

# Gibraltar

## Tax Facts 2009/2010\*



This publication is a practical and easy-to-follow guide to the Gibraltar tax system. It provides a summary of Gibraltar tax rates as well as an outline of the main areas of Gibraltar taxation.

This booklet is also available online at [www.pwc.gi](http://www.pwc.gi)

A list of PricewaterhouseCoopers contacts is provided in the back of this guide should you require more detailed advice or assistance tailored to your specific needs.

The booklet is based on taxation law and practice in Gibraltar as at 1 July 2009 and includes proposed changes to the Income Tax Act which have yet to be enacted.

It is intended to provide a general guide only to the subject matter and is necessarily in a condensed form. It should not be regarded as a basis for ascertaining the liability to tax in specific circumstances. Professional advice should always be taken before acting on any information in the booklet.

While every effort has been made to ensure accuracy, information contained in this publication may not be comprehensive or may have been omitted which may be relevant to a particular reader.

No responsibility for loss to any person acting or refraining from acting as a result of any material in this publication can be accepted by PricewaterhouseCoopers.

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## Budget Summary

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Below is a summary of the proposed changes to the Income Tax Act as a result of the Chief Minister's budget speech on the 25 June 2009.

### Corporate

- 5% reduction in the rate of corporation tax from 27% to 22%.
- Confirmation that the "low rate" announced in the 2007 budget will be 10%. The effective date for this rate will be 1 January 2011.
- The Companies (Taxation and Concessions) Act will be repealed on 31 December 2010.
- Upon the introduction of the 10% rate, energy and utility providers will pay a 10% surcharge and will thus suffer an effective rate of 20%.
- Change in basis of assessment from preceding year to actual on 1 January 2011.
- Introduction with effect from 1 July 2009, of a "start-up" rate of 10% which will apply to any business established in Gibraltar after 1 July 2009. This rate will also be available to certain businesses that have commenced trading after 1 July 2007.
- There will be wide ranging and far reaching anti-avoidance provisions.

### Personal

#### Gross income based system

- Reduction in the top band rate of 3% from 38% to 35%.
- Reduction in the 30% band of 1% to 29%.
- For persons whose gross income does not exceed £16,000 per annum, a new band of £10,000 will be introduced on which tax will be payable at the rate of 10%.
- For persons with income between £16,000 and £25,000 new bands have been added.

#### Allowance based system

- 2.8% increase in personal allowances.
- Abolition of carry back relief with regards to retirement annuity contracts and personal pension schemes with effect from 25 June 2009.

#### Social insurance

- 4% rise in employees' and employers' contributions.

#### Category 2

- The minimum amount of tax payable by Category 2 individuals is increased from £18,000 to £20,000 and the maximum amount of income to be taxed increases by £10,000 to £70,000.

### Who is liable to taxation in Gibraltar?

Income tax is charged on income accruing in, derived from or received in Gibraltar. It 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. Ordinarily resident means an individual who, irrespective of whether such individual is domiciled in Gibraltar or otherwise, resides in Gibraltar except for reasonable temporary absences. An individual who is a British subject or citizen of the Republic of Ireland who is employed in Gibraltar and resides in the surrounding area is also considered ordinarily resident.

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 9).

### Corporate residence

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

The location of central management and control will be 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.

### Tax year and basis of assessment

Tax is currently charged for the year of assessment (running from 1 July in one calendar year to 30 June in the next) on the basis of the income of the preceding year except for income from employment which is charged on the basis of the income for that year.

The preceding year basis of assessment will be abolished in favour of an actual basis as from 1 January 2011. Commencement provisions will be abolished and there will be transitional rules introduced.

The following special rules apply for the first three years following the commencement of trade and the last two years preceding the cessation of trade:

### Rules on commencement

Tax Year	Basis of assessment
First	From the date of commencement of trade to the end of the tax year
Second	The first twelve months of trading
Third	Prior year basis, if there is a full twelve month accounting period ending in the preceding tax year. If not, then it is the first twelve months of trading.

The tax payer has the option to make an election in the second and third tax years to be assessed on an actual basis if this results in a lower tax charge for the tax payer and there has been no cessation. The tax office needs to be advised of this no later than twelve months after the end of the third tax year and the option is for both years and cannot be exercised separately for each year.

