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Editorial Comment

Quick wins to help economy

Two new independently run State enterprises, the retail Gibraltar International Bank (GIB) and Gibraltar University (UniGib), have between them £35m of pump priming, but it is a pity not more time was given before launch.

GIB opened in May, encountering start-up problems with suppliers for Debit cards and cheque books and three weeks rather than three months to test systems; UniGib, had a similarly short gestation period and opens in September without any on-site accommodation, and unable to capitalise for the coming year on potentially profitable overseas students, and new full-time degree courses.

But this is an election year and the Gibraltar Socialist Liberal Party (GSLP) government clearly felt it necessary to ensure major manifesto commitments are achieved before voting occurs towards end-2015. The establishment of the bank and university are undoubtedly big achievements. Emphasis now will be on ensuring both institutions deliver quality results, whilst not tapping further into State coffers. GIB estimates it will be profitable within three years; UniGib's government grant covers two years' setting up and running costs.

Ensuring both enterprises present a good deal, encourage business opportunities, and add to Gibraltar's reputation will be critical. Both organisations have a sound and experienced management board to help steer development, and UniGib in addition has an enviable Academic Board, with 12 education luminaries from across Europe (and Australia), assisting vice-chancellor, Prof. Daniella Tilbury.

How GIB and UniGib both engage with the community will be key – it is not just a case of making money.

Yet that is just what Gibraltar seems able to do with comparative ease! The GSLP set out to increase the economy by 50% over four years, but the original estimate of £1.64bn Gross Domestic Product (GDP) by December has already been met, Chief Minister Fabian Picardo revealed in his June Budget.

He suggested £1.65bn could well be the final outcome for 2014/15 in which case he feels, it is not unreasonable to expect that the current year will produce £1.8bn nominal GDP.

But as Minister for Employment, Joe Bossano, a long-standing parliamentary economic guru, noted: "For the future, to manage the same rate of growth would require that our GDP should then go from £1.8bn in 2015/16 to £2.7bn in 2019/20." However, ahead of this year's election, no one is yet making such a prediction.

Construction and related income forms a significant part of that growth, for example the near £89m upfront licence fee payment due in September for the Blue Water £1.1bn development – Gibraltar's largest projected inward investment - and the big rise in associated PAYE income from the 900 people to work on realising the project by 2021.

The worry is that temporary construction projects are fuelling much of the growth: ministers this year did not trumpet shares of economy held by financial services (previously 20%) and gaming (25%), the feeling being that sectors such as the port and tourism, are not producing any significant growth rate. Information based on ageing input-output studies has been extrapolated by government statisticians.

Ray Spencer

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Private sector setting the pace for growth

Unlike developing countries facing a series of economic "tough challenges" in 2015, Gibraltar's progress continues apace – a 10% rise in Gross Domestic Product (GDP) last year and only slightly lower rate expected for 2015

That was the view of Chief Minister Fabian Picardo, presenting his fourth annual budget in his current term of office. Early estimates indicate GDP of £1.64bn for the year to end-March, but based on experience, "it is likely that this figure will in any event be revised upwards".

Picardo expected to "comfortably exceed" his original election target of £1.65bn by end-March next year, maybe reaching £1.8bn nominal GDP.

"Most exciting", said Picardo, was the fact that now the private sector was the main driver of GDP growth, including: continued rising employment – "a record high" full and part time jobs 7% higher at 24,422 in October 2014; increases in online gaming and financial services duty and tax contributions; and "very increased levels of construction" with the private sector taking a greater lead.

Income at £559m exceeded government expenditure last year to provide a budget surplus of £51.3m, after contributing £25m to unprofitable State-owned companies. With recurrent expenditure conservatively estimated to be £541m, the expectation is for a recurrent budget surplus of £18m this year.

Government revenue at £571m exceeded the budget by £24m; income tax receipts at £144m were up 6% or £8m, and corporation tax at £89m by 7.8% or around £9m. Those taxes represented 10.6% of GDP.

In the financial year 2014/15 the Government invested around £104m on capital projects; this year it will be around £95m.

Exceptional income

Even so Public Debt at £448m was lower at end-March and is likely to end this year at £400m. Cash reserves were estimated at £72.3m and estimated to rise to £85m this year while net public debt is anticipated at £375m, or 22% of GDP, and destined to further fall to £314m by end-March and the expectation is that there will be "exceptional income in the coming months".

That is based on the £83m upfront premium negotiated by the government for the long-awaited Eastside development before a construction licence is given, plus £4.75m for "a pile of rubble" on the land that will be used to help make a breakwater for a super yacht marina in the £1.1bn project (see page 25). It is "a huge statement of confidence in our economy", Picardo said.

That development involves building 1,700 affordable homes with the government being only a purchaser in partnership with the homebuyer when built. "Indeed, just the sales of those apartments can provide a considerable payment to government from the purchasers," he declared.

In managing Public Debt, the Government has agreed renewal of a £50m revolving loan facility with the Royal Bank of Scotland for a further 5 years to end-March 2020 with interest set at LIBOR plus 0.875%, the low margin being "a reflection of the increasing level of confidence by international financial institutions in our economy and Government".

Having repositioned itself as an open and transparent financial services centre with a competitive rate of tax, "Gibraltar is reaping the rewards of seeing real business done from here which accrue and derive their [sic] profit here and are taxed here… it is one of the principal drivers of sustainable economic growth", Picardo asserted.

Within financial services, the Chief Minister singled out the Insurance sector – where there were 3,388 jobs last October - and its £4.3m contribution to growing PAYE receipts in the year to March, as well as producing £22.6m corporation tax.

Gibraltar International understands there are at least two significant insurance companies currently applying for licences to operate from The Rock – one is a large UK-based firm relocating services and the other is a new type of insurer for the territory.

Albert Isola, Financial Services Minister, noted in his Budget review: "We continue to seek opportunities to add greater diversity to the current insurance sector where the predominant class of business is UK motor insurance."

Earlier, Picardo revealed gaming companies paid £33.4m corporation tax last year (up 19%) and remote gambling duties rose to £14.1m from £11.6m (reversing the previous years' fall), largely due to an increase in licences and higher turnover.

However, "modest reductions" in the total number of gaming staff to 3,423 from business mergers and office moves, caused a 1.3% year-on-year fall in PAYE contributions to £22.5m. Financial services and gaming together account for around 45% of the economy.

LNG to aid growth

Another anticipated "great driver of economic growth" - Liquified Natural Gas storage, re-gasification and LNG bunkering, a new industry for Gibraltar and necessary if it is to remain the largest bunkering port in the Mediterranean "as diesel slowly disappears as the fuel of choice". The project is "likely to be financed entirely by third parties", although the Government anticipates having the option to invest, Picardo stated.

Measures to help new business with cash flow, and training costs for all companies, were announced, while the minimum wage from September rises 10p to £6.25. No rises were made in electricity and water charges, nor employer social security contributions.

Recommendations in a review by industry leaders of Gibraltar's "personal tax offering" is being considered; for 2015/16 personal taxes are reduced by varying amounts and the tax free threshold raised to £11,000. No rises were made in electricity and water charges, nor in employer social insurance contributions.

FATCA and other international measures may already be affecting individuals' ability to plan their tax affairs as much as corporations, especially given the moves towards more and greater tax transparency, Picardo asserted. Small, as well as large, economies will see information shared.

"It's time to allow people to rationalize their tax affairs before they are caught out", he asserted while revealing a 6-month tax amnesty during which time individuals, "will be able to wipe the slate clean on payment of 5% of the total amount remitted to Gibraltar and deposited here".

Ray Spencer

Budget 2015 – Tax Measures

By Neil Rumford, Tax Partner, EY Limited

Gibraltar's budget measures for 2015/16 were announced on 22nd June. Continuing the theme set over the last three years, there were slight decreases in tax rates, some increases in allowances and further tweaking of import duties and excise duties.

