

IN-DEPTH

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# GIBRALTAR

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## I INTRODUCTION

Gibraltar is a self-governing, economically diversified and multicultural British overseas territory that joined the European Union (subject to a number of important derogations) with the UK in 1973. It voted in the Brexit referendum of 2016 (strongly favouring the remain option). At the time of writing, Gibraltar, alongside the UK, continues to negotiate its new relationship with the EU. An in-principal agreement for the removal of Gibraltar land borders has been set out allowing for Gibraltar to effectively become part of the Schengen zone.

Gibraltarians are British nationals, bilingual in English and Spanish and fiercely loyal to the British crown. Elections to Gibraltar's parliament take place every four years and deliver a government and an opposition in the style of Westminster.

Gibraltar has historically enjoyed the trading and commercial opportunities that derive from its strategic location at the entrance to the Mediterranean and unique status. While Gibraltar is a small jurisdiction, it boasts a diversified trading, tourist, shipping, e-commerce and financial services economy. Additionally, on 1 January 2018, Gibraltar became one of the first jurisdictions to enact specific distributed ledger technology regulations, marking a significant milestone for Gibraltar in the fintech industry.

Gibraltar's policy priority in financial services has been to develop as a reputable centre operating to the highest international standards. There has, therefore, been an increasing focus on substance and compliance with relevant EU and multilateral requirements. This is reflected in the corporate and private wealth management arrangements established for international clients.

Gibraltar attracts wealthy individuals for both private client services and residence, given its lifestyle and taxation offering. It is extensively used as a tax-neutral platform for the planning, structuring and preservation of private wealth and is home to a number of important family offices.

Gibraltar operates a territoriality-based tax system. Income tax is charged on income that accrues in or derives from Gibraltar. The Income Tax Act 2010 (2010 Act) was designed to introduce a competitive, internationally compliant tax regime. It provides for corporate taxes on profits at a rate of 12.5 per cent.

Gibraltar has no wealth taxes or any taxes on capital gains, inheritance or gifts. Gibraltar does not levy value added tax (VAT) and is exempt from the provisions of the Customs

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Union. This has provided a number of interesting planning opportunities. It represents a real advantage to companies based in Gibraltar that can access services externally without incurring any liability to VAT.

## II TAX

### i Introduction

The basis on which tax is determined is whether income accrues in or is derived from Gibraltar, regardless of the residence of the recipient.

The test for determining whether income accrues in or is derived from Gibraltar follows the established jurisprudence set out in various leading UK Privy Council decisions (binding in Gibraltar in the absence of any Gibraltar cases) and related authorities.<sup>2</sup> Regard must, therefore, be had of the whole of the activities undertaken, where these take place and which activities give rise to the income in question.

Section 74 of the 2010 Act makes clear, however, that in the case of businesses that undertake licensed and regulated activities in Gibraltar, the profits from these activities accrue in or are derived from Gibraltar (provided they are not generated by a branch or permanent establishment outside Gibraltar).

The tax year runs from 1 July to 30 June, and tax is payable on the actual taxable profits for the year.

Various significant income streams are exempt from tax. There is no tax on passive investment income or the receipt by a Gibraltar company of dividends from any other company, regardless of where it is incorporated.

There is no tax on dividends paid by a Gibraltar company to another company and no tax (or withholding) on a dividend to any person not resident in Gibraltar.

Royalties received or receivable by a company in Gibraltar are chargeable to tax (at the usual corporate rate of 12.5 per cent).

### ii Individual taxation

An individual (not a company or trust) who is a tax resident as defined in the 2010 Act is also liable to pay tax on a worldwide basis in respect of the taxable heads of income.

There are certain incentives, however, designed to attract high net worth individuals and executives possessing particular skills. These make Gibraltar a very attractive base for suitably qualified individuals and their dependants or for retirees or entrepreneurs.

