

# *Gibraltar Tax Facts 2018/2019*

A practical and  
easy-to-follow  
guide to the  
Gibraltar tax  
system.

July 2018





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## *Budget summary*

The main tax changes to existing legislation, which take effect as from 1 July are summarised below:

### *Personal tax*

An increase in the low income earners allowance so that any taxpayer with income of £11,200 or less with effect from 1 July 2018 does not pay any income tax. This change applies to both the Allowance Based and the Gross Income Based System.

In respect of the Allowance Based System, allowances were increased by 2.5%.

No changes were announced to the Gross Income Based System.

### *Social Insurance*

A 10% increase in social insurance contributions was announced.

### *Changes to the Transfer of Corporate Tax Losses*

In order to facilitate group restructuring and consolidation, changes have been made to allow the transfer of losses between group entities upon restructuring, provided that there is no change to the ultimate ownership or a change of business within a period of three years. The changes will allow losses to be carried forward against a business even if the business is transferred to another company under the same ultimate ownership.

Anti-abuse provisions will restrict the transfer of losses to instances of legitimate group restructuring. The transfer of accumulated losses from one type of business to another will be specifically prohibited.

### *Statutory Minimum Wage*

This has increased from £6.45 to £6.75 per hour.

### *Changes in import duty rates*

Import duty has increased on the following goods:

- An increase in duty on water pipe tobacco of £30 from £15 per kilo to £45 per kilo (where the Collector of Customs is satisfied that merchandise can be demonstrated to have been ordered before this announcement and the delivery stage is engaged then the current duty of £15 per kilo will be accepted for that consignment only);
- An increase of £1 for cigarettes from £13 to £14 per carton;
- Rolling tobacco increases by £15 from £45 per kilo to £60 per kilo;
- Cider, shandy and fermented beverages increases to 21 pence per litre;
- Bottled alcoholic beverages with alcoholic strength per volume not exceeding 15% increases by 17 pence per litre;
- American Whisky and Bourbon increases to £2 per litre;
- Sparkling Wines and Champagne increases by 31 pence to £1 per litre;
- Diesel fuel increases by 12 pence per litre of ordinary diesel and 11 pence per litre of premier diesel fuel;
- Unleaded fuel increases by 6 pence per litre of unleaded 95 and 5 pence per litre of Unleaded 98;
- Diesel Engines under 1495cc will incur an additional 10% duty; and
- Import duty on plastic bags has increased by 200%

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## *Budget summary*

Import duty has been removed on the following goods:

- Educational electronic equipment;
- Instruments and appliance used in the medical, surgical, dental and veterinary sciences, including sight testing equipment; and
- Handbags.

The cash back for full electric vehicles with no element of propulsion by a combustion engine is increased to £2,500. A new cashback incentive of £150 has been introduced for full electric motorbikes and £200 for electrically assisted bicycles.

### *Special Stamp Duty on Affordable Housing*

In order to counter individuals who seek to speculate on affordable housing developed by Government a Special Stamp Duty of 7.5% will be levied on the sale of property within 10 years after the original purchase of the property.

The special stamp duty will not apply in circumstances of a forced sale, including in the cases of divorce or where a family moves to a larger property as a meritorious upgrader to another, newer, Government affordable housing estate.

### *Who is liable to taxation in Gibraltar?*

Income tax is charged on income accruing in or derived from Gibraltar.

Income tax is also charged on certain income accruing in, derived from or received in any place other than Gibraltar by any person ordinarily resident in Gibraltar.

Gibraltar has introduced a number of tax incentives which allow certain categories of resident individuals to limit the total tax payable in any tax year, subject to certain criteria being met (see page 13).

### *Individuals*

An individual will be considered to be ordinarily resident when they are present in Gibraltar for at least 183 days in the year of assessment, or over 300 days in aggregate over three consecutive years of assessment.

Any part of a 24 hour period commencing at midnight will be counted as a day of presence whether or not Gibraltar accommodation is used.

The tax year runs from 1 July to 30 June 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 (see page 11) or under a gross income based system (see page 12) and will be assessed for tax under the system that results in the lower tax.

The rules prevent one family member benefiting from the gross income based system and another from obtaining the benefit of certain allowances (such as mortgage interest relief) under the allowance based system.

The standard rate of withholding tax for individuals under the emergency code is 20%.

### *Companies*

A company will be considered resident in Gibraltar if the management and control of its business is exercised from Gibraltar.

A company where the management and control is exercised outside Gibraltar by persons who are ordinarily resident in Gibraltar is also considered resident in Gibraltar.

The location of central management and control is established under legal principles laid down in the United Kingdom and is the place of the highest form of control and direction over a company's affairs, as opposed to decisions on the day-to-day running of the business.

Companies are subject to taxation on income accrued in or derived from Gibraltar on the taxable profits for the financial year.

