International Tax

Gibraltar Highlights 2021

Updated March 2021

Investment basics

Currency: The Gibraltar Pound (GIP) or Pound Sterling (GBP) are both official currencies and have the same value.

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 apply. Financial statements must be filed annually.

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

Corporate taxation

Rates	
Corporate income tax rate	10%
Branch tax rate	10%
Capital gains tax rate	There is no capital gains tax

Residence: A company is resident if it is managed and controlled in Gibraltar or managed and controlled outside Gibraltar by persons who are ordinarily resident in Gibraltar.

Basis: Companies are taxed on income that is accrued in or derived from Gibraltar. To determine whether income accrues in or derives from Gibraltar, the Commissioner of Income Tax will have regard to the location of the activities that give rise to the income. Where the activities must be licensed and regulated in Gibraltar, income from the activities is deemed to accrue in or derive from Gibraltar, unless the activities are carried out outside Gibraltar by a branch or permanent establishment (PE) of a Gibraltar company situated outside Gibraltar. Gibraltar registered branches of foreign companies 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 accrued in or derived from Gibraltar. Investment income from listed securities is not subject to taxation, other than for banks.

Expenses incurred wholly and exclusively in the production of taxable income may be deducted in computing taxable income.

Interest received or receivable from intercompany loans accrued in or derived from Gibraltar is subject to tax in Gibraltar at a rate of 10%. Interest is deemed to accrue in or derive from Gibraltar where the company in receipt of the interest is a Gibraltar registered company.

Where the interest received or receivable is less than GBP 100,000 per annum, the interest is not 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 is aggregated for the purpose of determining the GBP 100,000 threshold.

Royalty income accrued in or derived from Gibraltar is subject to tax in Gibraltar at a rate of 10%. Royalty income is deemed to be accrued in or derived from Gibraltar where the company receiving the income is registered in Gibraltar.

Nontrading rental income arising from movable property located outside Gibraltar is deemed to be accrued in or derived from Gibraltar where the company receiving the income is registered in Gibraltar and is subject to corporation tax at 10%.

Rate: The corporation tax rate is 10%; utility companies and companies that abuse a dominant market position are subject to taxation at 20%.

Surtax: Gibraltar does not impose a surtax.

Alternative minimum tax: Gibraltar does not impose an alternate minimum tax.

Taxation of dividends: Domestic and foreign dividends received by a company 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 not both a change of ownership in the company and a major change in the nature or conduct of the trade within a period of three years. The carryback of losses is not permitted.

Foreign tax relief: Unilateral relief may be granted in respect of tax suffered in a foreign country equivalent to the lower of the foreign tax suffered or the tax that would have been charged in Gibraltar on the income.

Participation exemption: Dividend income is not subject to taxation (see "Taxation of dividends," above).

Holding company regime: There is no holding company regime but dividend income received by a company is not subject to taxation and there is no capital gains tax in Gibraltar.

Incentives: A flat rate 10% tax is available, and investment income (except for banks) and dividend income are not subject to taxation. All newly established businesses in Gibraltar may claim 100% capital allowances against the tax liability arising from the first year of trade. Qualifying training costs borne by Gibraltar employers are allowed as a deductible expense against taxable profits at a rate of 150%. Aid in the form of tax relief and import duty relief, amongst other benefits, is available to promoters and developers of approved projects in Gibraltar that are deemed to be for the economic benefit of Gibraltar. There are preferentially taxed benefits to attract certain employees, particularly high-earning executives.

Compliance for corporations

Tax year: The tax year runs from 1 July to 30 June. Companies are subject to tax in respect of their accounting period; accounting periods that exceed 12 months are divided into two periods.

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

Filing and payment: All companies must file a complete tax return within nine months from their accounting year-end together with audited accounts (for companies with assessable income in excess of GBP 1.25 million) or an accountant's compilation report (for companies with taxable income below this threshold). Advance payments of tax based on 50% of the previous year's tax liability must be made by 28 February and 30 September. A final balancing payment must be made or a refund requested at the time the tax return is filed.

Penalties: Tax paid late is subject to surcharges and penalties apply for the late filing of tax returns and for errors or omissions in the tax return/payment.

Rulings: Rulings may be sought in respect of the practical application of the Income Tax Act or the income tax implications of a transaction.

Individual taxation

Rates		
Individual income tax rate	**Taxable income**	**Rate**
Allowance based system	First GBP 4,000	14%
	GBP 4,001–GBP 16,000	17%
	Over GBP 16,000	39%
Gross income based system (Income not exceeding GBP 25,000)	First GBP 10,000	6%
	GBP 10,001–GBP 17,000	20%
	Over GBP 17,000	28%
Gross income based system (Income exceeding GBP 25,000)	First GBP 17,000	16%
	GBP 17,001–GBP 25,000	19%
	GBP 25,001–GBP 40,000	25%
	GBP 40,001–GBP 105,000	28%
	GBP 105,001–GBP 500,000	25%
	GBP 500,001–GBP 700,000	18%
	Over GBP 700,000	5%
Capital gains tax rate		There is no capital gains tax

Residence: An individual who is present in Gibraltar for at least 183 days in a tax year or 300 days in any three consecutive tax years is ordinarily resident. Presence is defined as any part of a 24-hour period commencing at midnight, irrespective of whether any accommodation is used.

