



PRESS RELEASE

No: 152/2019

Date: 4th March 2019

Tax Treaty with the Kingdom of Spain

The Chief Minister of Her Majesty's Government of Gibraltar, the Hon Fabian Picardo QC MP has today written to the Rt Hon David Lidington MP (the Chancellor of the Duchy of Lancaster, and Mrs May's de facto Deputy Prime Minister) asking him to sign a Tax Treaty covering Gibraltar and Spain.

As a result, Mr Lidington has signed the Tax Treaty for Gibraltar as the United Kingdom retains constitutional responsibility for Gibraltar's external relations, including the execution of international treaties.

For the purposes of the Tax Treaty, the UK therefore acts as the State responsible for Gibraltar's external relations.

The Tax Treaty has been negotiated between the Governments of Spain, Gibraltar and the UK.

The Gibraltar Government team has been led by the Chief Minister, the Deputy Chief Minister and the Financial Secretary, Albert Mena, **with the support of** the Commissioner of Income Tax, John Lester and Senior Tax Counsel Terrence Rocca.

The Tax Treaty principally seeks to improve co-operation in the field of taxation and assist in the resolution of disputes as to the proper tax residence of companies and individuals where their place of residence between Gibraltar and Spain may be in issue.

The Treaty also provides for Gibraltar to keep legislation equivalent with EU law on matters related to transparency, administrative cooperation, harmful tax practices and Anti-Money Laundering after we have left the EU - something we have long been committed to doing. This is especially the case as we will remain committed to the OECD and G-20 principles which already provide for similar standards.

The Treaty also provides for Gibraltar to keep legislation equivalent with EU law on matters related to transparency, administrative cooperation, harmful tax practices and Anti-Money Laundering once EU law ceases to apply in Gibraltar, something we have long been committed to doing. This is especially the case as we will remain committed to the OECD and G-20 principles which already provide for similar standards.



The Chief Minister said: "I wrote to David Lidington today to consent to the signature of the Tax Treaty on behalf of Gibraltar.

"This is an important moment for Gibraltar and for our relations with our neighbour.

This Treaty recognises the existence of a separate and distinct tax authority in Gibraltar.

Even more importantly, in the Treaty Spain recognises, for the first time in history, the existence of registered Gibraltarians and of the Gibraltarian Status Act. This is the Act that determines who are the people that can register and describe themselves as "Gibraltarians". This is massively significant.

Additionally, the Gibraltar rates of corporation tax are also recognised by Spain.

In agreeing to this Tax Treaty, Gibraltar has conceded nothing in respect of its absolute autonomy in tax affairs. What we have done - as we have long been offering to do - is reach an arrangement with our nearest neighbour to resolve cases of dispute as to the residence of individuals and companies.

As a result, I trust we will now be able to end the irritating myth that Gibraltar is anything other than entirely cooperative when it comes to the exchange of tax information. This treaty and the cooperation it supports should put an end to that myth.

Indeed we have obtained a commitment from the Spanish Government that the effective implementation of this Treaty will lead to Gibraltar being removed from the Spanish blacklist of tax haven jurisdictions in the future. This is also massively significant. The Treaty will also bring an end to any doubt about Gibraltar's inclusion in international conventions which relate to tax and financial services, including the OECD BEPs inclusive framework. Indeed Gibraltar will be writing this week to apply for membership of the BEPs inclusive framework.

Additionally, the Treaty provides for information to be provided by the Spanish tax authorities to the Gibraltar authorities also. The flow of information is anticipated to be in both directions.

Needless to say, we are fully committed to the commitments associated with this Treaty – and the Spanish have said the same.

Cross frontier workers will have the benefit of the elimination of double taxation pursuant to the provisions of the law of the state that they are determined to be resident in.

I now look forward to the formal ratification process of this Treaty. I will tomorrow brief the Parliament's Brexit Select Committee on the content of the agreement. I expect we will be able to publish it in full in coming days also as it is published also in the UK in keeping with the relevant procedures for the adoption of international treaties. I will lay a copy of the Treaty in Parliament on the 14th March.

I want to thank the Gibraltar negotiating team, led by Financial Secretary Albert Mena, as well as Commissioner John Lester and Senior Tax Counsel Terrence Rocca for their hard work on this very



difficult and challenging subject. I also want to thank the teams at Her Majesty's Treasury and the Foreign and Commonwealth Office for their assistance in these complex negotiations.

I also look forward to the Gibraltar and Spanish tax authorities working together in a spirit of normality and cooperation, as the Gibraltar tax authorities already do with the tax authorities of most states around the world.

Together with our agreement on tobacco pricing, this is an important step in slaying the myths that have circulated on Gibraltar. These agreements deal with those irritants in a positive and forward looking way that broaches no concessions and yet normalises the relationship between neighbouring tax authorities."

ENDS

Notes to editors:

There are 16,818 companies registered in Gibraltar of which 13,736 are active.

Fourteen thousand (14,000) people, approximately ten thousand (10,000) of them Spanish and the rest of all EU nationalities, live in Spain and commute into Gibraltar every day to work in Gibraltar's highly regarded, highly regulated and highly successful online gaming and financial services industry.

The EU's Code Group has approved Gibraltar's Income Tax Act 2010 as not amounting to harmful taxation.

The EU's DG Competition has recently ruled that only two discreet aspects of the Income Tax Ac 2010 constituted state aid. Both of these aspects have already been amended. In addition, HMGoG has further regulated the procedure for the grant of tax rulings even though the European Commission found that there was no systematic problem with our procedures.

Gibraltar ensures transparency and exchange of information on fiscal matters through three principal legal instruments:

- (1) Council Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC1) which has been fully implemented in Gibraltar and applies in relation to all 28 EU Member States. We have also transposed the DAC2,3,4 and 5.
- (2) The OECD and Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, to which Gibraltar committed in 2014.
- (3) Bilateral Tax Information Exchange Agreements ("TIEAs") to OECD standards. Gibraltar has concluded 27 TIEAs. These include 14 EU Member States and other major countries around the world. The Convention referred to above has now done away with the need for further bilateral TIEAs.



Pursuant to these three instruments, Gibraltar has approximately 168 exchange of information mechanisms to the OECD standard with 115 countries and territories around the world. Of these 156 exchange of information mechanisms are in force with 102 countries.