Those businesses whose income arises from an underlying activity that requires a licence and regulation under any law of Gibraltar (or is licensed in another jurisdiction but enjoys passporting rights into Gibraltar) shall be deemed to accrue in and derive from Gibraltar.

Income which is not accrued in or derived from Gibraltar is not taxed in Gibraltar. "Accrued in and derived from" is defined by reference to the location of the activities which give rise to the profits.

Where the income is intercompany interest or royalties it is automatically deemed to accrue in and derive from Gibraltar if it is received by a Gibraltar company.

### **The standard rate of taxation**

The standard rate of taxation for a company is 10%, with utility and energy providers and companies that abuse a dominant position paying a higher rate of 20%.

### **Partnerships**

Partnerships are viewed as transparent entities for tax purposes and therefore the profits or gains from the partnership are deemed to be the share to which the partner was entitled.

The tax year runs from 1 July to 30 June and the basis of taxation is on current year profits.

### **Branches**

The basis for taxation of branches of foreign enterprises is the same as for companies.

### **Trusts**

A trust is considered resident in Gibraltar where it has one or more beneficiaries who are ordinarily resident for tax purposes in Gibraltar (excluding Category 2 individuals). A Gibraltar resident trust is subject to taxation in Gibraltar at the rate of 10%.

A Gibraltar trust which has non-resident beneficiaries is not subject to taxation in Gibraltar and all of its income (with the exception of income from a trade which has accrued in and derived from Gibraltar) may be accumulated free of tax in Gibraltar.

### **Foundations**

A foundation is resident in Gibraltar unless persons who are resident in Gibraltar and their issue have been irrevocably excluded from receiving benefit from the foundation. A foundation resident in Gibraltar is subject to taxation in Gibraltar at a rate of 10%.

### **Taxable income**

Income tax is charged on:

- Gains or profits from any trade, business, profession or vocation;
- Gains or profits from employment including any allowances, perquisites or benefits in kind;
- Rents, premiums and any other profits arising from any interest in real property;
- Dividends (see below);
- Interest (see page 5);
- Royalties (see page 5);
- Income received from pensions imported from abroad (see page 14).

### **Dividends**

There is no charge to tax on the receipt by a Gibraltar company of dividends from any other company, regardless of where incorporated.

There is no tax on dividends paid by one Gibraltar company to another, and there is no liability to tax on dividends paid by a Gibraltar company to a person who is not resident in Gibraltar.

Where a dividend, or part of a dividend, is the distribution of profits that were not assessable to tax in Gibraltar in the hands of the company that originally generated the income, then the dividend, or relevant part of the dividend is not taxable in the hands of an ordinarily resident individual receiving the dividend.

There is also no withholding tax on dividends paid, however, where a company declares a dividend, a return of dividends is required. Listed companies are exempted from this requirement.

### **Interest**

Companies with a banking or money lending licence earning interest as a trading receipt, will have that interest treated as income chargeable to tax.

The portion of the interest which relates to a return on own funds (i.e. not funds from deposit taking activities) is not subject to tax.

Interest received or receivable by a Gibraltar company, arising from an inter-company loan, will be chargeable to tax. Where the interest received or receivable is less than £100,000 per annum, the interest is exempt from any charge to taxation.

All other interest received or receivable is not taxable in Gibraltar.

### **Royalties**

Royalties received or receivable by a Gibraltar company are chargeable to tax.

### **Exempt income**

The main types of exempt income are summarised below:

- Interest from financial institutions and listed investments;
- Dividends from companies listed on a recognised stock exchange;
- The income of a friendly society, sporting club, or ecclesiastical, charitable or educational institution or trust of a public character;
- Compensation for unfair dismissal and sums paid upon redundancy or retirement which have been approved as appropriate by the Commissioner;
- The investment income of any pension fund, provident fund or other fund established in Gibraltar, and approved by the Commissioner;
- The income received by any trust or beneficiary where the beneficiaries are all non-Gibraltar resident (this exemption also applies to Category 2 Qualifying Individuals, see page 13);
- Any income arising from Gibraltar by an individual not resident in Gibraltar for a period of less than 30 days in a tax year;
- Pensions received from an approved occupational pension scheme by individuals aged 60 or over (see page 14);
- The gains or profits derived by a non-resident owner, charterer or operator of ships or aircraft for the carriage of passengers or cargo to or from Gibraltar in any ship or aircraft owned, chartered or operated by them;
- The income accruing to a life fund maintained by a life assurance company;
- Income received by a student from employment during vacation, where the income from employment during such vacation is followed by full time instruction at an educational establishment;

- Income received by individuals participating in a Government Vocational Training Scheme approved by the Commissioner;
- Income received by community care officers aged between 60 and 65 years of age in respect of community work;
- Medical insurance premiums paid by an employer to an approved scheme on behalf of employees up to an amount of £3,000 for individuals taxed under the Gross Income Based regime and £5,285 for individuals taxed under the Allowance Based regime; and
- Benefits in kind to an annual value of £250 per employee.

