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FINANCE AND BUSINESS

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EDITORIAL COMMENT

Global recognition awaits

Low tax has become a reality for Gibraltar businesses; a new 10 per cent headline rate of Corporation Tax applies to all from January. The fall from 35 per cent in 2007 has been quite spectacular and undoubtedly partly responsible for the jurisdiction's improved economic situation since. Economists have long argued that low corporation tax stimulates business activity for the greater good of society generally, because it encourages investment.

In Gibraltar's case, and being a services dominated economy, this is more likely to encourage businesses to relocate or set up operations on The Rock, taking advantage of the combination of an overall favourable tax environment – no capital gains, wealth or inheritance tax in addition - and the enviable lifestyle found in the southern Mediterranean.

They will be encouraged too by the growth in the jurisdiction's Gross Domestic Product (GDP) – rising 130 per cent in a decade - and a relatively low public debt, though predicted to rise, that is still only 15 per cent of GDP, among the lowest in the world.

Little surprise then that Ministers expect low business tax to "create a bounce of interest" amongst companies relocating to Gibraltar. But at the same time, some nervousness has been shown at the lack of available quality office space for these newcomers, even to the extent of threatening to kick-start a planned office development, reportedly long-stalled through lack of bank finance, by investing government money instead.

It must be with some relief therefore, that a World Trade Center (WTC) Gibraltar is to be built, where 1,000 or more people will be employed, by end of 2012. The new building more than trebles the existing Ocean Village office space, but, crucially, provides a large single floor area to accommodate a sizeable business – something that has so far been lacking.

The claim that this WTC development – the 335th to be granted an operating licence – will help put Gibraltar on the world stage, is more than promotional speak; it's a truism.

The jurisdiction's Finance Centre Council that reflects common business desires as well as concerns, is widely known to believe that more must be done to get the jurisdiction and its benefits better known, beyond one-off, big-time publicity efforts, such as the recent *Financial Times* special report on Gibraltar – good though that was.

A recent survey of top UK fund managers focused on Gibraltar and Malta as two potentially key jurisdictions to attract business, but found a lowly 2 per cent knew anything about what The Rock had to offer. In defence, some pointed to the fact that Malta had been aggressively promoting its offering for several years.

So if this jurisdiction is to be seen as a reputable, international finance centre, people have to know why it deserves that status. Drawing attention to Gibraltar by association with World Trade Centers across the globe is only a first step.

Perception is everything as those waiting for Spain to sign a Tax Information Exchange Agreement (TIEA) with Gibraltar this winter well know.

If as a result, the stigma is removed of being regarded by Spaniards as a 'tax haven', it will enable insurers, bankers, and company management firms to gain considerably from cross-border business unfairly denied to them thus far – even though Gibraltar is within the EU!

And another Gibraltar plus will have been achieved; but will it then be well known?

NEWS

Low tax Gibraltar pressing for share of UK 'insurance billions'

Gibraltar could be the home to billions of pounds of insurance premiums and many new jobs if the UK keeps to previous undertakings to ensure British insurers can transfer their businesses to the territory.

It is just one of several initiatives the jurisdiction's insurance sector hopes will expand the market and reinforce Gibraltar's position as a mainstream onshore International Finance Centre and follows a series of London meetings by Chief Minister Peter Caruana with UK Departments in October on a variety of financial services, EU, aviation, gaming and immigration issues.

A Tax Information Exchange Agreement (TIEA) with Spain is also strongly anticipated this December at the separate Tripartite Ministerial meeting also involving the UK, which would break the barrier to cross border financial services. Insurers have to maintain separate branches in both countries, because Spain still regards Gibraltar as "a tax haven".

Four years ago, the UK government signalled it would rectify a legislative omission that prevents insurers relocating their business base and portfolios to Gibraltar, when they can freely do so anywhere else in the European Economic Area (EEA) - but for a variety of reasons nothing has since progressed.

The UK Financial Services & Markets Act 2000 - under the Part VII Transfer section relating to court approval for the transfer of insurance companies and reinsurers - fails to refer specifically to Gibraltar and its special status within the EU.

Correcting this omission would be "Gibraltar's greatest opportunity for further sustained and sensible growth" since the advent of 'passporting' of goods and services throughout the EU, Steve Quinn, Quest Group managing director, told *Gibraltar International*.

"Firmly at forefront of business leaders' thoughts" - Steve Quinn, Quest.

Speaking at the opening of his new Grand Ocean Plaza offices, Quinn said "this will permit a 20 per cent growth in Quest insurance management and broking business", Quinn also noted: "We need to put Gibraltar on an even-footing.

New interest

"We know of several small to medium-sized UK insurers, particularly those involved in run-off activity, who are interested in placing all of their business, or their headquarters operation in Gibraltar, which could easily involve billions of pounds in premiums for this territory," Quinn declared.

Former Gibraltar Insurance Association chairman and managing director of Aon Insurance (Gibraltar) Management , Paul Sykes, agreed. "Being able to effect Part VII transfers will increase Gibraltar's value proposition significantly.

"Using Part VIIs to transfer the assets and liabilities of one insurer in the UK to another insurer in Gibraltar fits well with the model of robust yet responsive regulation that Gibraltar offers", said Sykes.

Yet, as Penny Hudson, managing director of Caledonian Insurance Management Services, reminded: "Under UK rules, if an insurer goes into run-off, the requirement is for the reinsurance to go with it, and that can be anywhere in the EEA – except at present, Gibraltar."

Attracting business

Hudson, who runs one of seven Gibraltar insurance management companies, has just sold her business with around £0.75bn under administration, to Randall & Quilter Investment Holdings, evidence that insurers and major businesses in Gibraltar and in the UK are interested in buying insurance companies to relocate to the jurisdiction.

They are attracted by the 10 per cent headline rate of Corporation Tax.

"People will be looking at alternatives to their present jurisdictions for moving to or consolidating their operations in Gibraltar, and looking at what is – or is not – possible under part VII in relation to run-offs and the requirement for reinsurance," says Hudson, who stays with Caledonian.

Insurers Corporation Tax effectively may be cut even further; a late change to the 2010 Tax Act allows interest on income arising from insurance premiums to be excluded from tax calculations.

That "places Gibraltar firmly at the forefront of potential business leader's thoughts on jurisdiction of choice", Quinn maintained. He is assisting an investment bank with insurance interests in Bermuda that expects to expand into Europe from Gibraltar early next year.

And Quest has just helped establish Calpe Insurance Company for the New York based Transatlantic Reinsurance Group, which operates globally in 23 cities and in Gibraltar will specialise in providing co-insurance to spread the risk for a primary insurer – the first insurer of this type on the Rock.

Quinn pointed out that although the UK was its prime target market for new business, a new opportunity had arisen with a specialist bonds and guarantees business established for the Italian principals of client, Hill Insurance.

TIEA with Spain

Being on the OECD "White List" of countries with transparency in financial services was vitally important for the insurance sector, because of the ability to 'passport' policies throughout Europe, explained Aon's chief operating officer, Stuart Brown.

"There is a high expectation that the Spanish TIEA will happen before the end of this year. There are a lot of Spanish captive insurance companies run out of Luxembourg and Dublin and it would make more sense for them to be run out of Gibraltar", he enthused.

