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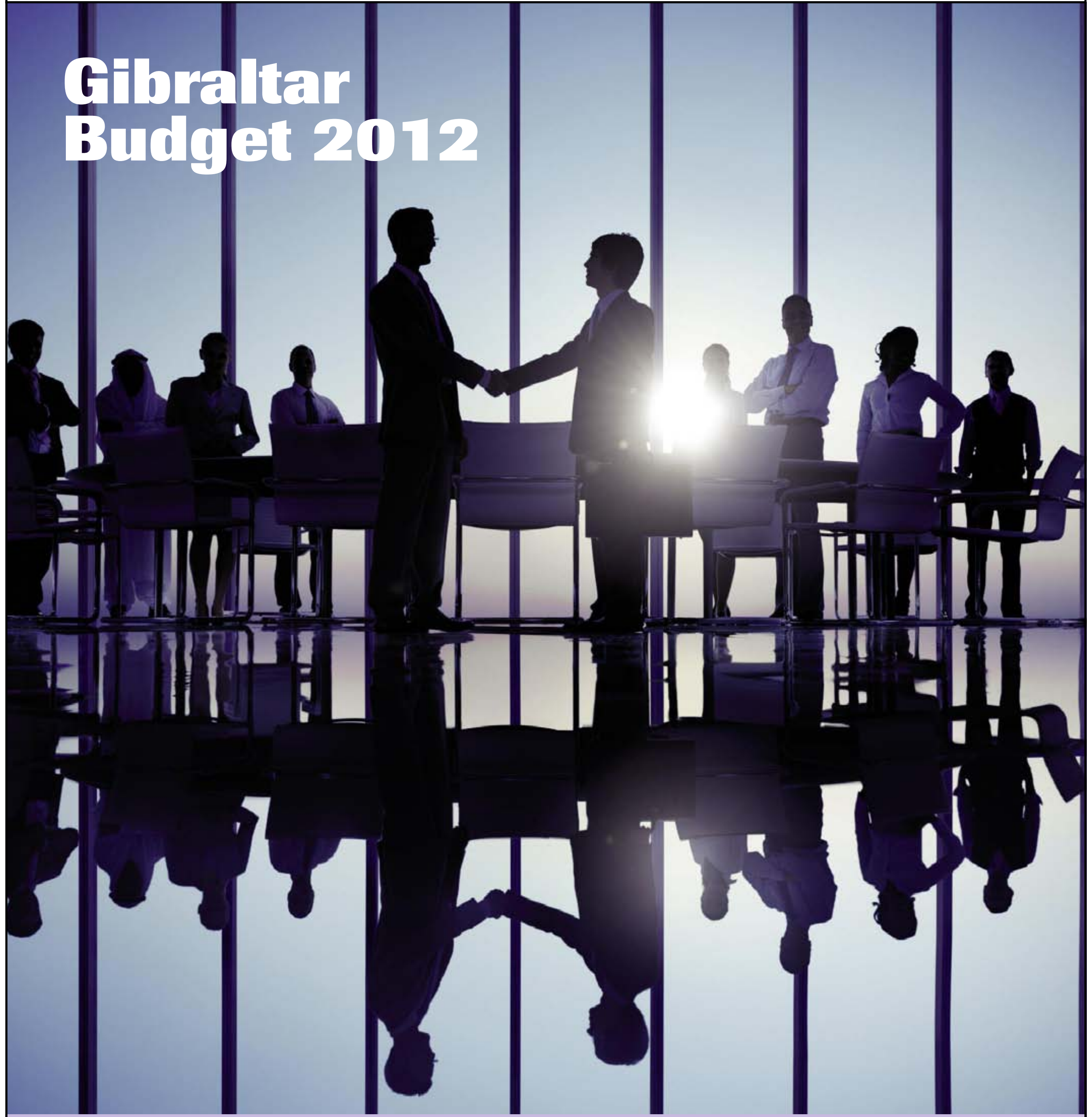

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EDITORIAL COMMENT

Are 'big ideas' needed?

Fabian Picardo's first go at setting out his economic stall as Gibraltar's Chief Minister, did not disappoint, but neither did it excite. The now commonplace warning of outside financial effects on the jurisdiction's economy, particularly from a troubled Euroland, was there in his Budget speech, and he provided pointers that justify caution.

Corporation Tax, a main source of revenue, may not hold up – there are early signs of weakening in this revenue stream - and import tax may not see growth, he reported.

Finance and Gaming Minister, Gilbert Licudi, pointed to "a serious economic effect" on his e-gaming sector (that contributes over £45m to the economy), from UK plans for a consumption tax on bets placed by its residents that will help local firms and harm Gibraltar's.

Yet Picardo, determined not to be 'cowed' by these external effects, presented a budget "to deliver social justice and to improve the quality of life of all our citizens [population 29,000], whilst making Gibraltar a great place to do business with the rest of the world".

And to that end Picardo's Socialist Liberal government has cut personal taxes, reduced import duties – some eliminated altogether – on a range of goods, announced greater investment in people and facilities in the health and social services, raised Civil Service pay and minimum wages, whilst improving prompt rates payment discounts and axing planned electricity price rises.

Despite a perhaps predictable total disagreement between government and opposition over the level and calculation of the jurisdiction's gross and net debt levels and interpretation of revenue surplus, there's no denying Gibraltar's economy seems on a sounder footing than almost all other EU countries.

It would be churlish not to recognise that this basis for going forward was achieved under the previous government's 16-year tenure, even if some things might have been done differently, (examples being, building of the over-sized and costly new airport terminal and the not building of a vital power station to replace three clapped out ones now).

Peter Caruana, now Opposition Leader, claims to have created an environment to deliver "unprecedented prosperity, stability and progress" for Gibraltar.

It is this inheritance that enables the present government to move forward and achieve its target 10.5 per cent average year-on-year growth in Gross Domestic Product (GDP) until 2015. The question is how.