### *Deductions allowed*

For the purpose of ascertaining the assessable income there shall be deducted all outgoings and expenses wholly and exclusively incurred in the production of the income.

There are also a number of incentives available to taxpayers which may be taken as a deduction (please refer to the deductions section on page 9 and 10).

In the case of a person who has income, some of which is chargeable to tax and some of which is not, the deductions allowed shall be apportioned on a pro-rata basis between the chargeable and non-chargeable income.

No deduction shall be allowed in respect of:

- Expenses not incurred wholly and exclusively in the generation of income;
- Domestic or private expenses;
- Any expenses of a capital nature;
- Any sum recoverable under an insurance contract or contract of indemnity;
- Property expenses not incurred for the purposes of producing income;
- Any tax charged under the Income Tax Act;
- Depreciation of assets (although capital allowances are available, see page 7);
- Contributions paid to an employee pension scheme where the scheme has not been approved by the Commissioner of Income Tax;
- Interest paid other than on borrowings for the purposes of the trade or profession or acquiring the capital which generates the income for the trade or profession.
- With respect to branches, general head office expenses which exceed 5% of turnover;
- Certain business entertainment expenditure which does not qualify as deductible under the guidelines provided by the Commissioner of Income Tax; and
- Charitable donations. Where a gift is made by a taxpayer to a charity or ecclesiastical institution approved by the Minister, an amount equal to the income tax paid by the donor on the gross amount will be paid by the

Commissioner to the charity or ecclesiastical institution in accordance with the Gift Aid Rules. Gift aid is available in respect of aggregate donations made by a donor of up to £5,000 in a year of assessment.

Certain other expenses may also be disallowed under anti-avoidance provisions (see page 15).

### Capital allowances

The first £30,000 of qualifying expenditure on plant and machinery (including fixtures and fittings) acquired in a year of assessment is fully deductible with the balance deductible at the rate of 15% per annum on a reducing balance basis.

The first £50,000 of qualifying expenditure on computer equipment (including software) is fully deductible and the remaining balance is deductible at the rate of 15% per annum on a reducing balance basis.

Expenditure on motor vehicles which does not qualify as plant and machinery does not qualify for a first year allowance but is deductible at the rate of 15% per annum on a reducing balance basis.

For unincorporated businesses and companies that are obliged to pay the higher rate of corporate tax, wear and tear allowances are 20% per annum on a reducing balance basis.

If the accounting period is less than 12 months, the pool allowance is apportioned by reference to time.

Where the balance of qualifying expenditure is less than £1000, the full amount is allowed as a deduction in that year.

Capital allowances for industrial buildings are deductible at the rate of 4% per annum on a straight line basis.

Capital payments for leases which are for periods of less than 12 years qualify for capital allowances on a straight line basis over the remaining period of the lease.

Newly established businesses are able to claim 100% of their eligible capital allowances in the first year of trading.

Construction costs in relation to office accommodation where works commenced between 1st July 2013 and 31st March 2015, and for high value accommodation where works commenced between 1st July 2014 and 31st December 2015, are available as a capital allowance deduction in the first year following completion of construction equal to 30% of construction costs and the remaining 70% written down over the following seven years. This allowance can be claimed in part or in full by either the developer or the occupant up to a maximum claim of the full construction costs. Construction costs are those costs wholly and exclusively laid out or expended in the construction of the office accommodation including all preliminary planning, design and associated costs but excluding the cost of the land.

### Losses

A trading loss incurred in an accounting period may be offset against trading income, if any, arising in the same period or subsequent periods.

If, however, within any period of three years there is both a change in ownership and a major change in the nature and conduct of a trade, trading losses may not be offset against trading income arising in the same or subsequent periods. The Chief Minister in his Budget Address on 2 July 2018 announced the introduction of legislation allowing the transfer of losses between group entities upon restructuring, provided that there is no change to the ultimate ownership or a change of business within a period of three years. The changes allows losses to be carried forward against a business even if the business is transferred to another company under the same ultimate ownership.

Anti-abuse provisions restrict the transfer of losses to instances of legitimate group restructuring. The transfer of accumulated losses from one type of business to another is specifically prohibited.

Any losses not connected with or arising from the trade, business, profession or vocation are not allowable deductions.

There is no provision for the carrying back of losses.

### Group relief

There is no group relief available in Gibraltar.

### Withholding tax

There is no withholding tax on interest, dividend or royalty payments.

### Withholding tax on payments to subcontractors

Payments made to a subcontractor without a valid certificate are subject to 25% withholding tax on that portion of the payment which is not for materials used in construction.

### Value added tax

There is no VAT in Gibraltar.

### Customs and excise duties

Goods imported into Gibraltar are subject to import duty at varying rates.