NEWS

Fresh moves to meet office demand

Gibraltar is determined to ensure that there is sufficient quality office space available to cater for an expected influx of new businesses following introduction from January of the new low rate 10 per cent Corporation Tax – even if that means investment by government directly in new development.

Artists impresion of new World Trade Center Gibraltar "bringing global recognition to Gibraltar", Greg Butcher

Such is official concern that a lack of quality space for business will hinder future re-domiciliation of Blue Chip firms from the UK and elsewhere, the government is considering taking a majority stake in at least one private sector building project – the first of four phases of the £120m Mid Town, 38,000 m2 development.

But an announcement by Ocean Village developer Greg Butcher that he has secured a licence to establish a £30m World Trade Center (WTC) in a seven storey office block to be built at Marina Bay may prompt the government to drop its controversial financial pump priming plan.

Already a major banking-group, a leading international accountancy firm and an egaming operation have provisionally secured more than a quarter of the 13,600 m2 WTC Gibraltar block, *Gibraltar International* understands.

Tenders to build in Spring are being reviewed and the project, with its single 3,000+ m2 office floor plate and 420 car parking spaces, is expected to be ready for late 2012.

That is around the same time as the proposed 200-bed Hilton Hotel project that also includes 'significant' office space will be ready now that UK developer Squarestone is understood to have secured finance to build on the Royal Gibraltar Yacht Club site.

Peter Caruana, Chief Minister, told *Gibraltar International* exclusively a week before the WTC Gibraltar was announced, that Gibraltar needed only one of three potential office schemes where "we are aware of that funding availability may be a problem" to proceed.

What to support

"It is a question of which one to support - we wouldn't participate in all of them and we are not offering to bail out every developer", he explained. "If the private sector can fund them in a reasonable period of time, we will not interfere," Caruana said".

He expected "clarity by the end of the year" on the reality of funding for any developer. "The government has no desire to go into property development – we have much better things to do with the capital available.

"The ideological instinct is to allow the private sector to do what the private sector can do much better than the government, including building office space."

Satisfying growth

However, earlier, he emphasised: "We need to have more offices, especially if, as expected, the new Tax legislation provides an impetus for growth with new business and organic growth in insurance, funds and other areas.

"We have got to have available on spec, quality office space; otherwise they will come, like the jurisdiction, but then won't be able to locate here, because of lack of physical infrastructure."

Butcher believes the WTC Gibraltar project that effectively trebles Ocean Village office space, will help bring global recognition for the jurisdiction and ensure quality commercial space is available to meet growing finance centre demand.

The WTC will have a concierge reception for visiting senior inter-governmental and business leaders at the new international airport terminal now being built, state of the art video-conferencing and telephone communications and world-wide reciprocal facilities with 300 similar Center's across the globe.

"The presence of a World Trade Center raises the business profile of the location in which it sits and the global alliance network covering more than 100 countries opens up local businesses to a world of interconnections and opportunity", explains Butcher, who lobbied the WTC Association annual congress in Beijing to secure the licence in October.

Letters of support for the WTC project came from banks, insurers, trust and accountancy firms, as well as trade associations and the Minister for Development, Joe Holliday.

"As World Trade Centrers are inherently endorsed both by governments and the private sector, it aids Gibraltar in attracting investment grade businesses, the global leaders in international trade and commerce to make a powerful impact on the this territory's economy and status," Butcher reflects.

Europort, Gibraltar's largest office complex, has nearly 4,000 m2 of office space available across four tower blocks, the largest single available space being 1000 m2. Even so, negotiations are believed to be advanced to take up some 2,500 m2 of the space, mostly in the new Atlantic Suites building.

"Although in the short term Gibraltar has no shortage, there undoubtedly is a need for someone to get ahead with a new development, because of the building lead time", pointed out managing director, Lawrence Isola.

"If the banks aren't prepared to lend to support Gibraltar business needs, then it's right that the government steps in to assist a commercially viable office project to secure our future", he added.

Seeking the high ground for business investment

"I believe it is going to be increasingly more difficult for leading international financial services companies to justify in their own internal corporate governance regimes and also externally, operating in zero tax jurisdictions."

That was the challenge to City of London business leaders investing globally, thrown down unashamedly by Gibraltar's Chief Minister, Peter Caruana, at the 11th annual Gibraltar Day celebrations in mid-October.

In a thinly disguised bid to prompt major UK companies to consider the impact of Gibraltar's new low headline rate of 10 per cent Corporation Tax, as part of a wider offering from the jurisdiction, he said it "provides an attractive and competitive fiscal environment for reputable international financial services companies, which increasingly feel less comfortable operating in zero tax offshore jurisdictions in the context of the new emerging post-crisis, international consensuses about good, responsible corporate practices."

Close links

The day's purpose was "to underscore the close links between the UK and Gibraltar generally, not just political and constitutionally, but also the economic links – financial services in particular", he noted

But he told a packed Drapers City Livery Hall: "If any of you here share with us our vision and approach to high standards of financial services, then please take a look at what Gibraltar may have to offer you: you will be welcome.

Rapt attention from 270 guests at the Gibraltar Finance Centre lunch

"On the other hand, those seeking a business location to exploit without sharing our values and commitments to high standards and reputation will find that there are many more suitable locations elsewhere."

Caruana emphasized: "Our jurisdictional reputation is our most valuable resource."

Many other offshore finance centres have nil rates of corporation tax, attracting particularly funds, trusts and insurance companies, but Gibraltar's Corporation Tax reduction over five years from 35 per cent in 2007 to the 10 per cent rate from January, has been achieved whilst eliminating the special zero rate company regime that helped give the jurisdiction the 'tax haven' tag it now says is inappropriate.

Caruana revealed that he had "shared this view with colleagues in other jurisdiction who have not yet made this decision" because he believed it was "the only future for reputable companies wishing to do business in and with Europe".

He said there had been psychological barriers of acceptance of such things as Tax Information Exchange Agreements (TIEAs), which had already led to many countries responding by removing Gibraltar from their lists of tax havens.

Gibraltar had succeeded in gaining OECD 'White Book' status by signing 18 TIEAs, demonstrating commitment to tax transparency – and unspoken was the desire to also achieve a TIEA with Spain that critically, would see the jurisdiction being removed from that neighbouring country's 'tax haven' label.

However, he emphasized to his 270-strong audience from major UK and Gibraltar enterprises: "We see the City of London, not as competitors , but partners, despite the huge difference in size and global importance of our respective finance centres".

He boldly stated: "We believe Gibraltar can assist City firms to improve their international competitiveness and thus to enhance the City of London's global leadership in financial services. There are things that Gibraltar can offer to the City of London to add value to the already huge depth and mix of financial services leadership."

The economy of Gibraltar continued to perform well with Gross Domestic Product (GDP) in each of last two years growing by more than 5 per cent and in this year, possibly higher.

Political and fiscal stability was "a sound environment for businesses to succeed and flourish" in an economy that enjoyed a high level of resilience – a degree of diversification untypical of such a small economy "focused on high standards of regulation and supervision across the economy".

Open promotion

The heavily over-subscribed Finance Centre lunch has become the place where local Gibraltar offices of UK major operations seek to influence headquarters' thinking in respect of the jurisdiction, and similarly those firms locally looking to attract new business.