Basis: Individuals are taxed on income accrued in or derived from Gibraltar and if the individual is ordinarily resident, on worldwide assessable income (except for rental income from foreign immovable property). Individuals who are present in Gibraltar for less than 30 days per year are not subject to tax in Gibraltar.

Taxable income: All trade and employment income accrued in or derived from Gibraltar is taxable and, in the case of an ordinarily resident individual, worldwide income also is taxable. Interest income, royalty income, and income from immovable foreign property are not taxable. Expenses incurred in the production of taxable income may be deducted for tax purposes. Dividends are taxable only if paid from profits taxable in Gibraltar and the taxpayer receives a tax credit for corporate tax paid on the underlying profits out of which the dividend is paid.

Rates: Gibraltar has a dual tax system, under which a taxpayer may elect between an allowance based system and a gross income based system. The rates for the tax year 2020/21 (i.e., 1 July 2020 to 30 June 2021) are shown in the table above. Under the allowance based system, various deductions and allowances are available to Gibraltar resident individuals; see "Deductions and allowances," below.

The minimum amount of tax payable by individuals holding "Category 2" status (available to high net worth individuals who satisfy certain criteria) is GBP 22,000 per annum, and the maximum tax is GBP 27,560. Executives holding the special High Executive Possessing Specialist Skills (HEPSS) status with a Gibraltar employer pay tax only on the first GBP 120,000 of assessable income earned from that employer, under the gross income based system.

Capital gains: There is no capital gains tax in Gibraltar.

Deductions and allowances: Personal allowances may be available to the taxpayer and the taxpayer's spouse. There also are allowances for children, dependent relatives, marriage, nursery school fees, life insurance premiums, approved pension scheme contributions, and medical insurance contributions. Gibraltar offers mortgage interest relief and a home purchase allowance.

Foreign tax relief: Unilateral relief may be granted in respect of tax suffered in a foreign country equivalent to the lower of the foreign tax suffered or the tax that would have been charged in Gibraltar on the income.

Compliance for individuals

Tax year: The year of assessment is the period of 12 months commencing on 1 July and ending on 30 June of the following year.

Filing status: The income of a spouse is taxed separately.

Filing and payment: Tax on employment income is withheld by the employer under the Pay As You Earn (PAYE) system and remitted to the tax authorities on a monthly basis. 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 taxed via the PAYE system requires advance payments of tax based on 50% of such income in the previous year. Payments are due by 30 June and 31 January. The balance of tax payable is due by 30 November, when the tax return is filed.

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.

Rulings: Rulings may be sought in respect of the practical application of the Income Tax Act or the income tax implications of a transaction.

Withholding tax

Gibraltar does not impose withholding tax on dividends, interest, royalties, or technical service fees, nor does it impose a branch remittance tax.

Anti-avoidance rules

Transfer pricing: There are no specific transfer pricing rules; however, the general anti-avoidance rule in the Income Tax Act that may be applied to arrangements deemed to be artificial or designed to reduce tax should be interpreted in such a manner as best secures consistency with the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*. 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). When interest is paid at a noncommercial rate, the excess is disallowed for tax purposes.

Thin capitalization: Interest paid is deemed a dividend where the debt-to-equity ratio exceeds 5:1 and the interest paid is in respect of either (i) a loan from a connected party that is not a company and is not considered to be at arm's length, or (ii) a non-arm's length loan secured by assets belonging to a connected party that is not a company.

Interest deduction limitations: Restrictions on the deduction of interest apply as part of the transposition of the EU Anti-Tax Avoidance Directive (ATAD) into Gibraltar's domestic legislation. The amount by which the deductible borrowing costs of a taxpayer exceed taxable interest revenues ("exceeding borrowing costs") are deductible in the tax period incurred only up to the greater of 30% of EBITDA (earnings before interest, tax, depreciation, and amortization) or EUR 3 million (prorated for consolidated groups). The provisions do not apply to financial entities, certain infrastructure loans, and pre-17 June 2016 borrowings that remain unchanged after that date. Exceeding borrowing costs not deducted in a tax period may be carried forward indefinitely. Unused interest capacity may be carried forward for five years.

