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Hassans donates £35,000 in support of GHA Covid-19 Fund

In support of the continuing demands being faced by the Gibraltar Health Authority (GHA), Hassans has made a £20,000 donation to the GHA Covid-19 fund. The funds will be used to ensure the GHA continues to be fully equipped to serve the Gibraltar community at the highest possible level.

The donation is in addition to a £15,000 sponsorship to Feeding the Frontline, which provides key workers with nutritious meals whilst they are caring for our community. The donation

will fund the cooking and delivery of food to GHA facilities.

Javier Chincotta, Managing Partner, commented:

"The GHA is doing a phenomenal job. The coming together of our community, both businesses and individuals, to raise over £1,000,000 is a true show of appreciation of the extremely demanding situation the GHA team is facing. In Gibraltar we come together and unite like no other when our Gibraltar needs us."

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James Levy CBE QC, Senior Partner, concludes:

"The true Gibraltar spirit is never stronger than when we are in a time of crisis. The generosity of our community has, as usual, been outstanding and I am delighted that we are able to join together in support of our dedicated health service. Our gratitude has never been greater."

Double Tax Agreement comes into force

HM Government of Gibraltar announced at the end of March, that the Double Tax Agreement (DTA) between Gibraltar and the United Kingdom had become operational.

The DTA, which was signed in October 2019, will apply in Gibraltar for income tax, for the tax year commencing on 1st July onwards and for corporate tax, for the next accounting period beginning on or after 1st July.

It will apply in the United Kingdom for income tax and capital gains tax, for the



HM Government
of Gibraltar

tax year which commenced on the 6th April and for corporate tax, for the financial year that commenced on the 1st April.

DTAs remove tax related barriers to cross border trade and investment. They are designed to assist businesses and the local economy in encouraging investment whilst helping prevent tax evasion and avoidance.

This DTA is based on the OECD Model Tax Convention and is Gibraltar's first such DTA.

Jyske Bank (Gibraltar) becomes TN Bank

In April, Jyske Bank (Gibraltar) Limited were pleased to announce that the sale to Rooke Investments Limited, that was signed in June 2019, subject to regulatory approval, had been completed.



The bank changed its name to Trusted Novus Bank (TN Bank) and it will continue as a bank "Out of the Ordinary" with its important role in the Gibraltar community for private

& corporate clients, and its quality service to international private banking clients.

Christian Bjorlow, CEO and Lars Aarup Jensen, Managing Director, Jyske Bank (Gibraltar) will continue to lead TN Bank, under the new ownership.

Christian Bjorlow commented:

"It's been a challenging period, but we are very pleased that we have been able to complete the transaction and continue providing banking services to our clients and jobs for our employees".

Social distancing not social disconnecting

The Gibraltar International Magazine team are delighted to further support local charity Clubhouse Gibraltar amid the Coronavirus emergency.

Clubhouse Gibraltar have stated that it is normal to feel sad, stressed, confused, scared or even angry during a crisis and that it is important to talk to family and friends to help avoid these emotions.

Their message is simple but effective, maintain physical distancing, but remain socially connected.

Stay home, stay healthy, stay connected!

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Recent changes to divorce legislation and financial remedies on divorce in Gibraltar



By Charles Simpson and Joanna Baglietto, Dispute Resolution Team, Triay & Triay

The Matrimonial Causes (Amendment Act) 2019 and the Family Proceedings (Matrimonial Causes) (Amendment) Rules 2019 came into force on 15th August 2019. The main object being to provide a more “harmonious” divorce procedure by legislating for non-fault divorces. This article considers the main changes as a result of the legislation as well as providing an overview of divorce procedure.

When can spouses get divorced in Gibraltar?

A party to a marriage can apply for a divorce provided they have been married for at least one year and the Supreme Court of Gibraltar has jurisdiction. In exceptional circumstances, the Court can allow a petition to proceed during the first year of marriage if it can be shown that the case is one of exceptional hardship suffered by the Petitioner or one of exceptional depravity on the part of the Respondent. However, such cases are rare.

What are the grounds for divorce?

There is now only one ground for divorce namely that the marriage has broken down irretrievably. Previously, the Petitioner had to prove adultery, unreasonable behaviour, desertion, two years’ separation with consent, or three years’ separation in order to show the marriage had broken down irretrievably. The recent changes in the legislation effectively provide for “no-fault” divorces and do away with contested divorces.

How long does the divorce process take and what is the process?

The divorce itself usually takes about 7-9 months to complete, albeit it does not follow that any financial disputes or disputes in relation to children will be resolved or adjudicated on by the Court within this timeframe.

To start the divorce process, the Petitioner files a divorce petition accompanied

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by the prescribed statement of irretrievable breakdown and other required documents including the statement of arrangements for children (if applicable). The Petition is then issued by the Supreme Court and served on the opposing spousal party, the Respondent. Following service, the Respondent needs to file/serve an Acknowledgment of Service within a prescribed time frame.

terms of a financial agreement to deal with issues such as capital division, spousal/child maintenance as well as arrangements for children (if applicable). The parties can also reflect any agreed financial arrangements by entering a consent order in the divorce proceedings.

If the parties are not able to reach agreement in relation to financial matters or in

the First Appointment, the parties can raise questions on the other's Form-M5. If a party objects to answering a particular question then this will be considered by the Court at the First Appointment.

