if it is managed and controlled in Gibraltar.

**Basis** – Companies are taxed on income that is accrued in or derived from Gibraltar. Branches are taxed in the same manner as companies. Nonresident companies are subject to tax on Gibraltar-source income.

**Taxable income** – Corporation tax is imposed on a company's profits, which consist of business/trading income "accruing in or derived from" Gibraltar. Investment income from listed securities is not subject to taxation (except for banks). Expenses incurred wholly and exclusively in the production of taxable income may be deducted in computing taxable income.

As of 1st July 2013 interest received or receivable from inter-company loans "accruing in or derived from" Gibraltar is subject to taxation in Gibraltar at 10%. A Gibraltar *registered* company is automatically deemed to have any intercompany interest income "accruing in or derived from" Gibraltar.

Where the interest received or receivable is less than £100,000 per annum, the interest will not be subject to taxation in Gibraltar unless the income falls within the scope of trading income, as would be the case for banks, building societies, etc. Interest receivable from all connected companies will be aggregated for purposes of determining the £100,000 threshold.

As of 1st January 2014 royalty income accrued in or derived from Gibraltar is subject to taxation in Gibraltar at 10%. Royalties are deemed to "accrue and derive" from Gibraltar where the company receiving the royalties is *registered* in Gibraltar.

**Taxation of dividends** – Dividends are not subject to taxation.

**Capital gains** – There is no capital gains tax in Gibraltar.

**Losses** – Trading losses may be carried forward indefinitely provided there is no change of ownership in the company and no major change in the nature or conduct of trade within a period of three years.

**Rate** – The rate for companies is 10%; however, utility companies and companies that abuse a dominant market position are subject to taxation at 20%.

**Surtax** – No

**Alternative minimum tax** – No

**Foreign tax credit** – Unilateral relief is granted for tax suffered in a foreign country.

**Participation exemption** – The provisions of the EU parent-subsidiary directive have been transposed into domestic legislation, although dividend income is not subject to taxation as from 2011.

**Holding company regime** – See under "Participation exemption."

**Incentives** – Gibraltar is part of EU, so financial services firms can passport their services to other EU countries and all EU directives apply in Gibraltar. Tax free benefits and special personal tax status are available to attract employees, particularly high earning executives.

### Withholding tax:

**Dividends** – There is no withholding tax on dividends.

**Interest** – There is no withholding tax on interest.

**Royalties** – There is no withholding tax on royalties.

**Technical service fees** – There is no withholding tax on technical service fees.

**Branch remittance tax** – No

**Other** – No

### Other taxes on corporations:

**Capital duty** – No

**Payroll tax** – No

**Real property tax** – No

**Social security** – Employer contributions are payable for each employee at 20% of gross earnings subject to a maximum contribution of £1,714.44 per annum. Contributions are payable on a weekly basis subject to a minimum of £15 per week and a maximum of £32.97 per week.

**Stamp duty** – Stamp duty is charged at a fixed rate of £10 and applies on the initial creation of share capital or subsequent increase. There is also stamp duty on immovable property located in Gibraltar depending on the value of the property (see below).

**Transfer tax** – No

**Other** – No

### Anti-avoidance rules:

**Transfer pricing** – There are no specific transfer pricing rules, but the tax authorities can apply a general anti-avoidance provision if an arrangement is deemed to be artificial or designed to reduce tax. Under a clause for connected parties, where a transaction is deemed not to be at arm's length, allowable deductions are restricted to the lower of the amount of the expense, 5% of gross turnover or 75% of net profits (pre-expense). Where interest is paid at a non-commercial rate, the excess is disallowed for tax purposes.

**Thin capitalization** – Interest paid is deemed to be a dividend where the debt-to-equity ratio exceeds 5:1 and the interest is paid to a connected party that is not a company, or interest is paid to an arm's length party where the loan is secured by assets belonging to a connected party that is not a company.

**Controlled foreign companies** – No

**Other** – Where an individual transfers assets abroad and this gives rise to income to a nonresident person that can be, now or in the future, enjoyed by an ordinarily resident taxpayer, the income of the nonresident will be taxed on the ordinarily resident taxpayer unless it is a bona fide commercial transaction and the purpose is not to avoid tax. The general anti-avoidance provisions also may apply.

**Disclosure requirements** – There is a duty to notify the tax authorities about arrangements that are designed to reduce tax.

### Administration and compliance:

**Tax year** – The tax year is 1 July to 30 June. Companies are subject to tax on the profits of their accounting period; if the accounting period exceeds 12 months, it will be divided into two periods.