Corporate tax

Whilst the standard rate of tax remains set at 10%, some minor changes were announced, including the introduction of 100% capital allowances for new businesses (including self-employed and partnerships) in their first year of trading. The audit threshold to determine whether accounts filed with the Income Tax Office are required to be audited or not is to be increased from £1m to £1.25m.

Personal tax

The alternative systems, the Gross Income Based System and the more traditional Allowance Based System, remain. Whichever results in less tax is the system that applies to a taxpayer.

Gross Income Based System (GIBS)

This system, with lower tax rates combined with fewer deductions, applies to most taxpayers. The maximum effective (overall) rate never exceeds 25%, and in fact decreases once taxable income exceeds £500,000. On taxable income above £700,000, the rate applied is now 5% - previously this rate applied to income over £1m. Some examples of the effective tax rate at different income levels are:

Total taxable income	Effective tax rate
£25,000	17%
£50,000	22%
From £105,000 to £500,000	25%
£1,000,000	18% (previously 19%)

Limited deductions are given under this system – some of these were increased slightly:

- Expenditure towards the purchase of a new home in Gibraltar for first-time buyers – up to £6,500 (previously £6,000)
- Mortgage interest payments for main Gibraltar residence – deduction of up to £1,500 (previously £1,000)
- Medical insurance - £3,000 (up from £2,500)

Allowance based system (ABS)

The tax rates for this system were reduced by 1% for each band:

Taxable income band	Rate applied
First £4,000	14% (previously 15%)
£4,001 to £16,000	17% (previously 18%)
Over £16,000	39% (previously 40%)

Increases in allowances include:

Personal allowance	£3,200 (was £3,100)
Spouse allowance	£3,200 (was £3,100)
House purchase allowance	£12,000 (was £11,500)
Nursery school (per child)	£5,000 (was £4,000)
Parent of disabled person	£9,000 (was £6,000)
Blind person's allowance	£5,000 (was £4,000)
Single parent allowance	£5,264 (was £4,000)
Medical insurance – up to	£5,000 (was £4,000)

A major factor in deciding if the ABS applies to a taxpayer is whether they own their home in Gibraltar. As well as the house purchase allowance above, there is an additional £4,000 purchase allowance (to be spread over four years). Mortgage interest deductions are given for mortgages of up to £350,000 (and even higher for pre 1 July 2008 loans).

HEPPS & HNWIs

No specific changes to the special tax status for High Executives Possessing Specialist Skills and High Net Worth Individuals (Category 2) were announced. However, the outcome of the review of the Category 2 product announced in last year's budget is expected to be available soon.

Social insurance

The total cap of £3,023 per annum for employers' and employees' contributions combined remains. Where an employee has more than one employment, the requirement for each employer to make contributions has been removed.

Import and excise duties

Some further adjustments to duty were announced:

Changes	From	To
↓ Flooring, carpets, construction materials (trade imports)	12%	6%
↓ White goods rated A and above (trade imports)	6%	3%
↓ Hearing aids, walking aids, wheelchairs, glasses & frames for prescription spectacles, contact lenses & dentures	various	0%
↓ Toys	6%	3%
↓ Suitcases	6%	0%
↓ Marine engines and spares	6%	0%
↓ Hybrid vehicles (with trade licence)	2%	0%
↓ Hybrid vehicles (private imports)	From 12.5% to 17%	5%
↑ White goods rated B	6%	12%
↑ Two stroke motorcycles	30%	50%
↑ Wines	39p per litre	50p per litre
↑ Beers	32p per litre	35p per litre
↑ Spirits	80p per litre	£1.00 per litre

Property-related measures

For first and second-time buyers, the exemption from Stamp Duty has been increased to the first £260,000 (previously £250,000) of the cost of the property.

A one-off deduction "with the percentage to be verified" for individuals, companies or businesses was announced for the investment made in improving the Energy Performance Certificate rating of their premises. Whether this includes residential property is as yet uncertain.

A rates holiday was introduced for purchasers of new "Affordable Homes" – with no rates in the first year, and a 10% increase each year until 100% of the full amount is payable.

A pre-notification procedure was introduced where services such as the installation of kitchens, bathrooms and other fitted furniture are provided by suppliers based outside Gibraltar. This will mean imposing a withholding tax to ensure tax is paid by such suppliers.

Tax amnesty

Gibraltar's first tax amnesty was introduced in respect of funds held abroad on which tax should have been paid in Gibraltar. Individuals will be able to "wipe the slate clean" by paying 5% of the total amount remitted to Gibraltar under the amnesty. The amnesty is to last for six months from 21st June 2015.

EY www.ey.com/gi

New university aiming to be self-funding in two years

A long-held ambition to establish a university will be realised in late September when Gibraltar gains its first higher education facility to serve business needs and it becomes an economic driver for the entire community

A £10m government grant to get Gibraltar University (UniGib) off the ground is "another area which we aspire to setting the standard as to what can be done by a small jurisdiction such as ours", Education Minister, Gilbert Licudi, told *Gibraltar International*.

"Undoubtedly, the University will enhance Gibraltar's reputation in the international community", he said, explaining: "A university enhances the city; we are already clearly on the map from a financial services and an on-line gaming point of view – we can do things very, very well in Gibraltar."

New student accommodation ready for the 2016 intake

Business and social science faculties and a research facility are housed in 4,000m2 of converted school buildings and new structures being completed at Europa Point, the southern tip of The Rock, to help "make Gibraltar a major centre for academic and scientific research". At the outset up to ten research positions concerned with culture, environment and heritage are being offered.

But from late 2016, UniGib could also prompt formation of a new industry – its planned Language Centre primarily focusing on English as a professional language tailored to specific industries, as well as simply a foreign language, has attracted interest from several private sector language laboratory providers.

Licudi felt there probably would be 100 to 150 mostly local students at the outset in undergraduate, postgraduate and courses in Gibraltar law and Gibraltar tax. In addition, there is an Institute of Professional Development providing short courses and professional qualification courses.

He expected there would be "many hundreds of students in the first year, including evening classes for qualifications such as accounting technician, legal executive and short [part time] courses for industry in the evening, because this is something we are doing in conjunction with local business".

The £10m grant covers "all capital costs up front, and all costs of staff and for [£2m annual] running costs for two years", Licudi explained, meaning UniGib should aim to be self-funding after September 2017.

A full-time degree course in 2015/16 costs £7750, for example (14% below that generally in the UK). UniGib funding will need to come from tuition fees and any sponsorship opportunities it will be able to attract.

Some UK universities have been accused of being 'commercial enterprises', but Licudi is adamant: "The university will be independent, but I expect that the senior management will not be derailed in their objectives by industry dictating what should be done."

However, at the same time UniGib had to be "very conscious of what the needs of industry are in Gibraltar, so it can train people", he declared.

"We have had conversations with some [business] areas and we think sponsorship opportunities will be possible; it is something Gibraltar is well known for," Licudi observed. "It is possible at the outset, but the senior management team will look at this from day one – funding is important."

From September next year, the government believes the Language Centre that UniGib is pioneering – with overseas students in new accommodation to be built on-campus – "could be a big money generator, but more than that it is something that could be extremely important for the community as a whole".

Ministerial visits to various countries have provided valuable insights as well as establishing potential reciprocal university arrangements. Malta has some 40 language schools with 80,000 students on specialist English courses – "it's an enormous market out there and Malta seems to do it particularly well; we think that Gibraltar can also do it."

A Hong Kong provider of educational tours to Europe combining learning of English with a cultural awareness programme has already shown interest in putting together a programme with Gibraltar, Licudi revealed.