4. The First Appointment

This is usually the first Court hearing in financial relief proceedings. At the appointment, the Court generally case manages the dispute, gives necessary directions for disclosure, the provision of further information, the answering of the questionnaires, the appointment of experts including to value properties and assets (e.g. company shareholdings) (if necessary) and directions to final hearing. The latter can include directions for a pre-trial review or further case management if the Court considers this appropriate.

5. Final Hearing

In the absence of settlement then necessarily the case will proceed to final hearing. The latter is a contested hearing where each party usually gives live evidence and is subject to cross examination.

Following the conclusion of the hearing, the Court then decides what orders to make. It has a wide discretion to make a range of different orders including a property adjustment order (e.g. the transfer of the former matrimonial home from one spouse to another); a lump sum order (payment of a capital sum by one party to the other); maintenance from one spouse to another (necessarily the Court will need to consider how long any such maintenance should be paid for if it is minded to make such an order).

The Court can also make orders for child maintenance. What orders are appropriate will depend on the individual circumstances of a case and each party is obliged to make an open offer to settle in accordance with the Family Proceedings (Matrimonial Causes) Rules prior to any final hearing. The general rule is that each party will usually pay their own costs and costs are therefore not normally recoverable.

The marriage does not legally come to an end until after the Court has granted the Decree Absolute

The matter is then fixed for a Preliminary Hearing which the parties need to attend in person. At this hearing the Court needs to be satisfied that the relevant procedural requirements have been complied with and then fixes a subsequent date for the pronouncement of the Decree Nisi (conditional order for divorce).

The marriage does not legally come to an end until after the Court has granted the Decree Absolute (the final order for divorce). Save for exceptional circumstances, the latter can only be applied for by the Petitioner 6 months after the date of the Decree Nisi. The purpose of this 6-month period is to give the parties a "cooling off" period after the pronouncement of the Decree Nisi. Previously this period was 6 weeks but this has been altered given the no-fault divorce procedure. It is also open to the Respondent to apply for the Decree Absolute if the Petitioner does not apply for it within 9 months of the date of the Decree Nisi.

What other changes have been implemented?

Provision has also been made for financial relief proceedings to be brought in Gibraltar following an overseas divorce, in cases where the divorce, annulment or legal separation is recognised as valid in Gibraltar. This enables the Court locally to make financial orders locally.

How are finances or child arrangements usually dealt with in divorce proceedings?

Parties are usually encouraged to try to resolve matters amicably by negotiating the

relation to the child related matters then it is open to either to make an application for financial relief or for appropriate orders in respect of the children under the Children Act e.g. in relation to residence or contact arrangements.

What is the process in financial relief proceedings?

There are 5 stages:

1. The Application

Either the Petitioner or a Respondent must file/serve an application by issuing an application for financial relief in the prescribed Form M10. The Court will then fix the First Appointment 12-16 weeks after the filing of the M10.

2. Disclosure

Prior to the First Appointment (and assuming the parties have not already done so prior to the Preliminary Hearing), the parties need to exchange disclosure in the prescribed Form-M5.. This is an extensive form which requires disclosure of capital and income as well as future income and capital needs/requirements. The M5 form must be accompanied with certain documentary evidence including bank statements and company accounts.

3. The Questionnaire

After the exchange of disclosure and prior to

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The insurance market in the current climate



Is the Coronavirus emergency impacting insurers' solvency? This is the big question that insurance business leaders are looking for clarity on. Dominic Sharp, Head of Actuarial Services and Darren Vinales, Senior Actuary, Robus Group, reports

Distinguishing between the short-term evidence of what has happened so far and what could happen in the medium to long term is important to consider.

Looking at actual impact on insurers, it's still early days. Underwriting volumes are down as people stop instalments, decide not to renew or not to take up a new cover. Any lines that are sold as add-ons will be materially impacted, e.g. extended warranty and motor ancillaries such as gap insurance. Gibraltar is already seeing this, where a lot of this kind of business is underwritten. It is also seeing reductions in claims frequencies on both Motor and Household policies.

These impacts (particularly Motor)

have been noted. Steve Quinn, Managing Director of Premier Insurance commented, "The Motor market is challenged in much the same way as all industries across the globe in not knowing how long this uncertain and distressing period is going to persist for all concerned, and what the net effect is going to be for the various stakeholders in the market".

Some other insurers have experienced significant drop-off in premium volumes and claim frequency and added that they are focused on claims inflation as repair networks and supply chains are squeezed.

More widely, in terms of direct impact, we expect that travel insurance and business interruption will be heavily impacted but there is little exposure to

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these lines for Gibraltar insurers.

So, counter-intuitively, we consider that the short-term impact on solvency ratios of Gibraltar insurers is likely to be beneficial, primarily as a result of falling premium income.

In the medium and long term, the impact is harder to predict with considerably more influences on the ratio to factor in.

Whilst Covid-19 is a humanitarian disaster, the number of people affected in the wider population is still a relatively small percentage and likely to remain so.

less willing to commit capital due to liquidity and/or solvency concerns. Some reinsurers will become insolvent resulting in credit events for insurers.