It was the first time the Chief Minister had so openly promoted Gibraltar's finance centre. He said: "Gibraltar does not place foreign labour quotas or restrictions on its financial services operators, and offers a modern, safe and attractive quality of life for ex-patriot communities.

"Personal tax rates are not excessive and are falling fast and senior executives can cap their personal tax bills at relatively low levels." In short, Gibraltar was "a low tax, onshore EU location, regulated to EU standards and, where they are higher, to UK standards" Caruana declared.

Pensions get a boost from new tax regime

After five years of successive falls in personal income and Corporation Tax, and the introduction of a simpler personal taxation regime, Gibraltar has become a very attractive tax jurisdiction for accumulating pension benefits in particular, according to personal and corporate pensions and investments specialist, *Anthony Drew*

There have been changes in other countries as well, but it's fair to say that Gibraltar's have been more generous to the taxpayer than most.

In other countries the emphasis - certainly over the last year or so - has been on increasing tax rates, following the global financial crisis and a need to deal with a massive deterioration in government finances.

The UK is a good example and the 6th April 2010 in particular, will not be a day that high earners there will have welcomed. Those individuals now will be on the receiving end of an eroded (if not completely eliminated) personal tax allowance, other allowances and tax bands that will not have been indexed for inflation, and a marginal 40 per cent rate income tax on taxable income of over £37,400, leading eventually to a top rate of tax of 50 per cent!

On top of this, complex restrictions have been introduced that cap the amount of tax relief that can be claimed on pension contributions. And it is not only high earners that are affected. Increased levels of UK National Insurance contributions apply at all levels of earnings.

Less than UK

In contrast, Gibraltar's economy has continued to grow, and sustained budget surpluses over recent years have meant continued reductions in income tax rates. These reductions, along with cuts in the rate of Corporation Tax to a low 10 per cent, make Gibraltar attractive for High Net Worth Individuals (HNWIs), businesses and investors to relocate to the jurisdiction.

Higher earners, particularly if assessed on Gibraltar's Gross Income basis – one of two possible tax systems available locally - now will pay tax at rates well below those applying in the UK and other countries. Companies in the financial services and gaming sectors, already provide attractive high earning opportunities.

Individuals who are more highly taxed need to be mindful of the tax and other financial issues that arise when they either live in or relocate to Gibraltar.

These issues are not necessarily solely in respect of Gibraltar tax; for example, well paid secondees from a UK company have access to potentially very advantageous pension planning opportunities as a result of current UK legislation.

Whilst Gibraltar's tax system is much more straightforward than in some other jurisdictions, and there is an absence of capital taxes such as inheritance tax and capital gains tax, that does not mean there are not tax planning issues to be considered.

Some of these stem from the structural changes that have taken place in the tax system and not just the reduction in tax rates.

For example, the 'Gross' income basis of personal taxation was introduced with effect from July 2007 and subsequent changes to rates and allowances in 2009 and this year in particular, mean that large numbers of taxpayers across the income spectrum are better off under the Gross basis.

However, one consequence of individuals moving to the 'Gross' basis of assessment is that they can no longer claim tax relief on pension contributions.

If a pension is funded through an older-style retirement annuity personal pension, then any employer contributions will be taxed as a benefit in kind – something that all taxpayers have to watch.

This was always the case under Gibraltar's 'Allowance' system, but under this system it is possible to claim tax relief on the employer contribution, making it tax neutral overall. Under the 'Gross' basis, the employer contribution will be taxed as a benefit in kind so they will be worse off as they will not be able to claim tax relief.

However, converting their retirement annuity contract to a new style personal pension scheme means employer contributions are not treated as a benefit in kind. In practice, this can be achieved quite easily through a change in the governing trust deed.

Offset profits

From January 2011 previously tax exempt companies will pay Corporation Tax for the first time, but employer contributions to pension schemes provide an opportunity to offset taxable profits. Since July 2008, proprietary directors have been allowed to participate in approved company occupational pension schemes, and this also provides valuable tax planning opportunities.

A recent budget change affecting individuals with money purchase pension scheme benefits (either from occupational or personal pension schemes), is that since 2006 it has been possible to take their entire pension fund as a tax free lump sum; there is no longer the requirement to invest a large proportion

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Pensions get a boost *Continued from page 13*

of the pension fund into a scheme providing lifetime income.

For many people there is a great attraction in not being forced to use their retirement fund to buy an income which dies with them. Obviously, retirees have to carefully manage their pension fund to meet their needs for the rest of their lives, but the changes have other wider implications for individuals, employers and pension scheme trustees based in Gibraltar.

Flawed strategy?

Conventional wisdom has it that the retirement fund built up systematically over a working lifetime is migrated into safer investments in the run-up to retirement age so that the fund is protected against last-minute investment market falls. In this way the traditional 'critical event' that takes place at retirement age which is the transition out of a pension fund into an income generating vehicle such as an annuity is made that much safer.

But given there is no longer the requirement to buy an annuity or something similar, the traditional strategy of migrating into safer investments in years running up to retirement, could well be flawed.

If the retiree doesn't have other plans for the pension fund, it will be invested to provide income in retirement, but with ever improving life expectancy, this could be for 20 years or more.

The chances are that the funds will best be invested in a not altogether dissimilar way to that in which they were invested over all those years, when he was making pension contributions and accumulating the fund.

This concept may be nothing new to individuals from the UK who may well have substantial investments in self invested personal pension schemes (SIPPs) and whose retirement fund investment strategy is centred around taking income on retirement through some kind of income drawdown arrangement, rather than buying a traditional annuity.

However, that concept has to sink in to a much wider extent in Gibraltar. It is not just an issue for the holder of the pension benefits; there are important implications for the money purchase pension scheme trustees who have a general duty to act in the best interests of beneficiaries.

Discharging duty

So-called "life-style" or automatic switching investment strategies may not be appropriate, and the trustees' duty may not necessarily be discharged simply by allowing individual pension scheme members to choose their own investments, rather than it being done for them by the trustees.

This issue is also of concern to employers, who, after all, would want to see their employees' pension benefits optimised, and on whose behalf they set up the pension trust in the first place.

Anthony Drew is Technical Director at European Financial Planning Group, Gibraltar

Energy savings can bring planning and cost hurdles

The environment business and ways to reduce carbon emissions in the wake of European Union (EU) targets and Directives for action, is bringing business opportunities, *Ray Spencer* reports.

Moves to encourage energy saving measures have been welcomed by businesses keen to see government take a lead.

Removing the 12 per cent import tax from solar panels and associated operating equipment and necessary installation in Gibraltar's June budget is described as "a welcome first step".

However, it falls considerably short of neighbouring Andalucia's renewable energy grant scheme for individuals and businesses to help cut demand for fossil fuels. Depending on the type of equipment and project size, the Spanish regional government will pay 25-60 per cent of the cost of installing solar systems, including associated tubes and collectors.

Khalifa Saber promoting energy savings

Nevertheless, the tax concession has been seized upon by Pretasol, a year-old specialist environmental energy company in Estepona, just 30 minutes drive from Gibraltar, which has begun a concerted sales operation on The Rock, where previously it had received no work.

Managing director Khalifa Saber was surprised that there had not been more interest given the availability of so much sun and the potential to save money on relatively high electricity bills.

