



cutting through complexity

TAX

# Gibraltar - Attracting companies...

From 1 January 2011, there is a low rate company tax regime in Gibraltar, whilst the well established special tax regime for executives continues to attract skilled individuals to Gibraltar.

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## 10% Company Tax Rate

From 1 January 2011, under the Income Tax Act 2010 ("ITA"), all companies are chargeable to tax at a rate of 10%, except for certain companies such as utility companies that will be taxed at 20%.

## Territorial Basis

The ITA also "enshrines" the territorial basis of taxation so companies are only taxed on income accruing in or derived from Gibraltar.

When considering whether income is accrued in or derived from Gibraltar reference is made to the location of the activities, although for companies that are licensed and regulated in Gibraltar there is a presumption that the activities giving rise to the profits are undertaken in Gibraltar. Advance rulings can be obtained from the Commissioner of Income Tax to give companies certainty on their tax position.

## Profits Not Subject to Tax

In Gibraltar, companies are not subject to tax on:

- royalties,
- interest (unless it is a trading receipt),
- dividends received from another company, or
- capital gains.

## International Location

Gibraltar is a member of the European Union (EU) and has full EU passporting rights, which are beneficial for businesses wishing to provide their services throughout the EU, such as insurance companies. However, Gibraltar is not part of the EU VAT or Customs Union and so there is no VAT in Gibraltar.

Companies in Gibraltar can have access through local legislation to the EU direct tax directives, such as the Parent & Subsidiary Directive or the Interest & Royalties Directive and with no withholding tax on

interest, dividends or royalties, this makes Gibraltar an attractive location, especially for companies operating globally.

## Company Self-Assessment

The ITA introduces tax self-assessment for companies. Companies are now required to make returns of their taxable income and calculate their own tax liability based on their accounting periods.

Two payments of account will be required each calendar year: one on 28 February and one on 31 August. Each payment is equal to 50% of the tax payable for the last relevant accounting period. A balancing payment or refund is then due when the tax return is submitted. The tax return must be submitted within 6 months following the end of a relevant accounting period.

# ...and their executives

The Gibraltar personal tax regime for high net worth individuals is already well known. However, an increasing number of salaried executives are coming to Gibraltar to enjoy the local lifestyle and economic benefits. The ITA includes new rules on benefits in kind but also provides exemptions for certain relocation benefits, such as a seven year period where living accommodation is provided by an employer, when the employee is treated as changing "residence".

## HEPSS

For those individuals who are relocating to Gibraltar and are executives or senior management who have specialist skills, there is a tax regime in Gibraltar known as "HEPSS", which refers to the High Executives Possessing Specialist Skills Rules 2008.

## Specialist Skills

HEPSS can benefit executives who earn more than £100,000 per annum (2012/13) in Gibraltar and possess skills necessary to promote and sustain activity of particular

economic value to Gibraltar or the establishment, development or growth that the Gibraltar Government is looking to promote and encourage. However, these skills must not be readily available in Gibraltar.

## Capped Assessable Income

Under the HEPSS regime, certain assessable income, such as "gross emoluments" of employment, is capped.

For the 2012/13 Gibraltar tax year of assessment, which runs from 1 July 2012 to 30 June 2013, the cap is £120,000, and tax payable under the Gross Income Based System ("GIB") would amount to £29,940. The GIB was introduced as an alternative income tax calculation for individuals in 2007. Under the GIB, the taxpayer is not entitled to any allowances and/or reliefs.

## Other Requirements

As well as the above conditions, there are some other requirements to be met such as that the executive must have acquired or rented a property, approved by the Gibraltar Government

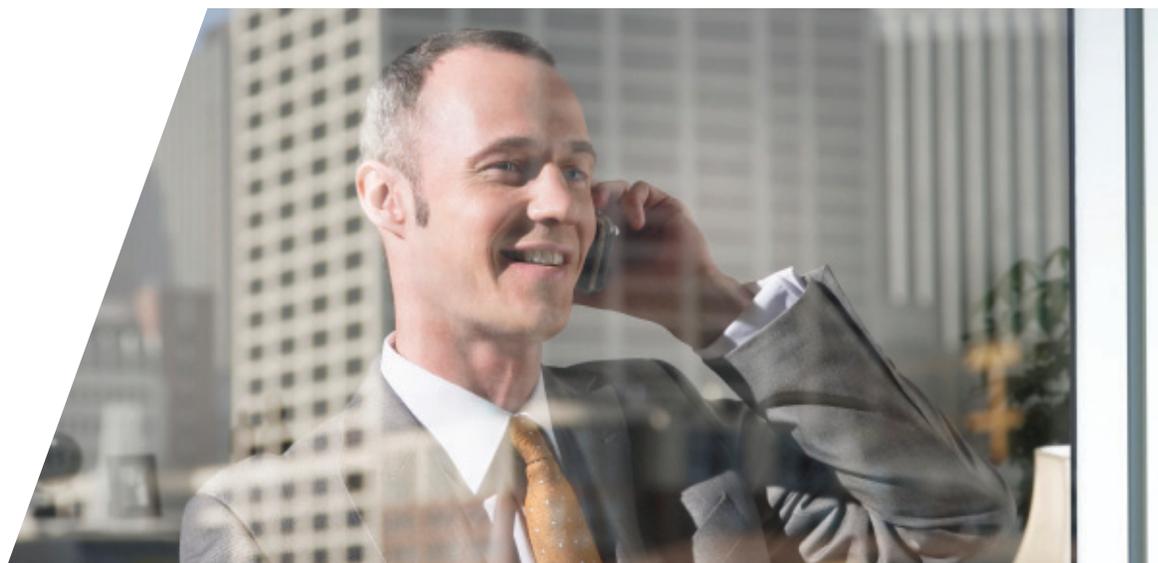
to be suitable for HEPSS status, that is available for their exclusive use. In addition, he or she must not have been resident or working in Gibraltar within 36 months immediately preceding the year of assessment in which the application is made.

## Application

An application must be made by a company incorporated, registered or carrying on a business in Gibraltar, with which the individual's occupation in Gibraltar is going to be carried out, to the Finance Centre Director, together with a non-refundable fee of £1,000.

## Certificate

If the application is successful a HEPSS certificate will be awarded to the executive. Once a certificate is issued it will, broadly, remain valid if the executive remains in employment with the same company and pays his or her taxes on time. Of course, the individual can in any event benefit from there being no capital gains tax, VAT and generally, no tax on passive income, such as interest, in Gibraltar.



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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