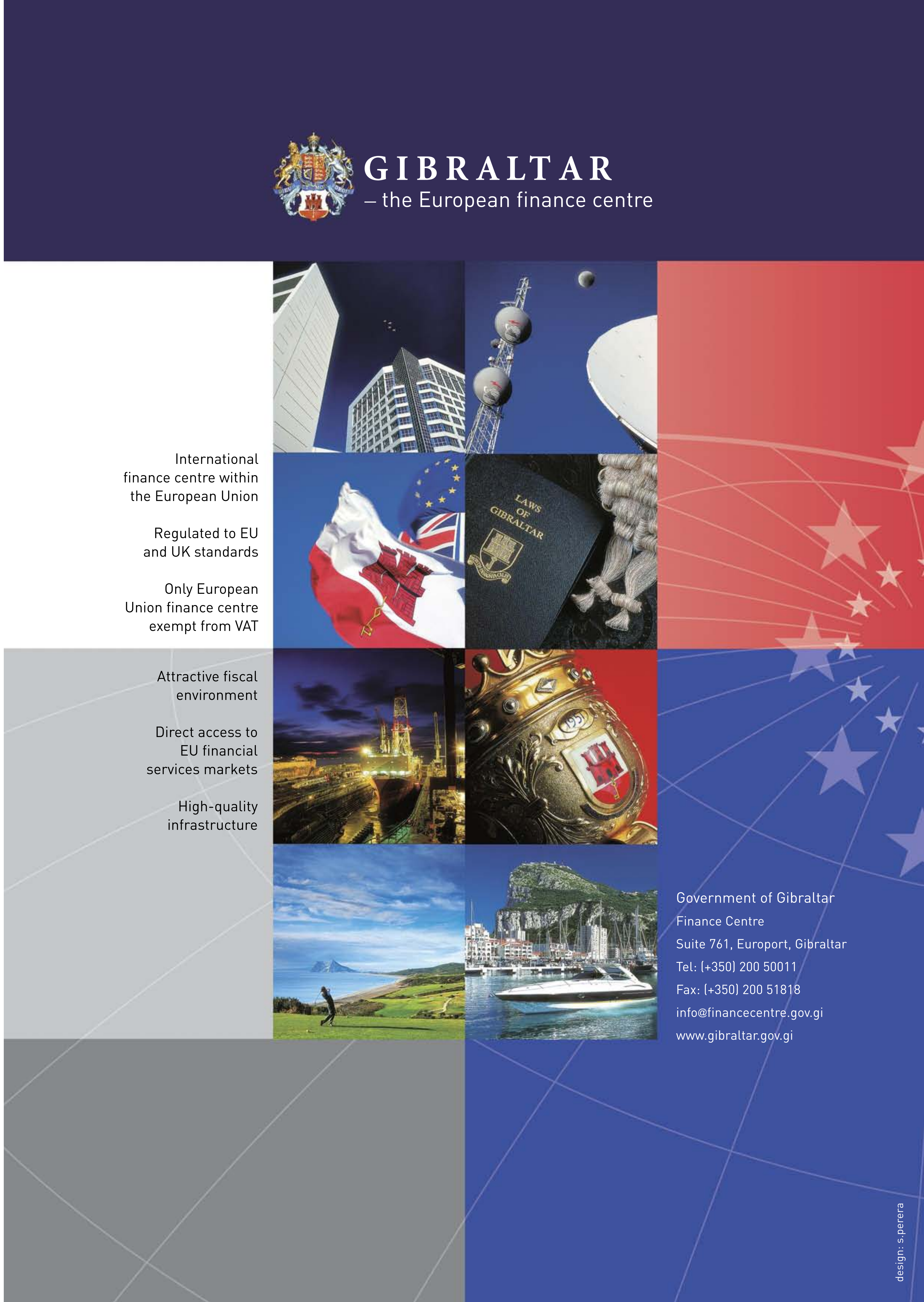
After eight months in office, a youthful Fabian Picardo has given retailers some encouragement to stimulate trade – cutting import tax on a range of items that will appeal to cross-border tourists and residents – and business generally.

But so far, there is no sign of the 'big ideas' that may be necessary to propel the economy forward. BRIC countries – Brazil, Russia, India and China – have been singled out as offering good potential for Gibraltar's finance centre. More on-line gaming companies – though only few because of tough regulatory and reputational requirements –are being attracted and they do generate good revenue for Gibraltar.

Specialist areas such as the funds sector, private client business, overseas pensions and insurance all have new opportunities from recent and proposed law changes.

Only time will tell whether all this is enough. But there is no doubting the enthusiasm with which this new government is facing up to the task.

Ray Spencer



Not allowing 'external forces' to stifle economic growth

Gibraltar's government is "on track" to deliver its predicted growth of 50 per cent in the economy in the next four years, "despite the continuing European and economic recession"

The territory's nominal Gross Domestic Product (GDP) was forecast to have reached £1.14bn by end March 2012, a rise of 8.3 per cent in a year for which the Socialist Liberal Government of Fabian Picardo had responsibility for just four months since winning office.

Once the effect of inflation has been stripped out, the economy's increase to £949m, amounts to 5.1 per cent for Real GDP – the measure used by most European governments, and much more than for other territories.

However, like his predecessor, Chief Minister Picardo warned in his Budget speech in July of external effects for which Gibraltar was not insulated.

"A collapse of the Euro, or even the departure from the Euro of one or more countries would have seismic effects well beyond any one country or the eurozone", he noted.

Not immune

Sterling was not immune to the problems affecting the Euro: "when Sterling rises against a weaker Euro our exposure to exchange rate variances becomes marked", Picardo said.

What might be good news for cross frontier workers exchanging Sterling wages to Euros, was not so good for retailers when goods rose in cost for Euro purchasers, he pointed out.

But Gibraltar should not be "cowed" and apart from reducing both national gross and net debt, he and his ministers announced a series of measures to assist the economy and improve the population's financial position.

Civil servants get a 2.7 per cent pay rise this year and the promise of a slightly larger one in 2013/14. "As the engine for growth for Gibraltar and facilitators of the private sector, the public sector needs to be adequately resourced and systems of work in the public sector need to be brought up-to-date for the benefit of everyone in our community", the Chief Minister asserted.

Minimum wages rise 5.5 per cent (to account for inflation since last changed 18 months ago) to £5.70 ph, pensioners' earned income becomes tax exempt (as are Gibraltar pensions already), electricity and water charges are held, and a large proportion of workers effectively will have lower income tax.

Import duty cuts

There were cuts also in import duty "to stimulate the retail sector" and "make Gibraltar a more attractive destination for shopping" both for tourists and locals, rather than use on-line retailers, Picardo declared.

Portable computers, TVs, Hi-fi equipment, DVDs and CDs have no duty (down from between 6 and 12 per cent previously), while the duty was halved for mobile 'phones, perfumes and make-up, clothing, footwear, watches and jewellery.

And he warned the government will "be keeping a close eye on how prices are affected by these decreases to monitor whether reductions are being passed on to customers and not pocketed by retailers".

But the duty on cigarettes in Gibraltar – one of the lowest-priced tobacco locations in Europe - rises by 10p a packet, a move Picardo recognises as "sensitive, but it is the right thing to do in support of our agenda to stop smoking in enclosed public places"!

However, computer software now has no import duty "to promote Gibraltar as a place to do high tech business", nor is there duty on equipment for production of sound or video recordings in the music, television or cinema industry as a means of promoting "the use of Gibraltar as a jurisdiction for the creation and ownership of intellectual property".

And duty on imported yachts, pleasure craft and other sea going vessels has been removed for vessels over 18m length and halved to 6 per cent for smaller ones in moves designed "to stimulate the use of Gibraltar by superyachts".

To encourage "responsible business who pay on time", the discount for early payment of rates by offices, workshops, construction and manufacturing industries is being doubled to 10 per cent, those for bars and restaurants raised further to 40 per cent until autumn next year, and there is a 50 per cent rates cut for the first year trading of start-up businesses.

Bigger budget surplus

An originally estimated budget surplus for 2011/12 of £21m is now expected to be £58m greater at £79m, but departmental expenditure, public debt charges and the cost of government pensions also rose, which together reduce the anticipated net surplus to £31m, Picardo reported.

Continued on page 18

New power station within four years

A decision on what could be the largest single capital expenditure item in Gibraltar's history – a new power supply to replace three aged, polluting and increasingly unreliable power stations – is close, but the government will not be rushed.

Frequent power cuts in recent times are seen as potentially damaging to business, particularly the Finance Centre and e-gaming community, which relies on round-the-clock availability of service.

New Chief Minister Fabian Picardo saw a £350m oil-fired power station planned by the previous administration as too costly and not right for the jurisdiction.

In his state-of-the-nation Budget address, he emphasised: "We are taking steps to ensure the right combination of security of supply, reduction of polluting emissions, noise nuisance and technological future proofing."

A decision, that might involve waste management and renewable energy solutions, is expected shortly and once taken the government "will move very fast and we are aiming for implementation within this term of office".