Hot water savings

According to Saber, in Spain solar can mean a saving on domestic hot water for a family of four of around €800 a year using a 200 litre compact system (where the water is stored in a tank adjoining the panels) that costs €3000 before grants. On larger, more efficient 500 litre split system installations, the grant can be nearly a third of the €6,200 cost.

Larger projects involving over 7 m2 of solar panels are assessed on a project basis and businesses there can reclaim up to 60 per cent of the cost of approved installations, on a €30,000+ investment, he says.

"In this part of the world some 85 per cent of the annual demand can be met by solar panels leading to a power fuel cost reduction of 35 per cent when most people use electric immersion heaters," he notes.

There are almost no solar panels in Gibraltar. The Environmental Safety Group said an opportunity had been missed with the new air terminal now being built.

"We could have had a dual purpose building, that is a state of the art air terminal and a state of the art solar panel roof, which would make it a renewable energy power station with no noise, emissions, moving parts and a projected lifespan of some 30 years in which to produce thousands of Megawatts of clean renewable energy."

Gibraltar's 2009 Environment Action Plan gives examples of eligible energy efficiency improvement measures that will be encouraged for the residential sector and required for the business and public sectors.

The idea is for property owners to generate their own electricity through micro renewable methods – solar panels, photo voltaic cells (electric generators), ground heat pumps, and small wind turbines – or to employ energy saving systems.

However, deputy head of planning Paul Naughton-Rumbo, explains: "The difficulty is in achieving a balance against other considerations – in the Old Town, use of wind turbines would be out of character with the area in much the same way as TV satellite dishes are on buildings.

"It's also no good producing electricity beyond your needs, because there is no means of putting the surplus power into the Gibraltar Grid, which does not have the ability at present to accept it."

Gibraltar roof tops (centre) with no sight of solar panels such as these (left) or the wind turbine and solar panel kit (top) that Desmond Walsh wanted to install

First hand experience

One small electrical contractor, Deselec, invested £4,500 in an integrated kit from a Spanish supplier that combined a wind turbine with three solar panels to power his workshop and home. But owner Desmond Walsh has not put the unit fully to the test, because he was unable to gain planning permission for the wind turbine!

"It's a real shame. I thought it would have been good to have firsthand experience of the benefits to come from energy saving methods before selling to my customers," says Walsh.

Nevertheless, Naughton-Rumbo was surprised that more interest had not been shown generally in energy saving ideas for existing homes and offices, citing cost as one of the possible reasons.

Pretasol's Saber has been getting major local companies to consider energy saving benefits from use of LED lights – not just the small 10W halogen lights that give the same illuminations at 70 per cent lower running cost and extended lifespan as traditional 35w bulbs.

He's anxious to get businesses and government departments to change to low power halogen tube fluorescent lights that are equal in size and output to usual bulbs, but cost five times as much! On a 12 hour daily office or shop use, breakeven can be achieved in less than two years and over their lifetime produce a four-fold return on investment.

"And the cost saving on electricity consumption is immediate", he points out.

As Gibraltar's commercial rate for power rose by 10 per cent as a result of the June Budget, Saber reports "very strong initial interest".

But there is no publicity to promote energy saving in Gibraltar, nor incentive schemes to encourage adoption of energy saving by large users or individuals; but other government incentive schemes do exist, which Saber believes could be a useful precedent.

Incentives

"There is an incentive scheme which works well for people who refurbish the façade of their buildings and who can then offset the cost against their tax liability; we have a constant flow of applications", says

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Low carbon power generation and energy reduction targets proving tough to achieve

New Euro-laws require both greater use of renewable energy and reductions in the power used by buildings of all types, the area where governments believe the largest potential improvement can be achieved.

Countries must take measures to reduce their carbon footprint so that the EU climate change target of using 20 per cent less energy can be achieved in the next ten years.

Efforts to reduce energy consumption in buildings through planning controls and energy use measures for existing properties are being mounted in Gibraltar based on UK models – but their impact may only be limited.

Greater use of sustainable energy sources for individual and public sector electricity generation is on the cards; solar – hardly in evidence so far – as well as pioneering tidal and wind generation is being considered.

An Environmental Action and Management Plan (EAMP) is expected to be published before the end of the year, having been delayed by several months, and will incorporate a comprehensive package of action points with a timetable for enforcement. "One issue of concern for Gibraltar, resulting from our small size and limited resources, is our ability to comply with every aspect of every [EU] Directive, as they apply to us", says the Environment Department.

The elderly Waterport Power Station is to be phased out

It points out that the resulting technical requirements can often be complex and implementation cost per capita is much greater when compared to larger communities.

At the same time, the EU has directed that within the next five years all countries must provide at least 12 per cent of their energy requirement from renewable sources. None exist at present in Gibraltar.

However, to meet the jurisdiction's anticipated 4 per cent year-on-year growth in energy, the Government is pressing ahead with construction of a new diesel powered generating station for electricity – just about the only form of energy used in the jurisdiction.

The present elderly Waterport Power Station, another owned by private company OESCO, and one run by the Ministry of Defence have a combined capacity of 60 MW to meet the area's need for electricity.

With concerns over emissions, the old power stations will be phased out from 2013, when the Gibraltar Electricity Authority (GEA) expects to open a £100+m new facility operating at the south end of The Rock.

The aim, according to GEA chief executive Manolo Aleciro, is to produce an initial 42MW generation to meet local peak demand, and then to increase capacity in three of four stages to 80-96 megawatts by 2032, at an additional estimated cost of up to £30m at today's prices.

The design and build specification for the new fossil fuel project on a 19,000 m2 site has been amended to embrace noise concerns of homeowners near to the proposed site after they applied in February, through barrister Charles Gomez, to the Supreme Court for a Judicial review of the scheme.

The Chamber of Commerce baulked at the costs involved and suggested Gibraltar instead "plug into the European 'grid' and contract with some European Electricity Authority or Energy Company for the supply of power", but the government rejected that on social, economic and other grounds.

To some surprise, the Environmental Safety Group (ESG), a non-governmental, apolitical organisation formed in 2000 to promote environmental issues within the community, backed the new project.

"The new power station is urgently needed due to the intolerable impact from all three existing ageing units", which were not covered by EU or local

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Planning & cost hurdles *from page 17*

Naughton-Rumbo.

The aim is to encourage improvement of the street scene, particularly where there is a single owner of blocks of offices and apartments which must be repaired to a standard that is in keeping with the original features.

Double and triple glazing for example, is difficult when it comes to replacing old sash windows, which are widely used; wood must replace wood and this makes the project expensive. If UPC is used, no tax relief is given.

Gibraltar's Development Plan for the next decade, states: "From an environmental perspective, energy saving has been identified as the quickest and the most cost effective way of meeting carbon dioxide reduction targets."

Improving design

The Plan to create clean, green and sustainable buildings for the future aims to encourage "a more sustainable approach to development through energy-efficient design and use of micro-renewable energy generation".

Gibraltar's Rock terrain, with many residential buildings on steep slopes, makes much of the new technology difficult to implement.

Local architect Robert Matto of WSRM Associates designed the Gibtelecom headquarters building opened this year in John Mackintosh Square.