### Exchange of information

The following mechanisms for the exchange of information apply in Gibraltar:

- Bilateral Tax Information Exchange Agreements with 27 countries, 26 of which are in force;
- The Directive on Administrative Cooperative with effect from 1 January 2013 with automatic exchange effective as from 1 January 2015. The reporting deadline for reportable accounts is 31 July;
- US FATCA. The first date from which information will be exchanged by the Competent Authorities was 30 September 2015 for the period ended 31 December 2014. The reporting deadline for reportable accounts is 31 July;
- UK FATCA. The first date from which information will be exchanged by the Competent Authorities was 30 September 2016 for the period ended 31 December 2014 and 2015. The reporting deadline for reportable accounts is 31 July;

- The Convention on Mutual Administrative Assistance in Tax Matters with effect from 1 March 2014;
- The OECD Common Reporting Standard. The first date on which information will be exchanged by the Competent Authorities was 30 September 2017 for the period ended 31 December 2016. The reporting deadline for reportable accounts is 31 July; and
- Country by Country Reporting. Where the Gibraltar entity is a member of a Multi National Enterprise (“MNE”) group which has consolidated turnover of over EUR750 million, the Gibraltar entity must notify the Commissioner of Income Tax of the identity and jurisdiction of tax residence of the entity that will file the CBCR on behalf of its MNE group by nine months after the financial year-end. Where the Gibraltar entity is the ultimate parent entity for the group or it is obliged to file a full Country by Country Report, this filing must be made within 12 months of the financial year end.

### **Start-up Businesses**

New businesses setting up in Gibraltar between 5 July 2016 and 30 June 2017 are eligible to a tax credit equal to the tax due up to a maximum of £50,000 per annum over each of the first three financial years of trading. This incentive is subject to the following conditions: it must be a new business setting up in Gibraltar and not the transfer of a business already existing in Gibraltar; the business must employ at least 5 people; and the business must be a company or limited partnership but not an individual trading in its own name.

### **Deduction of approved expenditure on premises**

For tax payers with an interest in a building situated in Gibraltar an allowance is available for approved expenditure on the painting, decorating, repair or enhancement of the frontage of that building.

The approved amount will be available as a deduction against the taxpayer’s income. This deduction is in addition to any deduction, relief or allowance given in accordance with any other provision of the Income Tax Act in respect of the same expenditure. Notice of proposed works and expenditure needs to be provided to the Town Planner within 28 days from commencement of work.

The claim for the deduction of approved expenditure must be made within two years after the end of the year of assessment in respect of which the deduction is claimed.

The amount of the allowance for taxpayers who are assessed on the gross income based system is restricted to £5,000 per annum (see page 12).

### **Deduction for improvement in EPC rating**

A deduction is available for the investment made by an individual, company or business that makes a significant improvement to the EPC rating. The percentage is subject to the discretion of the Commissioner of Income Tax.

### **Training Costs**

Training costs for employees working towards a qualifying qualification are allowable as an expense at the rate of 150%.

### **Property Investment Incentives**

**Development aid:** In order to encourage private development in Gibraltar, promoters and developers of approved projects are offered certain incentives such as tax relief, import duty relief and rates relief.

In order to qualify for the above reliefs the project needs to be a new project the aim of which is:

- To create a tangible immovable asset in Gibraltar that will remain in existence after the applicant has ceased to derive the benefits under the licence; and
- To provide more than two additional units of housing accommodation in Gibraltar; or
- To contribute materially to the development of the tourist industry in Gibraltar; or
- To afford any new employment opportunities or career prospects in Gibraltar; or
- Otherwise to improve materially the economic or financial infrastructure of Gibraltar; and
- The project shall be one which is for the economic benefit of Gibraltar.

The project needs to be completed within a specified time (dependant on the type of project) following the issue of the licence and the applicant must not expend less than the prescribed amount for the project.

Application for development aid must be made to the Minister.

**Construction of residential accommodation:** Owners of property constructed in Gibraltar from 1 July 2016 to 1 January 2019 and rented for residential purposes will receive a tax credit equal to the tax payable on the profits earned on the first twenty-four months of rent occurring in the first five years after the completion of construction of that property. This tax credit is non-refundable and can be offset against the tax payable to extinguish any liability to tax.

**Construction of high value accommodation incentives:** Where a property developer carries out the development of a qualifying project which consists entirely of high value accommodation and construction commences between 1 July 2014 and 31 December 2015, capital allowances equal to 30% of construction costs will be available as a tax deductible expense in the first year following completion of construction with the remaining 70% written down over the following 7 years.

This allowance can be claimed in part or in full by either the developer or the occupant up to a maximum claim of the full construction costs. Construction costs are those costs wholly and exclusively laid out or expended in the construction of the office accommodation including all preliminary planning, design and associated costs but excluding the cost of the land.