### Rules on cessation

Tax Year	Basis of assessment
Last	Start of the tax year to the date of cessation of trade.
Penultimate	The greater of the profits of the penultimate year or the pre-penultimate year.

### Partnerships

An assessment is made on the partners in respect of the partnership profits split between the partners according to the proportion in which they share profits. The income is assessed on a prior year basis after adjustments.

### Branches

The basis for taxation of branches of foreign enterprises is the same as for companies i.e. assessed on a prior year basis after adjustments.

### What income is taxable in Gibraltar?

Income tax is charged on:

- Gains or profits from any trade, business, profession or vocation;
- Gains or profits from employment;
- Discounts, dividends and interest (except dividends arising from investments quoted on a recognised stock exchange, and interest paid by banks, building societies, or other financial services institutions which are exempt);
- Rents, royalties, premiums and any other profits arising from property;
- The income of any person from the occupation of premises for residential purposes;
- Dividends, interest, or emoluments of office accruing in, derived from or received in any place other than Gibraltar by a resident.

With the exception of dividends, interest, pensions or emoluments of office, income which is not accrued in or derived from Gibraltar is not taxed in Gibraltar. Specifically, income derived from the following categories will not accrue in or derive from Gibraltar for the purposes of the Income Tax Act:

- The letting of property where that property is outside Gibraltar;
- Trading in future delivery contracts for the purchase and sale of commodities in markets outside Gibraltar with parties outside Gibraltar;
- Salvage operations taking place outside the jurisdiction;
- The oversight of a construction operation outside Gibraltar;
- The lending of money outside Gibraltar.

Where a taxpayer seeks to reduce their liability to tax by creating an artificial split between activities in Gibraltar and outside the Commissioner shall use the anti-avoidance provisions of Section 13 of the Income Tax Act and any other means to defeat such an attempt.

## **Tax Facts 2009/2010**

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### **Dividends**

Except in the case where the income forms part of the company's trading receipts, dividend income from companies listed on a recognised stock exchange is not taxable in Gibraltar.

There is no withholding tax on dividends paid. However a company must submit a return of any dividend paid within 30 days following the year end of each year of assessment.

There is no liability to tax for dividends paid to a person who is not resident in Gibraltar.

There is no tax on dividends paid by one Gibraltar company to another.

Dividends received from participating interests or from any subsidiaries in the participating interest group are not liable to taxation in Gibraltar. A participating interest exists where there is a direct or indirect shareholding of at least 10%, as from 1 January 2009, in a company registered in the EU (or a company which is registered in a country which has a bilateral agreement with the EU).

### **Interest**

Except in the case where the income forms part of the company's trading receipts, interest received from financial institutions is not taxable in Gibraltar.

Where the situs of a loan is outside Gibraltar there is no source of income which would give rise to a liability to tax in Gibraltar in respect of the interest received on that loan.

The situs of a loan will depend upon:

- The place of residence of the debtor;
- The source from which the interest is paid;
- The place where the interest is paid;
- The nature and location of the security for the debt.

Unless there are compelling reasons to the contrary, where loans are primarily secured on assets situated in Gibraltar, they are likely to have their situs in Gibraltar.

Section 40 of the Income Tax Act requires that companies withhold tax at the standard rate on the payment of mortgage or debenture interest or interest on any loan advanced to the company for capital purposes. This requirement is extended to payments of interest on any loan charged on the Consolidated Fund. Reference to the standard rate of tax is in respect of the person to whom interest is paid (currently this is 30% for individuals and 22% for companies). Where there is no liability to tax on interest paid there is also no duty to withhold tax.

Additionally whether or not there is a liability to tax in Gibraltar there is no withholding tax in respect of payments of interest made to recognised banks situated in Gibraltar.

### Exempt income

The main types of exempt income are summarised below:

- Interest income from a bank, building society or other financial services institutions licensed to take deposits (see page 4);
- Dividends received from a company the shares of which are quoted on a recognised stock exchange (see page 4);
- Dividends paid to non Gibraltar resident individuals (see page 4);
- Dividends satisfying the conditions of the Parent & Subsidiary Rules 2008; (see page 4);
- 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 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 of the Government Savings Bank;
- The income received by any trust or beneficiary where the settlor and beneficiaries are all non Gibraltar resident (this restriction does not apply to Category 2 Qualifying Individuals (see page 9);
- The profits of an exempt company (see page 10) and the dividends or interest payable by such a company to its own members;
- Any income arising out of Gibraltar and received therein by a non-resident individual in Gibraltar for some temporary purpose;
- Pensions received from an approved occupational pension scheme by individuals aged 60 or over (see page 12);
- The gains or profits derived by a non-resident owner or charterer or operator of ships or aircraft for the carriage of passengers or cargo to or from Gibraltar in any ship or aircraft owned or chartered or operated by them;
- The income accruing to a life fund maintained by a life assurance company in so far as the retention of the income within the fund is necessary to maintain the fund at the level required by the Insurance Companies (Solvency Margins and Guarantee Funds) Regulations, 1996;
- Income received by a student from employment during vacation.

### 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.

No deduction shall be allowed in respect of:

- Domestic or private expenses;
- Expenses not incurred wholly and exclusively in the generation of income;
- 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 below);
- Employee remuneration not accompanied by a certified statement of names, addresses and amount of remuneration.

### 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 25% per annum on a straight line basis.

The first £50,000 of qualifying expenditure on information technology investment is fully deductible with the balance deductible at the rate of 25% per annum on a straight line basis.

Expenditure on motor vehicles which do not qualify as plant and machinery is deductible at the rate of 25% per annum on a straight line basis.

Expenditure on industrial buildings attracts an allowance of 4% per annum on a straight line basis.

Capital payments for leases which are for periods of less than 12 years are fully deductible in the year in which the premium is paid.

### 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. There is no provision for the carrying back of losses.

### Group Relief

There is no group relief available in Gibraltar.

### Charge to tax

Individuals have the choice of being taxed under either an allowance based system or under a gross income based system and will pay whichever results in the lower tax.

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

## Tax Facts 2009/2010

### 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 - 17%
- The next £12,000 of taxable income - 30%
- The remainder of the taxable income - 40%

Personal relief is granted on submission of a claim to the tax office when applying for the 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 during the year of assessment) for the tax year 2009/2010 are as follows:

Personal allowance	£2,735
Deduction for spouse	£2,560
Deduction for one parent family	£2,560
Deduction for children	£970
Deduction for children educated abroad	£1,075
Deduction for health insurance premiums	(i) £1,090
Life assurance premiums etc.	(ii) 100%
Mortgage interest	(iii) 100%
House purchase for own residential occupation	(iv) £15,500
Disabled individuals	£2,650
Nursery school allowance	£995
Dependent relative (resident)	£185
Dependent relative (non-resident)	£135
Daughter's services (not married)	£ 205
Blind allowance	£610
Apprentice allowance	£370
Age allowance (state pensionable age-married man)	£5,295
Age allowance (state pensionable age-single persons & married woman)	£7,855

(i) Maximum relief.

(ii) Allowable premiums up to 1/7th of assessable income or 7% of capital sum assured. Relief is granted at the basic rate (currently 17%).

Any policies acquired prior to 3 June 2008 will obtain relief at the tax payers marginal rate provided there is no change in the value, term or premium.

(iii) Interest payable on a loan to acquire a Gibraltar property to be used as a tax payer's principle residence is allowable on loans up to a value of £300,000. Loan arrangements entered into before 1st July 2008 will be 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 will be subject to "tapered grandfathering" whereby the relief on the amount of the loan in excess of £300,000 will be reduced by 1/10th per annum.

(iv) One off allowance of £11,500 spread over a number of years and additional allowance of £4,000 restricted to £1,000 (maximum) per year.

For individuals with income less than £19,500 a low income earner's allowance is available as follows:

Income of £8,000 or less	£4,000
Income of £8,000 to £17,500	£1,300
Income of £17,500 to £18,500	£920
Income of £18,500 to £19,500	£500

Note : The above allowances are subject to a minimum allowance of £3,600.

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 £2,000.

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### Gross income based system

Under the gross income based system the individual will not receive any allowances and the applicable tax rates are:

- The first £25,000 of taxable income - 20%
- The next £75,000 of taxable income - 29%
- The remainder of the taxable income - 35%

For persons whose gross income does not exceed £16,000 per annum, the first £10,000 of taxable income will be taxed at the rate of 10% with the balance at 20%.