It included energy saving measures such as pressure ventilation flues that encourage heat to vent upwards through the structure to reduce cooling loads, and a fully glazed double skin on the north face to reduce lighting, while not adding heat from the sun.

Unfortunately, "not that much of the ideas put forward several years ago and approved by planners, appear in the finished product – they were mainly value-engineered out", Matto reflects.

However, Naughton-Rumbo declares: "We are seeking to reduce the carbon footprint through land use controls. We recognise that we can't always require people to take account of energy use and it's more a case of encouragement to take energy saving steps."

Planners want developers to be environmentally conscious at an early, concept stage: where a building sits on a site – how it is orientated – and the layout, both have a part to play

A favoured south-facing project has the greatest solar gain, and makes shading of glazing important – perhaps from deep overhang terraces or even use of blinds - whereas north-facing properties may need more heat.

"The weakness for us is that we cannot say a building must have a particular level of energy efficiency in the design, unlike in the UK where the English Code for Sustainable Homes sets minimum standards for energy and water use", admits Naughton-Rumbo.

Thermal efficiency

However, another planning policy suggests how use of materials can play a part and as a result he hopes that a review of Building Regulations to take in thermal efficiency will be completed this year.

This will mean looking at how one type of glazing can absorb more heat than another – a film reflects heat on the external plane and on the inside reflects heat or cooling back into the building, and different block works have different thermal efficiencies.

A condition may cover how a building is constructed. "Thick walls have good thermal efficiency and work in much the same way as the thick stone wall of olden day structures– it's really about going back to basics", Naughton-Rumbo remarks.

Here again, Spanish building requirements go further.

Since 2006, Andalucia's residential and commercial properties must have at least 30 per cent of the forecast energy consumption from renewables to gain planning approval – and no grant is available!

Targets proving tough *from page 17*

legislation governing how power stations are operated and emissions, said the ESG, unlike the new power station.

Sustainable alternatives

For more than two years the Government has studied alternative sustainable generating methods without a firm result.

However, a Scottish world leader in technology for producing electricity from ocean currents is expected to report shortly, after two other interested companies pulled out. "This particular technology is the one that is likely to be the most promising for us because it has the potential to be a continuous source of energy whereas the other viable options, namely wind and solar, are not", Environment Minister Ernest Britto believes.

Wind , "clearly a proven technology and readily available in the area" and solar are problematic because of the limited land resource, although wind turbines out at sea are also being considered in parallel, along with a project that combines wind and solar sources.

Britto's Environment Action Plan last year stated that work "will continue until such a time as Gibraltar is completely dependent on renewable energy, or as close to 100 per cent as it is technologically and economically possible."

Ernest Britto

However, he now says the long-term goal – in line with EU requirements – is to meet a much more modest 15 per cent of demand from renewable sources.

He made the point: "This conversion to a low-carbon, sustainable economy will pose significant challenges".

Nevertheless, the ESG says "a gradual implementation of renewable energy projects should be energetically followed and investment provided once the new power station is produced", giving time for newer renewable energy technologies to become commercially available.

Renewable energy sources are known to be more costly at this stage, although diesel fuel costs can be unpredictable - "fuel cost during last financial year was like a roller coaster," Alecirο explains.

Tipped to stay put as zero rate business tax goes

Gibraltar's 43 years old Tax Exempt Company (TEC) regime disappears in January as all companies start paying a new 10 per cent headline rate of Corporation Tax. But few – if any – of these entities based in Gibraltar are expected to desert The Rock, *Ray Spencer* finds

There are now fewer than 3,000 TECs; but at its height, there were over 10,000. The Government for nearly four decades gained £225 a year from each entity in Duty, plus an audit certificate, and at its peak, received a total of more than £2m a year. Today, despite raising the annual fee sharply to £450 in 2005, the income is now thought to be down to around £1.3m.

That rise in Duty coincided with the agreement with the European Union (EU) that TECs would be phased out within five years, because the concept violated European State Aid rules.

Initially, the vast majority of such companies were individuals with personal asset holdings – piggy bank companies – with a mix of deposits, shares and bonds, designed to handle their investment income and as a tax protection vehicle. Generally, they were considered "low value-added" entities for Gibraltar.

Backbone

Some companies however, owned chunks of real estate, particularly in the UK – one company was said to own several buildings occupied by government – but most were for individuals owning property in Portugal, UK, Spain and even the US, whilst some owned valuable yachts too.

Only a few companies have a physical presence in Gibraltar, mostly in financial services – some private banks, insurance companies, and asset managers – as well as gaming companies.

However, they have been described as providing "the backbone of the development and growth of both the finance centre and online gambling industry" - a very significant part of Gibraltar's economy.

The rise from zero to 10 per cent gross tax is unlikely to mean any firms leaving Gibraltar; where would they go, it is argued. To be sure, Chief Minister Peter Caruana has in the past year or so met all Tax Exempt companies with a physical presence to explain the government tax plans.

After insurance companies, Victor Chandler was early amongst off-shore gaming companies to establish a Tax Exempt operation in 1996.

He's staying put to pay tax on profits from January. "To leave here would cost millions, because of the logistical problems alone.

Continued P22

Zero rate tax goes *from page 21*

"Our server rooms are huge and to uproot and move just couldn't be done easily, because there's virtually £1m worth of kit that first would need to be duplicated so we don't lose business for a week", he told *Gibraltar International*.

Now having around 250 staff locally, "to train up that number of people elsewhere would take us a year", Chandler noted, and "it's just not worth it – unless they put a 10 per cent betting tax on here!"

Joseph Triay, senior partner of lawyers Triay & Triay, has been dubbed the "founding father" of Tax Exempt Companies, a concept he developed along with Louis Triay of law firm Triay, Stagnetto, Neish.

Attracting assets

The idea arose when the then Merchant Shipping (Taxation and Concessions) Ordinance became unworkable, because the Gibraltar Government failed to amend other Merchant Shipping legislation in a manner that implemented the provision of the Ordinance that exempted Gibraltar registered ships from the requirement of having a British Master.

Gibraltar's 1965 Ordinance, similar to Bermuda and the Bahamas, had allowed ships to register with a Tonnage Tax rather than a company tax even when there was a foreign Master.

Given that Gibraltar was cut off from the mainland when Franco closed the Spanish frontier, the TEC status was instead created by Triay for the then coalition government as a means of attracting assets without the need for a physical presence.

"There were then no communications with Spain – telephones or telexes – and tax havens were at that time entirely respectable , and our clients were not Spanish", recalls Triay senior.

"As was the case with shipping all over the world, if you gain the involvement of owners, investment almost certainly follows."

Triay explains: "Companies needed administration services, lawyers and banks. These were licensed for both onshore and off-shore business, to hold funds derived from TECs activities outside Gibraltar.

Vital to economy

"The concept was self promoting, mostly by word of mouth", Triay says. "Although Tax Exempt sounds attractive, the income of TECs would have attracted no tax in Gibraltar anyway, because it was not Gibraltar income. Of course, it would need to be declared and taxed as appropriate in the countries in which it arose. ", he adds.

"The only real benefit being that it was very convenient for the owners not to have to prepare annual tax returns!"