**Construction of office accommodation incentives:** Where a property developer carries out the development of a qualifying project which consists entirely of office accommodation and construction commences between 1 July 2013 and 31 March 2015, capital allowances equal to 30% of construction costs will be available as a tax deductible expense in the first year following completion of construction with the remaining 70% written down over the following 7 years.

This allowance can be claimed in part or in full by either the developer or the occupant up to a maximum claim of the full construction costs. Construction costs are those costs wholly and exclusively laid out or expended in the construction of the office accommodation including all preliminary planning, design and associated costs but excluding the cost of the land.

### Allowance based system

Under the allowance based system the individual will be taxed on their income less allowances (see below) at the applicable rates:

The first £4,000 of taxable income	14%
The next £12,000 of taxable income	17%
The remainder of the taxable income	39%

Personal relief is granted on submission of a claim to the tax office when applying for a tax code upon registration. The main allowances (which are reduced by one twelfth for each complete calendar month that the individual is not resident in Gibraltar) for the tax year are as follows:

Personal allowance		£3,385
Spouse allowance		£3,385
One parent family		£5,575
Child allowance in respect of first child only		£1,165
Child allowance in respect of each child educated abroad		£1,325
Disabled individuals		£9,285
Nursery school allowance in respect of each child attending		£5,290
Blind allowance		£5,285
Health insurance premiums	(i)	£5,285
Life assurance premiums	(ii)	100%
Mortgage interest	(iii)	100%
House purchase for residential accommodation	(iv)	£16,000
Solar energy for boilers	(v)	£3,000
Age allowance (state pensionable age – claiming spouse allowance)		£5,600
Age allowance (state pensionable age – not claiming spouse allowance)		£8,900

The minimum total allowances amount to £4,188.

- (i) Maximum relief.
- (ii) Allowable premiums up to 1/7<sup>th</sup> of assessable income or 7% of capital sum assured.
- (iii) Interest payable on a loan to acquire a Gibraltar property to be used as a tax payer's principal residence is allowable on loans up to a value of £350,000. Loan arrangements entered into before 1 July 2008 are eligible for relief on 100% of the loan as long as the loan continues to be secured on the current property and is in the name of the current borrower. The interest on these loans are subject to "tapered grandfathering" whereby the relief on the amount of the loan in excess of £350,000 will be reduced by 1/10<sup>th</sup> per annum.
- (iv) One off allowance of £12,000 spread over a number of years and additional allowance of £4,000 restricted to a maximum of £1,000 per year.
- (v) One off allowance of £3,000 spread over two years.

Persons whose taxable income does not exceed £11,200 per annum are exempt from tax.

Taper relief is available for individuals whose taxable income is between £11,200 and £19,500 per annum.

A tax credit equal to the higher of £300 or 2% of the tax payable for the year is available.

There is also a tax credit of up to £4,000 available for individuals aged 60 and over who are not in receipt of pension or annuity income in excess of £6,000.

### Gross income based system

Under the gross income based system the applicable tax rates are as follows:

Persons with gross income under £25,000 are taxed at the following rates:

The first £10,000 of taxable income	6%
The next £7,000 of taxable income	20%
The remainder of taxable income	28%

Persons with gross income over £25,000 are taxed at the following rates:

The first £17,000 of taxable income	16%
The next £8,000 of taxable income	19%
The next £15,000 of taxable income	25%
The next £65,000 of taxable income	28%
The next £395,000 of taxable income	25%
The next £200,000 of taxable income	18%
The remainder of taxable income	5%

Persons under the gross income based system may also benefit from a deduction from their assessable income of:

- Up to a maximum of £1,500 per annum in respect of mortgage interest payments;
- Up to a maximum of £1,500 per annum in respect of pension contributions to an approved scheme;
- Up to a maximum of £5,000 per annum in respect of approved expenditure incurred on the enhancement of the frontage of their property;
- Up to a maximum of £6,500 per annum in respect of approved expenditure incurred towards the purchase of their home (this benefit is available to first time home buyers only and if purchase occurs on or after 1 July 2015);
- Up to a maximum of £3,000 per annum in respect of expenditure incurred towards private medical insurance premiums.
- Up to a maximum of £3,000 over two years in respect of expenditure incurred towards the installation of solar energy for boilers.

**Benefits in kind**

Benefits in kind are taxed as gains from employment. There is specific legislation on how to tax benefits and the allowances available, particularly with respect to:

- Expense payments;
- Vouchers and credit tokens;
- Living accommodation;
- Cars, vans and related expenditure;
- Loans to employees, directors and shareholders; and
- Removal benefits and expenses.

The Act provides a mechanism for the Commissioner to tax benefits not specifically covered in the legislation. The value of the benefit is the cost to the employer less any amount made good by the employee.

Where the aggregate value of the benefits is less than £250 in total for any year of assessment no tax is payable in respect of those benefits.