"What really has spurred us on is that every time we have met with an institution – whether in Malta, Singapore, Hong Kong, Seychelles – everybody has been so encouraging, so willing to work with us", he continued.

Licudi emphasised: "The university itself will be not-for-profit; in other words it may make profit, but all the money that it makes will be invested in higher education. It is not a profit-making organ of government; it's independent."

£15m overseas grants

Gibraltar already provides annual grants of £5-6,000 for sixth form students who have been resident for five years regardless of nationality to attend universities, mostly in the UK. Last summer 260 (91%) of school leavers shared nearly £15m in grants to cover university tuition fees, accommodation in halls or private accommodation, air travel and books.

In 2011/12 the scholarship budget was only £5.3m, reflecting rising student numbers and a jump in English university fees.

Those opportunities remain even though similar degree courses may be available locally, but "there have been circumstances where, after A levels, some students have decided not to go on to higher education: having the opportunity to do a degree locally would give them that choice of carrying on – or returning – in higher education", Licudi reasoned.

He thought there may be some graduates working in Gibraltar who would take the opportunity of applying for grants to continue with their education locally, possibly on a part-time basis – maybe to obtain a graduate diploma - in various areas, or even to gain another degree or professional qualification.

Students already have the choice of joining 3-year nursing degree courses in the UK or locally where some 14 people annually prefer to remain on The Rock and study at Gibraltar Health Authority's School of Health Studies in conjunction with the

Continued page 24

The changing face of insurance in Gibraltar

The insurance industry in Gibraltar has grown rapidly in recent years and is now entering its period of maturing adolescence, where it starts to discover some of the more difficult aspects of life as well as attractive opportunities that exist out there. Steve Quinn, Chief Executive Officer, Quest Insurance Management (Gibraltar) Limited, reports

Solvency II

This is the long heralded project to harmonise solvency requirements, corporate governance, and reporting for insurance companies across the European Union (EU). Full implementation will be mandatory with effect from 1st January 2016 onwards (subject to limited transitional arrangements).

For some time now the Financial Services Commission (FSC) has gradually been guiding insurers to raise their capital bases to meet the expectations of SII and has set 200% of the Required Minimum Margin (RMM) as the benchmark that they would wish to see insurers meeting.

New and existing insurers should expect to see solvency requirements of 200% to perhaps 300% of the current RMM. Or stated in a different way insurers' solvency requirements will be between 40% and 50% of standalone (i.e. without proportional reinsurance support) Gross Written Premium.

Implications of SII

It is quite probable that there will be fewer but larger companies. There is an appetite currently from large private equity houses to acquire in particular motor insurance companies, with a belief that better times may be ahead as rates improve from the rock bottom levels of the last two years.

The shareholders of some Gibraltar insurers are considering whether now is a good time to exit the market rather than potentially invest further funds to meet the evolving solvency demands. The golden era of the owner managed Gibraltar insurer may well gradually draw to a close unless shareholders are able and prepared to raise additional funds.

Rated Entities

Some insurers are exploring Rating Agency accreditation, an area that is largely new in Gibraltar. Larger multinational companies are well served by being rated by the likes of AM Best, Standard and Poors, etc. This has not been a particular constraint for much of the Gibraltar market, but some liability insurers would certainly benefit from a strong security rating.

Local Operations

There may be implications on the local insurance managers as well. They have undoubtedly been crucial in growing the business locally and will continue to play an important role in the future. However, the level of technical expertise required by the insurance managers is developing. An insurance management outfit should contain expertise in all requirements of SII and be able to assist clients in producing governance documentation and robust capital models. This has become a core function of the insurance manager alongside other traditional areas of accounting, compliance and company secretarial matters, being intelligently informed about the client's sector of operation and the investment markets to maximise returns in a prudent manner.

Part VII Transfers and Run-Off Opportunities

A Part VII Transfer is so called as it refers to that section of the Financial Services and Markets Act 2000. It is effectively the movement of an insurance portfolio from the UK either to another home in the UK or to an alternative EU member state. The legislation in the UK regrettably did not name Gibraltar as an EEA state and so there has been uncertainty as to whether a judge needing to approve a transfer to Gibraltar would believe that such a move is legal.

Following several years of industry and Gibraltar Government pressure on the UK Treasury an announcement was made in July 2014 to the effect that Gibraltar now had the ability to accept such transfers. However, as no Parliamentary Order has been tabled in the UK a test case before the courts needs to be heard, and it is anticipated that this will occur soon. If this is approved by the Courts the opportunity for Gibraltar in the run-off or discontinued business arena is an exciting one.

There are many portfolios of insurance owned by larger companies, where new business has not been accepted for some time, but where the incumbent owner would consider disposing of the asset. Gibraltar would be the obvious choice if this issue is resolved.

Gibraltar has already tested the mechanics of the run-off sector by accepting business from the Republic of Ireland where, along with all other EU countries, perversely there are no similar issues.

ILS

Gibraltar has stated its case to become the European domicile of choice for ILS business. This strategy has been supported by completion of the first ILS transaction in April. The belief is that the framework exists for a sound business proposition that could gain traction in this growing sector.

So to the Future

Gibraltar is clearly maturing. The key now is to be aware of those areas that require further polish to ensure the jurisdiction can deliver in a manner that produces an image that is as stunning as the Rock of Gibraltar on a clear day.

www.quest.gi

Quest Group

AIFMD – Two years on

Adrian Hogg is a director of Grant Thornton (Gibraltar). He is a former GFIA chairman, a member of the FSC's Funds Panel and a specialist in investment business with over 15 years experience involving various investment business structures in Gibraltar and the Caribbean.

As regular readers of the financial press will be aware, the Alternative Investment Fund Managers Directive (AIFMD) has been a hot topic in the investment business sector for some time and brand AIFMD is becoming well known throughout the world.

AIFMD was introduced with a number of transitional markers. The Directive came into law on 22 July 2013; the first transitional period, that required funds managed and/or marketed in the EU to be compliant with the Directive, ended on 22 July 2014; and 22 July 2015 sees the end of the second transitional period when, subject to the recommendations of the European Securities and Markets Authority (ESMA) and approval by the European Commission, the EU marketing passport will be extended to third country managers (non-EU managers).

> The extension to non-EU managers will be subject to a number of rules which may deter all but the most determined managers from seeking the EU marketing passport

NPPRs

The extension to non-EU managers will be subject to a number of rules which may deter all but the most determined managers from seeking the EU marketing passport. The other way for a non-EU manager to market in the EU is via the respective national private placement regimes (NPPRs).

Passporting is a mechanism which allows firms to provide services throughout the EU from one member state without the need for authorisation across the EU. Passporting is used in banking, investment and insurance services, a good example of which is a Gibraltar insurance company selling (via its passport) insurance products in the UK. The AIFMD EU marketing passport operates under the same principals whereby a manager licensed in one EU member state (i.e. Gibraltar) is able to market throughout the EU via simple notification to its home member state (i.e. Gibraltar) that it wishes to undertake marketing activities in a named EU jurisdiction.

NPPRs is an agreement of private placement between member states. NPPRs allow managers to market within the EU on a member state-by-member state basis for those not marketing via the EU passport. Marketing via the NPPR route is fine for non-EU managers so long as they do not wish to market in several EU member states as NPPR filings are required in each member state where marketing activity is to be undertaken. This becomes very expensive as appropriate advice is needed in all member states in which the manager wishes to market, because, despite the harmonisation of the rules in respect of the conduct and activities of managers as per the Directive, NPPR marketing rules are not harmonised throughout the EU.

This leaves non-EU managers with a difficult choice. Market with their existing structure via an EU marketing passport (which will contain "subject to" provisions) or via the respective NPPRs of the member states in which they wish to market (on a member state-by-member state basis).