Controlled foreign companies: Controlled foreign company (CFC) provisions in line with the ATAD apply. Where an entity is treated as a CFC, the undistributed income of the entity arising from non-genuine arrangements that have been put in place for the essential purpose of obtaining a tax advantage is included as income of the Gibraltar taxpayer. The CFC provisions do not apply when the accounting profits of the CFC do not exceed the equivalent of EUR 750,000 and the CFC's nontrading income does not exceed the equivalent of EUR 75,000, or where the accounting profits of the CFC do not exceed 10% of its operating profits.

Hybrids: The Income Tax Act contains comprehensive hybrid mismatch provisions compatible with ATAD 1 and ATAD 2 that may deny deductions or bring receipts into the charge to tax in relation to mismatches arising from a wide variety of hybrid entity and hybrid instrument scenarios.

Economic substance requirements: There are no economic substance requirements.

Disclosure requirements: Certain tax arrangements that result in tax advantages and fall within prescribed hallmarks must be disclosed to the Gibraltar tax authorities. Certain international arrangements from 25 June 2018 also may need to be disclosed under the EU mandatory disclosure rules (DAC 6).

Gibraltar has implemented country-by-country notification and reporting requirements that apply to multinational enterprise groups with total consolidated revenue of at least EUR 750 million in the previous year.

Exit tax: As from 1 January 2020 an exit tax may apply where a corporate taxpayer transfers:

- Assets from its head office to its PE outside of Gibraltar, to the extent that Gibraltar no longer has the right to tax the transferred assets;
- Assets from its PE in Gibraltar to its head office outside of Gibraltar, to the extent that Gibraltar no longer has the right to tax the transferred assets;
- Its tax residence outside of Gibraltar, except for those assets that remain effectively connected with a PE in Gibraltar; or

- The business carried on by its PE from Gibraltar to any jurisdiction outside of Gibraltar, to the extent that Gibraltar no longer has the right to tax the transferred assets.

Transfers of assets, tax residence, and business in relation to the above are defined as follows:

- A "transfer of assets" means an operation whereby Gibraltar loses the right to tax the transferred assets whilst the assets remain under the legal or economic ownership of the same taxpayer;
- A "transfer of tax residence" means an operation whereby a taxpayer ceases to be resident for tax purposes in Gibraltar whilst acquiring tax residence outside of Gibraltar; and
- A "transfer of a business carried on by a PE" means an operation whereby a taxpayer ceases to have a taxable presence in Gibraltar whilst acquiring such presence outside of Gibraltar without becoming resident for tax purposes outside of Gibraltar.

Where the exit tax applies, it is charged at the taxpayer's corporate tax rate on the difference between the market value of the transferred assets and the value of the assets for tax purposes.

General anti-avoidance rule: The Income Tax Act contains a general anti-avoidance rule that may be applied to arrangements deemed to be artificial or designed to reduce tax.

Other: When an individual transfers assets abroad and this gives rise to income to a nonresident that may be enjoyed by an ordinarily resident taxpayer, either currently or in the future, 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.

Value added tax

There is no system of VAT, sales tax, or goods and services tax in Gibraltar.

Other taxes on corporations and individuals

Unless otherwise stated, the taxes in this section apply both to companies and individuals.

Social security: Employer contributions are payable on a weekly or monthly basis, up to a maximum of GBP 40.15 or GBP 173.98, respectively. Employee contributions are payable on a weekly or monthly basis, up to a maximum of GBP 30.25 or GBP 131.08, respectively.

Payroll tax: Gibraltar does not impose a payroll tax but employers are required to withhold tax on employees' earnings under PAYE, and employer and employee social insurance contributions.

Capital duty: There is no capital duty in Gibraltar.

Real property tax: There is no real property tax in Gibraltar, although "rates" are payable by companies and stamp duty is payable by individuals.

Transfer tax: There is no transfer tax in Gibraltar.

Stamp duty: For companies, stamp duty is charged at a fixed rate of GBP 10 and applies on the initial creation of share capital or a subsequent increase in share capital, and on immovable property located in Gibraltar.

Stamp duty applies to purchases of Gibraltar real estate by individuals, as follows: property costing up to GBP 200,000 is exempt; for property with a cost between GBP 200,001 and GBP 350,000, the rate is 2% on the first GBP 250,000 and 5.5% on the balance; and for property with a cost exceeding GBP 350,000, the rate is 3% on the first GBP 350,000 and

3.5% on the balance. For first and second-time buyers, no stamp duty is due on the first GBP 260,000 of the cost of the property, irrespective of the total cost.

Net wealth/net worth tax: There is no net wealth tax or net worth tax in Gibraltar.

Inheritance/estate tax: There is no inheritance tax or estate tax in Gibraltar.

Tax treaties: Gibraltar has concluded a tax treaty with the UK and has 27 tax information exchange agreements. There is also a tax agreement between Spain and the UK regarding Gibraltar.

Tax authorities: Income Tax Office

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