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# Corporate Tax

Gibraltar

Hassans International Law Firm

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# 2019

# GIBRALTAR

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## **LAW AND PRACTICE:**

**p.3**

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The 'Law & Practice' sections provide easily accessible information on navigating the legal system when conducting business in the jurisdiction. Leading lawyers explain local law and practice at key transactional stages and for crucial aspects of doing business.

# Law and Practice

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**Hassans International Law Firm** was founded in 1939 and is the largest law firm in Gibraltar. It is one of the world's foremost offshore law firms, which offers an old-world approach to client service combined with a new world approach to business and technology. Hassans is consistently ranked by the leading legal directories as the leading firm in the jurisdiction. Although rooted in Gibraltar, Hassans

has an international clientele involving key jurisdictions around the world, including the USA, the UK, the Middle East, Latin America and Europe, with many assignments involving cross-border issues. Its corporate tax team comprises three partners and handles multi-jurisdiction corporate restructures as well as reorganisations involving listed groups and private equity-owned structures.

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## 1. Types of Business Entities Commonly Used, Their Residence and Their Basic Tax Treatment

### 1.1 Corporate Structures and Tax Treatment

Businesses generally adopt a corporate form which has a separate legal personality and is taxable as a separate legal entity. The 2014 Companies Act allows for the incorporation of both private companies and public companies.

A private company under Gibraltar law is a company that restricts the right to transfer its shares and does not offer its shares to the public. Four types of private companies may be incorporated under the 2014 Companies Act s 4(2), namely:

- a company limited by shares;
- a company limited by guarantee and having a share capital;
- a company limited by guarantee and not having a share capital; and
- an unlimited company with or without a share capital.

A public company under Gibraltar law is a company whose certificate of incorporation states that it is a public company, has a share capital and meets the requirements of the 2014 Companies Act in terms of share capital and net assets.

Two types of public companies may be incorporated under the 2014 Companies Act s 4(1), namely:

- a company limited by shares; and
- a company limited by guarantee and having a share capital.

Shares of different classes are permitted, including preference and redeemable shares, and shares with limited or no voting rights. Shares of no par value, however, are not allowed.

Gibraltar companies need only one shareholder. Nominee shareholdings are permitted. The names of registered shareholders must be included in the annual report filed with the Registrar of Companies, which is available for public inspection.

There are no formal minimum capital requirements and it is possible for an entity to have an authorised share capital in most major currencies (including USD, EUR, GBP, etc).

### 1.2 Transparent Entities

#### Limited Partnership

Limited partnerships are commonly used and are regulated by the Limited Partnerships Act 1927. Under Gibraltar law, a limited partnership must consist of one or more general persons or 'general partners' (who are liable for all debts and obligations of the limited partnership and are responsible for

its management) and one or more persons called 'limited partners' (the limited partners must at the time of entering such a partnership contribute either a sum or sums as capital, or property valued at a stated amount, and their liability to creditors is limited to the capital that they have introduced). Accordingly, this vehicle is typically used in order to limit the liability of limited partners, and in some tax planning structures.

#### Limited Liability Partnership

Limited liability partnerships are regulated under the Limited Liability Partnerships Act 2009. All of the partners in a limited liability partnership benefit from limited liability in respect of the partnership. Their liability is limited to funds they have invested in the partnership, undrawn profits and any guarantees they have given to raise finance. All of the partners may participate in the entity's management.

#### Trust

A popular vehicle in tax planning is the Gibraltar trust, which is based on the English trust and is mainly regulated by the Trustees Act.

#### Private Foundations

The Private Foundations Act 2017 provides the legal framework for the establishment and operation of foundations. A foundation has a separate legal personality and as such can hold property in its own right, as the absolute and beneficial owner. The Foundation Charter and Foundation Rules establish the foundation, and set out its purposes and the rules for its administration. They also set out details of the beneficiaries and the guardian. The founder provides the initial assets as an irrevocable endowment, and may reserve powers for themselves, such as the ability to appoint or remove the guardian or councillors, or to amend the constitution.

### 1.3 Determining Residence

Gibraltar is not a party to any double taxation treaties. 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 whichever is lower – Gibraltar tax or foreign tax on the income (although this only applies where the jurisdiction imposing the foreign tax is the same jurisdiction in which the income is generated). Gibraltar also transposes European directives into Gibraltar law (including but not limited to the Parent-Subsidiary Directive).