EU marketing passport

There is, however, an alternative. Marketing can be undertaken throughout EU via an EU marketing passport operated by an EU manager and Gibraltar can help in respect of such. Gibraltar is a tax neutral, common law finance centre that bases its rule of law on the UK. It has UK trained professionals, no statutory borrowing or investment restrictions on its fund products, competitive costing and is the quickest time to market to the EU. Also, as a distinct advantage over its EU peers, appeals (when applicable) are to UK Privy Council (which is the same as the Cayman Islands and other UK dependent territories) and its currency is GBP Sterling; which is of particular importance in the current environment of Euro uncertainty.

Using Gibraltar to establish an EU marketing passport can be done in two ways (1) build or (2) buy. The build option is for managers (non-EU or otherwise) to set-up their operations (or part thereof) in Gibraltar, seek appropriate licensing and undertake their activities from Gibraltar. This can be via a fully self-sufficient investment management company or via one supported by its non-EU counterpart (with certain functions being delegated to the non-EU counterpart subject to certain conditions).

The buy option is for the non-EU manager to engage an EU (Gibraltar) manager and then to market in the EU with the marketing passport via delegation from the said EU (Gibraltar) manager. The EU manager in this instance acts as the AIFM and is permitted to delegate certain functions to the non-EU manager so long as by doing so the EU manager does not become a letter box (i.e. a manger without substance). This can be a good solution for non-EU managers and is often an entry level into EU licensable activity that leads to the build option.

Both the build and buy options are compliant, effective and cost efficient and by doing so the non-EU manager can market throughout the EU via the marketing passport.

Under AIFMD non-EU managers that market in the EU have a choice to make. They can market via the extension of the EU marketing passport to non-EU managers that is expected to be granted by the European Commission at the end of the second AIFMD transitional period (i.e. on or around 22 July 2015), or via the NPPRs, or via an EU manager with an EU marketing passport (i.e. using a Gibraltar manager under the build or buy option).

There is always a cost of compliance. The question should not be, "how much does it cost to comply", but, "what is the cost of non-compliance". My preference, if I was a non-EU manager, would be to market via a Gibraltar based EU manager via the build or buy option, both are compliant, effective and cost efficient.

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Grant Thornton

Sunborn looks to float and relocate

After 15 months bedding down Gibraltar's first 5-star hotel, the publicity-shy owners of the Sunborn super yacht seem confident that the concept is sufficiently viable to warrant significant expansion – investment in the order of €750m - and a potential Stock Market float, Ray Spencer discovers.

Now I have two government's behind me: Hans Niemi, Sunborn executive director

When the Finnish-owned vessel sailed into Ocean Village in late 2013 there was local controversy over what amounted to a surprise £30m government loan on undisclosed terms through the previously unknown Credit Finance Company, itself financed by the State-owned Gibraltar Savings Bank (GSB).

The loan was needed as part of a wider financing arrangement to develop the purpose-built 189-bedroom luxury floating hotel, and to cover initial opening and operating costs, explains Sunborn executive director Hans Niemi, the younger of two sons now running the 45 year old, family owned Sunborn Group.

"In every jurisdiction you need a financial arrangement in that locale, whether it's London, Barcelona or Finland", Niemi says, "and the problem at the time was with the known planned departure of Barclays Bank, there were only a few lending entities in Gibraltar". The only way of having the Sunborn Hotel in Gibraltar "was to get some sort of a bridge loan for the company to come in", he emphasises.

Niemi presses home the point: "A lot of the banks that we were working with were not able to transfer their funding to Gibraltar; there were either jurisdiction issues, or prohibitions of some kind – maybe the fact that Gibraltar was a market that they did not understand. If it had been Helsinki or Barcelona they would look at the market and say 'OK, I understand'- but Gibraltar, no!"

The loan [an investment at, what the government called, 'a good market rate'] "has always been on a temporary basis". Niemi explains: "This is a development loan. Once the hotel has been up and running with a couple of years' track record, we have other sources to refinance."

Having studied at London University to become a banker interested in derivatives trading, the 37 year old insists: "The deal to come to Gibraltar just would not have been possible; we had only a very small window of opportunity available to us having decided whilst the ship was being built in Malaysia that we would not after all take it to Barcelona, the original destination."

The Catalan city provided a 25 year licence from 2008 for Sunborn to be based at its new Port Forum development, but progress there had been disappointing and the old-established Husa Hoteles, a family-run Spanish group, withdrew from a deal to manage the floating hotel, because – in part - it felt too many other good land-based hotels were opening locally at the time. He had to find an alternative location- fast.

Niemi has only ever worked in the multi-faceted family conglomerate that in six countries has €500m assets, including 5 land-based hotels, restaurants, catering and exhibition centres, health spas, healthcare hospitals, timeshare apartments, senior citizens homes and a private non-profit foundation focused on elderly living.

Hong Kong influence

In Hong Kong, local property consultant Jason Cruz persuaded Niemi to scope Gibraltar's potential as a base for the new 142 metre long, seven storey super yacht hotel, rather than chose the Asian port. [Cruz has since become the Gibraltar government full-time Hong Kong representative.]

"I already knew Gibraltar well having frequently visited the Costa del Sol over the last 25 years staying at our family's holiday home in Estepona," Niemi revealed, "so I flew over to consider the prospect in detail and tied up the government arrangement." At €125m, it is Sunborn Group's largest single investment.

Peka Niemi and his wife founded the Sunborn business in 1972 initially with development of the Naantali Spa & Hotel near Turku in Finland, which became so successful, then running at 95% occupancy, that it ran out of building space. "We could really use extra capacity in the hotel, but with nowhere to expand, we came up with the yacht hotel concept, something that at the time was quite innovative," Niemi junior observes.

His father reportedly said 'we know how to build ships and how to run hotels, why not put them together'; but Niemi laughingly suggests it was more like – 'how to build on your neighbour's land and not pay for it'. Whatever the truth, the fact remains that the Naantali grew to over 420 rooms, the yacht hotel annex adding 138 of them.

Since High School, Niemi had been attracted to his future wife, Päivi, whose family then owned Finland's largest turnkey contractor in the shipbuilding industry. Sunborn has had its own shipyard operation since 2008 and run by elder brother Jari, who now lives in Kuala Lumpur. "We rent space

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from an existing yard and use existing suppliers and networks: rather than waste a lot of resources in building or buying a shipyard, or renting one permanently, we go wherever in the world there is capacity, wherever we get the best deals".

Sunborn developed a 'Virtual Shipyard' system designing ships, with various companies participating worldwide – "it really has become like a cloud - so that, for example, the steel can be assembled in one place, fitting out in another location, and so on; it's non-geographically-specific", Niemi enthuses. "It is a global business, we can build ships anywhere in the world: with our last ship [Sunborn Gibraltar], the work was done in six countries."

Six ships by 2020

The significance of this detail soon becomes clear: Sunborn has four more ships in the planning stage, with an implied cost of some €500m "to be completed in 36 months and then there's another two or three destinations [for ships] in mind thereafter", Niemi confesses. Commercial negotiations are due to be complete by end-2015, with shipbuilding starting within three months thereafter.

A night club and casino give added 5 star appeal

Part of the investment logic is to achieve synergy, scale and saving on design costs by building four ships in a short period of time, having the existing ships as prototypes with proven new technology.

The new yachts will complement Sunborn Gibraltar and the 4-star Sunborn London, that also opened in March last year, in the Royal Victoria Dock - with proximity to Canary Wharf, London ExCel conference & exhibition centre, and the O² Arena. That London ship was moved from the group's Naantali spa hotel and given a near €50m refit, and is the group's second in the capital - the original was sold after a decade to Nigeria for around £30m in 2008.