**Consolidated returns** – Consolidated returns are not permitted; each company must file a separate return.

**Filing requirements** – A tax return must be submitted within six months from the accounting year end. Audited accounts can be submitted within nine months from the year end. Advance payments of tax based on 50% of the previous year's tax liability must be made by 28 February and 30 September in each year. The final payment (or refund request) is due when submitting the tax return, i.e. within six months of the accounting year end.

**Penalties** – There are surcharges for the late payment of tax and penalties for the late filing of tax returns and for errors or omissions in the tax return/payment.

**Rulings** – Advance rulings can be obtained from the Commissioner of Income Tax.

## Personal taxation:

**Basis** – Individuals are taxed on income "accruing in or derived from" Gibraltar and, if the individual is ordinarily resident, also on worldwide income (except rental income from foreign property). Individuals who are present in Gibraltar for less than 30 days per year are exempt.

**Residence** – An individual who is present for at least 183 days in a year or 300 days in any three consecutive years is ordinarily resident. Presence is defined as any part of a 24-hour period commencing at midnight.

**Filing status** – The income of a wife is taxed separately.

**Taxable income** – All trade and employment income "accruing in or derived from" Gibraltar is taxable and, in the case of an ordinarily resident individual, worldwide income also is taxable. Interest income, dividends from listed companies, royalty income, pension income and income from foreign property is not subject to taxation. Expenses incurred on the production of taxable income may be deducted for tax purposes.

**Capital gains** – There is no capital gains tax in Gibraltar.

**Deductions and allowances** – Personal allowances are available to the taxpayer and his/her spouse. There also are allowances for children, dependent relatives, marriage, nursery school, life insurance and medical insurance. Gibraltar offers mortgage interest relief and a home purchase allowance.

**Rates** – Gibraltar has a dual tax system, under which a taxpayer is free to elect between an

allowance-based system and a gross income-based system (no allowances available but certain deductions are available if eligible).

Rates under the gross income-based system are split between gross income of up to £25,000 and gross income exceeding that amount. The rates on income up to £25,000 is 6% on the first £10,000, 20% between £10,001 to £17,000 and 28% on the balance. The rates on gross income exceeding £25,000 start at 16% and peak at 28%.

The rates start to reduce for gross income exceeding £105,000 up to a minimum of 5% for income exceeding £1 million.

The allowance-based system has a reduced rate of 15%, a standard rate of 24% and a rate of 40% for taxable income exceeding £16,000.

As from 1 July 2013, the minimum amount of tax payable by individuals holding "Category 2" residence status (available to high net worth individuals) is £22,000 per annum and the maximum tax is £29,080. Executives holding "HEPSS" status are limited to tax on the first £120,000 of assessable income.

## Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Stamp duty applies to purchases of Gibraltar real estate, as follows: property costing under £250,000 - exempt; between £250,000 and 350,000 -2% on the first £250,000 and 5.5% on the next £100,000; exceeding £350,000 the rate is 3% on the first £350,000 and 3.5% on the excess.

**Capital acquisitions tax** – No

**Real property tax** – No, but stamp duty applies (see above).

**Inheritance/estate tax** – No

**Net wealth/net worth tax** – No

**Social security** – Employee contributions are payable at 10% of gross earnings subject to a maximum contribution of £1,308.32 per annum. Contributions are payable on a weekly basis subject to a minimum of £5 per week and a maximum of £25.16 per week.

## Administration and compliance:

**Tax year** – Self-assessment is made on an annual basis, the year of assessment being the period of 12 months commencing 1 July and ending 30 June the following year.

**Filing and payment** – Tax on employment income is withheld by the employer under the

PAYE system and remitted to the tax authorities. Income not subject to PAYE is self-assessed and the tax return must be submitted by no later than 30 November following the year of assessment. Income not included under PAYE requires advance payments of tax based on 50% of the previous year's excess. Payments are due by 30 June and 31 January. The final payment is due by 30 November, together with the filing of the tax return.

**Penalties** – There are surcharges for the late payment of tax and penalties for the late filing of tax returns and errors or omissions in the tax return/payment.

## Value added tax:

**Taxable transactions** – No

**Rates** – No

**Registration** – No

**Filing and payment** – No

**Source of tax law:** Income Tax Act 2010

**Tax treaties:** Gibraltar has not concluded any tax treaties, but has 27 tax information exchange agreements is subject to US and UK FATCA and is signed up to the Convention on Mutual Administrative Assistance in Tax Matters.

**Tax authorities:** Income Tax Office

**International organizations:** EU, OECD

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