Investors may be similarly less willing to provide capacity. Capacity in the reinsurance markets may be affected which could result in further increases to reinsurance costs coming hot on the heels of rate rises due to the UK's Ogden discount rate decision in July 2019.

Insurers' expense base is largely fixed and so reductions in business

caused by liquidity strains will increase.

There is a potential increased risk of frauds, both in the scope for fraud and the likelihood of it occurring as people's circumstances deteriorate.

Finally, it is likely that with the lockdowns, activity such as claims adjusting will operate less efficiently with the potential for increased claims leakage and a slow-down in settlement patterns.

It is hard to say exactly how solvency ratios will be impacted since there are many influences, as we have set out. However, it is believed that negative influences will outweigh positive ones meaning that solvency ratios are likely to suffer in the medium to long term with the resulting potential for increased regulatory scrutiny and, ultimately, failures.

Insurers should think through these issues to see how their businesses are exposed. In our experience it is important to balance quantitative analysis, including running revised scenarios through their capital models, and qualitative analysis where the focus should be on risk management. This will help to gain insight into the dynamics and to understand which influences are dominant.

In this more volatile environment insurers should be considering the appropriateness of their risk appetite statements as well as their capital buffer over regulatory minimum levels.

It is expected that all Boards will need to revisit business plans and ORSAs as existing scenario modelling is unlikely to capture the full range and extent of stresses to businesses caused by Covid 19.

So, counter-intuitively, we consider that the short-term impact on solvency ratios of Gibraltar insurers is likely to be beneficial

This is particularly the case away from the front line which is where the insurance industry is positioned. Also, the insurance industry is generally more mobile than most and so it is considered that it is unlikely to be materially impacted from an operational perspective. We have seen this with Gibraltar insurers that we are familiar with; operationally, they have proved resilient with most key functions now relocated to home environments.

Shareholders of (re)insurers may be

volumes will reduce profitability. Adjusting the expense base is slow and can incur additional costs.

The markets have suffered and so there will be pressure on asset valuations. Insurers tend to be conservatively invested as a result of Solvency II but we think there will still be an impact at some point.

Insurers will need to focus on liquidity from all sources although it is expected that state interventions will help here. The likelihood of insolvencies

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Success based on tax awareness and compliance

By **Lynette Chaudhary, CTA, ATT, International Tax and Research Director, STM Fiscalis Ltd**

At the 10th anniversary meeting of the Global Forum of the Organisation for Economic Cooperation and Development (OECD) held in Paris in November 2019, Gibraltar's Chief Minister, Fabian Picardo, was unequivocal "that the only business model that will work in future is one based on compliance and transparency".

For someone who has worked in UK and Gibraltar tax compliance for just shy of 20 years, I completely support and embrace this. To achieve this, the first step is to ensure that there is an awareness of the relevant tax obligations, with communication being critical for success.

Gibraltar taxation

As many readers of this publication will know, Gibraltar generally taxes on a source basis of taxation i.e. its primary basis of taxation taxes income that accrues in or derives from Gibraltar, regardless of the residency of the recipient.

In my experience, there are differing levels of awareness, and in turn tax compliance, depending on the type of income and the residency of the recipient. For example, it is the norm for those employed in Gibraltar to be aware that PAYE ("Pay As You Earn" income tax) is to be withheld from their salary, and most employees will know that they have to file an annual Gibraltar individual tax return reporting their earnings and claiming their tax allowances, whether they live in Gibraltar or not. However, in comparison, when considering income from Gibraltar property (i.e. Gibraltar rental income) for example, there appears to be a much lower level of awareness of, and compliance with, landlords tax obligations, even more so when the landlords are not resident in Gibraltar.

Landlords of Gibraltar property should register appropriately with the Income Tax Office, they are liable to income tax on their Gibraltar rental profits, although a tax credit

is available for recently constructed property (upon satisfying conditions) which can extinguish any liability to tax for a period of time. Furthermore, capital allowances may be available, which can significantly reduce the taxable profit. Landlords are required to file a tax return reporting their profits, along with providing an Income and Expenditure Account. Corporate owners of Gibraltar property also have tax filing and payment obligations, although their rate of tax is set at the current company rate of 10%.

Many Gibraltar properties are owned by non-Gibraltar residents and often this makes knowledge of, and complying with, tax obligations even more challenging. These non-residents may not be aware that Gibraltar tax is payable on their Gibraltar rental profits. Therefore, whilst they may report these profits for tax purposes in their country of residence (where appropriate), Gibraltar does not receive its share of the tax, even though in these circumstances it should have the primary right to tax such income. For example, if a UK resident receives Gibraltar rental income, they may be reporting it in the UK for UK tax purposes, but they should also be reporting it in Gibraltar and claiming a foreign tax credit in the UK for the Gibraltar tax paid (to alleviate any double taxation). The recently agreed Gibraltar/UK Double Tax Agreement continues to give Gibraltar the right to tax Gibraltar rental income.

Welcome measures

Establishing a Register of Residential Tenancies, as proposed by the Government in June 2018, would certainly be a welcome measure to raise awareness and aid such compliance. Furthermore, for non-resident owners, perhaps Gibraltar could consider introducing a Non-Resident Landlord scheme, like that available in the UK.

This Scheme requires UK rental agents or tenants to withhold UK tax on rent payable to the overseas landlord, unless the

landlord is registered with the UK tax authorities and has agreed to meet their tax responsibilities in respect of the rental income.