Today's Sunborn London with 80% occupancy already, aims to achieve 85% within the year. "However, of all the hotels in the east London area, Sunborn has the highest average day rate," Niemi says. London is in line for one of the new vessels and the existing London ship would then go to another destination.

Recirculating existing vessels to other 'home' ports such as Gibraltar is a key part of the Sunborn strategy. Venice, Istanbul and Abu Dhabi are amongst the earliest other locations being considered, with Barcelona subsequently.

Simply moving ports

"What this super yacht hotel product enables us to do is to change [the local offering] over time", Niemi declares, adding: "If in ten years' time the market diminishes, we need a finer, luxury version of my hotel, or only a 4-star product, we can change it.

"We cannot predict what is going to happen ten or 16 years' away, and if the market is still there – it may have got bigger or smaller - we are happy to stay in a location, but maybe with a different vessel; the lifespan of these ships is more than enough, maybe 100 years. In any business, the market will certainly change over that time."

Gibraltar's ship, after a slow start this year, currently is achieving 70% occupancy and will probably end 2015 at 65% overall. Sunborn is "very happy" for the year 2 operation. "I am not expecting it to be higher than that, because Gibraltar has its own seasonality very different from the rest of the Costa del Sol. We struggle with the lack of business clientele in summer and have to work much harder than in the business months", Niemi notes.

Most clients for the hotel are from outside of Gibraltar, but a lot of the events – banquets and food and beverage business – are Rock based customers. A tie up with Marbella's La Sala Group from June to run around 5% of the yacht's public space as an entertainment and separate restaurant venture is attracting "a different, younger fun group" of local people and from over the border.

Meanwhile the new 24 x 7 Casino is an investment in Sunborn by Paf, a Finish not-for-profit company with exclusive gambling rights on Aland Island, where it generates funds for local humanitarian and social causes. Already "it is a significant part of our business in Gibraltar" and Niemi quips: "Now I have two governments behind me – Gibraltar and Aland!"

He picks partners able to share in Sunborn's aspiration: when settling on other jurisdictions he already has a willing casino operator, and La Sala, a company that "has a big expansion plan, including wanting to do an IPO in London".

Sunborn Group turnover this year "of around €150m is again growing quite rapidly" after a period of consolidation, and is refocusing on the objective of gaining a London Stock Market listing in 2020 for the super yacht strand of this private family business – assuming sufficient investment partners are found to finance the expansion to at least six ships.

Relocating to The Rock

An early move has been to broaden the Sunborn board with people who can add experience, contacts "and most of all enthusiasm and passion for our business; it's not just a matter of money - money is everywhere", says Niemi who, despite his youthful appearance and laid back approach, is responsible for just about everything in the Group, other than shipyards.

And then comes the denouement. With an increasingly large part of Sunborn Group activity now outside Finland, Niemi is "very seriously considering relocating our whole holding company structure to Gibraltar, because of the tax benefits, and looking at Gibraltar as our doorstep into the rest of Europe and the Middle East. It is much simpler than doing it from Finland."

Sunborn says it's important to open up the London and Gibraltar flagship operations – "because they are the showcases, the big revenue generating pieces of business".

Niemi claims there are several potential Gibraltar investors in Sunborn. "It is more a case of coming up with a suitable vehicle for these people to invest and that is one of the reasons why we are talking to the local funds, companies, banks, lenders and so forth; we are trying to create a structure in Gibraltar for the future growth of this company."

And Niemi observes wryly: "Gibraltar is one of those locations that draws in entrepreneurs; sometimes you need not look further than your front door".

Gibraltar as the Gateway to Europe for Singapore and Hong Kong

By Joey Garcia, a Financial Services Partner at ISOLAS and Chairman of the Gibraltar Funds & Investments Association (GFIA)

A strong Gibraltar delegation returned from a short but intense mission to both Singapore and Hong Kong in July. The exercise was one of profiling Gibraltar financial services generally, but then also dealing with the specifics of the European regulatory framework which may affect both Singapore and Hong Kong based investment managers, and the options and solutions available to them through Gibraltar.

At a series of very well attended Gibraltar Government hosted technical sessions, the panel, who were made up of Gibraltar Funds and Investments Association (GFIA) representatives, as well as the Financial Services Commission, set the scene by setting out a series of very interesting EU statistics. The first speaker Adrian Hogg highlighted that although the population of the EU represents only 7% of the global population, it still represents 23.8% of global wealth. To put these statistics in perspective, it was also highlighted that China represents 19% of the global population but only 12.2% of Global wealth.

In addition to the above, it was also highlighted that the EU investor base in Hong Kong hedge funds account for approximately 18% of Assets Under Management (AUM), and 21% of Singapore AUM. In short, the message from the Gibraltar delegation was that the EU is a relevant market, and access to Europe a relevant matter to consider moving forward.

In my own part of the opening presentation, I highlighted that the position within Europe today is that the only way to distribute your fund are either through national private placement regimes, or through the pass-porting option granted by the Alternative Investment Fund Managers Directive (AIFMD). In previous trips to Asia we have often heard managers speaking about reliance on the concept of 'reverse solicitation' as a marketing strategy. The dangers of relying on this nebulous concept as a 'strategy' were highlighted in some depth, with the underlying principle being that it would not be possible to 'solicit a solicitation' and the importance of the jurisdiction-to-jurisdiction interpretation and guidance on what might constitute direct or indirect marketing in each. It is certainly the case of most practitioners that if managers based outside of the EU are not prepared to comply with the obligations of AIFMD, they are better advised to avoid Europe altogether than to rely on the no-mans land of reverse solicitation.

EU market through Gibraltar

After dealing with what would not work as a strategy for a manager based in Asia, we were also then able to deal with strategies that would actually allow access to the EU market, through Gibraltar.

In a pure AIFMD compliant context, a big focus of the first presentation was to highlight what I describe as the 'build' or 'buy' options for managers. The build option being that of a standalone establishment of a Gibraltar based AIFM, and the buy option being that of using a platform, or management company solution which would take the appointment as the manager's appointed AIFM, but delegate the portfolio management function (potentially along with other non-core functions) back to Singapore or Hong Kong respectively. Under both build or buy options, the ability exists for Asia based managers to maintain their licensed and operating presence within their home countries, and have the Gibraltar AIFM delegate the core portfolio management service to them there, thereby obtaining the European footprint. In this context, the requirement for the delegation being on an objective basis, and the avoidance of any of the letter box provisions of AIFM were also discussed.

When we consider that it is envisaged that national private placement regimes are scheduled to come to an end in 2018, and that reverse solicitation is not a marketing strategy, we do envisage growth in the AIFM platform space and we are starting to see this growth across various fund jurisdictions in the EU, following very much the existing UCITS platform models that have existed historically.

The Gibraltar proposition lies in being able to offer European access, in the same way as a solution from London, Luxembourg, Frankfurt or Paris, and this is a strong message in Hong Kong and Singapore where historical use of the British Virgin Islands and Cayman structure may start to change as the weight of compliance and transparency increases.

The Gibraltar Stock Exchange (GSX), listing proposition was also placed before the audience gathered at both events with the core message being one of a Gibraltar listing's visibility, and the global drive to disclosure and transparency. As well as dealing with the Listing process, GSX generated real interest on their proposed securitization offering planned for later this year. Here, the proposed creation of exchange traded instruments (ETI's) would allow the securitization of alternative investments into ETI's, which are completely free of issuer credit risk and linked directly to and backed by the underlying asset.

The ETI is intended to combine the advantage of a fund (the collateral from assets) within the flexibility in the design of a certificate (a derivative security issued by a bank). The ETI is a straight pass through instrument that delivers direct (delta one) performance of the underlying asset (in this case a fund). The critical point is that ETI's although linked to the underlying performance of the fund, are not collective investment schemes. The ETI's issued on a stock exchange can then be purchased by suitable investors through their broker relationship. They are not Alternative Investment Funds under AIFMD, but they are UCITS eligible assets and issued with an approved prospectus (and as such, suitable for public offering within the EU). Given that an ETI has no restriction on asset class, and that non-EU funds can also be securitized for listing on an EU exchange, there was a great deal of interest in this offering which GSX continues to develop with a group of experienced parties operating in this space.