Pressure from environmental action groups for a speedy result was understandable; "but we must make the right decision, not the fastest decision", Picardo asserted.

The Government's choice of energy sources would reflect its commitment to ensure Gibraltar's carbon and noise pollution emissions are minimized.

BUDGET

Gibraltar budget 2012

Despite the current worldwide economic problems and the fact that this is the first budget for the new Government, there were relatively few significant changes announced in the budget. *Neil Rumford*, Director, Head of Tax, Baker Tilly (Gibraltar) Ltd, reports

Corporate tax

As expected, there was no change to corporation tax. The standard rate remains at 10%, and there were no measures to change the way in which the tax is applied. There are a number of changes initiated by the previous government which were not mentioned in the budget speech, although we understand these are still in the pipeline. These include widening the definition of which travelling and entertaining expenses are deductible and updating legislation on the allocation of expenses between taxable and non-taxable income.

The Chief Minister commented that revenue from corporate tax had increased significantly, but sounded a note of caution, saying that this needs to be monitored very closely. Given the change from the old to the new system of tax collection, with an element of catching up in terms of payments, this seems sensible.

Personal tax

The two alternative systems of personal tax remain, with the system that benefits the taxpayer being applied.

Gross Income Based System

Little change was made here; only the introduction of allowances for mortgage interest of up to £1,000, and of allowances of up to £5,000 for certain expenditure on the frontage of buildings. Under this system no taxpayer pays an effective (i.e. overall) rate of tax of more than 25%. Effective tax payable can be shown by way of example:

Total taxable income £	Effective tax rate %
17,000	12%
40,000	20%
From 105,000 to 500,000	25%
1,000,000	19%

Income above £1m is taxed at 5%.

Allowance Based System

The "reduced rate" which applies to the first £4,000 of income, has been lowered from 17% to 15%. The "low income earners' allowance" of £8,000 has been increased to £9,000. To smooth the tax impact of moving from income of £9,000 (nil tax payable) to income of between £9,000 and £19,500, tapering relief has been introduced. It is not yet clear how this differs from the additional allowances that already applied to persons with earned income of less than £19,500.

The following changes were also made:

- Mortgage interest relief increased to cover interest on capital of up to £350,000 (previously £300,000) on loans for residential property occupied by the taxpayer;
- Medical insurance – increased from £1,120 to £1,500 on eligible premiums;
- Nursery school allowance – increased from £1,023 to £2,000;
- Income from approved occupational pension schemes are now exempt (previously these were zero-rated, so the pension income increased the tax rate applied to other income);
- The cap on contributions to approved personal pension schemes and retirement annuity contracts has been removed, although the maximum tax relief on such contributions remains at the previous level;
- A significant increase in tax relief for disabled individuals.

As most taxpayers use the Gross Income, and not the Allowance Based system, the above changes are of limited overall impact.

Individuals enjoying special concessions

Concessions available for qualifying High Net Worth Individuals (Category 2 status) and High Executives Possessing Specialist Skills (HEPPS) remain unchanged.

Social insurance

There was no change to social insurance contributions; these remain capped at a maximum of £3,023 for employers' and employees' contributions in total.

Import duties

Reductions were made to import duties as follows:

Portable computers, software and memory cards	From 6% to 0%
Perfumes, beauty products, watches, clothing and footwear	From 6% to 3%
TV's, hi-fi and other electrical audio or visual equipment	From 6% to 0%
Jewellery and mobile phones	From 12% to 6%
DVD's and CD's	From 12% to 0%

Import duty on cigarettes was increased by approximately 10p per packet.

Rates

More discounts were announced for the early payment of rates for business – generally from 5% to 10%, a first-year 50% discount for new start-ups, and increased discounts for bars, restaurants and casinos in connection with their co-operation in the smoking ban in such establishments.

Income, expenditure and public debt

The budget surplus for 2011/12 was reported as being £31m (it would have been higher were adjustments in respect of previous years excluded).

Gross Public Debt is forecast to fall from £518m to £450m by 31 March 2013, representing a fall from 46% to 40% as a percentage of estimated GDP for 2011/12. Estimated Net Public Debt was not disclosed in the budget speech; this is significantly less than gross debt, due to deposits in the Gibraltar Savings Bank (which are included in gross debt) being backed by bank deposits made by Government.

The fact that so few fundamental changes were made by the new Government hopefully indicates that the new tax system applying in 2011 onwards will prove to be viable for government finances and continue to attract business to Gibraltar.

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PENSIONS

‘High moral ground’ sought for Gibraltar QROPS rebirth

by *Ray Spencer*

Some Gibraltar trust fund administrators are linking with counterparties in other jurisdictions – particularly Guernsey – as a fast track means to gain “potentially huge” new business for the finance centre through attracting expatriate pensions to The Rock.

And in a bid to take “the high moral ground”, an Approved Code of Practice for adoption in late summer is being developed in conjunction with Gibraltar’s Pensions Regulator who will draw in part on the best of what is being operated elsewhere, as well as industry suggestions.

Photo’s by Jim Watt

Gilbert Licudi

Marcus Killick

Steven Knight

For the past three years, the sector voluntarily halted acceptance of new pensions when the UK Inland Revenue queried, amongst other things, Gibraltar’s application of Zero Rate tax.

The moves follow recent amendments to the Gibraltar Tax Act that members of the Gibraltar Association of Pensions Fund Administrators (GAPFA) believe will at last make it possible to again attract transfers of Qualifying Recognised Overseas Pensions Schemes (QROPS) from the UK.

Working partnerships

In what is described as a ‘win-win’ situation, companies operating Gibraltar’s “fully compliant” business model can develop new working partnerships in jurisdictions where pension schemes have been removed from the UK Inland Revenue’s (HMRC) ‘recognised’ list.

That was the view of Steven Knight, GAPFA chairman, at an industry seminar “QROPS – care, compliance and certainty” attended by more than 80 professionals in late June.

He argued that while large imported personal pensions with assets of £500,000+ were attractive business prospects for Gibraltar’s fund administrators, a diminution of equity values worldwide meant the average of transfer values now was £180,000, according to the latest independent research.

“To cope with the sub-£200,000 market, cost effective solutions are needed and other, more established jurisdictions such as Guernsey, (where 300+ pension schemes were delisted in March from HMRC’s ‘approved’ list), have contacts and processing abilities already in place”, Knight said.

That could provide Gibraltar’s new-found QROPS position - where distributions limited to those over 55 years old, are taxed at 2.5 per cent when at least 70 per cent of the fund remains for future pension provision - with new and wider opportunities through working with others, rather than being in competition.

As an example, his Castle Trust Group has established working relationships with two Guernsey-based QROPS providers with a “fully compliant QROPS solution on a high volume and economic margin platform; that means Gibraltar assumes the ultimate compliance responsibility, while Guernsey provides the established back office and administration skills and procedures.

“Both jurisdictions gain income and profitable on-going business”, Knight declared, “but Gibraltar providers retain ultimate responsibility to ensure compliance with HMRC rules and practice.”

This approach is to cope with an expected dramatic rise in applications to transfer overseas pensions to the territory and is in addition to resources existing locally and being further developed by individual trust companies.

But as *Gibraltar International* was going to press and Gibraltar moved to build a reputable base for QROPS, Guernsey revealed its latest plan to re-open for QROPS business by introducing a reported 20 per cent tax on distributions to gain HMRC acceptance.

Knight assured his seminar audience: “There will be no pension-busting, no non-compliant investments permitted as has occurred in some other jurisdictions with QROPS.”

