

# Gibraltar

## Chamber of commerce:

Gibraltar Chamber Of Commerce  
Watergate House  
2/6 Casemates  
Gibraltar

Tel: +350 200 78376  
Fax: +350 200 78403  
Email: info@  
gibraltarchamberofcommerce.com  
Web: gibraltarchamberofcommerce.com

## Professional body:

General Council of the Bar of Gibraltar  
P.O. Box 919  
Watergate House  
2/7 Casemates Square  
Gibraltar

Tel: +350 200 59026  
Fax: +350 200 49178

## Gibraltar: Income Tax 2010 & business opportunities

Melo Triay, Jay Gomez and Sarah Miles  
Triay & Triay  
Gibraltar

Located at the southernmost tip of the Iberian peninsula, Gibraltar joined the European Economic Community with the United Kingdom in 1973. A self-governing British Overseas Territory, with English as its primary business language and Sterling as its currency, Gibraltar enjoys over 300 days of sunshine per year and is a stones throw away from Spain's Costa del Sol and Costa de la Luz.

Gibraltar's legislative framework and legal system is based on that of England and Wales: common law and rules of equity. Gibraltar does however have its own legal nuances and has developed a statutory framework through its legislature, being Her Majesty and the elected Gibraltar Parliament.

### Income Tax Act 2010: corporation tax and personal taxation

The Income Tax Act 2010 (the IT Act) came into force on the January 1 2011. Primarily this has impacted on corporate financial activity, mainly due to a reduction in corporation tax from the previous 22% to a standard fixed rate of 10% on profits for all companies with income accruing in or deriving from Gibraltar.

There is no withholding tax on dividends, no VAT, no capital gains tax and no tax payable on interest paid to individuals or companies and income from savings (such as interest from bank accounts) or income from quoted investments.

As from the January 1 2011, an individual who visits Gibraltar for 183 days in one year, or more than 300 days in three consecutive years, is deemed to be a Gibraltar resident, for the purposes of the IT Act, and liable to taxation on worldwide income (subject to double-tax relief).

The 'average' taxpayer in Gibraltar can elect between an Allowance Based System (ABS) and a Gross Income Based System (GIB), and take advantage of the more beneficial of the two. The following are examples of the principal allowances available to individuals electing the ABS: personal allowances, child relief, nursery school allowance, dependent relative relief, deduction for purchase or construction of a house or flat, medical insurance allowance and life insurance relief.

### Taxation following the Chief Minister's budget

On the July 4 2011, the Chief Minister, during his budget speech, announced that Gibraltar's economy had grown by 6.5% for the year to March 2010, with a budget surplus of £28.3 million and a prediction that Gibraltar's economy will grow by a further 5% in the next year, to over £1 billion, with a £31 million budget surplus.

The July 4 Budget provided that the lowest rate under GIB would be reduced by a further 2% to 6%, the top rate from 29% to 28% and a restructuring of the tax bands under GIB so as deliver further reductions. It was estimated that 13,450 taxpayers would pay a maximum effective rate of 24.99%, with individuals whose income is less than £40,000 paying an effective rate of less than 20%.

### Tax benefits available: HNWIs and HEPPS

High net worth individuals (HNWIs) can benefit from Gibraltar's fiscal legislation and become what is colloquially known as a 'CAT 2' or Category 2 tax payer: meaning that only the first £80,000 of assessable income is taxable, with a minimum payable amount of £22,000 and a cap of approximately £30,000.

A particularly appealing route for Gibraltar based investment managers and those with a particular skill set looking to work in Gibraltar is a HEPPS status (High Executive Possessing Specialist Skills). HEPPS individuals must earn more than £100,000 per annum and must possess skills necessary to promote and sustain economic activity in

Gibraltar, and these skills must not be readily available in Gibraltar. The application for HEPPS status can be made to the Finance Centre and, if granted, tax will only be payable on the first £120,000 of earned income. As with the CAT 2s, HEPPS individuals must live in 'approved' high-end residential accommodation in Gibraltar.

### Online gambling

Remote gambling operations are licensable in Gibraltar under the Gambling Act 2005. Gaming tax is levied on fixed-odds betting and betting exchanges at 1% of turnover, up to £42,500,000 of annual turnover, with the gaming tax capped at £425,000 per annum, with a minimum annual tax payable of £85,000. A large number of blue-chip gaming companies, which are listed on the London Stock Exchange, and other major world markets, proudly boast to be domiciled in Gibraltar.

### Company re-domiciliation

By virtue of the Companies (Re-domiciliation) Regulations 1996, Gibraltar has since had the necessary procedures in place to allow for the re-domiciliation of companies. There are a large number of 'Relevant States' from which a company may re-domicile, including EEA States, British Commonwealth Countries and a number of individually named countries.

With investment funds traditionally being domiciled in 'offshore jurisdictions' such as the British Virgin Islands and the Cayman Islands, trends appear to be changing, and many are now opting for what is ever more being considered the safest option, the option which provides most investor protection with a stern regulatory environment: the European Union (EU) and consequently Gibraltar.