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Aviation

More UK air services being targeted – but Europe remains elusive

Two new air services to Gibraltar since spring promise to boost passenger arrivals, but hopes of establishing a direct connection with a European financial hub airport remain a distant prospect - and EU plans may bring fresh headaches

When easyJet launched in Spring three times a week services from Bristol to The Rock it opened up potential for tourist and business visitors who previously had to trek to any of three London airports, "or perhaps they never considered Gibraltar as a convenient destination", Gibraltar Chamber of Commerce noted.

Royal Air Maroc at Easter launched its twice-weekly flights from The Rock to Tangier - one of the shortest intercontinental flights in the world - and onwards to Casablanca, re-establishing a link from more than a decade ago and creating business potential at both ends.

HUFTON AND CROW

Gibraltar International Airport is actually RAF Gibraltar

The new year-round routes are in addition to those already operated to the UK from Gibraltar by British Airways, Heathrow, easyJet, Gatwick and Birmingham, and Monarch, Manchester and Luton; in total there are 37 weekly departures to seven destinations, with Sunday the busiest day having nine departures.

Together, the new routes are expected to help boost passenger numbers using the airport terminal, that tightly abuts the Spanish border, to reach 445,000 this year, some 7.5% more than in 2014, according to Gibraltar Tourist Board (GTB).

Yet still more flights are being sought to help boost visitor numbers – and raise income to offset terminal running costs. Three years in planning, the terminal was to provide direct access and joint use by Spain, but by the time it opened in 2012 political relationships had deteriorated under a changed right-wing Spanish government.

In the same period, construction costs jumped from an originally estimated £24m to reach £84m, funded by Gibraltar government as a capital project!

The near-20,000m2 terminal is over five times larger than the twice-extended 56 year old one it replaced – and operates significantly below its 1m passenger capacity, it being able to handle six flight movements an hour!

This summer there are 37 weekly departures to 7 destinations – all but one in the UK - but in 2012, there were 36 weekly flights. Since 2008 there has been a succession of new service introductions and withdrawals through lack of demand, including Iberia to Madrid, Andalus Lineas Aereas to Madrid and Barcelona and BMI baby to East Midlands.

The Chamber of Commerce 2014 report notes: "The Marrakech flight [in summer] clearly did not have the right credentials, be it pricing or timing and ability for the operator to sustain a period long enough to develop its franchise. We hope the [new] Tangier route has more success."

More regional connections

easyJet anticipated adding 39,000 seats in the first year from southwest England - its third Rock route. GTB said: "In terms of scope for growth out of the UK, potential exists for additional regional connections, such as to Scotland."

Yet Peter Montegriffo, a partner at the law firm, Hassans, observed: "There is no doubt that the new terminal is a far cry from the old one, but I constantly hear repeated the problem of being virtually unable to do business here in a single day trip. Extending the timings of flights, rather than necessarily expanding the number of routes, is more important for many UK business people."

BA with its London Heathrow service is the lone UK airline offering business class seats: at one time it flew morning and evening; now twice daily services are only at weekends - both in the afternoon. Efforts to encourage BA to extend its Gibraltar service are hampered by "slot constraints that exist at [Heathrow] airport", GTB said.

Some 23% of people fly to Gibraltar on business, the others for leisure (35%) and visiting friends and relatives (42%). However, around 60% are 'in transit' to Spain.

Passenger tax to rise

Total aviation income for the government was £3.4m. Airport passenger departure tax in 2014/15 produced £1.35m, compared with £1.5m a year earlier, but it is expected to rise to £1.7m in 2015/16. Landing charges produced £450,000 in the last financial year, 7% down on 2013/14, but for the current year, the government has budgeted £475,000m reflecting the impact of new airline services.

The income figure is boosted also by fees and rental of 13 retail outlets at the airport – three others currently are unoccupied – and which last year added a rather disappointing £1.6m, including 5% commission received on sales, compared with close on £2m in 2013/14; the forecast £2.1m for this year makes up ground.

Overall costs of running the terminal were £3.2m, including £2.8m payment to the British Ministry of Defence (MoD), which is responsible for everything other than the terminal, including air traffic control, the Defence Fire Service and repairs and maintenance of 'RAF Gibraltar' as the airport is officially known.

On the surface therefore, the government made an operating profit of around £200,000 in 2014/15, but for the coming year, it is expected to improve significantly to £880,000, around 7% more.

But this result excludes the cost of servicing capital for the £84m construction, a figure the government has not disclosed, (despite numerous requests over months from *Gibraltar International* for the information).

As Dr Joseph Garcia, deputy Chief Minister and minister with responsibility for aviation, remarked when referring to service agreements: "A part of the costs of running the airport are commercially sensitive."

The financial arrangements take on particular significance because the EU, as part of liberalisation measures, aims to ensure within a decade that airports are not subsidised by government. It is a development Gibraltar "must get right", Chief Minister Fabian Picardo told *Gibraltar International* in 2013.

Observers consider the fact that the terminal is owned and has been run by the MoD since the runway was first opened in 1939, presents a mitigating circumstance that could see the Rock excluded from the proposed EU measure. But a suspicion of reduced initial landing charges to encourage new flights, may fall foul of EU policy.

The MoD confirmed: "RAF Gibraltar is frequently referred to as Gibraltar International Airport due to the number of civilian aircraft [1,845 landings in 2014] which operate from the Government of Gibraltar air terminal.

"Today there are no military aircraft permanently based there, however RAF Gibraltar remains at extremely high readiness to support UK military operations and visiting military aircraft [150 last year]." The airfield is licensed and regulated by the Military Aviation Authority.

Euro hub demand low

Another EU strategy 'Europe 2020' notes, "certain regions are hampered by poor accessibility from the rest of the EU." Successive governments have sought a European hub airport connection to boost passenger numbers, (and for Gibraltar's financial services and gaming sectors, to support the claim to be a key entry point into Europe for new investors).

Montegriffo maintained: "With Malaga airport again expanding its flights, one would have thought that greater Gibraltar connection would be achievable; there would appear to be demand [for the funds sector] to Switzerland, for example."

Yet, the government is less optimistic. GTB pointed out: " Data from IATA, which shows origin/destination demand from cities such as Frankfurt to Gibraltar, for example, only show annual demand of hundreds of passengers a year.

"Airlines therefore consider that there is not sufficient demand to justify a direct service," given that "airline economics and profitability would be non-existent", it said.

In addition, Malaga's extensive route network and frequency, especially to financial hubs and main cities such as Frankfurt, Geneva, Zurich, Brussels, Paris, Madrid, Barcelona etc., as well as the overlapping catchment areas of both airports, "makes the task that much harder to encourage airlines to start new services from Gibraltar to destinations that are already on offer from nearby".

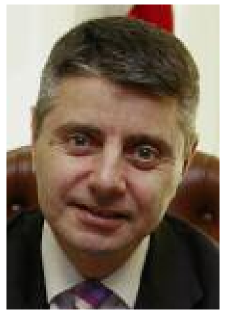
Jerez airport – about the same distance north from Gibraltar as Malaga - has expanded over 20 years as an international tourist destination and is considerably larger than Gibraltar - 758,000 mostly charter flight passengers in 2014, from 19 locations with eight being in Germany, two in the UK and one each from Luxembourg and Belgium.

Ray Spencer

Continued from page 10

Kingston University and St George's University of London.