None of the 10 existing Gibraltar QROPS were delisted by HMRC, but the new Tax Act is retrospective to mid-2006 so any distributions made must pay the tax. Transfers out of pensions schemes can only be made to jurisdictions applying rules at least as strong as those now applying in Gibraltar.

Financial Services Minister Gilbert Licudi, opening the seminar, said it did not take long from December for the new Government “to be persuaded that it was the right thing for Gibraltar.

“It [the legislation enabling QROPS] clearly made sense for the professionals and for Gibraltar generally – for the expansion of the industry and creation of jobs, and for the revenue that will result from tax on distributions.”

International interest

Licudi emphasised that it was important to learn from what other jurisdictions had done – from Guernsey for example. “We are certainly excited about the prospects and the business this signifies and expansion of the Finance Centre. We know we are in good hands, with the expertise and professionalism within Gibraltar, and we also know there is a lot of international interest”, he declared.

But on whether Gibraltar’s law changes would now satisfy HMRC, Licudi told *Gibraltar International*: “There have been discussions. We are very confident we have the right things in place, but it is up to the industry to get approval for each of the schemes.”

GAPFA secretary Chris White, Partner and Tax specialist at law-firm Hassans, was

Continued on page 20

Looking to the future:
Why creating a business plan is good for business

By *Paul Wharton*, Head of Intermediaries and Corporates, Barclays (Gibraltar)

Writing a business plan is one of the most important tasks you will undertake when starting a business. It's a dynamic document used to set targets and collate ideas, and can be used to ensure they are realistic and workable. A good business plan will not only help promote the business, it will also act as a tool to attract funding. Creating a business plan can sometimes be perceived as a difficult task, but using a checklist to ensure all required information is included can mean the process is a relatively straightforward one.

Approaching the task

Firstly, get your ideas down on paper. Remember to be realistic, concise and clear. You will refer to your plan later on to monitor progress.

Do your research. For example, who is your target audience and what will they think of your product? Do you have a name for your business? Remember, the name you choose should reflect the image you want to project, as well as being memorable and original.

If you hire employees, even part-time, it's vital to familiarise yourself with employment law and understand how to build a motivated and efficient workforce.

The purpose of a business plan is to outline the objective of the business, so include the following: What the business will do, the products or services it will provide, your target audience, financial targets and any potential threats to the business.

It's important that your business plan stands out from the crowd, especially if you're hoping to use it to generate the support of an investor or lender; it should be easy to read, concise, honest and realistic. It's vital to ensure there are no contradictions. So make sure the figures in your plan match those in your financial forecast, if they don't, the plan could lose credibility.

The following headings will help structure your business plan:

Table of contents

A table of contents lists the main areas of the business plan along with page numbers. Clarity is vital; a logical, well-structured document is more likely to inspire confidence in potential investors.

Executive summary

The Executive Summary is a brief overview of the plan and should be no more than two pages. Being the first section the investor will read, it must be engaging and well written.

When reading this section, investors will want to know the answers to the following questions:

- What gives your product the edge over the competition?
- What experience do you and/or your colleagues have in the area you want to work in which will make the venture successful?
- Is your business idea viable and will it be profitable?
- How will investors get their money back or get a good return when you sell the business or buy their shares?

You should indicate the amount of money you and your business partners will be investing, the amount of additional finance required and why. If you can talk about how the investment will benefit the business, so much the better.

Aims and objectives

Consider what investors will want to know about you and your business when you meet, and prepare accordingly. Essentially, they'll want to know what motivates you, so consider how you would answer these questions:

- Why do you want to go into business?
- What do you want to achieve?
- Will the business supplement your income or replace it?

Describing your business

When it comes to describing a business, I find it useful to do a SWOT analysis whereby you consider the Strengths, Weaknesses, Opportunities and Threats to your business. Doing this will deepen your business understanding and highlight areas which need addressing. Next, do a PEST analysis, looking at the Political, Economic, Social and Technological aspects of the business. This will help you consider the bigger picture and generate new ideas.

Gibraltar

If you are considering starting a business in Gibraltar, it is good to know that the jurisdiction offers the following:

- Well regulated with a stable and political economic environment which benefits from EU membership and access to the EU financial services market. It also has a stable currency with low levels of corporation tax and minimal restrictions in the movement of capital or repatriation of dividends which benefits from no VAT or capital gains tax.
- An established finance centre boasting some of Europe's best professionals in the areas of legal, accountancy, banking and insurance with a first class communications system and an international airport.

Gibraltar offers all of the above and much more, making it an exciting prospect for potential business owners.

Remember, the first step on the road to success for any business is a good business plan. I wish you all the best in your business endeavours.

Paul Wharton is writing in his own capacity and none of the above is intended to express the views or opinions of Barclays Bank PLC.
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Point of Consumption Tax

Following the recent publication of KPMG's Gibraltar eGaming Summit Report, *Archie Watt*, eGaming Specialist at KPMG, looks at a key topic highlighted at the Summit: the UK Government's new Point of Consumption Tax policy and its effects on the sector.

HM Treasury and HM Revenue and Customs' industry consultation window concerning the UK Government's recently announced Point of Consumption Tax on the online gaming industry closed on 28th June. A summary of responses is due to be issued, after which draft legislation will be prepared before being exposed to technical consultation prior to the policy being implemented on 1st December, 2014.

At our April eGaming Summit, Maria Brennan, Branch Head of Gambling Taxes at HM Treasury, explained that the reasons for the UK's proposed regime were threefold - to promote fairness and a level playing field between UK and overseas operators in terms of duty liability, to improve the competitiveness of the UK tax system, and to ensure that remote gambling makes a fair contribution to public finances. It is fair to say that it has been met with significant concern from regulatory authorities, governmental bodies, operators and satellite industries alike as to its repercussions. It is on these issues that are likely to impact upon the operations of the wider eGaming sector – not just the operators themselves - that I would like to focus.

Critical partners

One of the most pressing concerns raised was the importance of establishing the extent to which critical partners of the eGaming industry would be subject to taxation under the new regime. eGaming supply often involves a number of critical partners – software providers and affiliates – though associated with the provision of gambling, may not necessarily directly provide the facilities through which a UK customer may place a bet. Broadband suppliers for example, or those companies associated with data protection, storage or transferral, could be construed as facilitating the provision of online - yet to what extent are they implicated from a legislative standpoint? And to what extent, as is envisaged, are they responsible as third party suppliers for the conduct of operators who refuse to pay tax? More importantly, how might this affect the future interactions of these companies with the eGaming industry and how might this, in turn, affect European domestic economies?

Mobile gaming

Another concern surrounds the topic of both identifying which customers reside within the UK and non-residents gambling within UK territory who are still subject to taxation. At the Summit, Andy Grimsley of HMRC explained that the UK Government envisages that operators will be given the responsibility of identifying where in the world their customers wager and explained that it would be for them to decide how this might best be achieved. However, with the rapid growth of mobile gaming, this represents an increasingly difficult and very costly undertaking. Over the past year, the number of bets made over mobile has more than doubled to 44 million, whilst £1billion was wagered over the course of Euro 2012 alone. One method would be to determine where in the world the money was coming from but this would implicate companies such as Barclaycard which facilitate transactions including payment of winnings. Again, the extent to which these acquirers would be liable to taxation will need to be assessed, should they even be willing to offer their services in future.