Generally, with regard to residence, the 2010 Act provides that an individual is ordinarily resident in Gibraltar if he or she is present in Gibraltar during any year of assessment for at least 183 days; and, when considering three consecutive years of assessment, an individual has been present in Gibraltar for more than 300 days over that three-year period.

Any presence in Gibraltar in any 24-hour period commencing at midnight shall be counted as a day, irrespective of whether accommodation in Gibraltar is used or not.

The 2010 Act provides two main systems that individual taxpayers are able to choose between so as to ensure a lower tax payment. These are described respectively as the allowance-based system and the gross income-based system.

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2 For example, *Commissioner of Inland Revenue v. Hang Seng Bank Ltd* [1990] 3WLR 120 or [1991] AC 306. *Inland Revenue Commissioner v. HK-TVB International* [1992] WLR 439 or [1992] 2 AC 397.

In the 2023 Budget, the Chief Minister announced new tax credits would be introduced including:

- a* 10 per cent of the verified costs for individuals who are enrolled in a gym or who contract a personal trainer who is registered with the Income Tax Office; and
- b* 10 per cent of the cost of private school tuition in Gibraltar.

***Allowance-based system***

This allows an individual taxpayer to claim a large number of allowances and deductions against his or her chargeable income. These allowances include personal, spouse and civil partner allowances (£3,455 each), nursery allowance (£5,480) and blind persons allowances (£5,475), and in respect of one child (£1,190) and for each child studying abroad (£1,355). Medical insurance premium payments (£5,395) and a one-off residential property purchase allowance (£13,000 spread over a number of years, and an additional allowance of £4,000 restricted to a maximum of £1,000 per year) are also allowed. Mortgage interest relief to acquire Gibraltar property to be used as a taxpayer’s principal residence is available on loans up to a value of £350,000.

In the 2022 Budget, the Chief Minister announced a temporary measure whereby the tax bandings under both the allowance-based system and the gross income-based system are increased by 2 per cent for the next two years. In the 2023 Budget, the Chief Minister announced that this 2 per cent increase in personal tax rates would be halved to 1 per cent for those individuals on incomes below £100,000.

The tax rates applicable to the allowance-based system are as follows:

Taxable income bands	Standard rate (per cent)	Rate for next two years (per cent)
£0–£4,000	14	16
£4,001–£16,000	17	19
£16,001 and above	39	41

***Gross income-based system***

This system allows for a much smaller number of deductions or allowances but applies reduced rates of tax on gross income as follows:

Taxable income bands	Standard rate (per cent)	Rate for next two years (per cent)
£0–£17,000	16	18
£17,001–£25,000	19	21
£25,001–£40,000	25	27
£40,001–£105,000	28	30
Balance	25	27

The gross income-based system is generally regarded as the most simple and beneficial for taxpayers. It is usually the case that this assessment will deliver the lowest level of income tax.

### **iii Developments related to personal taxation for individuals generally and in relation to gift and succession taxes**

Gibraltar does not levy any gift, succession or inheritance taxes. It does not have any capital gains or wealth taxes. There is also no stamp duty in respect of share transfers other than on Gibraltar real estate transactions and nominal (£10) capital duty on the incorporation of a company.

There is no tax on passive investment income (including bank interest or dividends from quoted securities or funds invested in these).

Gibraltar does charge tax on intergroup corporate interest (subject, however, to a *de minimis* threshold of £100,000 per year interest) in respect of any such group lending.

As noted previously, there is no VAT.

### **iv Issues relating to cross-border structuring**

The two main issues impacting on the nature of private client and corporate cross-border structuring are the inexorable drive towards (perhaps complete) transparency and international agendas designed to eliminate taxation arbitrage, which is regarded as overly aggressive.