The employer may opt to pay the tax on the benefits on behalf of an employee. When the annual value of these benefits is between £250 and £15,000 tax shall be paid at the rate of 20%. When the annual value of the benefit is more than £15,000 tax shall be paid at the rate of 29%.

**Tax incentives**

Category	Requirements	Tax per annum
Category 2 (High Net Worth Individuals)	Approved residential accommodation. Non Gibraltar resident for the five years preceding the application. Minimum of £2 million net assets.	Minimum of £22,000 pa. Maximum of £27,560 pa. (i)
High Executive Possessing Specialist Skills ("HEPSS")	Approved residential accommodation. Non Gibraltar resident for three years preceding the application. Minimum annual salary requirement of £120,000. Possess skills not available in Gibraltar which are necessary to promote and sustain economic activity of particular economic value.	£29,940 pa.

(i) The tax shelter does not extend to any income from a trade, business, profession, vocation or employment in Gibraltar which is assessable to tax under the provisions of the Act.

### Social insurance contributions

Social insurance contributions are payable by every employee or self-employed person in any week in which they work.

From 1 July 2018 employee contributions are 10% of gross earnings subject to a minimum of £6.05/€26.22 per week/month and a maximum of £30.25/€131.08 per week/month. From 1 July 2018 employer contributions are 20% of gross earnings subject to a minimum of £18.15/€78.65 per week/month and a maximum of £40.15/€173.98 per week/month. From 1 July 2018 self-employed contributions are 20% of gross earnings subject to a minimum of £12.10/€52.43 per week/month and a maximum of £36.85/€159.68 per week/month.

Individuals aged 60 and over and those whose statutory occupational retirement age is earlier than 60, as in the case of a fire officer, police officer, prison officer or a member of the Royal Gibraltar Regiment, and are in insurable employment shall be exempt from paying the employee's share of social insurance contributions. Employers will continue to be required to pay their share of the contribution.

There is an exemption from employers' and employees' social insurance contributions in respect of an employee's secondary employment. This is subject to the full contribution having been paid in Gibraltar.

A credit in respect of employers' social insurance contributions is available to businesses with 10 employees or less of £100 per employee. This is increased to 20 employees for new businesses within the first year of operation.

There is also an exemption from both the payment of employer and employee social insurance contributions in the case of payments received whilst on maternity leave.

### Pension schemes

Overall employer and employee contributions are eligible for tax relief of up to 25% of earned income in respect of contributions made to approved occupational pension schemes (including contributions by proprietary directors and shareholders).

Tax relief on contributions to retirement annuity contracts and approved personal pension schemes is limited to the lower of 20% of earned income or £35,000.

Employees can obtain tax relief on contributions to an approved scheme of up to 1/6<sup>th</sup> of their earned income. The 1/6<sup>th</sup> limit includes premiums payable on approved life insurance policies which are themselves subject to an earnings cap of 1/7<sup>th</sup> of earned income.

Pensions received from an approved occupational pension scheme by individuals aged 60 or over or who are compulsorily retired at age 55 under Section 8(2) of the Pensions Act (applicable to fire officers, police officers, prison officers or members of the Royal Gibraltar Regiment) are not subject to tax in Gibraltar.

Where contributions to approved personal pension schemes and retirement annuity contracts in any one year are below the maximum tax relief that can be claimed for that year, a 'one year carry back' facility is available enabling members of such schemes to top-up any unused tax relief.

Pensions received from an approved pension scheme imported from another country ("QROPS") shall be taxed at the rate of 2.5% insofar as it forms part of the taxable income of that individual.

### **Anti-avoidance provisions**

The legislation contains a generic anti-avoidance clause which allows the Commissioner to disregard an arrangement which he believes is fictitious or artificial and also requires promoters of tax planning schemes to notify the Commissioner within 30 days of any schemes which result in the payment of less tax.

The Act also contains specific anti avoidance provisions as follows:

**Thin capitalisation rules:** Interest paid on a loan by a company to related parties (which are not themselves a company) or loans where security is provided by related parties, where the ratio of the value of the loan capital to the equity of the company exceeds 5 to 1 is considered as a dividend payment and thus not a deductible expense for tax purposes.

**Transfer pricing legislation:** The amount of interest payments to connected persons which is in excess of that payable at “arm’s length” is deemed to be a dividend.

Also if the amount charged for goods and services by the connected persons is not at “arm’s length” expenses allowed are subject to a maximum of (i) the expense, (ii) 5% of the gross turnover of the company or (iii) 75% of the pre expenses profit of the company.

**Interest payable and back to back loans:** Any interest paid or payable to a person not resident in Gibraltar is not deductible insofar as the interest is at more than a reasonable commercial rate.

Any interest paid on any money borrowed other than for the purposes of the trade or profession, is also not deductible.

Where the interest income is not taxable the interest expense is not deductible on back to back loans.

**Dual employment contracts:** Income from dual employment contracts is taxed in Gibraltar where the two employers are connected persons. Bona fide arrangements where the purpose is not to avoid tax is a defence to the provision.

