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A summary of tax legislation in Gibraltar

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In recent years, Gibraltar has developed into one of the most efficiently regulated offshore finance centres. The Rock boasts favourable tax legislation, an English common-law system and a prime geographical location – crucially, it is the only offshore centre enjoying full membership of the EU. The *mélange* of these factors has made Gibraltar an increasingly attractive, secure and unique jurisdiction, a fact that has had a positive bearing on the local property market. This is particularly evident in relation to high-net-worth individuals and private banking.

The legislation

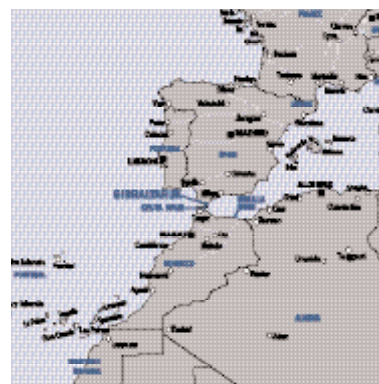
It was in the early nineties that, in an effort to promote its financial services sector and international reputation, Gibraltar enacted legislation to encourage wealthy or high-net-worth individuals to acquire residential property in the jurisdiction. The Gibraltar High Net Worth Individual Rules, promulgated under the Income Tax Ordinance, were enacted in 1992 and have recently been amended.

The new Qualifying (Category 2) Individuals Rules 1999 came into operation on November 1 1999 and resulted in those persons who had been officially termed as high-net-worth individuals ceasing to be known as such. Persons enjoying this particular privileged tax status are still, *de facto*, high-net-worth individuals, but legally their status title is now Category 2. The changes are not merely superficial – alterations have been made to the necessary conditions and procedures, making the new rules an even more attractive proposition for affluent people. However, the basis for these low tax limits remains unchanged: to encourage wealthy individuals to reside in Gibraltar.

An individual may be classified under the Category 2 banner if they meet or undertake to meet the vital requirement that approved residential accommodation in Gibraltar is available to them for their exclusive use for the whole of the year of assessment. Significantly, the individual is not required to live in Gibraltar for a minimum period each year. This means that, while the individual must buy or rent residential property that is approved by the government of Gibraltar and have that property for their exclusive use for the whole of the year, it is not necessary for them to live in that property for any minimum amount of time.

The other crucial requirement is that the individual disclose to the government of Gibraltar that they have a minimum of £2 million (\$3.6 million) deposit in a reputable bank.

Because Gibraltar has no double taxation treaties with any country – not even the UK – and because it is internally self-regulated in tax and financial matters, a Category 2



individual is, further, not susceptible to regular tax assessments by the UK tax authorities, unlike a high-net-worth individual in other jurisdictions, where such legislation is regulated and controlled by authorities from outside the jurisdiction. Furthermore, there is no need to declare any worldwide income or assets whatsoever. It is also noteworthy for an individual who wishes to relocate to Gibraltar that on death there will be zero inheritance tax to pay. The Gibraltar government abolished inheritance tax recently and so now does not charge inheritance tax, value-added tax, capital gains tax or wealth tax.

The Category 2 individual's liability to tax is calculated in accordance with the ordinary and general tax rules in Gibraltar, which provide that the Rates of Tax Rules 1989 apply. This is nonetheless subject to a proviso that tax will be levied only on the first £50,000 of assessable income and the minimum amount of tax payable will be £14,000 a year. Consequently, an individual that arranges their tax affairs competently will only have to pay what amounts to a nominal £14,000 in tax annually.

Main advantages

A Category 2 individual will benefit from residence in the EU and will be awarded a tax paid certificate. In addition, the individual will have the right to exchange an EU driving licence for a Gibraltar equivalent or, if they hold a non-EU licence, will be entitled to a Gibraltar driving licence. A Category 2 individual will have no need to declare their worldwide income and will only be subject to a flat rate of £14,000 a year. It is therefore understandable that Gibraltar is such an attractive proposition for high-net-worth individuals and has attracted over 280 individuals to the Rock through its residency programme.

