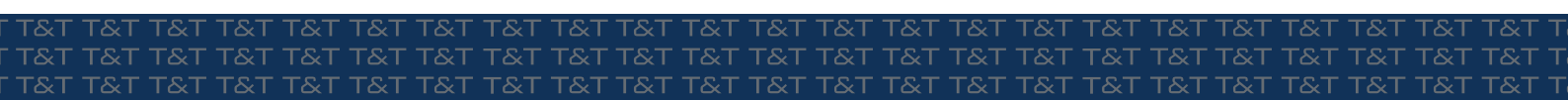


TRIAY & TRIAY

LAWYERS



DOING BUSINESS IN GIBRALTAR



www.triay.com

COUNTRY INTRODUCTION

- Premier self-governing and well regulated European Finance Centre located on the eye-catching Rock located at the tip of Southern Spain.
- Part of the European Union as a self governing UK Overseas Territory distinct from other competitors such as Jersey, Guernsey or Isle of Man.
- Population of approximately 30,000 with a total land area of approximately 7 square kilometres albeit this is subject to land reclamation.
- Official currency is Sterling.
- Official language is English (although Spanish is also widely spoken).
- Attractive jurisdiction for high net worth individuals, companies, financial services and funds given the combination of a competitive low tax environment and an enviable climate, lifestyle and location.
- Investment growth areas include Financial Services (including insurance and funds). Technology including E-Gaming (albeit limited to established blue chip companies); tourism, relocation of high net worth individuals and businesses seeking to offer financial services through the European Union.
- We have extensive experience in complex domestic and international matters, transactions and arrangements and regularly work with a wide variety of professionals and clients worldwide.
- As a result of such extensive experience, we recognise and understand the importance of adopting a communicative, diligent and practical approach in order to deal with industry specific issues and complete such matters, transactions and arrangements within challenging commercial timeframes.
- A key aspect of the corporate and commercial practice also involves a detailed understanding of the taxation and corporate governance aspects of commercial entities and structures, and their related transactions and arrangements.
- We have a proven track record of assisting our clients with their most significant and challenging commercial transactions, matters, structures, liabilities and obligations by offering experienced, responsive, pragmatic and commercially-minded advice across a full range of industries, sectors and disciplines.

BUSINESS PRESENCE

- Gibraltar is an excellent hub for the establishment of international business. The leading activities in Gibraltar are Financial Services and E-Commerce, Insurance, Bunkering, Property, Tourism and Transport as well as maritime related services given Gibraltar's location.

FOREIGN INVESTMENT RESTRICTIONS & CONDITIONS

- Appropriate approvals and licenses are required for the operation of business activities subject to the requirements of local and applicable European legislation.

EXCHANGE CONTROL

- There are no exchange controls in Gibraltar.

TAXATION

Low tax environment:

Corporation Tax:

- The standard rate of taxation effective from 1st January 2011 is a flat rate of 10% on defined taxable income for all companies and branches in Gibraltar except for certain categories of companies: telecommunications, petroleum, electricity, sewage and companies which abuse a dominant position where tax is levied at 20% of taxable income.
- Territorial basis for taxation of companies - Tax is payable on income/profits and gains from a trade or business profession or vocation accruing in or derived from Gibraltar. That means that in certain cases business activities which do not “accrue or derive” from Gibraltar are not taxable in Gibraltar. Advance rulings can be obtained to provide certainty.

Capital Gains Tax

- There is no capital Gains tax payable in Gibraltar. However, it should be noted that in appropriate trading circumstances, gains which are deemed as trading gains may be liable to income tax subject to the provisions of the Income Tax Act 2010.

Inheritance Tax

- No inheritance tax.

Parent- Subsidiary Rules / Dividends

- No charge to tax on the receipt of dividends by a Gibraltar company from any other company regardless of where it is incorporated.
- No tax payable on dividends paid by one Gibraltar company to another Gibraltar company. Dividends paid by a company which is ordinarily resident in Gibraltar are liable to tax in Gibraltar when paid to a shareholder who is an individual ordinarily resident in Gibraltar. A tax credit at the rate of tax paid by the company on the profits out of which the dividend is being paid shall be available for set off against any tax that may be charged on that income.
- No withholding tax on dividends paid albeit if a dividend is declared in respect of a Gibraltar resident individual or company then it must submit a return of dividends.