**Transfer of assets abroad:** Where assets are transferred abroad with the purpose of avoiding taxation and the taxpayer has the power to enjoy these assets either now or in the future, then any income or benefits received from these assets will be deemed to be income chargeable to tax. This provision does not apply if the transaction is bona fide and not designed for the purpose of avoiding tax.

**Double taxation relief:** Any person ordinarily resident in Gibraltar who is liable to pay tax in Gibraltar in respect of income also taxed abroad is able to claim double taxation relief in respect of the tax paid abroad. On furnishing evidence of the payment made abroad, the claimant is entitled to a credit equivalent to the lesser of the:

- Tax payable on that income in Gibraltar; or
- Tax payable or paid abroad in respect of the same income.

If relief from the double taxation has to be made abroad, the relief then given is reduced accordingly.

A claim for double taxation relief has to be made within six years after the end of the year of assessment to which it relates. The time limit is extended where any adjustment or assessment made in Gibraltar or abroad renders any relief previously given excessive or insufficient. In those circumstances, a claim must be made within the six years after the adjustment or assessment.

### Capital gains tax

There is no capital gains tax in Gibraltar. In deciding whether an activity is a trade or a capital gain the Commissioner will refer to case law.

### Wealth tax

There is no wealth tax in Gibraltar.

### Estate duty

There is no estate duty in Gibraltar.

### Rates

General rates are levied on all properties in Gibraltar.

Purchasers of affordable homes benefit from a rates holiday, starting with zero rates in the first year, increasing by 10% annually thereafter.

### Stamp duty

Stamp duty is payable on the transfer or sale of any Gibraltar real estate or shares in a company owning Gibraltar real estate (on an amount based on the market value of the real estate) at the following rates:

Consideration	% value of consideration
£200,000 or less	0%
£200,001 to £350,000	2% on first £250,000 and 5.5% on balance
Over £350,000	3% on first £350,000 and 3.5% on balance

For first and second time buyers, there is no stamp duty to pay on the first £260,000 of the cost of the property, irrespective of the total cost.

Stamp duty on transfers of properties between spouses is nil.

A special rate of stamp duty of 7.5% is payable on the sale of affordable housing developed by Government within the first 10 years since original purchase. The duty is not payable in circumstances of a forced sale, including in the cases of divorce or where a family moves to a larger property as a meritorious upgrade to another, newer, Government affordable housing estate.

Stamp duty is also payable on mortgages secured on Gibraltar real estate at the following rates:

Mortgage	% value of mortgage
£200,000 or less	0.13%
Over £200,000	0.20%

### Capital duty

Capital duty of £10 is payable on the initial authorisation of capital or any subsequent increase thereto.

### Gaming duty

Gaming duty is levied at 0.15% on the gross profits of holders of a bookmaker, betting intermediary and gaming operator's licence. The first £100,000 of gross profits is exempt from this duty.

### Tax returns

Both individuals and companies (including a branch of a company situated in Gibraltar) are required to file returns and calculate their tax liability for the year. The return together with the estimated liability needs to be accompanied by the payment of the tax due.

Tax returns for individuals, partnerships, sole traders and trusts are due by 30 November following the year in which the income is assessed.

Tax returns for companies (and Gibraltar branches) are due nine months after the date of the company's financial year end.

Companies with assessable income of more than £1.25 million are required to file audited accounts together with the tax return.

Companies (including a branch of a company situated in Gibraltar) with assessable income of less than £1.25 million are required to file accounts accompanied by an Independent Accountant's Report with the tax return. Companies with no assessable income are still required to file tax returns. The accounts to be filed depend on the size of the company as determined by the Companies Act. Full audited accounts are required except where the company qualifies as "small" which would mean satisfying two of the following criteria for two consecutive years:

- For year ends beginning on 1 January 2016, net turnover less than £10.2million (for year ends beginning in 2015 it is £6.5million)
- For year ends beginning on 1 January 2016, total assets less than £5.1million (for year ends beginning in 2015 it is £3.26 million)
- Average employees less than 50

Where the company is "small" and it has no assessable income only an abridged balance sheet needs to be filed.

### **Payment of tax**

For employees, collection of tax is initially through a Pay As You Earn ("PAYE") system. Every employer paying emoluments to an employee is required to deduct from the amount of emoluments a specified amount of tax. Payment is due by the 15th day of the following month. At the end of the year of assessment the employer is obliged to make a return of the employee's emoluments and tax deducted together with the payment of any outstanding tax. Returns are due by 31 July following the year of assessment. Late filing of a return will incur a penalty of £10 per employee per day.

Individuals are required to make two payments on account on 31 January and 30 June in each year of assessment. Each payment should be equal to 50% of the tax liability for the previous tax year. The 'on account' payments are not applicable to individuals whose only income is from employment which is subject to PAYE deductions.