UK property owners

Many Gibraltar residents own UK property and perhaps unsurprisingly have not managed to keep up to speed with the deluge of UK tax changes in respect of owning UK property. This rapid pace of tax change has posed considerable challenges for non-UK resident owners and has led to many UK court cases focusing on failure to meet tax compliance obligations, with penalties being triggered accordingly.

Most notable is the lack of, or late filing of, the Non-Resident Capital Gains Tax (NRCGT) Return which is required to be filed within 30 days of sale of a UK property by a non-UK resident owner. In some cases, taxpayers have claimed reasonable excuse for their failure. In one of these cases a distinction was made between those obligations that a taxpayer might be expected to be aware of and those which are more obscure. In another case, the Judge stated "Holding property in a jurisdiction exposes the owner to the rules of that jurisdiction, and I consider that the hypothetical reasonable taxpayer would have attempted some enquiries." This extolling the legal maxim "ignorance is no excuse!"

Tax transparency, exchange and compliance

With increasing international tax transparency and information exchange, the pressure on taxpayers to be aware of, and comply with, their tax obligations in their country of residency and country where their investment is located or income is sourced, intensifies. Regularly reviewing a taxpayer's position aids compliance, enabling the taxpayer to plan for the business model of the future whilst avoiding any nasty surprises!

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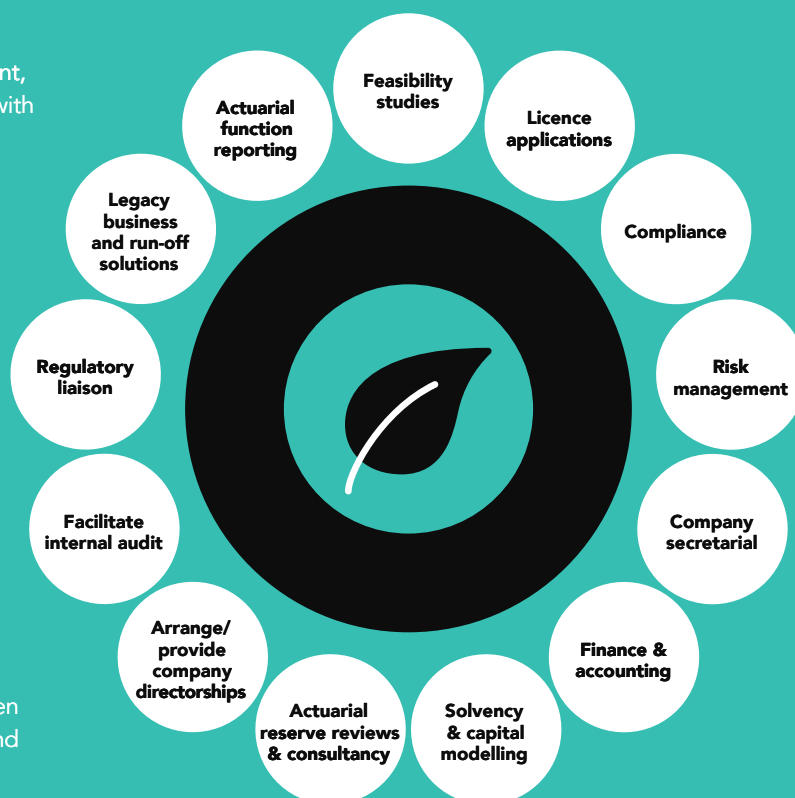


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Business continuity in difficult times

By Jamie Allan, Head of Risk & Compliance, Isolaz LLP/Fiduciary Group

The ferocity and speed at which the COVID-19 virus has spread across the globe has tested the resilience of most established, profitable and globally successful corporations, so where does this leave other firms and businesses? As a compliance and risk professional operating in a Firm which significantly buys-in to Risk and Compliance, if we were to have tabled a COVID-19 desktop scenario only a matter of months ago during our annual BCP testing it would have very likely been chuckled over and politely dismissed as a little far-reaching.

So here we are and depending where on the Continent businesses are located will depend on how far progressed and developed their business continuity plans may be. Irrespective of this every business is very likely to go through similar initial phases in the plans roll out.

The core planners, decisionmakers and enablers

Firms must establish very quickly the core business continuity group, who need to be able to mobilise and communicate effectively. It should be comprised of the most senior decision makers and appropriate enablers to ensure difficult questions are presented (no hiding from them) and decisions are enacted upon promptly. This group may comprise of individuals such as the MD, CEO, Senior Partner and departments heads, Human Resource, IT, Compliance, Operations. Most business continuity plans would have had this group defined and established in their plans. The group may be slightly different depending on the contingency and should not be too large. It must be empowered to make decisions and make them quickly. One element about the current crisis is its speed of evolution.

Normally BCPs deal with a specific event which has occurred.

Understanding the problem

Whilst many BCPs would have tested natural disaster scenarios such as fire, flood and other such circumstances which effectively restrict workers access. Not many scenarios would have considered, social distancing (a new but sadly widely utilised term), self-isolation periods, illness, vulnerable persons, social and educational restrictions, public health challenges, global market crashes, unemployment, redundancy, travel restrictions, panic buying and restrictions of basic resources such as hand sanitiser all hitting a business and its client base all at the same time.