We are also witnessing heightened levels of vigilance and scrutiny from certain European domestic tax authorities (e.g., Spain and Portugal), which are driving clients to reconsider their residence, family office and private holding structures. Gibraltar has been the beneficiary of some of these developments through providing a safe and convenient alternative. As described in Section II.vi, these developments have increased interest in and use of Gibraltar as a residential base and wealth planning platform. It is not uncommon for new Gibraltar residents who rent or have bought property in Gibraltar to spend some time in Spain or Portugal (a perfectly workable arrangement provided they are careful not to spend more than 183 days a year in Spain or Portugal and they do not have their centre of economic and family interests based in those jurisdictions). The Brexit vote has also increased the number of queries from British expatriates settled in the Iberian Peninsula. Gibraltar is regarded as a potential and close-at-hand alternative for those residing in either Spain or Portugal.

Gibraltar has adopted the EU Savings Directive, the Mutual Assistance Directive and the Mutual Legal Assistance Convention. It has also entered into an extensive network of tax information exchange agreements. There are now 28 bilateral tax information exchange agreements in place with various countries, including the United States, the United Kingdom, France, Germany and most other European territories. Further, Gibraltar is subject (by territorial extension of the United Kingdom) to the Multilateral Convention on Mutual Administrative Assistance, which facilitates international cooperation with 141 jurisdictions. The effect of Gibraltar's adoption of various international conventions and directives is that exchange arrangements extend to a very large number of countries, including Spain.

Gibraltar has transposed EU Directive 2014/107/EU on automatic exchange of information with all Member States of the EU via the introduction of regulations. These regulations implement the EU Common Reporting Standard into Gibraltar law. On 26 June 2017, the Register of Ultimate Beneficial Owners Regulations came into operation. These Regulations create a central register of beneficial owners. By doing so, Gibraltar aims to improve tax transparency within the jurisdiction.

A tax treaty relating to Gibraltar and Spain was signed and entered into force on 4 March 2021. The Gibraltar-Spanish tax treaty aims to eliminate uncertainty around the tax position of people who are treated as tax resident in both countries.

Gibraltar has entered into a double taxation agreement with the United Kingdom that came into effect on 24 March 2020. This agreement seeks to eliminate double taxation on income and capital and to prevent tax evasion and avoidance. The agreement covers both Gibraltar income tax and corporation tax.

On 30 January 2020, the government published three pieces of tax-related legislation that derive from EU requirements regarding:

- a* the implementation of the sixth EU Directive on Administrative Cooperation (DAC6): as part of the DAC6's implementation, Gibraltar has implemented the new DAC6 mandatory disclosure regime with the Income Tax (Amendment) Regulations 2020. Under it, those entities that are described as intermediaries will be obliged to report any cross-border arrangement with which they assist that exhibits the pre-defined hallmarks of aggressive tax avoidance. Following recent developments, Gibraltar has aligned its reporting requirements with the OECD model in line with the United Kingdom;
- b* exit tax: as part of the final tranche of provisions in the Anti-Tax Avoidance Directive, the government published their implementation of the exit tax on 30 January 2020 in the Income Tax (Amendment No3) Regulations 2020; and
- c* hybrid mismatches: new rules have been implemented around hybrid mismatches. These were the third set of EU Directive-driven tax provisions that came into force on 30 January 2020.

Gibraltar is an excellent location for the headquartering of corporate activities. The combination of robust regulatory and governance regimes and competitive taxation work well to deliver a strong environment. The majority of the work being attracted to Gibraltar currently involves the establishment of a bricks and mortar presence. The fact that Gibraltar is not an island (but is physically connected to southern Spain) assists significantly in giving this process real traction. It effectively permits Gibraltar to act as an economic engine for the area (putting to use the surrounding area as a residential and facilities base). This commercial relationship has an almost unlimited potential for further growth for the benefit of both Gibraltar and the surrounding region.<sup>3</sup>

The OECD base erosion and profit shifting agenda and the related EU initiatives will continue to push cross-border corporate structures towards greater transparency and substance. The focus on ensuring no 'double non-taxation' and on the challenges posed by the digital economy are particularly significant. Gibraltar's approach is to view these developments as an opportunity for a greater physical presence and more demonstrable control, management and regulatory accountability. This will affect various aspects of international families' businesses and administration arrangements. In particular, the location, function and operation of family offices will require renewed consideration.