The tax residence of a company is determined by reference to where the company is managed and controlled, and not by reference to its jurisdiction of registration. Ultimately, determining tax residence is a question of fact.

Gibraltar applies a territorial system of taxation whereby companies are taxed only on income that is accrued in or derived from Gibraltar. As a result, income that is not

accrued in or derived from Gibraltar is not taxable in Gibraltar. 'Accrued in or derived from' is defined in terms of the location of the activities giving rise to the profits or gains.

Specific rules apply to companies carrying out activities that are subject to licensing or regulation in Gibraltar, or that are passporting activities into Gibraltar through a branch or permanent establishment in Gibraltar that would otherwise be subject to licensing or regulation in Gibraltar. Such income is deemed to accrue and derive in Gibraltar.

Royalty income and intercompany interest income of a company registered in Gibraltar is deemed to have accrued in and derived from Gibraltar, regardless of the source of the royalty or interest.

## 1.4 Tax Rates

### Corporate Tax

All companies can be charged a tax rate of 10% on taxable profits, except for utility, energy and fuel supply companies and companies deemed to be abusing a dominant market position, which are subject to tax at a rate of 20%.

### Transparent Entities

Partnerships, limited partnerships and limited liability partnerships are treated as transparent entities for the purposes of taxation. As such, their partners – whether corporate entities or individuals – are assessed for tax purposes on any taxable profits that are generated by the partnership.

### Trusts and Foundations

Trusts and foundations are treated in a very similar manner to each other for tax purposes. They are both taxable entities in their own right with any taxable profits being taxed at a rate of 10%.

A trust or foundation that is resident in Gibraltar is generally taxed on a worldwide basis. A trust or foundation that is not resident in Gibraltar will only be taxed on income accrued in and derived from Gibraltar, although the income of trusts and foundations is often classed as income that is not subject to tax.

A trust or foundation is treated as resident in Gibraltar if one or more of the beneficiaries is ordinarily resident in Gibraltar, or where the class of beneficiaries (other than those irrevocably excluded from benefit) may include an individual who is ordinarily resident in Gibraltar.

Distributions received by beneficiaries who are ordinarily resident in Gibraltar and who are paid by a trust or foundation out of taxed/taxable profits of the trust or foundation, are assessable for tax on those distributions. Those beneficiaries are, however, entitled to a tax credit in respect of the tax suffered by the trust or foundation. The distribution of profits that are not subject to tax on the part of the trust

or foundation, would not be taxable on the beneficiary. Detailed rules apply to how distributions are allocated to taxable or non-taxable profits.

### Individual Tax

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 in Gibraltar. 'Present' means being in Gibraltar at any time during a 24-hour period commencing at midnight and whether or not accommodation is used. An individual who is ordinarily resident is taxable in Gibraltar on their worldwide income (subject to double-tax relief and with the exception of rental income, which is only taxable if the property is located in Gibraltar or is deemed in the nature of a trade). An individual who is not ordinarily resident is only taxable on income from Gibraltar. The tax year runs from July 1st to June 30th and tax is payable on the actual taxable profits for the year. Individuals have the choice of being taxed under either an allowance-based system or under a gross income-based system, and will be assessed for tax under the system that results in lower tax. Where a taxpayer is taxed under the gross income-based system and their spouse is taxed under the allowance-based system, restrictions apply on the allowances available to the spouse under the allowance-based system. Different tax rates apply to income bands under both systems, but the result is that, for resident individuals, the effective (overall) tax rate never exceeds 25%.

### Capital Gains Tax

Capital gains are not taxed, either for individuals or companies.

### Withholding Tax

Withholding tax is not imposed on the payment of interest or dividends.

### Stamp Duty

On share or loan-capital transactions, the fixed amount per transaction is GBP10.

On the purchase of real estate in Gibraltar:

- first GBP260,000 of purchase price: 0%;
- balance from GBP260,001 to GBP350,000: 5.5%;
- balance above GBP350,000: 3.5%.

For other buyers:

- purchase price of up to GBP200,000: 0%;
- purchase price between GBP200,001 and GBP350,000: 2% on first GBP250,000, and balance at 5.5%;
- purchase price over GBP350,000: 3% on first GBP350,000, and balance at 3.5%.

## Tax on Receipt of Income from Royalties

Effective from 1 January 2014, royalty income received or receivable by a company registered in Gibraltar (irrespective of the source of the royalty) is taxable.