It is important that the business continuity "core group" is able to cut through the noise, prioritise action and be prepared to take calculated and measured risk where required.

Two headline planning areas are crucial to the success of business continuity under such unprecedented conditions.

1. Communication.

The ability to communicate effectively and securely is vital. Phase 1 of most BCPs will heavily test the businesses IT and HR departments. IT will be under immediate pressure to accommodate remote or alternate working arrangements, whilst maintaining the businesses cyber-security frameworks. Working closely with the Core group to understand the business needs and priorities and enabling these as quickly as possible.

The other department heavily worked during this period is the Human Resource Department, who have to reassure staff, deal with individual concerns and needs, whilst at the same time delicately report sensitive information into the Core group such as individuals who may because of a medical condition be vulnerable and need prioritising.

All departments and the Core group therefore need to ensure confidentiality and

data protection does not fall by the wayside during this initial phase. It is during this first phase that the core group need to be making decisions quickly and effectively based on information and predictions offered by local government, international news sources, public bodies and industry associations.

Communication albeit likely brief at this stage with the firms regulator body(ies) may also be appropriate to give the regulatory body assurance that the firm is acting appropriately and is still able to offer a service to clients in accordance with its regulatory and legal obligations.

At the same time the business needs to be communicating, reassuring and servicing its client base, much like the classic metaphor of the Swan appearing calm, capable and in control above the waterline but working ferociously below it.

2. Governance.

Corporate Governance and operational oversight become the next critical component. The firm's systems and controls may need to be adapted to accommodate for remote or alternate working arrangements, particularly if these are likely to be enduring. Business sign-off, payments, risk committees, data protection, etc, all processes which ensure the firm remains in compliance with its legal and regulatory obligations need careful consideration to ensure that they remain appropriate.

The better firms will reach this level of maturity quicker. They will be able to communicate, begin servicing more effectively, and will be able to take on new lines of business in an assured and appropriate manner given all the support functions are operational and easily accessible to them.

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Why Gibraltar needs a venture capital culture



**By Eran Shay,
Managing Director,
Benefit Business
Solutions Ltd**

The successes of technology start-ups such as Uber, Airbnb and Revolut have inspired governments around the globe to support the development of national start-up ecosystems. The incentives are clear: young innovative enterprises are major drivers of economic and employment growth. Furthermore, start-ups may develop disruptive products and business models that provide the economy with a competitive edge in new technologies. Successful start-up ecosystems do not only depend on the research infrastructure and an entrepreneurship culture but also on the availability of sufficient financing.

Indeed, the HiTech sector presents many growth opportunities for Gibraltar. Realising the compelling advantages that Gibraltar offers to HiTech start-ups, Benefit Business Solutions has already announced it will be launching the first technology Accelerator program in the

history of Gibraltar- the Rocket Accelerator- which will be offered to up to 10 cherry-picked start-ups. But attracting start-ups to Gibraltar doesn't go without its challenges and one of the key challenges is the lack of a local venture -capital culture.

Traditional financing channels for small and medium-size enterprises (SMEs) such as bank loans fail to provide start-ups with sufficient financial resources. From a bank's perspective a start-up is an opaque and risky investment. It usually has little collateral, its business model lacks a proof of concept and failure is quite likely. The income from interest cannot compensate the riskiness of such an investment. Therefore, start-ups need investors that can profit from the potentially large return on investment if the start-up grows into a successful company. Venture capital (VC) funds and other private equity investors have specialised in this high-risk high return

Continued p22

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segment and thereby fulfil a critical role not only in the start-up ecosystem but in the economy at large.

Corporate investors and private individuals are the most important sources of private funding. Large institutional investors, such as pension funds, insurance companies, banks and university endowments, which are the most important sources of VC capital in the USA, play however, a less prominent role in Europe. One explanation for the lesser role of institutional investors in the European VC market is a regulatory disincentive for the financial industry to

promote strategic sectors that are not yet competitive but it also carries the risk of inefficient favouritism. Despite mixed evidence of the efficiency of government VC funding and the theoretical question as to whether public actors are as suitable as private investors to select the most promising portfolio companies, public money is undoubtedly an important stabiliser in times of crisis. Indeed, public sector programs, such as matching Pound-to-Pound investment with private funding, have proved to be highly successful in stimulating the growth of a VC industry

consequence, VC funds limit their cross-border activities artificially.

- VC funds face different tax classification and different tax treatments from member state to member state. Tax authorities frequently discriminate between non-resident and resident VC funds.

What Gibraltar needs to do is to cooperate with other Governments to ensure that fiscal benefits offered for investors in one country can be extended to investments they make in Gibraltar. One example of such scheme is the tax relief offered to investors in start-up companies under the UK Seed Enterprise Investment Scheme (SEIS) and Enterprise Investment Scheme (EIS) which can be extended to a foreign subsidiary of the UK entity. This means that investments can be channelled to a Gibraltar subsidiary of a UK company as long as there is either permanent establishment in the UK or a UK authorised agent.

This is great news for Gibraltar, especially in light of the recent Double-Taxation treaty signed with the UK. However, more can be done locally to stimulate investment in start-ups, such as providing Loss Relief which allows an investor to offset a loss made on investment in a start-up company against their income tax bill. This too is offered in the UK under the EIS relief scheme. Another way is for Government to provide a guarantee scheme for private sector loans provided by the banks, so as to reduce the exposure for the banks and stimulate them to lend more.