When publishing the Tax Act in June, Caruana said: "Many previously tax exempt banks, insurance, investment, gaming and other companies will begin to pay profit tax in Gibraltar for the first time on the same basis as all other companies. These companies are vital to our economy and to the social prosperity of all of us in Gibraltar.

"I wish to thank and commend these companies for their continued commitment to Gibraltar despite the introduction of taxation for them."

Counting on personal relationships

Having served in 13 ships, including five commands, and held down top Ministry of Defence jobs, Gibraltar's Governor HE Vice Admiral **Sir Adrian Johns** is a stalwart believer in building relationships to achieve success, as *Ray Spencer* discovers.

A year ago, 58 years old Sir Adrian took up his post as the Queen's representative, part of which role is "to do the sort of things Her Majesty might be doing in the UK in terms of visits, supporting charities and so on".

But he also has a key role in acting as a conduit between the Gibraltar and UK governments, ensuring that both sides fully understand and appreciate each other's views.

The Governor has fewer executive powers these days under the new Constitution, but the thing that has struck him most forcefully, "partly because Gibraltar is a small jurisdiction, is that the people here – Government, Ministers, people in key positions, civil servants – have lived and worked here all their lives and understand the place intimately.

"It's in their blood and they have a long corporate memory. They set a great deal of store by personal relationships and so I have gone out of my way to develop personal relationships and also to facilitate personal relationships between key people here and for example, the new government and administration in the UK".

It was a skill Sir Adrian learnt and applied throughout his 35 years in the Navy.

Camaraderie

Having passed the Admiralty Interview Board in 1970 whilst still at University studying physics at Imperial College London, he went to the Britannia Royal Naval Training College in Dartmouth, three years later, achieving his childhood dream, after seeing dozens of naval vessels in Devonport harbour, on trips by train from his Cornish home.

Unlike most of his contemporaries locally, he shunned a career prompted by the nearby Royal Air Force base and instead chose the Navy, starting out as a sub-lieutenant in submarines – and shortly after joined the Fleet Air Arm to become a helicopter pilot.

"I loved every minute of it – a fabulous way to earn one's living - and in the Navy as well", he enthuses, even though he's allowed his flying licence to expire.

In submarines the appeal was fuelled by "the sense of camaraderie and professionalism that was quite unique in the Navy or anywhere else. There is a huge sense of Esprit de Corps and team working."

Years later he tried to inculcate that same sense of team work when in 2001, after being appointed Commander of the Order of the British Empire (CBE) in the New Year Honours, he was given his final command of the Navy's largest ship, HMS Ocean.

It was a Commando Helicopter Carrier that two years later had the job of delivering 800 Marines to the front-line with the help of four large landing craft during the early stages of the Gulf War.

"It's harder when you have got a thousand people to get them all singing off the same hymn sheet, but that's one of the challenges of leadership at the top."

The first half of his naval career was operational and then shore based to put back lessons learnt into practice and in 1990 he became Training Commander at HMS Raleigh where every person who joins the Navy– in those days 5,000 a year – goes.

Sir Adrian recalls: "By the time I got to HMS Ocean I deliberately played the minimum part in the day-to-day running of the ship.

"I spent my entire time walking around talking to people, getting a sense of what was going on, applying leadership if there was unhappiness anywhere, making sure people were informed, ensuring good communications."

In his three year term as Governor (with an option to stay an additional year), he is still doing much the same.

"The Governor is not an Ambassador, so my job is not to deliver UK policy, but to promote UK policy and to make the Chief Minister and government aware of the UK view on policy issues and to feed back their views to the UK", he notes.

The UK team, he explains, is dealing with things 1,000 miles away "and with the best will in the world, they need the context and understanding of how things are being viewed in Gibraltar".

No axe to grind

He has a weekly lunch exchange of views with Peter Caruana, which "is a good chance to chew over what's happening in Gibraltar and the UK's and Gibraltar's position on things.

"I am in regular contact with the Ambassador in Madrid, because he needs to understand the Gibraltarian view, and I have a regular three way conversation between the Ambassador, London and myself to compare notes."

Most is conveyed to the Chief Minister – "there's very little that is so

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Relationships *from page 25*
sensitive" – but Sir Adrian observes: "Because I am not an ambassador and not instructed in the same way as in Madrid, I can make my own judgments and offer advice both ways. It's a rather nice position."

And he explains: "Not being a Foreign Office career employee, I have no axe to grind whatsoever and I have no career structure.

"I'm here on appointment and they can sack me if they want to – I hope they don't – although it might be difficult because the Queen has appointed me, so I can speak my mind in a way that perhaps career diplomats might be more cautious about."

Having undertaken various top MOD jobs, the most recent being in 2005 as Second Sea Lord and Commander in Chief Naval Home Command, on his retirement he was appointed Knight Commander of the Order of the Bath (KCB) in the 2008 New Year Honours.

Retiring from the Navy, Sir Adrian hoped to take up City management and leadership consultancy work, but some months later, he was asked if he might consider one of several Governorships that would be available over the next few years.

"I was quite excited by the prospect and after interview, unexpectedly found I'd been selected for the Gibraltar role from a short list of four - I hadn't planned to take my uniform out of the loft again", he muses.

25% budget cut

He did extensive research "to get under the skin of Gibraltar and its issues, but it's only when you are here and talk to Gibraltarians that you can really understand and put things into context.

"Although this is a British Overseas Territory, the people here are Gibraltarian and that is different from being Britons. They have a history that is completely different – although interlinked in many ways - and in recent memory things have happened here in relations with Spain that have coloured the way people think and it's very important to understand."

Married to Suzie, a former Wren he met and married a couple of years after graduating from Dartmouth, he says the couple has made a point of mixing with residents and visitors, doing everyday things like local shopping and enjoying the cafés.

"It would be too much to say we have fully integrated into Gibraltar society, but as far as we can, we have tried to be part of the community, to understand what makes Gibraltar tick – not just Government - but the people as well" and as a result, he now feels "very comfortable with my role".

However, Sir Adrian has already had to face-up to the UK budget deficit situation by reducing his Residency support staff at The Convent by 25 per cent to bring the total team, including policy, maintenance and catering, down to 19 people – half that of a decade ago.

He found it harder to make the required savings given a £1m budget, compared to the £700m he had as a top level Naval budget holder "where, in a sense, you are dealing with big blocks and in terms of resources rather than money: here it is cash and how we are spending it on a day to day basis and squeezing all of that to make sure that we haven't got any fat".

And he admits: "If more cuts are required, our outputs will be reduced. I'm trying to make sure that we deliver what I should do as Governor efficiently and sensibly and use our entertainment in a more focused way to promote our objectives."

That includes over 3,600 people attending Convent functions each year, ranging from official dinners and receptions, the Queen's Birthday Garden Party, an Open Day, and a Christmas Fair. In addition there are school guided visits, guests attending various events hosted there for other organizations, and special overnight guests.

As Commander-in-Chief, Gibraltar with some 500 service personnel locally, he's alive to the implications of expected UK defence cuts, being announced as *Gibraltar International* went to press.

Sir Adrian sees acceleration in the process of transferring MOD Crown land – now less than 20 per cent of Gibraltar – that is surplus to defence requirements to the territory's government.

The new Gibraltar Constitution, implemented almost four years ago, making the territory self-determining, retains a role for the Governor in the areas of national defence and security, "which I would hope to exercise with a light touch".