UniGib will have positive knock-on effects for the whole community, Licudi believed. "This is not an isolated, stand-alone institution. There will be benefits, whether its students coming in and spending money in the economy – the students for a Language Centre – or students coming with their family for graduation, that clearly generate business."



Constant industry interaction: Gilbert Licudi, Education Minister

UniGib's Vice-Chancellor is 47 years old Professor Daniella Tilbury, who previously was a senior manager at the University of Gloucestershire, one of seven such establishments she has been associated with in the UK, Hong Kong, Australia, Canada, South Africa and Spain.

A well-regarded senior academic with over 25 years experience in higher education, she advised the government on the university project, having similarly assessed strategic higher education initiatives for government agencies in Australia, New Zealand, China, Europe and North Africa.

Dr Darren Fa, formerly Gibraltar Museum's Director of Education, is a scientist and teacher who worked exclusively on proposals for the model, the courses and how UniGib could be achieved, and is now UniGib's Director of Academic Programmes and Research.

Staying at the top

Gibraltar provides world-class services in a number of business areas, "but there is a lot of competition out there and it is important that Gibraltar professionals stay at the top of their game, in terms of the services that are provided; the university will play a role in that", Licudi said.

"There will be constant interaction with industry on professional courses to meet Gibraltar's needs; for example, there will be specific and high quality training for the hospitality industry", the Minister declared.

When Prof Tilbury was appointed in March, she felt "confident that we can build academic and research excellence over a short period", but Minister Licudi later noted: "The one thing everyone has emphasised is 'be ambitious, but not over ambitious' at the beginning. Clearly we don't want to expect a token university, we want to establish a full university, but…. these things take many, many years to consolidate, to develop, to build up".

Jose Julio (JJ) Pisharello, managing partner of EY Gibraltar, part of the global specialist tax assurance and advisory firm, is chairman of UniGib's Board of Governors.

Peter Montegriffo, also on the governance Board, told *Gibraltar International*: "I hope the new higher education establishment will tackle the serious and difficult issues surrounding its development with both realism and honesty – I am expecting to see solid, but nonetheless prudent, progress."

Other new universities could expect a longer –more generous - lead-in time, as was the case with the Seychelles, for example, which took several years to come about, Montegriffo said, adding: "Whilst university managers will be seeking external funding opportunities, "I hope they don't fall into the trap of becoming a commodity, as has been the case with some Caribbean institutions".

Ray Spencer

Land reclamation project fills State coffers

After years remaining dormant, a near 700,000 m2 plot of reclaimed land on Gibraltar's east side has a new, £1.1bn low-energy development plan over 5-6 years that requires a total of nearly £87m to be paid to the government upfront by September.

Detailed planning for 450 up-market apartments, a 70-berth superyacht marina, a 5-star hotel, 1,147 government co-ownership homes, and a new promenade with retail, office and leisure spaces, is to be submitted later this year with infrastructure work starting soon after, according to developer Cameron, a year-old Gibraltar registered company.

Chief Minister Fabian Picardo, described the 'Blue Water' project as Gibraltar's "largest ever inward investment". He expected it to be "a major driver of economic growth", attracting "many international High Net Worth Individuals".

A 30% smaller reclamation site was to have been developed there in 2006 under a £35m lease by Aldersgate Investments, the business of billionaire Simon Reuben and Multiplex Construction, Australia's largest building company and a major UK developer. But with no progress, the government in 2013 regained control by paying £28m for the land: the Camoren project was chosen in June "as the most mature" from a short list of 17 bidders.

Leslie Allen-Vercoe, Cameron Holdings chairman, said: "This is a landmark development for Gibraltar and we are entirely confident in the economy, which is showing strong growth. Camoren principals together have many decades of expertise in developments."

There were a number of funding options, he said, including a large Irish development company, an international bank involved with a Allen-Vercoe Caribbean project and, in respect of affordable housing, local and UK banks.

Over 900 people will be employed during construction, and Michael Crisell, Camoren managing director, expects that when complete in 2021, "Blue Water will provide employment for up to 1,000 people and 4,500 – 5,000 people will be living there".

During the late June Budget presentation, Picardo noted: "The private sector is starting to work on developments that were previously not taking off", and he pointed to the Gibraltar World Trade Centre where foundations for the £85m venture are finished. Two new apartment blocks at adjacent Ocean Village were "likely to start construction in the next 12 to 24 months".

Midtown, a £120m residential, office and car parking development over three years, is also underway, but the nearby £50m 4-star hotel and Victory Place office project is not expected to get under way for 12 to 24 months, the Chief Minister indicated.

Developers are also talking to Government about a Coaling Island land reclamation project, "which will also provide a huge boost to GDP" with an expected payment of a large upfront premium.

Business

Gibraltar: Where innovation begins

By: Eran Shay, Managing Director, Benefit Business Solutions Ltd.- a Business Accelerator, assisting innovative companies in their setup and technology testing in Gibraltar.

For start-ups and established companies alike, technology testing and other pilot studies is an important milestone prior to mass marketing. Companies who wish to enter the European markets often want to test their technologies in an EU compliant environment under European standards and regulation. Gibraltar has some unique features which have made it the ideal testing ground for new technologies:

Economies of Small Scale: Gibraltar is a small contained economy (measuring 7sq kilometres), making it easier to administer and run pilot testing schemes and be in close geographical proximity to all test sites. Moreover, most start-ups have limited financial and human resources which impedes on their ability to test trial their technology in the large countries thereby creating a barrier to entry; for example, testing a certain mobile application in the UK may require the resources to simultaneously support millions of concurrent users, while doing the same in Gibraltar with its 30,000 inhabitants, would be much less demanding.

Lower bureaucracy: due to its small size, Gibraltar has fewer bureaucratic layers than most other countries, making access to key decision makers, both in Government and in industry much simpler and quicker. Although Gibraltar companies are strictly regulated by the Financial Services Commission (FSC) there are much fewer bureaucratic hurdles for companies to get approvals, licenses or certification than in bigger countries. In countries such as the UK, Germany or France, in order to get to the national level, a company may first need to pass the municipal and then the regional/country level, making it a longer and often more costly process.

British standards and EU membership: being a British Overseas Territory, and a member of the EU (since 1973, through the UK), Gibraltar adheres to high standards of service, and complies with all applicable EU Directives, which facilitates marketing to the rest of Europe. In particular, FinTech companies enjoy the benefit of becoming regulated in Gibraltar and then "passporting" their license to the rest of the EU.

Low profile: Gibraltar is often not under the radar of the world media which means that if a company's test trial fails, probably no one would hear about it outside Gibraltar. In a big country (such as the UK or Germany), such failure may attract negative media coverage which may cause some reputational damage with the associated risk of losing a target market of 60 or 70 million potential users. However, if the technology trial is successful, it is easy to get exposure in the local media and then showcase the success to the bigger markets in Europe.

English language and legal system: Gibraltar applies the English Common Law legal system and English language, thereby removing the language barrier for non-EU companies, which often impedes on conducting technology trials.

"Las Vegas" of the Online Gaming industry: Gibraltar is home to 35 of the biggest names in the online gaming industry. Being close to these top operators, acts a magnate to related support services and software development companies who wish to enter this lucrative market.

Cosmopolitan population: Gibraltar provides employment for people from a wide cross-section of the European population, meaning that it has a representative population rather than an homogenous one, which is important for a company looking to appeal to the wider European markets.

Most attractive tax package in the EU: no list of Gibraltar's advantages is complete without mentioning its tax benefits. Companies choosing Gibraltar as their gateway to the European markets enjoy Corporate Tax of 10%, no VAT, no Capital Gains Tax, no Dividends Tax and plenty of other tax incentives, making marketing and technology testing from Gibraltar, a highly tax efficient operation.