Implementing such measures could help positioning Gibraltar as an attractive jurisdiction for Venture Capital investments, which will in turn attract more Tech start-ups and grow the economy as a whole.

This is great news for Gibraltar, especially in light of the recent Double-Taxation treaty signed with the UK

invest in venture capital due to high-risk weights and asymmetric treatment of equity and debt financing. In the USA, but also in Sweden, relaxing regulatory requirements for pension funds and allowing more risky investments has led to increasing investments into the VC industry. While the deregulation of such sensitive financial services is no trivial task, institutional investors with a long-term investment horizon are particularly suitable to support the economy with capital for equity and infrastructure investments because they do not need to sell when asset markets go down and can therefore act as a counter-cyclical stabiliser to the market.

What can public policy do (better) to support VC investment?

In Europe, government agencies are the most significant investor group in the VC market. Over the last decade they provided about 18% of funding. In their role as investors, public agents enjoy a substantial degree of discretion as they are directly involved in the allocation of financial resources. This can help to

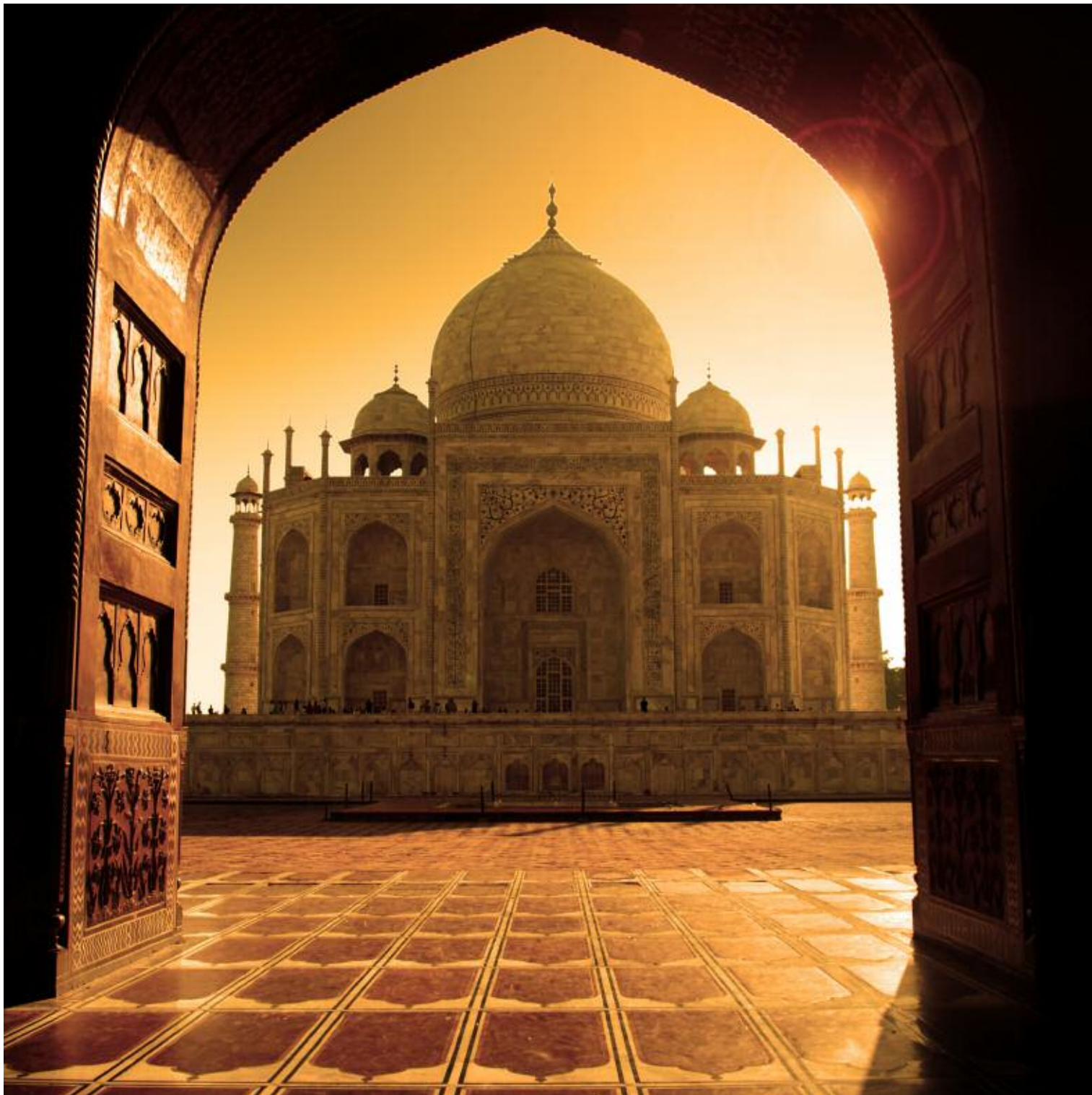
in countries like Israel, Sweden and Denmark.