Although there has always been the ability to re-domicile to Gibraltar from the Caribbean Islands (British Virgin Islands, Cayman Islands, etc), Gibraltar is preparing for what it anticipates will be an influx of

investment funds and investment managers from non-EU jurisdictions. Gibraltar believes this change will materialise as a result of the EU's Alternative Investment Fund Managers Directive (AIFM) and the amendments to Gibraltar's Experienced Investor Fund Regulations currently before the Minister for Financial Services: allowing Experienced Investor Funds to accept administrators not having a physical presence in Gibraltar.

Gibraltar investment funds may request confirmation from the Commissioner of Income Tax that no tax is payable in Gibraltar under the IT Act.

#### Other business opportunities

Recent changes in how cross border EU VAT is accounted and collected could further increase Gibraltar's attractiveness. In relation to business-to-business transactions the place of supply of services will be at the place where the customer is established and no longer at the place where the supplier is established, as is currently the case. This could provide a significant incentive for company groups to establish significant aspects of their operations and mind and management in Gibraltar.

#### The future

The combination of a number of factors including the current economic crisis and financial scandals hitting the traditional 'off-shore' jurisdictions have prioritised the requirement for companies to be located in financially solid and well-regulated jurisdictions. This has come at the same time as Gibraltar has repositioned itself firmly as an 'on-shore' low tax jurisdiction with robust but sensitive regulation.

Within the EU and potentially globally it offers one of the most attractive all round taxation structures. When combined with the other factors such as location, lifestyle, business and legal environments Gibraltar finally has the final pieces of its package in place. The future appears to be extremely exciting.

## Financial and corporate

### Recommended firms

#### Tier 1

Hassans

#### Tier 2

Isolas  
Triay & Triay

#### Tier 3

Attias & Levy  
Massias & Partners  
Triay Stagnetto Neish

One of the biggest developments in Gibraltar in the last few years was the introduction in 2010 of the new Income Tax act. The main feature of this was a reduction of corporate tax from 22% to 10%. As well as providing further incentives for corporates looking at re-domiciling options, the new act also represents the jurisdiction's attempt to move forward from its reputation as an 'offshore centre' to a more rounded economic base.

Nevertheless, the country's main economic drivers remain the investment funds and betting and gaming industries.

Like similar jurisdictions such as the Channel Islands or Luxembourg, Gibraltar has been affected by the Alternative Investment Fund Managers Directive (AIFM). The new requirements will apply stricter rules to offshore funds marketing within the EU. Certainly for a period during the drafting and consultation period there was concern over how jurisdictions like Gibraltar would be viewed. However, though there are certainly still amendments to be made, the final draft of the legislation has turned out to be more favourable than some had hoped, with Gibraltar and other jurisdictions like it acting as a bridge between the EU and the traditional offshore centres. Practitioners will also be hoping that this leads to a re-domiciling of funds from centres like BVI and the Cayman Islands with managers seeking out a more regulated environment in the wake of more rigorous enforcement worldwide in the wake of the financial crisis.

Related to this, there is also hope that there will be further growth in mandates relating to Ucits (Undertaking for Collective Investments in Transferable Securities) in the wake of the new AIFM rules as has been seen in Ireland and Luxembourg. With the directive allowing such funds to be 'passported' into the EU, growth potential among investors remains vast.

The gaming industry is still a prime source of work with many key global brands such as William Hill, Betfair and Ladbrokes operating out of the country. Practitioners will also be

hoping for further increases as the current online gaming boom continues.

### Hassans

As the largest law firm in Gibraltar with over 70 lawyers and an impressive track record, Hassans retains its top tier ranking this year.

The firm's stable of well known partners, combined with a long list of key mandates mean that there are few in the market who can compete.

A key transaction last year saw leading partner Nigel Feetham acting on the re-domiciliation of C2 Holdings and C2 (Gibraltar) and their subsequent merger.

October 2010 also saw the firm increase its scope, as two of its partners Ian Felice and Richard Buttigieg were admitted to the bar in the British Virgin Islands (BVI). This will no doubt help the firm in any fund re-domiciliation work that may arise from the offshore centre.

#### Leading lawyers

Nigel Feetham  
John Rastano  
Lewis Baglietto

### Isolas

Having been in the market since 1892, Isolas can certainly claim to be one of the oldest law firms on the island.

Last year partner Elliott Phillips was kept busy by the Financial Services Commission (FSC), advising the body on the liquidation of six companies within the Gibland Group following applications made by the FSC. The FSC had made the applications in 2007 following its cancelling of the companies trading licenses.

Phillips has only recently become a partner at the firm bringing the firm's numbers to seven.

#### Leading lawyers

Christian Henandez

### Triay & Triay

In the market since 1905, and now led by name partner Joseph Emanuel Triay, the firm retains its second tier placing after another strong year.

Alongside its Gibraltar office the firm also has outposts in Malaga and Cadiz on mainland Spain. The firm has a stable of 11 partners.

The firm splits its practice between corporate and commercial, dispute resolution & insolvency, private client & trusts, property and shipping.

#### Leading lawyers

Javier Triay