Unburdened by the traditional constraints of industry, the modern business model for eGaming firms is one of dispersion to places where potential assets reside. Contrary to the benefits suggested above the UK's arguably protectionist principles could serve to encourage further fragmentation of the industry and its supporting elements to jurisdictions further outside of the UK. This could result in the re-emergence of unregulated, or worse, black markets chasing the price gap created by the proposed tax and levy charges. These operators may have no intention of entering into a system in which taxation and regulatory adherence is a concern, ultimately with negative consequences for players – which is surely not what the UK Government wants.

Rapid fallout

The potential for rapid fallout even prior to implementation is, therefore, great and although these potential ramifications will, of course, be subject to in-depth consultation; I would suggest that pre-emptive measures are taken in order to guard against or at least soften the impact of those taken by these industries. Whilst it is true that the proposed measures will impact with disproportionate severity upon smaller jurisdictions, like Gibraltar, many of which have largely been responsible for the squeezing out of such negative practices as unregulated online gambling, the imperative to assess the likely impact of the proposed regime spans beyond single jurisdictions to a pan-European and increasingly trans-global level. At KPMG, we are committed to helping those likely to be affected by these changes, cut through the complexity of this increasingly important debate, and are happy to support the Gibraltar Government in their efforts to remove the misconceptions held by the UK Government in this area and help design a taxation regime that is felt to be fair by all parties concerned.

To find out more or to view the KPMG Gibraltar eGaming Summit Report please visit www.kpmg.com/gi

Gibraltar equipped to assist as Swiss fund laws are tightened

Peter Young & Anthony Jimenez report on behalf of the Gibraltar Funds and Investment Association (GFIA)

Gibraltar's business ties with Switzerland were celebrated last year when the Gibraltar Finance Centre invited guests to join members of Gibraltar's commercial and finance community at special "Gibraltar Day" conferences in Zurich and Geneva. The guest speaker at both events was the then Chief Minister of Gibraltar, the Hon. Peter Caruana QC, who, during his speeches, emphasised the benefits and solutions that Gibraltar can offer Swiss businesses. One Gibraltar industry which has seen substantial utilisation by the Swiss in recent years is Gibraltar's booming funds sector; Gibraltar's emergence as a funds domicile jurisdiction began in 2005 when it unveiled its Experienced Investor Fund (EIF) product. The EIF has since proved a popular vehicle amongst Swiss managers for its robustness and flexibility. This year, Gibraltar's EIF regime was updated to allow for foreign administration in certain circumstances and expansion of the definition of "experienced investors" to include investors who invest a minimum of EUR 50,000 provided they are professionally advised.

In February 2012, members of the Gibraltar Funds and Investments Association (GFIA) attended the Fonds 2012 exhibition at Kongresshaus, Zurich for the second year in succession. The main topic amongst attendees was the Swiss response to international pressure to amend its Collective Investment Schemes Act (CISA) in light of the evolving global legislative framework governing funds and fund management. The consultation period for the draft CISA (D-CISA) took place between July 2011 and October 2011 and is currently with the Swiss Parliament for review. Implementation is planned for early 2013.

Regulation in Switzerland

Switzerland, under its CISA, currently operates a "light touch" regulatory system for Swiss managers managing non-Swiss domiciled funds. Only managers of Swiss collective investment schemes are currently subject to mandatory regulation by the Swiss Financial Market Supervisory Authority (FINMA). However, Swiss managers of foreign collective investment schemes may, under certain conditions, submit to voluntary supervision by self-regulatory organizations (SRO) which are in turn subject to regulation by FINMA. The main role of a SRO is to draft regulations governing the obligations under the Swiss anti-money laundering act and to ensure that institutions registered with them comply with these obligations.

However, changes in how fund managers are regulated globally are causing Switzerland to restructure its current regime and embrace new rules with regards the management, safekeeping and distribution of collective investment schemes. The aim of the D-CISA is to bring the Swiss fund management arena in line with new international regulatory standards. At the forefront of changes to global regulation of fund management is the introduction the Alternative Investment Managers Directive (AIFMD) in Europe. AIFMD, which came into force on 21st July 2011 and is due to be implemented by EU member states by July 2013, provides that managers of alternative investment funds (AIFs) will be subject to mandatory regulation, subject to certain exceptions (such as those relating to the value of assets under management). After September 2015 under AIFMD, the management of AIFs may only be delegated to alternative investment fund managers (AIFMs) domiciled in third-party countries, such as Switzerland, if these AIFMs are subject to regulation equivalent to that under AIFMD. The regulatory authority of the third-party country responsible for the AIFM must also cooperate with the regulatory authority monitoring the AIF. Under the current provisions of the CISA, Swiss fund managers would most likely not meet these requirements. If the law in Switzerland is not amended, Swiss fund managers may not be able to manage certain collective investment schemes domiciled in Europe.

Proposed Changes under D-CISA

The D-CISA proposes that all Swiss fund managers, regardless of the domicile of the funds they manage, be subject to licencing and regulation by FINMA. The D-CISA did not initially offer any opt-out or exclusion provisions for smaller managers, even though AIFMD allows exemptions for fund managers managing less than EUR 500m (for closed ended funds with no leverage) or EUR 100m (for open ended funds or those which use leverage). However, due to some resistance on this point by the Swiss fund industry, the D-CISA was amended to allow for exemptions in certain circumstances, amongst them a partial exemption of smaller fund managers (the definition of

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The extra income in part is the result of the "unprecedented level of Government's own capital expenditure, some of which ends up back in Government's own pocket by way of PAYE, Income Tax and Import Duties".

Company Tax, following introduction of a reduced flat rate 10 per cent Corporation Tax, accounted for "a further large increase" in revenue.

However, he cautioned: "This increased revenue stream will need to be monitored closely ... to see if the level of such revenue during this first year of the change is indeed sustainable going forward".

Business tax falling

Already this year's business tax is anticipated to be down because of previous one-off payments arising from the change in tax systems – abolition of Zero Rate Tax – and some companies overstating income.

Import duties in 2010/11 were higher than expected and as a result "very little growth has been built into these figures as it may not be possible to see even a repeat of those numbers, let alone growth", Picardo suggested.

In the current full year of office, the government plans "a significant increase in spending" on public services, where there is a clear need for further resources. However, a £17m surplus is still anticipated for the current year – but almost half that of 2011/12.

As the Chief Minister declared: "We could be less prudent and we could take recurrent [government-owned] company losses off the balance sheet and provide for a higher surplus by borrowing more - but we will not do that. We will not fall into that trap!"

More budget news, p 30

New airport terminal's spiraling costs

Full operation of Gibraltar's flagship airport terminal is imminent, the cost having spiraled to around €84m, compared with an originally estimated £24m. The completed building has been in government hands for three months.

After several earlier expected launch dates it now seems probable that from August both outgoing and in-bound flights will use the building that abuts the border with Spain and dwarfs the old terminal nearby.

In early July, Dr Joseph Garcia, the jurisdiction's deputy Chief Minister, told Parliament that "it was a serious error of judgement [by the previous administration] to operate two terminals at the same time", which added logistical problems and caused even greater costs.

Since taking the terminal over, the new government has negotiated down interim one-year Service Level Agreements with five entities that will cost Gibraltar more than £1m a year.

Other contracts still needed to be agreed, and staffing costs added; however, when asked by *Gibraltar International*, no comparative figure was available for the cost of operating the old terminal.

Building snagging and integration of IT systems in the new terminal was in progress, including the check-in system, which was expected to be complete by mid-July when staff training was taking place, Garcia said in his Budget speech.

Visiting holidaymakers and business people have been bemused by the experience of landing in the new building and departing via the small old one.

