

## GIBRALTAR COMPANIES

Gibraltar has been for many years a popular location for offshore companies.

Companies incorporated in Gibraltar for international business purposes are known as "Non Resident Controlled" Companies.

Gibraltar companies are not always considered resident for tax in Gibraltar. If a Gibraltar Company is able to establish that it is "Non-Resident Controlled", the Gibraltar Tax Authorities will treat such a Company as not liable for taxation in Gibraltar. Such "non-liability" may be determined on the following basis:

- That the Beneficial Owners of a Company are non-residents of Gibraltar
- That the Directors and Shareholders of the company are non-residents of Gibraltar or professional licensed Corporate Directors and/or Nominee Shareholders.
- That the company ONLY carries on business EXCLUSIVELY outside Gibraltar, does not establish a physical operational presence in this jurisdiction, and has no Gibraltar-source income.

In addition to the above, recent Budget measures announced by the Gibraltar Government may also be factored into any advice that is offered to clients:

- Taxation is abolished on dividends paid by one Gibraltar Company to another Gibraltar Company.
- Taxation is abolished on dividends and interest paid by a Gibraltar Company to a non-resident recipient.
- The requirement to withhold tax on dividends is abolished.

Quite apart from the above, it is also useful to note that there is no Capital Gains Tax or Inheritance Tax due in Gibraltar. Also there is no VAT in Gibraltar nor any minimum capital requirements.

In other words, the "non-resident control" or "non-liability" of a Gibraltar company for tax in Gibraltar, may be determined on the basis that the Directors and Shareholders of the company are non-residents of Gibraltar or Gibraltar-licensed Corporate Directors and/or Nominee Shareholders, and on the strict condition that the company ONLY carries on business EXCLUSIVELY outside Gibraltar. So long as the

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Company is not expected to conduct any business with Gibraltar or Gibraltarians, you should rest assured that it will not be assessable for tax in Gibraltar.

The standard incorporation time for Gibraltar companies is 5 working days.

Gibraltar companies are NOT favourably structured for the provision of Bearer Shares.

The identity of the Directors and Shareholders of Gibraltar companies are required to be filed at the Gibraltar Companies Registrar although these can be Nominees.

A minimum of one Director and one Shareholder (corporate or individual) are required to be appointed to a Gibraltar company.

### FILING OF CORPORATE ACCOUNTS

Gibraltar companies are required to identify commencement dates for their financial years during the period 1st April to 31st March, and to file a Balance Sheet at the Companies Registry relating to their chosen year-long fiscal period within 13 months from the chosen financial year end. These Balance Sheets will be required to be signed by the Directors of the companies, and there will be no requirement for these Balance Sheets to be audited.

### BANKING REQUIREMENTS

We regret to inform you that we are not in a position to assist with the opening of corporate bank accounts in Gibraltar for clients introduced through professional intermediaries such as yourselves. This is because Gibraltar banks will place a heavy responsibility on the introducing party to have intimate knowledge of their clients' business which, in turn, would place the banks' and our own requirements at odds with your own confidential relationship with your clients.

### NEW AMENDMENTS OF INCOME TAX ACT

As from the 1st January 2011 the new Gibraltar Income Tax Act, will apply a new Corporate Tax rate of 10% on any profits to all Ordinary Gibraltar "Trading" Companies with a physical operational presence in Gibraltar and Gibraltar-source income.

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However, all Gibraltar companies as from the 1st January 2011 all companies hitherto enjoying “Tax Exempt Status” (that cannot conform to any one of the above criteria) will lose their tax exemption and become subject to Gibraltar Corporation Tax at a rate of 10% on any profits. Gibraltar “Non-Resident Controlled” companies will continue to function as “tax-free” entities alongside local Gibraltar “Resident” companies as normal.

*The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained.*