Persons with income between £16,000 and £25,000 are taxed at the following rates, with the balance at 20%:

- Income of £16,000 to £17,000, on the first £5,000 - 0%
- Income of £17,000 to £18,000, on the first £4,000 - 0%
- Income of £18,000 to £19,000, on the first £3,000 - 0%
- Income of £19,000 to £20,000, on the first £2,000 - 0%
- Income of £20,000 to £25,000, on the first £1,000 - 0%

### Standard rate of tax

The standard rate of tax is 30% for individuals and 22% for companies.

### Corporation tax

The standard rate of Gibraltar corporation tax is 22% but there is a small company rate of 20% which applies where the profits of an accounting period are less than £35,000 per annum and a marginal rate is charged on profits of between £35,000 and £43,333.

A 'small company' is one whose trading activity in any year has a minimum of 80% of total trading receipts derived from sources other than dividends, interest or discounts, rents, royalties, premiums and any other profits arising from property.

The Government have confirmed that the "low rate" announced in the 2007 budget will be 10%. The effective date for this rate will be 1 January 2011. This means that the tax rate in respect of the first half of the tax year 2010/11 will be the corporate tax rate at the time, and in respect of the second half of the tax year the rate will be 10%.

Upon the introduction of the 10% rate, energy and utility providers will pay a 10% surcharge and will thus suffer an effective rate of 20%. These will include electricity, fuel, telephone service and water providers.

### Start up incentives

With effect from 1 July 2009, a "start up" rate of 10% will apply to any business established in Gibraltar after 1 July 2009. Tax will be assessed on an actual year basis.

As an anti avoidance provision, it will not apply in respect of any commercial activity being carried out before 25 June 2009 and which is reorganised by the taxpayer in the name of a different entity for the purpose of benefiting from the scheme.

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This scheme will also be available, on certain conditions, to businesses that have been recently established. These conditions are as follows:

- The business must have commenced after 1 July 2007;
- The company must agree to be taxed on a preceding year basis, and not on an actual year basis in the context of commencement provisions;
- The first tax year for which the company will be liable is 2008/09, and tax will be payable in respect of this period at the rate of 27%;
- In 2009/10 the tax rate will be 10%.

### Withholding tax

There is no withholding tax in Gibraltar other than on payments to subcontractors (see below) and interest payments on Gibraltar situs loans, except to Gibraltar banks (see page 4).

### 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.

### Thin capitalisation

There are no debt-to-equity ratio rules.

### Double taxation relief

When a Gibraltar resident is in receipt of income which is liable to tax in Gibraltar and this income is derived from and has already suffered tax at source, relief shall be allowed in respect of that income of an amount equal to the tax already deducted or the Gibraltar tax, whichever is the less.

### Qualifying Individuals

As discussed previously, incentives have been introduced which allow particular individuals who satisfy certain criteria to limit the taxation on their worldwide income.

Category	Requirements	Tax per annum
Category 2 (High Net Worth Individual)	Approved residential accommodation Non Gibraltar resident for the five years preceding the application Minimum of £2 million net assets	Minimum of £20,000 pa Maximum up to approximately £24,500 pa.
High Executive Possessing Specialist Skills ("HEPSS")	Approved residential accommodation Non Gibraltar resident for three years preceding the application or taxpayer previously registered as Category 3 certificate holder. Minimum annual salary requirement of £100,000 Possess skills not available in Gibraltar which are necessary to promote and sustain economic activity of particular economic value to Gibraltar	£26,750

### Savings Directive

Where a paying agent in Gibraltar makes an interest payment to a beneficial owner resident in another EU member state (or a country with a bilateral agreement with the EU), the minimum amount of information to be reported to the competent authority shall consist of:

- The identity and residence of the beneficial owner;
- The name and address of the paying agent;
- The account number of the beneficial owner;
- Information concerning the interest payment.

The competent authority shall transmit the information to the competent authority of the Member State of residence of the beneficial owner within six months following the end of the tax year in which payment was made.

For residents of the United Kingdom there is an obligation on the paying agent to withhold tax from the amount of interest payment at the following rates:

- 20% up to 30 June 2011; and
- 35% thereafter.

A beneficial owner resident in the United Kingdom may request that no tax be withheld where:

- He authorises the paying agent to report all interest payments made to the competent authority; and
- He presents to his paying agent a certificate drawn in his name by the competent authority of the United Kingdom.

### Cross border workers

A cross border worker or “permitted individual” means an individual who is a non-resident individual and carries on, exercises or undertakes in Gibraltar any trade, business, profession, vocation or employment.