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said to have "established a good rapport with HMRC", but he warned delegates that Gibraltar providers should "not stray out of the agreed boundaries".

UK pension schemes, have the greatest investment flexibility, and represent a key target market, along with Ireland and possibly also Luxembourg, according to Nigel Sloam, who runs his own firm of Actuaries & Consultants with offices in the UK and Monaco.

Investment penalties

Fund administrators must ensure individuals do not receive personal loans from their personal pension pot, he pointed out, nor purchase residential or tangible 'moveable' property such as works of art, classic cars, fine wine etc., because those would attract up to 70 per cent tax penalties for being 'unauthorised' investments. Buying gold, however, was OK!

As Knight earlier assured, investment criteria is being incorporated into the second draft Code of Practice, including guidelines on aspects such as full up-front disclosure of all costs and fees, penalty free transfers out and a disputes procedure.

The Code, a blueprint to be reviewed annually and updated to ensure on-going acceptance by HMRC, will provide "unparalleled best practice for QROPS to the highest standards of any jurisdiction", he said. A second version will be complete by end-August.

Knight insisted: "Although this might seem like a "belt 'n' braces" arrangement, it does give greater certainty for clients and their independent financial advisors."

Regulator Marcus Killick, who is chief executive of the Financial Services Commission (FSC), admitted: "Pensions supervision is not currently the Commission's strongest area"; however, "we are building up an understanding and expertise". The FSC was now a Member of the International Association of Pension Supervisors, giving standing and access to wider experience.

And he later emphasised to *Gibraltar International*: "We have only one chance to get this right. Gibraltar has adopted a virtuous approach, by working with HMRC, unlike the experience in some other jurisdictions."

Through supervision of Trustees, Killick will see if providers are following the GAPFA Code, "because if we have any [people with] QROPS here, those individuals have the same right of protection as anyone else who has their savings, deposit or [insurance] policy in Gibraltar", he noted.

His remarks nevertheless, left some multi-jurisdictional providers uncertain on whether appropriate regulation and the industry Code were coming too late.

Business race risk

Karen Griffin, a director and compliance officer at Gibraltar trust and company administrator ECS International, explained her concern was that in the race for new QROPS, there is a risk that non-compliant business may be taken on unwittingly.

Pentech's Peter Davis, who provides pensions technical and actuarial support for the Sovereign Group worldwide from bases in the Isle of Man and Guernsey, concurred, suggesting "there is little relevant UK pensions experience in Gibraltar and, as a result, some complex schemes with inherent

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and secure guarantees may be transferred inadvertently in the early stages."

He told *Gibraltar International*: "As an example, the Malta Pensions Regulator has warned that in reviewing their licenses for this type of business local administrators can only outsource some of this responsibility elsewhere for a maximum of 12 months." Firms would be closely reviewed to ensure that the sole responsibility and activity was in Malta where responsibility for the QROPS was based.

Davis admitted the ruling might also be connected with creating local employment in Malta, but he remained uneasy that Gibraltar might not gain the same standing unless it also had a similar resident approach to control and operation of the full process, which the FSC says it is exploring.

Gibraltar tax card is a winner

On tax considerations alone, when benefits are being drawn, Gibraltar is likely to be more favourable for residents of Switzerland, Monaco, Dubai, Cayman Islands and Israel, when compared with main rival territory, Malta.

According to independent UK and Monaco actuary Nigel Sloam, if there were no double taxation treaties (DTA's), Malta would deduct tax at source of up to 35 per cent, clearly less favourable than Gibraltar's 2.5 per cent tax rate. And Guernsey is now thinking of a flat 20 per cent taxation.

"In this respect, The Isle of Man's and Guernsey's likely offerings will be taxed at lower rates to Malta - but higher than in Gibraltar", he told Gibraltar International. However, Gibraltar has no DTAs that might benefit UK citizens.

Sloam said: "We will not recommend Gibraltar as being best in all cases - but equally Malta and The Isle of Man - or Guernsey if it re-enters the QROPS arena - would not be the most appropriate for all situations."

Gibraltar Pensions Regulator, Marcus Killick warned: "The issue of tax is popular. The focus on tax loss – moving from tax evasion to aggressive tax avoidance – is clearly in the hair sights of the UK and other European governments.

"These people know – or think – they can get the money by clawing it back from jurisdictions such as ours through certain types of avoidance practices. These guys would like to see blood on the streets – on our streets."

It was important to ensure that the pensions product and service is fiscally compliant. "This is not the time to get this sort of issue wrong. This is big money for government", Killick observed.

However, tax advantage is not the only consideration when choosing a home for QROPS.

"Changing lifestyle, partial retirement and enhanced longevity dictate new patterns of income needs in later life," Sloam pointed out. "The territory chosen for QROPS provision will need to accommodate pension drawings selected to meet these needs - and also the desire to leave unutilised pension resources to selected beneficiaries. I believe that Gibraltar will have a 'best of breed' offering in this regard," he added.

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which is drawn from AIFMD) of collective investment schemes at the discretion of the Federal Council.

Other changes under the D-CISA

Amongst other matters, the D-CISA also introduces new requirements relating to safekeeping for Swiss custodian banks and also relating to the distribution of funds within or from Switzerland. It is understood that all distributors of funds in Switzerland will need to be authorised, which includes distributors of funds to "qualified investors".

How can Gibraltar help?

For financial services purposes, Gibraltar is fully within the European Union. We envisage two ways in which Gibraltar can assist Swiss fund managers:

Firstly, larger Swiss fund managers, who will have to comply with the D-CISA and be regulated by FINMA, will have significant regulatory constraints at least equivalent to those which are currently imposed by Markets in Financial Instruments Directive (MiFID) or will be imposed under AIFMD. However, a MiFID license (or its mutually exclusive cousin, an AIFM license) will be passportable (on a regulator-to-regulator notification basis) across EU member states unlike the Swiss equivalent. A Gibraltar licensee will automatically be able to provide cross border services to AIFs (if an AIFM) or as currently under MiFID, by the simple checking of a box. There are a number of services providers already in Gibraltar, who are accustomed to providing both the technical services and personnel in Gibraltar for Swiss based managers to establish a MiFID licensed manager in Gibraltar. Gibraltar is particularly attractive because of the very low Gibraltar corporate tax rate (10% of accounting profit, subject to all the usual deductions) for business that are physically based in Gibraltar.

Secondly, Gibraltar will be interesting to Swiss fund managers with assets under management at the smaller end of the scale, that are exempt from the new licencing rules under D-CISA but who also cannot comply with AIFMD. The exemption rules in AIFMD should allow them to manage European funds (whether as the AIFM or otherwise) provided the funds they manage have less than EUR 100M (or EUR 500M, as the case may be) under management. In the two largest alternative funds jurisdictions, Luxembourg and Ireland, even prior to the implementation of AIFMD, investment managers based outside those countries are coming under increasing scrutiny by the Luxembourg and Irish regulators where it is proposed they manage the Luxembourg or Irish EIF equivalent. The Gibraltar EIF regime simply requires the investment manager to be licensed in the place where it is based. In addition, at present there is no requirement to have a Gibraltar custodian bank, whereas the Luxembourg and Irish equivalents require a local custodian. We anticipate that these rules are unlikely to be altered in Gibraltar by the introduction of AIFMD, where the EIF or its manager are not required to comply with AIFMD, because the value of assets under management are low enough to fall within the exemption.

www.gfia.gi

More companies moving in despite UK gaming tax plan

Gibraltar's gaming community is gambling on being able to change the UK government's mind over plans to impose a 15 per cent remote gaming consumption tax that would raise £240m for the Treasury in 2015, the first full year of operation, writes *Ray Spencer*.