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3 See Gibraltar Chamber of Commerce-commissioned report entitled 'An Economic Impact Study and Analysis of the Economies of Gibraltar and the Campo de Gibraltar – update 2015'. Among its findings, the report highlights that the number of jobs supported by the Gibraltar economy (i.e., within Gibraltar) is equivalent to one-quarter of the total jobs in the Campo surrounding area.



**v Regulatory issues and special arrangements relating to high net worth individuals or specialist skills**

***High net worth Category 2 individuals***

The Qualifying (Category 2) Individuals Rules 2004 provide for a well-established regime that limits income tax for high net worth individuals wishing to reside in Gibraltar.

The Category 2 programme has enjoyed great success since it was first introduced in the early 1990s. To apply for a certificate, an individual is required to verify that he or she has a minimum net worth of £2 million (usually in bank deposits or securities) and is of good character. The holder of a Category 2 certificate is taxed in Gibraltar on the basis of the normal rates applicable under the gross income-based system but only on the first £118,000 of assessable income. There is, however, a minimum annual tax payment of £37,000. Any income in excess of £118,000 is not subject to income tax in Gibraltar (irrespective of whether the income is remitted locally or otherwise). This effectively gives rise to a maximum tax liability in the order of £44,740, irrespective of worldwide income (at current 2022/23 rates). The benefits of a Category 2 certificate (which is a lifetime status subject to the eligibility criteria being satisfied on an ongoing basis) can extend to the worldwide income of a spouse or civil partner and of dependent children (up to 18 years of age or until the end of their higher education).

A Category 2 individual is required to either rent or buy appropriate accommodation in Gibraltar for his or her exclusive use.

The general principle is that Category 2 individuals should not seek mainstream employment in Gibraltar or carry out business in competition with ordinary taxpayers. This principle holds whether the individual is carrying out business personally or via a legal entity such as a company.

Thus, it follows that a Category 2 individual should not derive earned income from activities in Gibraltar unless it can be proved, to the satisfaction of the Ministry of Finance, that there is exceptional economic benefit for Gibraltar, which, in the opinion of the Ministry of Finance, warrants a departure from the general principle. In practice, this latitude has developed to encompass what is currently a wide spectrum of activities.

There are, therefore, various examples of economic activity that a Category 2 individual can undertake in Gibraltar. These are in accordance with published guidelines and include the following:

- a* owning a Gibraltar company for investment purposes in, for example, bank deposits, equities and bonds;
- b* owning a Gibraltar company to invest and trade in properties throughout the world;
- c* owning a Gibraltar company for trading in goods outside Gibraltar;
- d* doing any of the above from a physical office set up in Gibraltar;
- e* receiving director's remuneration as well as dividends in respect of any of the above;
- f* being only a shareholder in a company carrying out activities licensable in Gibraltar under applicable financial services or gambling legislation;
- g* being only a shareholder in a company carrying out a business in Gibraltar that is not in competition with other businesses in Gibraltar;
- h* investing, either personally or through a company or another entity, directly or indirectly, in the purchase of property situated in Gibraltar for investment purposes. However, the rental income arising from any such properties is taxable in Gibraltar either on the company or the individual and therefore does not form part of the individual's tax shelter deriving from his or her Category 2 status;

- i* providing consultancy services to non-Gibraltar companies or receiving employment income from companies outside Gibraltar, as long as those services or employment are physically carried out exclusively outside of Gibraltar; and
- j* from within Gibraltar, providing consultancy services to companies or other entities trading outside Gibraltar if that individual owns and controls or is connected by a significant shareholding or ownership interest in such company or entity. Consultancy in this paragraph means consultancy to a company or entity itself and not the provision of advice or services to a client of that company or entity.