## Tax on Receipt of Interest

Interest income is taxable on companies if:

- the income constitutes trading income: for example, where the company is a bank or carries out similar activities to a bank (as defined in the Income Tax Act 2010); or
- the income falls within the scope of 'inter-company interest' as defined in Class 1A of Schedule 1 of the Income Tax Act 2010. This applies to interest paid or payable on a loan or advance from one company to another company. Such income is deemed to accrue in and derive from Gibraltar in the case of a company registered in Gibraltar. It does not apply to interest on a loan to a company where the total interest income from that company (or the total from connected companies) does not exceed GBP100,000 per annum.

## Tax on Sale of Shares

Tax is not payable on the transfer of shares in a Gibraltar company unless that company owns Gibraltar real estate (directly or indirectly), in which case stamp duty would generally apply on the underlying real estate.

## Dividends

Withholding tax is not imposed on the payment of dividends. Dividends paid to shareholders who are ordinarily resident in Gibraltar have a tax credit equal to the tax paid by the company on the profits from which the dividend is being paid. Dividends received by a company from another company are not taxable.

## 2. Key General Features of the Tax Regime Applicable to Incorporated Businesses

### 2.1 Calculation for Taxable Profits

Taxable profits are based on Gibraltar, UK or international accounting standards, or other such accounting standards as approved by the Commissioner of Income Tax, and as adjusted according to specific provisions in the Income Tax Act 2010.

Adjustments include non-deductibility of certain costs, for example depreciation and amortisation; costs not incurred wholly and exclusively in the production of income; taxation charged in Gibraltar on profits; certain entertaining expenses; restrictions on deductibility of costs incurred in respect of connected companies that are not on an arm's-length basis; and capital losses.

Adjustments are also made for income not assessable to taxation, for example many types of investment income (including dividends and bank interest); capital gains; and income accrued or derived from activities outside Gibraltar.

Profits are generally taxed on an accruals basis, as the calculation is based on accounting profits (subject to adjustments as described here).

### 2.2 Special Incentives for Technology Investments

There are no special incentives in Gibraltar for technology investments.

### 2.3 Other Special Incentives

There are no special incentives in Gibraltar that apply to specific industries, transactions or businesses.

### 2.4 Basic Rules on Loss Relief

Losses can be carried forward indefinitely against future profits of the same company, unless within a period of three years there is both a change in ownership of the company and a major change in the nature of the company or the way the company conducts its activities. Losses cannot be carried back.

A budget measure was announced by the Gibraltar government in July 2018 that would allow companies to carry forward losses against a business's future profits when the business has been transferred to another company as part of a group restructure. This would only apply where there is no change in ultimate ownership and no change of business within a period of three years. The legislation to put this into effect is not yet in place, and few details are currently available.

### 2.5 Imposed Limits on Deduction of Interest

The general rule for expenses is that, unless the Act states to the contrary, they are deductible if they are wholly and exclusively incurred for the purposes of generating the income of a trade, business, profession or vocation.

A literal interpretation of the legislation may be that interest expense is not deductible against non-trading interest income (Class 1A – interest on inter-company loans and advances). The Commissioner of Income Tax has stated that this restriction does not apply if the interest income is taxable (as published in the Gibraltar Society of Accountants newsletter, dated 12 August 2013).

A deduction is not allowed for any interest paid or payable to a person not resident in Gibraltar if and so far as it is interest at more than a reasonable commercial rate.

A deduction is not allowed for any interest paid or payable on money borrowed other than for the purposes of the trade or profession which generates the income, or acquiring the

capital employed in acquiring the trade or profession which generates the income.

Where a person (eg, an individual or a company) has interest income that is not taxable, no deduction is allowed for any interest expense incurred for the purpose of generating the interest.

Interest paid to a connected party in excess of an arm's-length amount may be deemed:

- to be a dividend paid by the person, and received by the connected party; and
- not a deductible expense.

As well as the general arm's-length rule above, thin-capitalisation rules apply in limited circumstances, again where interest exceeds an arm's-length amount:

- where a company pays interest to a connected party which is not a company; and
- in the case of interest paid by a company to an unconnected party, where the loan is secured on assets belonging to a connected party who is an individual.

In such cases the interest will be treated as a dividend paid by the company to the connected individual if the loan capital to equity ratio is greater than five to one. Credit institutions or deposit takers regulated under the Banking Act are an exception to this rule. Regardless of accounting treatment, preference shares are treated as equity for the purposes of the thin capitalisation rules.