Another way in which a Government can encourage Venture Capital investments is through favourable taxation. This is where Gibraltar shines as it offers one of the most attractive tax regimes in the world with no capital gains tax, no VAT, no tax on dividends (for non-residents), no tax on investment income and no inheritance tax, and should therefore be a magnet to VC funds and private investors. However, as highlighted by a recent report by The European Commission, there are cross-border barriers to VC investments such as:

- VC investors need to establish a local presence in the country of the investee firm.

- A cross-border VC investment runs the risk of double taxation (once in the country where the portfolio company is located and once in the country where the investors are based). This depends on whether the national tax authority regards the VC fund activities as permanent or non-permanent, a decision that is not always predictable. As a

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Pension investments and Pension holders

By Joanne Rodriguez
Abacus Wealth
Management

The world economy is facing a big challenge as the coronavirus outbreak causes a drastic drop in financial markets across the globe. This has a direct impact on pension investments. Pension holders may be concerned about the value of their pension fund, and how this may affect their retirement savings.

You may also be asking yourself what the most appropriate course of action is at the moment? Should you continue your regular contributions? Should you take a pause, and wait for all of this to be over before resuming your monthly payments, or should you just keep to cash savings as this pandemic is the perfect example of how volatile financial markets can be when put to the test?

Disheartening as it may be to catch a glimpse of your pension statement and see that the value of your hard-earned money has dropped significantly, the first call to action is to remain calm and figure out the bigger picture.

In reality it only represents a paper loss, unless retirement is on the doorstep. A reliable pension provider would have carefully designed their scheme to safeguard your retirement needs and adhere to all professional standards when considering factors to mitigate various types of investment risk.

There are a wide range of factors to consider in relation to your pension savings that help generate peace of mind in the current turbulent environment.

Diversification: Don't put all your eggs in one basket

A well-diversified investment portfolio allows market risk to be spread across a wide range of countries, industry sectors, companies and asset classes.

A well-diversified investment strategy helps provide reassurance that once the global economy starts to recover, and different countries and industries recover at different paces, the strategy will not have all their exposure in just one sector or one country. This diversification should help them experience a smoother recovery path.

Long term outlook

Pensions are designed for investment over the long term, typically described as ten years or longer. History has shown us that for the patient investor, market downturns are not detrimental to the value of a pension fund over the long term.

All of the major world economic crises are testimony that, overall, and over time, the markets recover. The 2007 global economic crisis saw a recovery in just under 3 years. Even the renowned 1987 "Black Monday" crash saw the markets recover in under 2 years. We certainly cannot know how long this current market crisis caused by the coronavirus pandemic will take to recover, but there's reason for long-term confidence in the markets.

The key is to be invested in reputable companies with a good track record and strong balance sheet that are likely to weather the storm.

Pound Cost Averaging: Believe it or not, there are still some positives

Most of us build our pension pots via regular monthly contributions over many years. The good news is that as financial markets fall, the prices to purchase these investments also fall, creating an opportunity for all of us who make monthly pension contributions.

This enables us to buy cheap, accumulate value, and still retain those investments over the long-term. Once the markets recover and our accumulated investment holdings grow in value, we will

be rewarded. We can then once again enjoy receiving our pension statements.

Cash: Not a substitute for long term investments

Cash will inevitably, over a sustained period of time, lose its value to inflation, and whilst necessary for liquidity and short term emergency reserves, it is extremely unlikely to provide the best returns over the long term (10 years and over).

Pension plans that have over ten years left until retirement should always contain some investment element, even if this means some level of exposure to market volatility.

We can find reassurance in a sensible investment selection strategy that includes a well-diversified and professionally managed portfolio that meets our appetite and attitude to risk and is invested over the long term. We should not be tempted to panic-sell our investments, and if in doubt, we should always consult an independent financial adviser for guidance before taking any action.

Anyone with plans to retire and take their pension benefits in the next couple of years should seek professional financial advice, as the markets may take longer to recover and they may have to review their retirement plans.

For the majority of pension savers, however, with a long term view, it makes sense to remain confident, continue with or increase monthly contributions to make the most of the opportunity in the falling markets and patiently wait for the world to recover.