The profile of Category 2 residents has changed considerably over the past 25 years. Category 2 certificate holders now tend to become longer-term residents contributing to, and engaging socially, economically and often philanthropically with, Gibraltar. This has meant real estate of increasing quality has become more readily available locally, with a marked improvement in the entertainment, restaurant and cultural scene. The policy direction is to encourage further residence by such entrepreneurs and high net worth individuals and to underpin this drive with increased investment in Gibraltar's infrastructure.

### ***Entrepreneurs and individuals with specialist skills***

Gibraltar is keen to continue to attract individuals who bring special skills not available locally. The HEPSS Rules 2008 provide a favourable tax regime for individuals who possess particular skills in key positions in a business established locally.

The basic requirements in respect of such applicants are the following:

- a* basic salary of over £160,000 per year;
- b* the skills must not be available in Gibraltar;
- c* exclusive accommodation must be arranged in Gibraltar (either rented or purchased); and
- d* the individual cannot have been resident in Gibraltar within the past 36 months.

A person in possession of a HEPSS certificate is only taxed (on the basis of the gross income-based system) on the first £160,000 of assessable income (including any bonuses, prerequisites and other benefits in kind connected with employment). As at June 2023, this would result in a maximum tax payment of around £40,000 per annum (with the amount for the next year being increased by 2 per cent to £43,140 per annum).

There are also various additional allowances (e.g., relocation provisions) to facilitate the attraction of specialist skills.

This HEPSS programme has played an important role in diversifying and widening the skills base of the Gibraltar economy. HEPSS status has been particularly relevant in the remote gambling and financial services sectors. The creation of a critical mass of specialists in particular areas (e.g., e-commerce and IT) has generated the growth of peripheral activities (ranging from services to family offices to payment-processing operations).

## **III SUCCESSION**

### **i Introduction**

As is the position in the United Kingdom, the basic principle of succession law in Gibraltar is freedom of testamentary disposition. There are no forced heirship rules applicable and Gibraltar has not adopted the EU succession and wills regulation.

There are, however, rights for spouses and civil partners and certain dependants to make certain claims on the estate of an individual under the Inheritance (Provision for Family and Dependants) Act 1977 (largely based on the UK 1975 Act).

Probate and the administration of estates in Gibraltar is generally similar in procedure to that of England and Wales. Gibraltar's international client base makes the jurisdiction very familiar with cross-border succession and probate matters. Practitioners regularly deal with international succession and planning.

## **ii Key legislative or case law changes affecting succession**

A significant development in succession and matrimonial arrangements relates to prenuptial agreements. Gibraltar has adopted legislation to allow for the recognition and enforceability of prenuptial arrangements in various circumstances. Amendments to the Matrimonial Causes Act provide a framework for the entry into and enforcement of financial arrangements. The legislation allows for prenuptial agreements to regulate matters between spouses in respect of the following:

- a* how, in the event of a breakdown of a marriage, all or any of the property or financial resources of either or both of the spouses at the time when the agreement is made, or at a later date and before divorce is to be dealt with; and
- b* the maintenance of either of the spouses:
  - during the marriage;
  - after divorce; or
  - both during marriage and after divorce.

The position in respect of children and dependants is more qualified. Provision in a financial agreement relating to the maintenance of children is void unless approved by the court. Furthermore, there is a general provision that allows the court to revisit the terms of a prenuptial agreement if it is satisfied that, when the agreement came into effect, the circumstances of the party were such that, taking into account the terms and effect of the agreement, the party was unable to support himself or herself without an income or pension, allowance or benefit.

It is critical, therefore, that the parties are fully and independently advised to ensure the best prospects of validity. The need for independent legal advice for each spouse is a statutory requirement of enforceability.

A prenuptial financial agreement continues to be binding despite the death of one of the parties and operates in favour of, and is binding on, the legal representative of that party. Another significant development has been the enactment of the Gibraltar Civil Partnership Act 2014 whereby Gibraltar introduced civil partnerships between same-sex couples. Such partnerships enjoy largely the same legal rights and responsibilities as married couples. This includes the entry into financial agreements (largely as applicable to marriages under the Matrimonial Causes Act) in respect of partners. Following the Civil Marriage Amendment Bill being passed in parliament with unanimous support, same-sex marriage became legal in Gibraltar on 15 December 2015.