Companies are required to make payments on account of future liabilities on 28 February and 30 September in each calendar year. Each payment should be equal to 50% of the tax based on the previous year's assessable income.

The balance of tax due being the actual liability less payments on account is due on the date of filing of the return which must be within nine months of the financial year end for companies and by 30 November for individuals, partnerships, sole traders and trusts.

### **Appeals**

If a tax payer disputes an assessment, he may appeal against that assessment by notice in writing addressed to the Commissioner within 28 days of the date of service of the notice of the assessment.

### *Fines and penalties*

Penalties are imposed if tax is not paid or if returns are not filed by the due dates. The following penalties and fines are applicable:

For late payment of tax, there is a penalty of 10% of the amount of tax due on the day immediately after such payment was due. If unpaid for 90 days a further amount of 20% of the tax due is charged.

Failure to file a return by the due date will result in a penalty of £50 with a further penalty of £300/£500 if the return is not submitted within three months/ six months after the due date.

Failure to file a return or for fraudulently, recklessly or negligently delivering to the Commissioner an incorrect return, accounts or information will be liable to a penalty of up to 150% of the difference between the actual tax due and the tax due as per the original declaration, if any. The amount of the penalty will depend on:

- The amount of the tax lost and/or delayed;
- The gravity of the offence, if deliberate or an honest mistake; and
- The level of cooperation in the investigation.

Failure to respond to a notice or request to submit information or documentation within 30 days will result in a fine of £200 on the day the failure occurs and a penalty of up to £500 per day thereafter. Failure to comply beyond a three month period, if convicted, can result in imprisonment.

Failure to pay to the Commissioner PAYE or social insurance which has been withheld/should have been withheld is a criminal offence which can lead to imprisonment and/or a fine. If an amount of PAYE and/or social insurance exceeding £5,000 is outstanding for over three months the Commissioner will, after giving 14 days' notice, publish in the Gibraltar Gazette the name of the person whom he has reason to believe has failed to comply with the PAYE Regulations.

Failure to notify the Commissioner of an arrangement the main benefit of which is to avoid the payment of tax will result in a fine of £100 on the day the failure occurs and a penalty of £200 per day thereafter.

## Historical Tax Rates

### Corporate

	2018/19	2017/18	2016/17	2015/16	2014/15
Corporate tax rate (%)	10	10	10	10	10

Utility and energy providers and companies that abuse a dominant position pay a higher rate of 20%.

### Personal

#### Allowance based system - rates

	2018/19	2017/18	2016/17	2015/16	2014/15
14%	4,000	4,000	4,000	4,000	-
15%	-	-	-	-	4,000
17%	12,000	12,000	12,000	12,000	-
18%	-	-	-	-	12,000
24%	-	-	-	-	-
39%	Balance	Balance	Balance	Balance	-
40%	-	-	-	-	Balance

A tax credit is available equal to the higher of £300 or 2% of the tax payable for the year.

#### Allowance based system - allowances

	2018/19	2017/18	2016/17	2015/16	2014/15
Personal allowance	3,385	3,300	3,215	3,200	3,100
Spouse allowance	3,385	3,300	3,215	3,200	3,100
One parent family	5,575	5,435	5,290	5,264	4,000
Child allowance	1,165	1,135	1,105	1,100	997
Child educated abroad	1,325	1,290	1,255	1,250	1,105
Disabled individuals	9,285	9,285	9,040	9,000	6,000
Nursery school allowance (per child)	5,290	5,160	5,025	5,000	4,000
Blind allowance	5,285	5,155	5,020	5,000	4,000
Health insurance premiums	5,285	5,155	5,020	5,000	4,000
House purchase allowance	16,000	16,000	16,000	16,000	15,500
Age allowance (state pensionable age - claiming spouse allowance)	5,600	5,600	5,600	5,600	5,443
Age allowance (state pensionable age - not claiming spouse allowance)	8,900	8,900	8,815	8,800	8,075

Individuals 60 years and over not in receipt of income exceeding £6,000 per annum in respect of an occupational pension/annuity are eligible for a £4,000 tax credit.

#### Gross income based system

	2018/19	2017/18	2016/17	2015/16	2014/15
Income below £25,000					
6%	10,000	10,000	10,000	7,000	7,000
20%	7,000	7,000	7,000	7,000	7,000
28%	Balance	Balance	Balance	Balance	Balance
Income above £25,000					
16%	17,000	17,000	17,000	17,000	17,000
19%	8,000	8,000	8,000	8,000	8,000
25%	15,000	15,000	15,000	15,000	15,000
28%	65,000	65,000	65,000	65,000	65,000
25%	395,000	395,000	395,000	395,000	395,000
18%	200,000	200,000	200,000	200,000	200,000
10%	-	-	-	-	300,000
5%	Balance	Balance	Balance	Balance	Balance



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