But Sir Adrian notes his role is also to ensure that UK interests and the Governor's role are valid and protected. "This is a British Overseas Territory and the UK retains ultimate responsibility and therefore has the liability; ultimately it is the UK's reputation and liability that is at stake.

"Gibraltar absolutely understands that point, but we will always have debate about parts of legislation and transposition of law, for example."

Treading carefully

The Constitution does not set out precisely what should happen in every area, "so it is all going to occur through precedent, which means both parties – the UK and Gibraltar – are treading carefully, because they don't want to concede ground where they don't need to.

"So maybe it's going to be another three to five years before all of those things are settled", he explains candidly.

As someone who has brought ships to Gibraltar many times since 1974 - he once cycled non-stop to the top of the Rock - he now finds Gibraltar particularly good for his strong interest in history and heritage and is Patron of the Heritage Trust.

"I wish I'd learned and read more in these areas earlier in my career, because looking back understanding what has gone before often gives you a better perspective."

With this in mind, Sir Adrian believes it "very important that the relationship between the Government of Gibraltar and the new UK government has got off on the right foot and continues to do so, because if that relationship is difficult then everything else becomes difficult".

Golt stays professional

Feeling a little like poacher turned game keeper, 64 years old **Clive Golt** has not only switched from being a journalist to become Gibraltar Government media director, but he’s also left behind his ambition to become a Member of Parliament for the GSLP socialist Opposition party.

Such is the regard for his radio and newspaper professionalism, however, that his appointment drew plaudits from across the political spectrum.

Barry Pillans

Chief Minister **Peter Caruana,** whilst noting Golt’s political history and being an opponent at a past general election, said: “I have never doubted his personal integrity and his professional pedigree as a journalist.”

A former GBC TV news anchorman, Golt earlier had earned a reputation as an investigative, political and current affairs reporter, working previously for Sky, the BBC and other media in Madrid, before becoming *New People* Editor, the Opposition’s publication.

He replaces the late **Francis Cantos**, who passed away in mid-2009.

Scot gains

Scotsman **Barry Pillans** has become the fifth Partner of PricewaterhouseCoopers (PWC) Gibraltar – the local partnership last added to its top echelon nine years ago.

Colin Vaughan, PWC’s local senior partner, commented: “In that time the firm has almost trebled in size, with staff numbers over 100 and Barry has contributed to our significant growth.”

Pillans promotion comes six years after moving from other group offices in the Middle East and Eastern Europe, where he gained extensive audit experience in financial services, particularly banking and capital markets, and in telecommunications.

In 2007 he became Director in the Assurance section of the firm, developing the audit department and, for the past few years, has been responsible for the learning, education and development of Gibraltar office staff.

Barclays Premier League Tournament

Finance is taking an ever larger role in the world of football and Barclays Wealth (Gibraltar) played their part to the full when they arranged for the Barclays Premier League Trophy to be seen on The Rock for four days.

The winner of the Premier League gets to have the Trophy for just two weeks, but Barclays as the sponsor for the past four years, has it available for most of the time and takes it to be seen in numerous countries “emphasizing that we are a global brand”, explains **Franco Cassar,** Barclays Wealth (Gibraltar) manager.

“Our view is that the children of the community are our customers of the future, so we look to bring the Trophy to local communities”, he adds. Hundreds of local school children had the opportunity to see the heavy 4 stone trophy and have photographs taken with it.

Ian Rush, ex-Liverpool Football Club star striker, accompanied the Trophy for much of the time, including at a Barclays client dinner, and for the first Barclays Intermediaries 5-a-side tournament, in which seven client teams also participated, including Hassans,

Lee Francis, Ian Rush and Franco Cassar

PriceWaterhouseCoopers, Government of Gibraltar-Treasury, Finsbury Trust, Deloitte, Triay Stagnetto Neish and J Bassadone.

Watched by some 100 people, tournament winner was the Hassans Team, beating Barclays Wealth “by a good margin”, a bank spokesman noted. However, Barclays saved face with the bank’s 21 years old **Carl Ignacio** being named Man of the Match.

Insuring changes

Chris Johnson (49) has become chairman of the Gibraltar Insurance Association replacing **Paul Sykes**, who has been promoted by AON Insurance to become managing director of its Guernsey operation – a move back to where he started with the firm seven years ago.

An independent insurance consultant, Chris first moved to Gibraltar 23 years ago after being seconded by Norwich Union to the Rock.

Experienced in diverse areas of insurance including captives, reinsurance and motor business, Chris was Paul’s predecessor as managing director of AON’s Gibraltar operation until 2006. Since then, Chris has developed an independent insurance Canon Consultancy.

Since summer Aon’s Malta operation has been separated from Gibraltar control on the basis that they are “competing domiciles”, but 43 years old Paul remains a local Board director.

David Newman, who says he relishes change and challenges, has the new role of executive chairman of Aon Insurance Managers (Gibraltar) after 20 years with the group in the Isle of Man (IoM), where he spent much of the time providing insurance and reinsurance solutions for multi-national clients based in London.

David Newman

He regards Gibraltar as “a look-ahead’ domicile, compared with IoM’s “more mature market where there is less potential for growth” and Gibraltar being within the EU “is a real bonus, along with the enabling attitude of the Regulator offering a quick turn-round for new business entrants”.

Around & About

Stuart Brown has become Aon’s chief operating officer in Gibraltar..

Gibraltar switching to Swiss banking

Kerry Blight, head of RBS Gibraltar operations for 18 years, has been appointed chief executive of private bank Credit Suisse (Gibraltar).

Kerry Blight

From mid-November, he replaces **Thomas Westh Olsen**, who left Gibraltar in July after 13 years to assume market responsibility for building teams in six countries for the bank from Switzerland.

Blight had been country manager for RBS Gibraltar for 20 years until summer 2009 when after a total of 30 years RBS service, he refused to transfer to Jersey and run Gibraltar operations remotely and resigned. Since then he has been working as managing director of a fledgling Cypriot and Israeli foreign exchange and retail derivative products business, “but the timing became extended and wasn’t right for me”.

Blight, whose surprise appointment came after trawling internal candidates from across the Swiss group and external applicants, was “overwhelmed by the local response and the many expressions of goodwill toward Credit Suisse – without doubt the premier banking operation on the Rock”.

He hopes to remain as unpaid chairman of Gibraltar Finance Centre Council – the body acting as a central government sounding board for finance-related trade bodies with a remit to help give the sector a coherent and authoritative voice.

Flying more

Extra flights linking Gibraltar and the UK from 27 March 2011 have been unveiled by Monarch, the first airline to reveal its plans for the summer season and around 350 additional seats compared to a year ago.

The Manchester link has been stepped up from three to four flights a week giving availability on Monday, Wednesday, Thursday and Friday, and London Luton is to be connected by a Saturday flight, making that service daily.

Tim Jeans, Monarch’s managing director, said “We have been overwhelmed by the demand for flights between Gibraltar and the UK this summer and are pleased to respond to this by continuing to add extra services.”

He added: “We are very excited to be expanding our services from Gibraltar as a new terminal at the airport, which opens in summer 2011 will see better facilities for customers and an enhanced travel experience.”