In summary, Gibraltar offers unique advantages that significantly reduce time to market and provide cost efficiencies to companies who wish to access the European markets. Innovative companies in the fields of FinTech, BioTech, CleanTech, Telecom, smart city solutions, homeland security and more are already here and reaping the benefits of testing their innovative technologies first in Gibraltar, before moving on to the bigger markets in Europe. For such innovative companies, Gibraltar is the first frontier rather than the final frontier.

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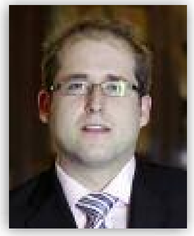
Gibraltar's Innovation Map

Income Tax (Amendment) Bill 2015



By Paul Stych, Senior Associate at PWC (Gibraltar)

After a couple of years of waiting the Income Tax (Amendment) Bill 2015 (the Bill) was finally published on 5 March this year. It has, however, not yet been enacted as the Chief Minister confirmed during his budget speech on 22 June that he would be taking the opportunity to also include the amendments from his budget address in the Bill before it is finally enacted, so further amendments are expected. The original amendments in this Bill span a wide range of areas and cover amongst others, changes in administrative procedures to changes in transitional rules, a simplification of the imposing of penalties and, for the first time, a statutory audit requirement for taxable branches.

So, what are the changes?

Many in the industry will already be aware of these as some have been accepted practice for quite some time. The Bill is therefore, in some cases a tidying up exercise. There are some significant changes and as with all tax legislation, it is long, and it is complex, but following is a summary, and hopefully, a helpful guide to the main and, perhaps most interesting changes.

Change of statutory filing date for corporate Income Tax purposes

Recognising businesses' cash flow requirements and providing more time to prepare financial statements, the date to file returns (and pay the tax due!) was extended to nine months. This brings every company in Gibraltar, whether requiring an audit or independent accountants report in line with each other. This change has actually already been applied administratively by the tax office since last year.

Audit of branches

Branches with taxable income in Gibraltar will now be subject to the same filing requirements as companies. They will now require either an audit or an independent accountants report to be filed with the tax office. The threshold for requiring an audit for branches is proposed in the Bill to be £1 million, although this will almost certainly change in light of the threshold increase announced during the most recent budget to £1.25 million.

Payments of account

Another administrative change comes in the form of the basis on which advance tax payments are made. The concept of advanced payments on account was introduced by the Income Tax Act and one that was, at the time, unfamiliar to companies in Gibraltar. Although, on the face of it, the introduction of the relevant accounting period may seem confusing, it has the benefit of allowing companies to consistently determine advanced payments on account taking into account an entity's actual accounting period. Simply put, in many of the cases, payments on account in the current financial year are calculated based on a company's tax liability from two years ago.

Deductions for construction costs

The Bill formalises the 2013 budget announcement in respect of costs relating to the construction of office accommodation commencing between 1 July 2013 and 31 March 2015. The available deduction is 30% of construction costs, in the first year of assessment following completion, with a further 10% deduction per annum available in each of the second to eighth years.

The Bill also formalises, in law, the 2014 budget announcement in respect of the construction of high value accommodation whereby property developers are entitled to similar deductions as to those above.

Removal of 10 % compound surcharge

Other amendments do away with the additional 10% surcharge at a rate compounded on a daily basis on late payments of tax and revises the penalties for non-compliance with the tax office.

Category 2 rules

The Bill introduces changes to the Category 2 rules. Over the years, much like Gibraltar itself, the profile of the Category 2 individual has changed. When the status was first introduced the typical Category 2 individual was a wealthy individual who had chosen to relocate to Gibraltar to enjoy the Mediterranean lifestyle as well as the tax free returns from their pension or investment portfolio. In 2005, when taxation on investment income was abolished for all Gibraltar residents, followed shortly after by the exemption from taxation of pension income, the Category 2 status was no longer necessary, or relevant for many of these individuals.

However, Gibraltar continued to attract a younger Category 2 individual, one who was not relocating to Gibraltar to retire here but was alternatively a much more entrepreneurial individual with active business interests. The Gibraltar Government recognising this trend in 2008, issued guidance to the industry clarifying what activities Category 2 individuals could, in principle, carry out locally. The guidance was welcomed by the industry as it provided a number of clear examples of what a Category 2 individual could do. Unfortunately though, there were still restrictions with what could be done physically from Gibraltar.

The Bill now allows Category 2 individuals who have the necessary approval from the Finance Centre Director, to carry out or exercise any trade, business, profession or employment in Gibraltar. The intention is that the jurisdiction will benefit from the additional inward investment and from having these entrepreneurs using their business skills and expertise locally. Perhaps more importantly, from a tax perspective, the income from these activities will be taxed locally to the extent that the income is accrued and derived in Gibraltar.

An additional benefit of this new "opening of the doors" approach is the additional substance that it provides to the individual's residency position. Substance is high on the global tax agenda and the weight and therefore benefit of having an individual's economic interests physically located in the jurisdiction gives to their residency position should not be underestimated. Many high net worth individuals, travel and have business interests in other jurisdictions therefore potentially there is a risk that another country may claim that the Category 2 individual is resident in their country. The more established the individual is in Gibraltar the better their defence against a claim for residency from another country will be.

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Accountants elect new president

Desiree McHard, managing partner of BDO, has been elected President of the Gibraltar Society of Accountants (GSA).

Desiree, who has served on the GSA executive committee for six years, moved from Chair of the Audit Faculty to President, and takes over the position from Colin Vaughan who had presided since 2013.

Accepting the chain of office at their Annual General Meeting in June. Mrs. McHard thanked Mr. Vaughan and the outgoing executive committee for their work and accomplishments. Desiree stated that she intended to build on the excellent working relationship with HM Government of Gibraltar, the Financial Services Commission and other stakeholders; she looks forward to a busy period of office continuing to advise on and contribute to, changes in legislation that affect the entire business community and addressing the many EU directives and international standards that impact upon the finance industry locally.

Bank paying with Apples

NatWest customers in Gibraltar, as well as in Jersey, Guernsey and Isle of Man are amongst the first to have access to the much-heralded Apple Pay facility, transforming mobile payments with "an easy, secure and private way", according to the Bank.

NatWest

It is the latest development in a series of moves by NatWest to make it easier and more secure for customers to do their banking on the move; recent digital innovations include the integration of Touch ID, where customers can open the NatWest mobile iOS application for smartphones, just using a fingerprint, and to get cash from a hole-in-the-wall ATM without a bank card.

Apple Pay uses near-field communication (NFC) chips embedded in the iPhone 6, iPhone 6 Plus and Apple Watch to pay for goods and services by holding the device near a card reader, much as with a contactless debit card.

Bassadone's services to business

The Queen's 2015 Birthday Honours list in June was headed by 65 years old John Bassadone, chairman of Gibunco Group, a multi-faceted company with interests in fuel bunkering and servicing of ships in Gibraltar and land reclamation projects for housing and offices.

His OBE – one of ten awards for Gibraltar residents - was for services to business in Gibraltar. Gibunco, was started in 1965 as an underwater engineering and ship repair company, but expanded into the territory's largest oil bunkering operation in the Port, and through subsidiary Penninsular Petroleum, has been involved similarly at four other ports, and in worldwide oil and lubricant trading. For over 20 years it has also had a joint arrangement with Spanish oil producer, Cepsa.

Professional Bodies based in Gibraltar

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Jane Caulfield, Chair, Tel: + (350) 200 45877
Email: info@gibraltarapfa.com

Association of Trust & Company Managers (ATCOM)
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Bar Council
Keith Azopardi, Chairman, Tel: + (350) 200 79423
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Gibraltar Association of Compliance Officers (GACO)
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Kevin Hook, President, Tel: + (350) 2000 4000
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Gibraltar Betting & Gaming Association (GBGA)
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