The interest on a loan will not be deductible where a person is paying interest to an arm's-length lender (eg, a bank) and a substantial part or all of the loan is secured by:

- a cash deposit made with the lender, or a person connected to the lender, or by a person connected to the borrower, or secured by certain investments; and
- the income from those cash deposits or investments is not taxable.

## 2.6 Basic Rules on Consolidated Tax Grouping

There is no provision in Gibraltar legislation for tax consolidation or for group relief.

## 2.7 Capital Gains Taxation

Capital gains (and losses) are outside the scope of taxation in Gibraltar.

## 2.8 Other Taxes Payable by an Incorporated Business

Other taxes that may be payable on a transaction include:

- property rates, based on the rateable value of the property; and
- stamp duty, payable on the acquisition of real estate in Gibraltar at between 0% and 3.5% overall, and payable on the issue or increase of authorised share capital or the issue of loan capital at a nominal sum of GBP10 per transaction.

## 2.9 Incorporated Businesses and Notable Taxes

Other than what is stated in 2.8 Other Taxes Payable by an Incorporated Business above, incorporated businesses are not subject to any other notable taxes.

## 3. Division of Tax Base Between Corporations and Non-corporate Businesses

### 3.1 Closely Held Local Businesses

Most closely held local businesses operate in corporate form.

### 3.2 Individual Rates and Corporate Rates

Where the facts and circumstances indicate that an individual is an employee, their employer is required to deduct tax at source by the Pay As You Earn (PAYE) system. However, there are no specific rules to stop self-employed professionals from generating income through a company, although on receipt of personal income (eg, salary, director's fees or dividends) they will be taxed at personal tax rates.

### 3.3 Accumulating Earnings for Investment Purposes

There are no specific rules to prevent closely held corporations from accumulating earnings for investment purposes. There are general anti-avoidance provisions, however, which apply to transactions or arrangements deemed to be artificial or fictitious.

### 3.4 Sales of Shares by Individuals in Closely Held Corporations

There are no specific rules relating to individual's tax on dividends and the sale of shares in closely held corporations.

Resident individuals are taxed on dividends at normal personal tax rates, with a tax credit given for Gibraltar tax suffered by a company in generating the profits being distributed. Generally, only profits which were taxable in Gibraltar on an underlying company are taxable on the individual once distributed.

Capital gains are outside the scope of taxation in Gibraltar, therefore the gain on the sale of shares would not be taxable, subject to general anti-avoidance provisions, which apply to transactions or arrangements deemed to be artificial or fictitious.

### 3.5 Sales of Shares by Individuals in Publicly Traded Corporations

Dividends from a company whose shares are quoted on a recognised stock exchange are not taxable. Likewise, capital gains are outside the scope of tax in Gibraltar.

## 4. Key Features of Taxation of Inbound Investments

### 4.1 Withholding Taxes

There is no withholding tax in Gibraltar on dividends, interest or royalties.

### 4.2 Primary Tax Treaty Countries

Gibraltar has no double tax treaties.

### 4.3 Use of Treaty Country Entities by Non-Treaty Country Residents

As Gibraltar has no double tax treaties, local tax authorities cannot challenge the use of treaty country entities by non-treaty country residents.

### 4.4 Transfer Pricing Issues

There is currently relatively little focus on transfer pricing by the Gibraltar tax authorities, given the relatively low tax rate in Gibraltar (there is therefore usually little incentive to bias pricing to the detriment of profits in Gibraltar). If issues arise, they are generally with significant management and similar charges from overseas group companies, and head office charges to branches in Gibraltar.

There is likely to be more focus in future on transfer pricing as a result of the Organisation for Economic Co-operation and Development's (OECD) initiatives on BEPS, and the forthcoming implementation of legislation following such initiatives.

### 4.5 Related Party Limited Risks Distribution Arrangements

There are no provisions in Gibraltar's legislation that pertain specifically to related-party limited risk distribution arrangements, nor is this an area on which the tax authorities tend to focus.

### 4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

The legislation provides that its general anti-avoidance provisions shall be construed in a manner that is consistent with publications by the OECD. To date, there has been relatively little focus on OECD transfer pricing rules, but it seems likely that more specific legislation, in line with the OECD's initiatives on BEPS, will be implemented at some point in the future.

## 5. Key Features of Taxation of Non-local Corporations

### 5.1 Compensating Adjustments When Transfer Pricing Claims are Settled

There is very limited application of specific transfer pricing mechanisms.