Telecoms hit

Pre-tax profits of Gibraltar’s dominant telecommunications provider, Gibtelecom, fell by 17 per cent to become £8.2m last year, largely through adverse currency exchange rates for European and US imports, higher electricity charges, lower Bank interest receipts.

But the 2009 annual report shows that the Gibraltar Government and Telekom Slovenia, Gibtelecom’s joint owners, each received £2.95m dividend, a distribution only 7 per cent down on a year earlier.

Sales were marginally higher at £31.7m in what **Tim Bristow**, the chief executive, called “a challenging year” against increased regulatory commitment – around £1m was paid – and significantly higher investment of £19m (£9m in 2008) in providing standby electricity generation equipment, upgrading 30+ telecommunications sites, and payment towards its ground-breaking joint venture Europe India Gateway submarine cable project. He forecasts more growth in 2010 in just about all areas of business and sales up to £34m.

Business and individuals to benefit from new tax law

A new Tax Act has signaled the end of Gibraltar as a jurisdiction that relied on administrative and statutory ring fencing and secretive tax exempt companies and trusts to attract inward investment, as former Advisor to the Income Tax Commissioner, *Chris White*, explains.

In creating a level playing field for both local and inward investors, Gibraltar has swept away the obstacles to it taking full membership of the company of respectable jurisdictions which no other jurisdiction has grounds to black list or censure.

As *Gibraltar International* went to press in October, the new Act was set to become law.

Although the European Court of Justice had not denied Gibraltar the opportunity to implement a 0-8 per cent regime, the Government took a more responsible approach, more consistent with modern requirements for the acceptability of Offshore Finance Centres.

It retained the principles of the current Tax Act, modernised it and reduced the rate for corporate entities from 22 to 10 per cent.

The only exception to this low rate of tax will be a surcharge of an additional 10 per cent on utility companies (electricity, telecommunications, water, petroleum and sewage) and any company which has a dominant market position and abuses it.

The territorial basis of taxation has been retained and only tax income 'accrued in' or 'deriving from' Gibraltar is covered.

The government has amplified the definitions based on case law and ensured that companies operating under a licence granted by Gibraltar, or 'passporting' into Gibraltar under a licence issued elsewhere (e.g. insurance companies), are entitled to take advantage of the 10 per cent tax rate while not suffering tax on the activities they undertake through a branch or permanent establishment outside Gibraltar.

It is interesting and re-assuring to note that the UK Government has recently launched a consultation paper exploring the possibility of moving parts of its own tax system to a territorial basis.

Sustainable

That the 10 per cent tax rate is sustainable over the long term was demonstrated by the details of the state of the economy announced in the June budget.

At a time when most of the economies of the Western World are in dire straits, the economy of Gibraltar is alive and well!

In the year to 31 March 2010, economic growth was 5.4 per cent and the budget showed a surplus of £29.4m on a Gross Domestic Product (GDP) of £848m. Public debt represented 15.2 per cent of GDP.

By comparison, the UK and much of the rest of the developed world are struggling with huge deficits; UK debt is about 70 per cent of GDP and in many countries, approaching 100 per cent.

The jurisdiction's state of economic health has enabled not only the reduction of the corporate tax rate to 10 per cent, but also has several subsidiary effects.

Savings gains

The programme of reducing taxation of savings and passive income has been advanced by exempting all interest on investments (i.e. interest other than interest earned by banks and moneylenders as part of their trading income), royalties, and the part of a dividend paid by a company which relates to its non taxable profits.

That is not only an incentive for local people to invest for their future, but also when combined with the lack of Capital Gains Tax or any sort of Estate/Wealth tax, it is a powerful attraction for those with savings income who wish to relocate from a high tax jurisdiction to a more economically friendly jurisdiction.

The top rate of tax has also been reduced to 29 per cent for those earning up to £353,000; above that level, tax rates begin to fall.

The effective rate of tax on earnings of, say, £1m is 20 per cent, with anything above that charged at 5 per cent.

Trusts tax limited

The quid pro quo for these significant reductions in corporate and personal taxation is a new system of self assessment, legislation to modernise tax collection and extensive measures to counter avoidance or evasion of tax.

Although taxation of trusts and beneficiaries of trusts has been introduced where the beneficiaries of a trust are outside Gibraltar, the taxation position remains much the same as it was before.

Taxation on trust income is limited to trusts with Gibraltar resident beneficiaries and taxation on beneficiaries is restricted to distributions which can be matched with the taxable income of the trust reduced by offsetting of any underlying tax which has been paid by the trust.

For this purpose, those High Net Worth Individuals who have Category 2 status and their spouse and children are treated as not resident.

If neither the trust nor the beneficiaries are subject to tax, a licensed trustee will have no need to make returns for the trust or to make the trust known to the Commissioner of Income Tax.

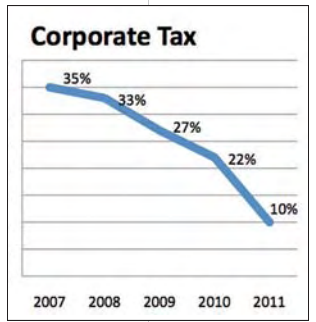
The principle of reducing taxation of savings and passive income is carried on into funds and their investors.

Funds exclusions

The position of the fund itself is unchanged by the new Act and the same exemptions apply as before, strengthened by the further exclusion of categories of savings and passive income from taxation.

In the case of the investor into a fund there are changes which make the trust regime even more attractive.

Income from a fund which is available to the general public is no longer taxable regardless of how the income arose in the fund.



If a fund is not available to the general public, a 'look through' basis is used and tax is limited to whatever it would have been if the recipient had received the income from the entity underlying the fund.

Tax on interest limited

Again the entity will have the advantage of the absence of tax on savings and passive income which means that with very few exceptions - e.g. a fund investing in Gibraltar real estate - there will be no tax payable by the investor.

Taxation on interest is limited to that interest received by banks or moneylenders as trading receipts. In the case of both, trading receipts are defined to exclude the interest which would arise from a Treasury function.

This gives banks and moneylenders the same advantages as all other companies where the possibility of using Gibraltar as a Treasury base arises.

Effectively a non-Gibraltar group company can borrow money from the Gibraltar Treasury company, receiving a deduction in accordance with the laws of its jurisdiction, and the Treasury company will not be taxed on the receipt of the interest.

The changes made in the new Act are also beneficial for companies receiving dividends from subsidiaries.

Gibraltar already does not tax the receipt of dividends from EU subsidiary companies, and has now removed the taxing right to any part of a dividend received from a company which carries out its profit making activities elsewhere.

With neither liability to tax nor withholding of dividends paid to non-residents, group profits can flow through or be invested in Gibraltar without taxation.

Increasing attraction

There is a lot more detail to the legislation but, overall its aim is to create a corporate low tax environment and lay the foundations for, not only the security of the corporate environment, but also the continued reduction in the tax burden on individuals.

The environment created by the new legislation not only places Gibraltar amongst those jurisdictions who comply with all international codes of conduct relating to tax behaviour, but also leaves it as an attractive and tax efficient location for individuals and businesses who wish to locate either in whole or in part to a pleasant, tax efficient, new home.

Chris White, a tax partner of lawyers, Hassans, helped devise the new Tax Act.
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