An industry fighting fund has been established and top Legal Counsel retained to consider the value of seeking a Judicial Review if the tax is introduced, but Gibraltar's Minister responsible for Gambling, Gilbert Licudi, is hopeful that a political solution can be found to what he describes as "an entirely misconceived scheme".

He maintains that "this is a political proposal and politicians...are not unknown to change their minds". Licudi has plans for political lobbying in the UK to begin in autumn when the results are expected of a Treasury consultation process into how the tax will operate.

Clive Hawkswood, chief executive of the Remote Gambling Association, feels the UK will be "hard to turn around". From speaking to UK officials and politicians, he told me "they also do not accept that Gibraltar, as opposed to the companies based there, will suffer materially", because to get a licence no company needs to be in the UK. "This reflects a worryingly simplistic view of the situation and is one that Gibraltar needs to address at governmental level", Hawkswood pointed out.

Minister Licudi is firm that "a UK licensing and regulatory regime that is said to be protecting UK customers, may have precisely the opposite effect by driving those customers to unlicenced and unregulated operators based in less reputable jurisdictions who will have no intention of paying the proposed UK consumption tax".

A Gibraltar gaming sector insider told *Gibraltar International*: "Most of the suppliers to the gaming industry are UK or associated UK firms, and it becomes totally unviable and preposterous to impose this [tax] in terms of an EU single market. The UK has the strongest interest in remote gambling with so many associated businesses involved with it, yet its actions seem to want to close it down."

Bizarre twist

In a bizarre twist, UK citizens betting with a UK licenced operator would pay the tax, but anyone from Africa, Australia, or China, for example, is exempt.

Contrary to UK Treasury assertions, no other European country is operating a place of consumption tax. But like other EU States, the UK wants to raise tax from the growing remote e-gaming sector by tightening regulation through licences.

Companies based in Malta, Isle of Man, Alderney and Gibraltar account for almost all remote gaming business in the UK, with The Rock accounting for some 60 per cent. However, those four jurisdictions have only 6 per cent of existing UK e-gaming licences.

The UK market is important, but it could become much less so as other territories open up. Some of Gibraltar's 23 licenced gaming operators gain almost all of their business from the UK, while others have wider interests across Europe (where gross gaming yield is estimated at €11bn) and elsewhere.

Gibraltar-based bwinParty, the world's largest on-line gaming company, and the 888 on-line gaming company, along with William Hill, Britain's biggest bookmaker with a significant Gibraltar stake, were among 59 operators to be granted Spanish licences in June after agreeing to pay €70m in self-assessed back taxes at the rate of 25 percent of gross gaming revenue.

Bwin previously secured 4 per cent of its revenue in Spain and plans to broaden further its income base, with expectations of breaking into the presently closed US market.

William Hill bought three firms offering sports betting on mobile devices in June after gaining a Nevada Gaming Commission licence, as a hoped-for prelude to an online gaming licence.

Branching out in US

Minister Licudi, attending an international gaming conference in San Francisco and meetings in Nevada, in May, confirmed "there are a number of Gibraltar operators interested in branching out by seeking a licence".

Two of four new Gibraltar e-gaming licences being processed are believed to be Nevada-based entities, underlining an "unprecedented interest" in establishing operations on The Rock. Two Las Vegas gaming equipment-testing houses are also said to be interested in Gibraltar.

In the meantime the sector calls for "fair and transparent licensing conditions for EU operators," led by Europe's internal market services commissioner Michel Barnier, to warn in July that member countries must provide open cross-border access to their gaming markets.

"If blatant infringements persist, I will not hesitate to propose to my colleagues that the appropriate proceedings be taken", Barnier told the EU parliament in July and he said on-going cases and complaints are to be contacted by the Commission and reminded of the applicable rules.

There's broad industry agreement in favour of introducing EU-wide legislation to govern on-line gambling to protect consumers and tackle fraud and money laundering issues, but the European Gaming and Betting Association points to a growing financial burden, saying: "In France it costs a firm €8.7m to receive a licence. We can't duplicate this 27 times."

● Gibraltar Gaming Commission (GGC) requests to discuss and establish with the UK "arrangements for the practical reporting and examination of any suspicious bets connected with the Olympic Games have not beensuccessful. But GGC says it still will evaluate and pass on to the UK as necessary any suspicious betting offers to Gibraltar operators.

Business Round Up

FSC

To ensure it stays abreast of views concerning the direction and implementation of regulation and supervision, Gibraltar’s Financial Services Commission (FSC) has launched its second finance services sector panel.

Following the successful introduction of an Auditors Panel in 2010, the FSC has brought together directors, managers, depositories, administrators, lawyers and auditors for a Funds Panel in a comprehensive dialogue between regulator and industry.

FSC chief executive Marcus Killick expects “the funds industry in Gibraltar will be entering a new phase in its growth” following recent regulatory changes in respect of Experienced Investor Funds and the upcoming Alternative Investment Fund Managers Directive”.

The FSC is also taking the views of trust and company administrators and others on the appropriate degree of regulation for Qualifying Recognised Overseas Pensions (QROPS).

“We must be careful not to kill off the QROPS industry by over-regulation; on the other hand, by having an under-regulated sector here, we could deter people wishing to use the jurisdiction,” Killick declared.

Gibraltar Businessman Wins Dream Trip at Business Conference

Director and General Manager of Europa Trust Company Ltd, Mark Bridge, was the lucky prize-winner of a trip to Mauritius.

Whilst attending a conference in South Africa, arranged by the Society of Trust and Estate Practitioners (STEP), which focused on topics such as, trusts and divorce, bad trust clauses, and tax information exchange and the future, which were presented by international experts and practitioners - Mark won the prize – sponsored by Afrasia Bank - in a lucky draw, on the last evening of the conference.

Mark Bridge (centre) receives his prize From Yogesh Gokool (left), Afrasia Bank and Colin Grieve, South African Chief Representative Officer

Commenting on the conference and prize, Mark said, “the quality of the speakers and their presentations were excellent – the developments in the industry are fast moving and far reaching.”

The delighted prize-winner went on to say, “I was hoping for the Champaign or iPad, I never expected this fantastic prize.”

GFIA

The Gibraltar Funds & Investments Association (GFIA) is proud to announce, that following its AGM in June, it has elected a new Executive Committee, as follows:

James Lasry, Hassans International Law Firm, Chairman
Joanne Sene, Armor Portfolio Management, Secretary
Moe Cohen, Benady Cohen & Co Ltd, Treasurer
Joey Garcia, Isolas, Chairman of Technical Committee
Adrian Hogg, Grant Thornton, Deputy Chairman of Technical Committee
Benjy Cuby, Finsbury Trust & Corporate Services, Chairman of the Marketing Committee
Yan Delgado, Hyperion Wealth Management, Deputy Chairman of the Marketing Committee
Clark Elder, KPMG, Chairman of the Training Committee
Carlos Martins, SG Hambros, Deputy Chairman of the Training Committee
Jordan Ramagge, Credit Suisse, Executive Committee Member

“We have a pivotal year ahead of us in putting the new Financial Services (Experienced Investor Funds) Regulations 2012 to good use, assisting the Government of Gibraltar in implementing the Alternative Investments Fund Managers Directive into Gibraltar legislation and working with the regulator and local and international partners.” Lasry commented

Funds Conference in Monaco

The Minister for Gibraltar’s Financial Services, Gilbert Licudi QC, in June, addressed a funds conference held in Monaco, that was organised by the Global Alternative Investment Management (GAIM). Mr. Licudi spoke on the re-domiciliation of funds to the European Union, with particular emphasis on recent changes to funds legislation in Gibraltar, which will facilitate the establishment of large funds and the re-domiciliation to Gibraltar of funds based outside of the European Union. He went on to say, “The GAIM conference is an important conference for the global funds industry.”