### 5.2 Taxing Differences

The income of any company – whether a Gibraltar company or an overseas company – that falls within any of the taxable classes of income is assessable to tax if it is accrued in or derived from Gibraltar.

Important points to note regarding branches include:

- there is an automatic restriction on the deduction available for head office expenses (as defined in the Income Tax Act 2010) to 5% of turnover;
- the Commissioner of Income Tax has stated that if a branch is registered in Gibraltar, then the company to which the branch pertains is registered in Gibraltar. Inter-company interest (see **1.4 Tax Rates**) and royalty income are deemed to be accrued and derived from Gibraltar and are therefore subject to tax in Gibraltar where a company is registered in Gibraltar. Consequently, if an overseas company has a branch in Gibraltar this may result in interest and royalty income of the company being taxable in Gibraltar. Unilateral double tax relief is available, subject to conditions.

### 5.3 Capital Gains of Non-Residents

Capital gains are outside the scope of tax in Gibraltar.

### 5.4 Change of Control Provisions

Stamp duty is payable on the transfer of ownership of real estate located in Gibraltar, even where such ownership is indirectly held through intermediate holding companies.

A change in control – direct or indirect – can result in tax losses not being available for set-off against future profits, where within a period of three years there is both a change in ownership of the company and a major change in the nature or conduct of the activities of the company.

### 5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

Formulas are not used by the tax authorities to determine the income of foreign-owned local affiliates (although a taxpayer could of course decide to base their transfer pricing on a formula).

### 5.6 Deductions for Payments by Local Affiliates

If accepted by the tax authorities to be on an arm's-length basis, there is generally no limitation in allowing management and administrative expenses incurred by a non-local

affiliate to be deducted for payment by local affiliates. Where not accepted to be on an arm's-length basis (or in practice, voluntarily agreed by the taxpayer) there is a restriction to the lower of 5% of turnover, or to 75% of the profit before taking into account the expenses in question.

There is an automatic restriction on the deduction available to branches for head office expenses (as defined in the Income Tax Act 2010) to 5% of turnover.

### 5.7 Constraints on Related Party Borrowing

A tax deduction is not allowed for any interest paid or payable to a person not resident in Gibraltar if and so far as it is interest at more than a reasonable commercial rate.

See other restrictions on the deductibility of interest expense in 2.5 Imposed Limits on Deduction of Interest.

## 6. Key Features of Taxation of Foreign Income of Local Corporations

### 6.1 Foreign Income of Local Corporations

Income not accrued in or derived from Gibraltar is not taxable.

### 6.2 Non-Deductible Local Expenses

Expenses that are not wholly and exclusively incurred in the production of taxable income are treated by the tax authorities as non-deductible.

### 6.3 Taxation on Dividends from Foreign Subsidiaries

Dividends received by a company from another company are exempt from tax. In addition, dividends that are the distribution of profits that were not subject to tax in Gibraltar are not assessable to tax.

### 6.4 Use of Intangibles

In practice, intangibles can be developed by local corporations to be used tax-free by non-local subsidiaries, as the tax authorities are unlikely to determine there are royalties or fees for tax purposes when no royalties or fees are payable.

### 6.5 Taxation of Income of Non-Local Subsidiaries Under CFC-type Rules

Local corporations are not taxed on the income of their non-local subsidiaries, unless any activities of the non-local subsidiaries or branches are located in Gibraltar.

### 6.6 Rules Related to the Substance of Non-Local Affiliates

There are no specific rules that relate to the substance of non-local affiliates.

### 6.7 Taxation on Gain on the Sale of Shares in Non-Local Affiliates

Capital gains are outside the scope of tax in Gibraltar.

## 7. Anti-avoidance

### 7.1 Overarching Anti-Avoidance Provisions

General anti-avoidance provisions empower the Commissioner of Income Tax to disregard part or all of any arrangements or transactions which are deemed to be artificial and/or fictitious and whose purpose is to reduce or eliminate tax payable.

In particular, deductibility of expenses in relation to connected companies, where not on an arm's-length basis (see 5.6 Deductions for Payments by Local Affiliates above), would normally be subject to restrictions and limitations pursuant to the application of general anti-avoidance principles.

It is required that promoters of a scheme disclose to the commissioner any 'notifiable arrangement' or 'notifiable proposal'.

## 8. Other

### 8.1 Regular Routine Audit Cycle

There is no routine audit cycle in Gibraltar. Queries are frequently raised by the tax authorities, but normally on an ad hoc and relatively informal basis (ie, references to 'tax audit' or 'investigation' are infrequent).