Corporate and commercial

Recommended firms

Hassans

Isola & Isola

Triay & Triay

Denton Wilde Sapte

Marrache & Co

Massias & Partners

Triay Stagnetto Neish

Hassans

Hassans, the largest law firm in Gibraltar, with 14 partners, stands alone in the top tier this year, on the basis of strong recommendations to that effect from the market. Comments received on this highly experienced outfit were nothing short of glowing, the firm described as “streets ahead of everyone else” with an ability to “really get things done” – and, interestingly, as one that “does not have the usual mañana approach.” As a result, it would be fair to say that, being three times the size of the next-largest firm, Hassans’ direct competitors are the leading firms in other offshore jurisdictions, such as Mourant du Feu & Jeune in Jersey.

Banking and financial services are traditionally a big area for Gibraltar, as with any offshore jurisdiction, and Hassans gets involved in the lion’s share of work. Last year, for example, it advised on setting up the first special purpose vehicle to issue notes in Gibraltar, and advised on a \$500 million structured finance transaction arranged by JP Morgan and Deutsche Bank.

There has also been a lot of corporate and commercial work in the last few years, which has been focused on EU tax-driven restructurings based around capital duty avoidance (by contrast for example, there is a 1% duty in Luxembourg). Gibraltar is also seeing an increase in offshore gambling operations due to its status as a favourable tax regime, and Hassans handles around 80% of the available work including licensing, real estate, employment and insurance work.

The firm’s most prominent lawyer is James Levy QC. A “major rainmaker” who is well known internationally, Levy has brought in a great deal of private client work for the firm over the years. In addition to Levy, Anthony Provasoli is recommended as a telecommunications and insurance expert in Gibraltar, and is listed in *Euromoney’s Guide to the World’s Leading Insurance and Reinsurance Lawyers*.

Key contact partner

Michael Castiel

Leading lawyers

James Levy
Anthony Provasoli

Isola & Isola

This solid Gibraltar firm has a long Isola family history stretching back over 100 years; at the moment the senior partner is Peter Isola, and two of his sons – Peter and Albert – are also partners in the firm. Most of the work generated in Gibraltar is tax driven and comes from the banking sector. So it is no surprise that Isola & Isola's seven partners and six associates specialize in banking and tax work.

Key contact partner

Peter J Isola

Triay & Triay

With 10 partners, Triay & Triay is Gibraltar's second largest law firm. It is also its second oldest, founded in 1905. The firm has a particular specialty in shipping and admiralty work, but it also works on a large proportion of Gibraltar's financial, corporate and commercial legal transactions. Enjoying a good reputation among peers in the market, one rival commented that if his firm were conflicted out of advising on a deal, he "would always refer work to Triay & Triay."

Senior partner Joseph Triay QC is the son of one of the firm's founders, the late SP Triay. Joseph Triay was appointed Queen's Counsel in 1982, and is particularly well regarded by the legal market in Gibraltar, one peer describing him as "an inspiration to the profession in Gibraltar". The other name partner, Raymond Triay, is listed in Euromoney's *Guide to the World's Leading Shipping and Maritime Lawyers*, while Abraham Serfaty QC is recommended as a solid banking lawyer, especially for his work with Barclays Bank.

Triay & Triay has advised several European banks on their establishment in Gibraltar, and worked on a number of mergers involving local banks. Robert Vasquez leads the firm's banking team, and is praised by his peers for his technical skills and for understanding his clients' businesses.

Key contact partner

Joseph Triay

Leading lawyers

Abraham Serfaty
Joseph Triay
Raymond Triay
Robert Vasquez

Other notable firms

Nicholas Keeling heads up **Denton Wilde Sapte's** Gibraltar office – the only international firm in Gibraltar. This gives it the advantage of being able to offer both local and global legal resources to its clients, but the office is small, with only two partners in residence – Keeling and Brendan Murphy. **Marrache & Co** distinguishes itself from its competitors by being the only law firm with Spanish lawyers. The four-partner, one-consultant and seven-associate firm was recently involved in the acquisition of a hotel group in eastern Europe, has advised on the refinancing of a fleet of ships and acted on a company listing on the New York stock exchange worth approximately \$300 million. Lastly, at **Triay Stagnetto Neish**, name partner James Neish is described as "extremely competent," while peers also single out the talents of Isaac Massias of **Massias & Partners**.