Interest

Interest is not taxable in Gibraltar unless:

- It is in the course of licensed money lending activities or deposit taking activities as defined in the Financial Services (Banking) Act; or
- It is interest on loans by a company to another company in excess of £100,000.

Royalties

- Royalties received or receivable by a company are liable to tax in Gibraltar and royalties will be deemed to accrue and derive in Gibraltar where the company in receipt of the royalty is a company registered in Gibraltar.

Personal Income Tax

- Individuals ordinarily resident in Gibraltar are liable to tax in Gibraltar on their worldwide income. An individual is deemed to be ordinarily resident in Gibraltar if they are present in Gibraltar for either 183 days or more in a tax year; or they are present in Gibraltar for more than 300 days in any three consecutive tax years.
- Individuals can opt to be taxed under an Allowance Based System or Gross Income Based System and will pay in accordance with whichever system results in lower tax.
- Individuals are subject to graduated tax rates at the applicable rates of 15% to 40% and 6% to 28% under the Allowance Based System and the Gross Income Based system respectively.

Double Tax Arrangement

- There are currently no double taxation arrangements.
- A Gibraltar resident who is in receipt of income which is liable to tax in Gibraltar that is derived from and has already suffered tax in any other jurisdiction, shall be entitled to double taxation relief in Gibraltar in respect of that income of an amount equal to the tax already deducted or the Gibraltar tax, whichever is the less.

TAX AND INVESTMENT INCENTIVES

- The Government of Gibraltar has entered into Tax Information Exchange Agreements (TIEA) with 27 countries including the USA and the UK and has signed an Intergovernmental Agreement (IGA) with the UK to improve international tax compliance. The Government of Gibraltar has indicated that it will sign a similar agreement with the USA. In addition, the Council of Europe Convention on Mutual Administrative Assistance in Tax Matters has been extended to cover Gibraltar
- Have applied to the Finance Centre Director and has been issued with a certificate qualifying him as a Category 2 individual;
- In practice an individual must also demonstrate a financial standing in excess of £2 million.
- Individuals possessing skills or experience which are not available in Gibraltar which are deemed to be necessary to promote and sustain economic activity of particular economic value to Gibraltar can apply for High Executive Possessing Specialist Skills (HEPSS) status provided he will earn more than £120,000. Under this status the individual shall be charged to tax limited to the first £120,000 of his assessable income under the Gross Income Based System.

High Net Worth Individuals

- An individual who has applied to the Finance Director and obtained a Category 2 certificate under the Qualifying (category 2) Individuals Rules shall be liable to income tax on the first £80,000 of his assessable income only and the amount of tax due and payable in any year of assessment shall not be less than £22,000. To qualify for Category 2 status an Individual must fulfil the following conditions:
- Have available to him for his exclusive use approved residential accommodation in Gibraltar for the whole of the year of assessment;
- Have not been resident in Gibraltar for the previous 5 years;
- Have not been engaged for the previous 5 years, and will not be engaged in the future whilst a Category 2 Individual, in a trade, business or employment in Gibraltar (other than, in general, duties which are incidental to any trade, business or employments based outside Gibraltar or providing consultancy services from Gibraltar in certain circumstances).

Deposit Guarantee Scheme

- Gibraltar has implemented the European Union Directive on Deposit Guarantee Schemes. This ensures that there is a level of deposit protection for depositors with credit institutions in Gibraltar and covers 100% of a bank's total liability to a depositor in respect of qualifying deposits subject to a maximum payment of €100,000.

Investor Compensation Scheme

- The European Union Directive on Investor Compensation schemes has also been implemented in Gibraltar. This scheme covers 90% of all eligible investments held by the claimant with the investments firm subject to a maximum payment to any one individual of €20,000.

EMPLOYMENT LAW

Working Conditions

- The maximum amount of working hours in Gibraltar is 48 hours a week unless otherwise agreed with an employer in writing.
- There is a policy of equal pay for women and a minimum wage protection for certain industries. The statutory minimum wage is currently £6 per hour.