## 9. BEPS

### 9.1 Recommended Changes

So far, the implementation in Gibraltar of BEPS recommended changes has been carried out through the adoption of EU Directives. These include:

- anti-avoidance provisions added to the application of the Parent-Subsidiary Directive – Council Directive 2014/86/EU of 8 July 2014;
- country-by-country reporting – Council Directive (EU) 2016/881 of 25 May 2016; and
- exchange of information with Member States on tax rulings – Council Directive (EU) 2015/2376 of 8 December 2015.

### 9.2 Government Attitudes

Gibraltar's government appears to recognise that many of the BEPS recommendations are inevitable and it has stated and clearly indicated by its actions that it is fully committed to complying with international obligations. There is also

a feeling that Gibraltar has to – and does – go further than many jurisdictions to prove that it is compliant, due to its small size.

### 9.3 Profile of International Tax

International tax has a relatively high profile in Gibraltar. It is a small jurisdiction, with significant activity in sectors such as financial services, tourism, internet gaming and, more recently, distributed ledger technology. Therefore, much of its business caters to international markets and/or is the subject of inward and outward investment.

Other factors influencing the implementation of BEPS recommendations include:

- a desire to demonstrate compliance with international obligations, whilst offering a business-friendly environment;
- being part, at least until March 2019, of the EU; and
- Gibraltar has no double tax treaties with any other jurisdiction.

### 9.4 Competitive Tax Policy Objective

It is reasonable to say that one of Gibraltar's key objectives is to offer a business-friendly jurisdiction. Keeping taxation to a level that does not discourage economic activity, whilst remaining internationally compliant, is part of this objective.

### 9.5 Features of the Competitive Tax System

Key features of Gibraltar's tax system include:

- a territorial system, whereby companies are taxed only on activities located in Gibraltar; the tax residency of a company is not – in itself – a factor that determines whether income is taxable in Gibraltar;
- Gibraltar has no VAT or equivalent sales tax;
- Gibraltar has no double tax treaties in place; and
- Gibraltar has a relatively low rate of corporate tax, at 10%.

### 9.6 Proposals for Dealing with Hybrid Instruments

The implementation by Gibraltar of BEPS recommended changes has so far been carried out through the adoption of EU Directives. This includes implementing the anti-avoidance amendments to the Parent-Subsidiary Directive,

designed to ensure that where dividends paid between EU Member States receive a deduction in one Member State, they will be subject to tax in the recipient Member State.

### 9.7 Territorial Tax Regime

Gibraltar has a territorial tax system for companies. Its tax legislation already contains a number of provisions to restrict deductions claimed for interest where these are higher than an arm's-length rate. There is little evidence that investment in Gibraltar is currently encouraged by any ability to claim deductions for interest paid.

### 9.8 CFC Proposals

The impact of the CFC proposals on Gibraltar, given its territorial tax regime, will depend on how the proposals are implemented in practice, and how this compares to CFC rules that are already applied in many jurisdictions.

### 9.9 Anti-Avoidance Rules

Gibraltar has no double tax treaties with any other jurisdiction, so anti-avoidance rules applied to DTAs are unlikely to impact Gibraltar directly.

### 9.10 Transfer Pricing Changes

It is likely that more specific transfer pricing requirements will be introduced to Gibraltar, given that there are presently few specific provisions in place. Although this could significantly increase the amount of documentation required to be compiled by local entities who are part of multinational groups, it remains to be seen whether this would have any other impact on such entities.

Regarding profits from intellectual property, there are no specific beneficial regimes in place. Royalties received or receivable by Gibraltar-registered companies are taxable at a rate of 10%. There is little evidence to suggest that intellectual property is being moved to Gibraltar for tax purposes, therefore it appears that there will be little negative impact on Gibraltar from BEPS proposals involving intellectual property.

### 9.11 Transparency and Country-by-Country Reporting

Gibraltar's government appears to be fully committed to tax transparency. All EU Directives in this respect, including country-by-country reporting, have been implemented.

### 9.12 Taxation of Digital Economy Businesses

No changes have been made to the taxation of transactions in relation to digital economy businesses operating from outside Gibraltar, and there do not appear to be any proposals in this respect.

### 9.13 Other General Comments

As with many tax-related measures, the impact of the BEPS process on Gibraltar will largely depend on how specific details are implemented.

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