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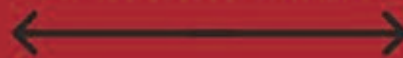
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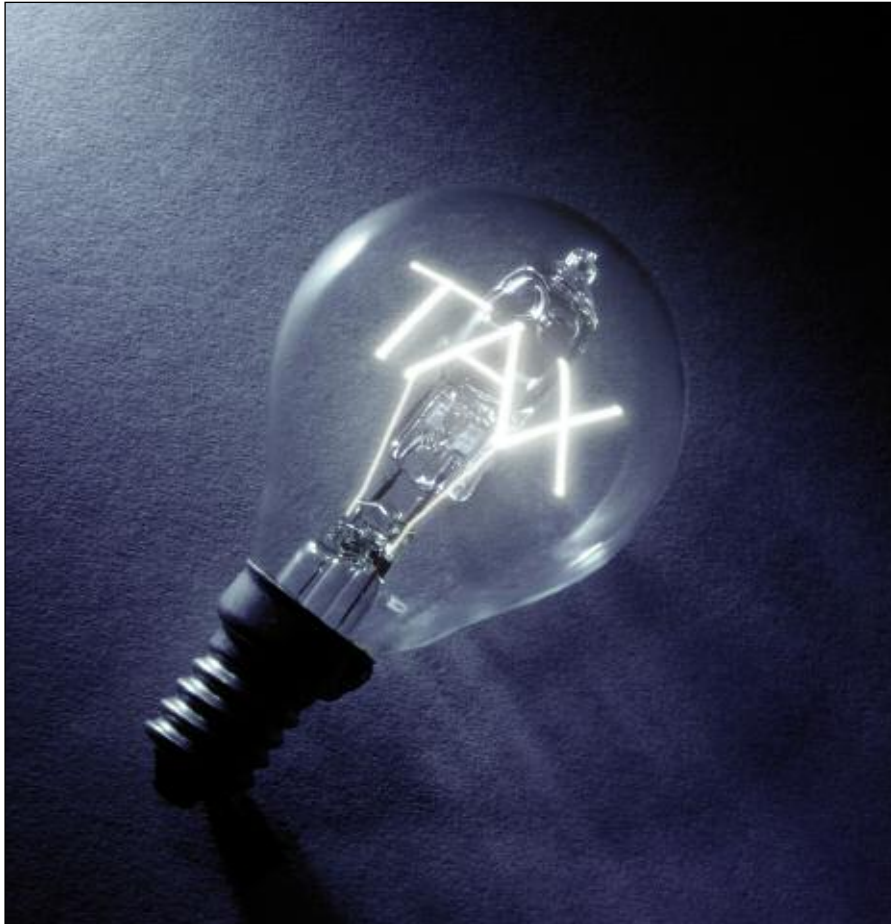
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Cross-border tax arrangements DAC6



**By Donna Barratt (GI),
Senior Associate, PwC**

The EU Council Directive 2011/16 (as amended by EU Council Directive 2018/822) in relation to cross-border tax arrangements, known as DAC6, has been in force since 25 June 2018 and it aims at transparency and fairness in taxation.

DAC 6 imposes a new obligation on EU-based tax consultants, banks, lawyers, and other intermediaries to disclose any cross-border arrangement that contains one or more features or “hallmarks,” if they are identified as intermediaries for the purposes of the Directive

There is no requirement to report on purely domestic arrangements and VAT, customs and excise duties are also outside the scope of the new reporting

regime. The reporting obligations only arise if one or more of these hallmarks is triggered. There are 2 types of ‘hallmarks’ – known as generic and specific hallmarks.

Generic hallmarks can be used by the authorities to catch new and innovative tax planning arrangements which may confer other benefits that do not give rise to obtaining a tax advantage and that is why they cannot be viewed in isolation, but must be considered along with the main benefits test (MBT).

Specific hallmarks are used to target known vulnerabilities in the tax system and techniques that are commonly used in tax avoidance arrangements such as loss creation. There are also specific hallmarks that look to hinder automatic exchange of information or beneficial ownership reporting, and transfer pricing.

The hallmarks themselves are categorised:

Category A

Generic hallmarks – require MBT consideration

Examples would be the use of standardised documentation and or structure which is made available to more than one taxpayer, a confidentiality condition or an arrangement where the intermediary is entitled to receive a fee based on the tax advantage received.

Category B

Specific hallmarks – require MBT consideration

Examples may be loss creation or buying a loss-making company to exploit its losses; converting income to capital; back to back intercompany loans with no other commercial function.

Category C

Specific hallmarks for cross border transactions – some hallmarks require MBT consideration, others do not

Examples may be deductible cross-border payments between associated enterprises where the recipient is essentially subject to no tax, zero or almost zero tax. Another hallmark is about deductions for the same depreciation on an asset claimed in more than one jurisdiction.

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Category D

Specific hallmarks for automatic exchange of information and beneficial ownership – no MBT consideration

Arrangements which have the effect of undermining reporting requirements such as by reclassifying products into other types of income not reportable under automatic exchange of information rules or by transferring assets out to jurisdictions that are not bound by the same rules. Setting up structures that obscure the actual ultimate beneficial owner by use of blacklisted jurisdictions.

Category E

Transfer pricing – no MBT consideration

Examples might be the use of transfer pricing safe harbour rules or transfer of hard to value intangibles where there is no reliable comparable data.

Main benefit test

The main benefit test will be met if it can be established that the main benefit (or one of the main benefits) will be that the arrangement will reasonably mean that a person could obtain a tax advantage. However, the presence of certain conditions (such as the recipient being in a jurisdiction that doesn't impose corporate tax or at a very low rate, the payment benefitting from a full exemption from tax or from a preferential regime in the other jurisdiction) doesn't in itself mean that the main benefits test is satisfied.

Conclusion

As can be seen from the examples, the directive's scope is necessarily wide, and the hallmarks are vague, which can make it difficult for taxpayers and intermediaries to know whether to report. Indeed, it is possible that a taxpayer may accidentally fall into this reporting regime by following a tax

strategy which includes one or more of the hallmarks discussed which, despite the main benefit test, means they will be required to report. It is important to note that DAC6 applies retrospectively and applies to all cross-border arrangements between 25 June 2018 and 1 July 2020, with reporting starting on 1 July 2020.

This article summarises the key points. It is intended to provide a general guide to the subject matter and is in a condensed form. It should not be regarded as a basis for ascertaining the liability to tax or report in specific circumstances. Seeking professional advice is recommended.

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