In Gibraltar, the court has broad power and discretion to make financial orders in a case of the dissolution of either a marriage or civil partnership.

Recent legislative changes now also empower the court to allow for the sharing of a pension between spouses (including a state pension) upon divorce.

**iii Relevant cross-border developments**

Gibraltar has introduced a number of statutes that impact on arrangements relating to international families. Gibraltar has recently enacted:

- a* the Trusts (Private International Law) Act 2015;
- b* the Private Trust Companies Act 2015;
- c* the Purpose Trusts Act 2015; and
- d* amendments to the Perpetuities and Accumulations Act.

The Trusts (Private International Law) Act 2015 provides a statutory framework for the disapplication of forced heirship rules and various other claims in defined circumstances connected to trusts. The legislation applies subject to the following:

- a* the Hague Trust Convention;
- b* any EU regulation, EU directive or international convention by which Gibraltar is bound, or may become bound, which in relation to particular matters contains rules as to jurisdiction or the recognition or enforcement of judgments; and
- c* Section 419A of the Insolvency Act 2011 (relating to asset protection trusts).

For the purposes of the Trusts (Private International Law) Act 2015, Gibraltar is regarded as a separate Member State in relation to the Member States of the EU, or the European Economic Area signatories to any of them.

Under Section 419A of the Insolvency Act 2011, provision is made for an increased degree of protection of assets transferred into trusts in certain defined circumstances. Assuming the appropriate conditions are met (in particular, a settlor must not become insolvent as a result of a transfer), a disposition to a trust will not be voidable at the instance of, or upon application of, any creditor of the settlor. The trust requires registration and the transfer to the settlement must be supported by an affidavit of solvency provided by the settlor. Gibraltar's asset protection trust legislation is generally regarded as being less aggressive than that of other jurisdictions but has nonetheless proved popular in structuring arrangements designed to deliver a higher level of creditor protection.

The Private Trusts Companies Act 2015 codifies and makes extended provisions for the use of private trust companies that have been common in Gibraltar. The Act provides for a voluntary form of registration of private companies (thus allowing, if thought desirable, the continued use of private companies on an unregistered basis).

The Act allows a private trust company to be used in respect of individuals connected to the settlor. These extend to an individual's spouse or civil partner; and the children and remoter issue of the settlor and his or her spouse or partner.

The Purpose Trusts Act 2015 introduces a regime for purpose trusts other than for charitable purposes.

The Gibraltar legislation follows the enactment of legislation in a number of other jurisdictions providing for an enforcer, and broad powers to make applications to the court by the enforcer or trustees, unless the trust document provides otherwise that the settlor or any person who, upon application, is declared by the court to have an interest in advancing the trust's purposes.

The Attorney General may also in certain limited default circumstances intervene and make an application to the court.

Amendments to the Perpetuities and Accumulations Act have extended the statutory perpetuity period to 250 years.

## **IV WEALTH STRUCTURING AND REGULATION**

### **i Commonly used vehicles for wealth structuring**

As a common law jurisdiction, Gibraltar trusts are extensively used in succession and estate planning. These come in a variety of forms and are largely drafted along the lines of English settlements. Companies and partnership arrangements are also widely used.