Also attending the conference was James Tipping, Gibraltar Finance Centre Director and various representatives of the Gibraltar funds industry.

The Minister for Financial Services, Gilbert Licudi (centre) and other representatives from Gibraltar, at the Gibraltar stand

KPMG Charity Skydive

Members of KPMG (Gibraltar) recently took part in a Charity Skydive Event that raised £3,002 for their chosen charity, the Gibraltar Disability Society.

The team that took part in the jump were Abby Stolworthy, Cheryl Schofield, Monika Samtani and Karl Sene.

KPMG Director, Michael Harvey, commented: “I would like to thank everyone who supported the event and for the generous donations to a truly worthwhile charity.”

DTAs among moves to attract business

Within the next nine months, the Gibraltar Government expects to report progress with negotiation of Double Tax Agreements (DTAs) with "relevant countries".

A DTA working group is studying the mechanics to make it possible, Finance Minister Gilbert Licudi told Parliament.

At the same time, of 20 Tax Information Exchange Agreements (TIEAs) so far signed with EU/OECD countries, 18 are in force leaving Gibraltar waiting for reciprocal notification from Belgium and South Africa.

"It is becoming increasingly apparent that Gibraltar's future in financial services rests with high-end, high-value-added private client business, insurance (captive and retail), investment management and funds".

According to Licudi, that accounts for a fifth of Gibraltar's economy, "Gibraltar derives its success from the fact that it does extremely well in a number of specialist areas".

With some 90 Experienced Investor Funds - half are Protected Cell Companies - there has been changes in the law to make the sector more efficient and expand its appeal by allowing large funds to use reputable and substantial administrators based in jurisdictions of equivalent standing to Gibraltar.

Having amended rules to attract certain overseas pension schemes (see QROPS rebirth, p10) and Gibraltar already being a mainstream player in insurance, Licudi revealed in the parliamentary Budget debate that legislation was to be amended to allow "new private client structures, such as purpose trusts, the extension of the perpetuity period, private trust companies and foundations".

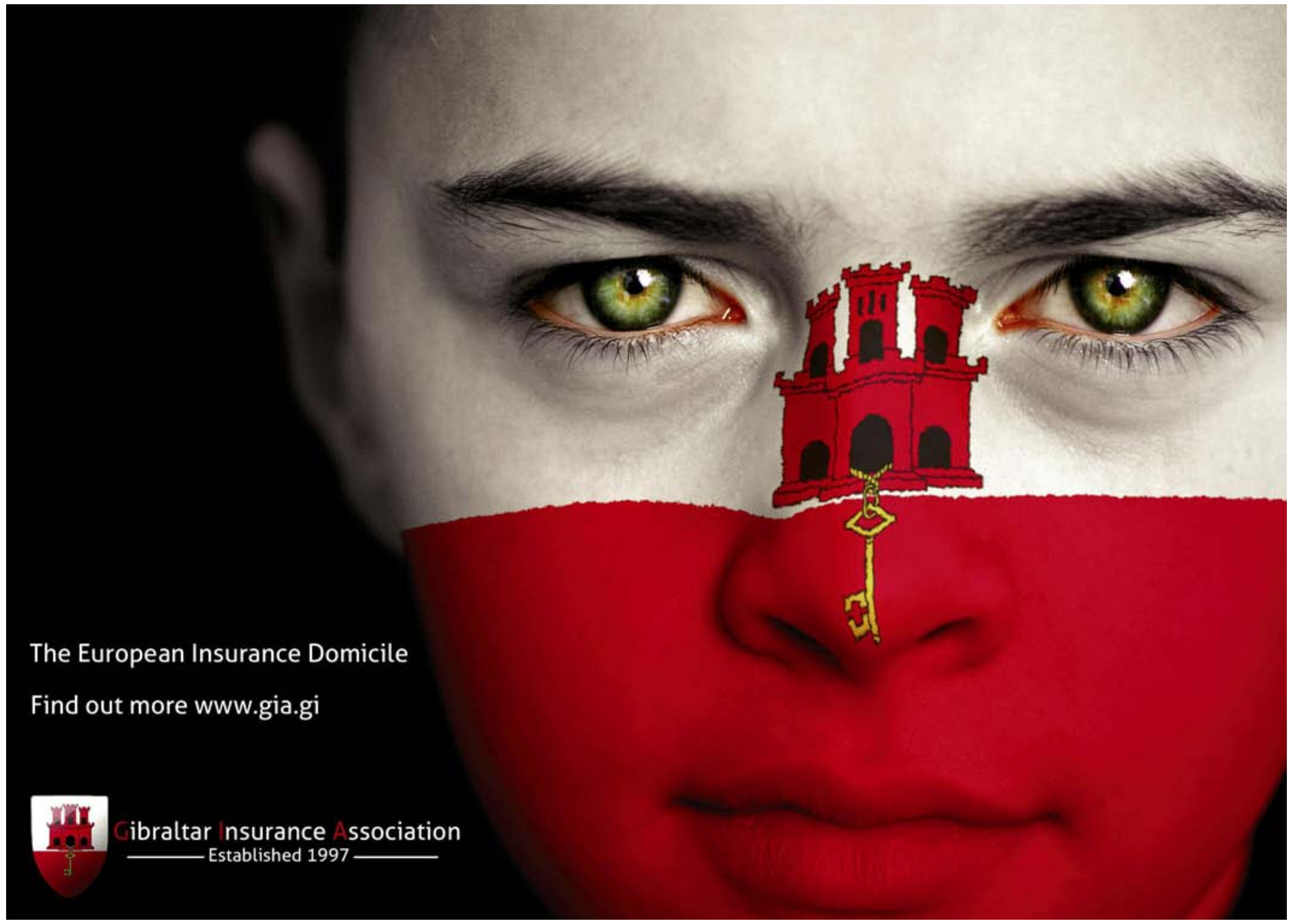
These were some of the early efforts by the government to attract more business to the jurisdiction as a means of helping to grow the economy by an average 10.5 per cent a year for each of the next four years.

He repeated a manifesto commitment "to explore new emerging markets like the BRIC countries (Brazil, Russia, India, and China), which are enjoying massive economic growth". Gibraltar could offer an alternative entry point into the EU and broaden its established market base of the UK and Switzerland.

"Things will not happen by themselves", Licudi declared, but gave no details of how or when any drive for business might occur.

In the meantime, there was a "serious economic threat" to e-gaming companies from a UK plan to tax bets at source, which "seeks to put UK operators in a position of distinct advantage to those operators based in other jurisdictions like Gibraltar". (see More companies moving in, p26)

Internet gaming accounts for 20 per cent of Gibraltar's economy and contributes £18m a year in Corporation Tax. Licudi, who is also Minister responsible for Gambling, demonstrated "the importance of key income streams this sector generates" by revealing that £10.7m a year was received in remote gaming tax, and £16m in PAYE from the sector, 2,245 employed in the sector.



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Association of Trust & Company Managers (ATCOM)
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Bar Council
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Gibraltar HR Forum
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