A permitted individual is entitled to the same relief as an ordinarily resident individual on their income from employment in Gibraltar for each month that they are employed in Gibraltar. They are not however entitled to obtain relief against any other income accrued in and derived from Gibraltar.

### Exempt company

These companies are not subject to tax in Gibraltar. In order to qualify for such status, the exempt company must demonstrate that it is not beneficially owned by Gibraltarians (or residents of Gibraltar with the exception of Category 2 individuals) and does not trade with such persons.

The legality of this status was challenged by the EU under the EU state aid rules in July 2001. In January 2005 the Government of Gibraltar reached an agreement with the EU Commission to permit existing tax-exempt companies to continue enjoying such status until 31 December 2010 provided that neither the beneficial ownership nor the activities of the company change. No new exempt companies have been established since 30 June 2006.

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The Companies (Taxation and Concessions) Act will be repealed on 31 December 2010.

Those companies that are presently tax exempt will pay tax at the rate of 10% as from 1 January 2011, assessed on an actual basis.

### **Value added tax**

There is no VAT in Gibraltar.

### **Customs and excise duties**

Goods imported into Gibraltar from outside are, with some exceptions, generally subject to import duty at the applicable rate which is usually 12%.

### **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, which in summary states that:

- The frequency of trades undertaken is not relevant to the issue of whether or not the activities amount to a trade;
- Where professional organisation is applied to an activity it can amount to a trade; and
- With respect to the buying and selling of stocks and shares, such activities will only amount to a trade if there is a strong element of professional organisation.

### **Special provisions as to insurance companies**

For non-resident insurance companies the profit or gains on which tax is payable shall be calculated as follows:

- Non-Life business – the gross premiums and interest and other income received in Gibraltar (less any premium returned to the insured and premiums paid on reinsurance) less a reserve for unexpired risks adding a reserve for unexpired risks outstanding at the commencement of the period and from the net amount deducting the actual losses (less re-insurance income), agency expenses and a fair proportion of head office expenses.
- Life business – the amount which bears the same proportion to the total investment income of the company in respect of its life assurance funds as the premiums received in respect of life assurance and deducting from the amount so arrived at the agency expenses in Gibraltar and a fair proportion of head office expenses.

### **Special provisions as to building societies**

Profits or gains on which tax is payable in respect of a loan which has been financed exclusively from funds of the building society originating outside of Gibraltar, shall be 15% of the gross interest received on such loans less expenses incurred by the building society in Gibraltar in connection with the administration of that loan.

### **Special provisions as to cable or wireless undertakings**

The profits or gains of a non-resident cable or wireless undertaking are the amount bearing the same ratio to the receipts in respect of messages originating in Gibraltar, as the total profits or gains of that undertaking to its gross earnings.

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### 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.

### 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 said real estate) at the following rates:

Consideration	% of the value of the consideration
Less than £160,000	0%
Between £160,000 and £250,000	1.26%
Between £250,000 and £350,000	1.6%
Over £350,000	2.5%

### Capital Duty

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

### Gaming tax

Gaming tax is levied at 1% of the gaming income. The tax paid is subject to a minimum of £85,000 and maximum at £425,000.

### 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 the following retirement schemes:

- Approved occupational pension schemes (including contributions by proprietary directors and shareholders);
- Retirement annuity contracts;
- Approved personal pension schemes.

Employees can obtain tax relief on contributions to an approved scheme of up to 1/6th of their earned income. The 1/6th limit includes premiums payable on approved life insurance policies which themselves are subject to an earnings cap of 1/7th 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 or prison officers) are not subject to tax in Gibraltar.

### Social insurance contributions

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

Employee contributions are 10% of gross earnings subject to a minimum of £5.00/£21.67 per week/month and a maximum of £23.74/£102.87 per week/month.

Employer contributions are 20% of gross earnings subject to a minimum of £15.00/£65.00 per week/month and a maximum of £29.97/£129.87 per week/month.

Self employed contributions are 20% of gross earnings subject to a minimum of £10.00/£43.33 per week/month and a maximum of £27.43/£118.86 per week/month.

### 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 31st July following the year of assessment. Late filing of a return will incur a penalty of £10 per employee per day.

Tax for any year of assessment is due on the later of 28 February in the year of assessment or 60 days after the issue of the assessment. Tax paid after the due date incurs a penalty (see below).