Although there is no mandatory requirement (indeed, as in other jurisdictions, the vast majority of trust arrangements remain confidential), Gibraltar law allows for the voluntary registration of trusts. The Registered Trusts Act 1999 provides for the registration of a certain minimum amount of information relating to a trust (name, identity of trustees and date of creation). Such a registration facility is often regarded as helpful to formally record, when appropriate, the creation of a trust (especially relevant for clients with a civil law background). The Gibraltar Private Foundation Act 2017 introduced a new vehicle to Gibraltar's offering. Foundations, which are commonly used in civil law jurisdictions, are now able to be established in Gibraltar. A foundation is an entity with separate legal personality that is able to hold and deal with property in its own name as absolute legal and beneficial owner, for the specific purposes that are detailed in the Foundation Charter. The purposes can be very broad, need not be charitable, and indeed can be 'anything capable of fulfilment' as long as they are not illegal, immoral or contrary to public policy. As long as the Foundation Charter permits, the purposes of the foundation can be amended, providing flexibility in the event of future changes of circumstances.

### **ii Legal and tax treatment of commonly used vehicles**

Gibraltar law does not tax trusts settled by non-residents for exclusively non-resident beneficiaries except in the case of Gibraltar taxable source income. As previously noted, passive investment income (to include bank interest or dividends from quoted securities or funds invested in these) are not taxable in Gibraltar in any event.

A Category 2 individual, while being a resident in Gibraltar, is nonetheless regarded as non-resident for the purposes of the establishment of a Gibraltar trust.

Gibraltar resident beneficiaries pay tax upon a distribution of income to them. No income, however, will be deemed to be distributed to them until this occurs.

As noted earlier, Gibraltar companies are liable to pay tax at a rate of 12.5 per cent on the profits of income that accrues in or derives from Gibraltar. There is a limited exception in relation to utility companies that pay at a higher rate of 20 per cent (although telecommunications companies pay the lower 12.5 per cent tax on non-telecommunications income, such as from data centres).

Partnerships (both general and limited) are regarded as see-through for tax purposes. It is, therefore, the constituent partners (individual or corporate) that are assessed for tax.

### **iii Applicable anti-money laundering regime and other key aspects of regulation of service providers dealing with private wealth**

Gibraltar has adopted very strong anti-money laundering legislation, systems and administrative practices. The Proceeds of Crime Act 2015 brings together in a consolidated enactment previous obligations contained in a number of statutes. Gibraltar's system derives from all applicable EU legislation and is based largely on the standards and procedures in the United Kingdom.

Gibraltar's legislation, systems and administrative practices have been independently tested and reviewed by the Financial Action Task Force, the International Monetary Fund and others. They have found Gibraltar's systems to be robust, effective and in accordance with best international standards.

In December 2019, the Financial Action Task Force (FATF) published the Moneyval mutual evaluation report on Gibraltar's anti-money laundering and counter-terrorist financing measures. The report details the very significant areas in which Gibraltar is compliant or largely compliant, particularly in our legislative framework and standards. The report did identify that Gibraltar needs to invest more effort into identifying, investigating and prosecuting money laundering and into the confiscation of proceeds of crime. Following this review, on 17 June 2022, the FATF identified two points that required increased monitoring and placed Gibraltar on the grey list. Since this date, action to strengthen the effectiveness of how Gibraltar tackles money laundering has been taken. Steps to address and remedy the two points are in progress. In February 2023, FATF signalled that progress and improvements had been made. The government expects Gibraltar to be removed from the grey list in short order.

Providers to the general public involved in company management and fiduciary services are required to be licensed and are subject to regulation by the Financial Services Commission. Family office and private family holding management arrangements that do not provide services to third parties for profit do not come within the ambit of licensable activities.

## **V CONCLUSIONS AND OUTLOOK**

Gibraltar's response to international developments relating to transparency, anti-money laundering requirements and aggressive tax planning has been to increasingly focus on substance.

The final outcome of the Brexit negotiations will clearly require adjustments, both in the UK and Gibraltar, over the next few years. There will be opportunities for Gibraltar (and the UK) to leverage the benefits of the less prescriptive regime that is likely to emerge.

OECD and EU tax-related agendas (e.g., base erosion and profit shifting) will continue to represent a major challenge to some aspects of planning that advisers have historically promoted. They undoubtedly, however, also represent an opportunity for those jurisdictions committed to and operating to best international standards and first-tier regulation, and having competitive tax and residence regimes.