Trade Unions

- Whilst trade unions are recognised in Gibraltar it is not compulsory for workers to join a trade union. All trade unions in Gibraltar must be registered.

Insolvency Fund Claims

- This fund provides for claims of employees of insolvent employers that may have found themselves being owed wages or salaries, accrued holiday pay, notice periods, etc., on their termination of employment.

INTELLECTUAL PROPERTY

Applications to Register a Trade Mark or Patent Cannot Originate in Gibraltar.

- The Patents Act 1924 provides that patents duly granted and registered in the UK will be extended to Gibraltar upon application, production of the appropriate documents and the payment of the requisite fee.
- Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of Gibraltar as though the patent had been issued in the United Kingdom with an extension to Gibraltar.

Trademarks

- The Trademarks Act 1948 provides that any person being the registered proprietor of a trade mark in the United Kingdom may apply at any time during the existence of the registration in the United Kingdom to have such trade mark registered in Gibraltar in respect of some or all of the goods comprised in the United Kingdom registration.
- Upon the registration of such a trademark a registered proprietor in Gibraltar shall have the privileges and rights in the use of the trade mark in respect of the goods entered in the register as would be conferred on him by the law for the time being in force in the United Kingdom.

DISPUTE RESOLUTION

- The legal system in Gibraltar is largely based and derived from English law principles of equity and common law as well as applicable European law.

The Courts of Gibraltar Are as Follows:

- + The Magistrates' Court: The Magistrates' Court's Jurisdiction is broadly comparable to that of the Magistrates' Court of England and Wales
- + The Supreme Court: The Supreme Court of Gibraltar deals with the vast majority of civil matters in Gibraltar and as such is broadly comparable to the High Court of England and Wales. The Supreme Court of Gibraltar also deals with criminal matters with the equivalent jurisdiction of the Crown Court in England and Wales.

- + The Court of Appeal: Appeals in Gibraltar are heard by a local Court of Appeal which normally has around three sittings each year and is comprised of recently retired leading judges from the UK as well as the local Chief Justice who sits in an ex officio capacity.
- + The Judicial Committee of the Privy Council: The right of final appeal is to the Judicial Committee of the Privy Council which is the highest Court and final court of appeal. The Privy Council usually sits in London.
- Alternative dispute resolution (ADR) is available and includes mediation and arbitration.

IMMIGRATION PROCEDURES

Passport and Visa Requirements

- Passports are required by all visitors to Gibraltar, except EU nationals who are in possession of a valid national identity card.
- Only citizens of countries that appear on the EU Common Visa List require visas to enter Gibraltar.

Residency

- European Economic Area (EEA) nationals are entitled to enter or remain in Gibraltar in any case where they are entitled to do so by virtue of an enforceable European Community right.
- Other nationals require both residency permits and work permits.

Work Permits

- A national of an EU State may work in Gibraltar and enjoy all the benefits and protections of the European legislation relating to the free movement of workers.
- Non-EU nationals may also be able to obtain employment in Gibraltar but they are required to obtain a work permit.
- In the case of non EEA nationals a work permit will only be granted if there are no workers in Gibraltar who are able and willing to take up the particular employment.

TRIAY & TRIAY

LAWYERS

TRIAY & TRIAY GIBRALTAR

28 Irish Town, Gibraltar

Telephone +350 200 72020 **Facsimile** +350 200 72270 **Email** info@triay.com

TRIAY & TRIAY SPAIN S.L. SOTOGRANDE

Edificio Plaza Mayor, Planta 1a-17,

Plaza Mayor s/n, Pueblo Nuevo de Guadiaro, Sotogrande, 11310 Cádiz

Telephone +34 956 695395 **Facsimile** +34 956 796244 **Email** info@triay.com

TRIAY & TRIAY SPAIN S.L. MARBELLA

Av. Ricardo Soriano No.19-5, Marbella 29600 Málaga

Telephone +34 952 902400 **Facsimile** +34 952 827373 **Email** info@triay.com

www.triay.com