If the Commissioner has reason to believe that a person, who has been assessed for tax, might leave Gibraltar before the tax is due and payable he may, by notice in writing, demand payment of the tax on the date specified on the notice.

### Tax returns

Tax returns are due by 30 September following the year in which the income is assessed.

### Appeals

If a tax payer disputes an assessment, he may appeal against that assessment by notice in writing addressed to the Commissioner within 21 days of the date of service of the notice of the assessment.

### Penalties

Penalties are imposed if tax is not paid by the due date. The amount of the penalty is equal to 10% of the tax due. If tax remains unpaid for five months after the due date, the Commissioner at his discretion may levy additional penalties of 10% of the tax due for each of the additional five months that pass until the tax is repaid.

If a person makes an incorrect return by omitting or understating any income without a reasonable excuse they are liable on conviction to a fine at level 4 on the Standard Scale (currently £2,000) and double the amount of tax which has been undercharged as a consequence of the incorrect return. Default of payment can result in six months imprisonment.

A person who wilfully and with intent to evade or to assist any other person to evade tax by purposely omitting income from a return, maintains false accounts or provides a false answer or statement is, if convicted, liable to a fine at level 5 on the Standard Scale (currently £5,000), treble the amount of tax not paid as a result of the offence and imprisonment for six months.

### Transfer pricing

Where a non-resident individual transacts business with a resident individual and the transaction reduces the profits of the resident individual by more than the ordinary profits which might be expected to arise from that business, then in the case where the non-resident individual has a “close connection” and can exercise “substantial control” over the resident individual, the non-resident shall be assessable and chargeable to tax in the name of the resident individual as if such individual was an agent for the non-resident.

Also, by using the “anti-avoidance” provisions of Section 13 of the Income Tax Act the Commissioner is able to disregard a transaction if he is of the opinion that the transaction is either artificial or fictitious.

### 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 must be made within 2 years after the end of the year of assessment in respect of which the deduction is claimed.

### 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 relief 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 for Trade.

## Historical tax rates

### Corporate

	2009/10	2008/09	2007/08	2006/07	2005/06
Corporate tax rate (%)	22	27	33	35	35
Lower band (£)	35,000	35,000	35,000	35,000	35,000
Upper band (£)	43,333	67,667	95,665	105,000	105,000
Small company rate (%)	20	20	20	20	20

### Personal

#### Allowance based system - rates

%	2009/10	2008/09	2007/08	2006/07	2005/06
17	4,000	4,000	4,000	4,000	4,000
30	12,000	12,000	12,000	9,000	6,000
35	-	-	-	-	5,000
40	Balance	Balance	Balance	-	-
42	-	-	-	Balance	-
45	-	-	-	-	Balance

#### Allowance based system - allowances

	2009/10	2008/09	2007/08	2006/07	2005/06
Personal allowance	2,735	2,660	2,660	2,660	2,580
Deduction for spouse	2,560	2,490	2,490	2,490	2,415
Deduction for one parent family	2,560	2,490	2,490	2,490	2,415
Deduction for children	970	940	940	940	910
Deduction for children educated abroad	1,075	1,045	1,045	1,045	1,015
Disabled individuals	2,650	2,575	2,575	2,575	2,500
Nursery school allowance	995	965	965	965	935
Dependent relative (resident)	185	180	180	180	175
Dependent relative (non-resident)	135	130	130	130	125
Daughters services (not married)	205	205	205	205	200
House purchase allowance	11,500	11,500	11,500	11,500	11,500
Additional house purchase allowance	4,000	4,000	4,000	4,000	4,000
Blind allowance	610	590	590	590	570
Apprentices allowance	370	360	360	360	350
Deduction for health insurance premiums	1,090	1,030	1,030	1,030	1,030
Age allowance (married man)	5,295	5,150	5,150	5,150	5,005
Age allowance (singles persons & married woman)	7,855	7,640	7,640	7,640	7,420

#### Gross income based system

%	2009/10	2008/09	2007/08	2006/07	2005/06
20	25,000	25,000	25,000		
29	75,000	-	-		
30	-	75,000	75,000		
35	Balance	-	-		This system was introduced on 1 July 2007
38	-	Balance	-		
40	-	-	Balance		

Low income earners allowances and tax credit for individuals aged 60 years and over are not shown above.

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