
HM GOVERNMENT OF GIBRALTAR

COMMISSIONER OF INCOME TAX

GUIDANCE ON ACCRUED AND DERIVED 2018

Introduction

1. This Guidance is issued by the Commissioner of Income Tax¹ (“the Commissioner”) in relation to the principles which are implemented by the Income Tax Office² (“ITO”) in determining whether income is “accrued in and derived from” Gibraltar.
2. This Guidance is intended to complement and be read alongside the provisions of—
 - (a) the Income Tax Act 2010 (“ITA”), and
 - (b) the Income Tax (Tax Rulings) Rules 2018 (“ITTRR”).
3. The purpose of this Guidance is to inform the interpretation and application of the law to specific factual situations. Nothing in this Guidance derogates, or requires or permits the Commissioner to derogate or deviate, from the provisions of any enactment. (See further paragraphs 4 to 12 below.)

Basis of issue

4. The Commissioner issues this Guidance—
 - (a) in pursuance of the duty under section 2(2) of ITA³, and
 - (b) in accordance with rule 11 of ITTRR.
5. The Commissioner approaches the performance of the duty under section 2(2) of ITA intending—

¹ The Commissioner of Income Tax is a public officer designated under section 2(1) of the Income Tax Act 2010.

² The staff of the Commissioner of Income Tax are referred to collectively as the Income Tax Office.

³ “The Commissioner shall be responsible for the assessment and collection of Income Tax ...”.

“to set about this task pragmatically and to have regard to principles of good management”⁴.

6. The Commissioner’s best-practice aims include engaging with an individual taxpayer (actual or potential) to the extent that the taxpayer desires engagement and the Commissioner is satisfied that the engagement—
 - (a) enhances transparency and accountability in the exercise of his functions,
 - (b) aids clarity for the mutual benefit of taxpayers and the revenue of Gibraltar,
 - (c) does not fetter the Commissioner’s discretion, and
 - (d) does not purport to vary the effect of fiscal legislation⁵.
7. Although this guidance is issued in accordance with rule 11 of the ITTRR it reflects the Commissioner’s general understanding of the law in relation to the principle of accrual and derivation of income; taxpayers can expect the principles set out in this Guidance to be applied consistently throughout the Commissioner’s fiscal responsibilities.

Relevant strategies

8. This Guidance is issued under ITTRR as part of the Commissioner’s public service strategy.
9. This Guidance also forms part of the Commissioner’s approach to performing his functions in a transparent manner.

⁴ *R. (on the application of Wilkinson) v Inland Revenue Commissioners* [2003] EWCA Civ 814, at [45].

⁵ In providing tax rulings in accordance with this Guidance, the Commissioner will follow the principles laid out by the England and Wales Court of Appeal in *Wilkinson* (supra), and will perform the collection and management functions in an open and transparent manner, but not in any way purport to provide rulings that change the effect of provisions of fiscal legislation (whether by way of granting concessions or by way of addressing potential shortcomings).

Scope

10. In accordance with rule 11 of ITTRR this Guidance is a statement of the principles which are implemented by the ITO in determining whether income is “accrued in and derived from” Gibraltar.
11. This Guidance is not intended as a summary of any provision of ITA or ITTRR.
12. This Guidance does not purport to alter, or have the effect of altering, the meaning and effect of any provision of ITA or ITTRR (or of any other enactment).

Duration

13. This Guidance comes into force on issue and remains in force until replaced or revoked by later Guidance.

Citation

14. This Guidance may be cited as the **Guidance Accrued and Derived 2018**.

List of Abbreviations

15. The following abbreviations are used in this Guidance.

<i>Abbreviation</i>	<i>Meaning</i>	<i>Source</i>
Commissioner	Commissioner of Income Tax	ITA s.2(1)
ITA	Income Tax Act 2010	/
ITO	Income Tax Office	/
ITTRR	Income Tax (Tax Rulings) Rules 2018	/

INTERPRETATION OF “ACCRUAL AND DERIVATION” OF INCOME

Introduction

16. This Guidance complies with rule 11(2) of ITTRR by setting out the principles the ITO will apply in determining whether income is “accrued in and derived from” Gibraltar.⁶
17. For the avoidance of doubt, this Guidance is subject to rules expressly stated in ITA for determining circumstances in which receipts are to be treated as accruing and deriving in Gibraltar; in particular—
- (a) Class 1A of Table C in Schedule 1 to ITA taxes “interest paid or payable by a company to another company arising from a loan or advance between these companies” (subject to a de minimis threshold of £100,000 per annum) and provides that “interest will be deemed to accrue and derive in Gibraltar where the company in receipt of the interest is a company registered in Gibraltar”; and
 - (b) Class 3A of that Table taxes “royalties received or receivable by a company” and provides that “royalties will be deemed to accrue and derive in Gibraltar where the company in receipt of the royalty is a company registered in Gibraltar”.

Illustrations of the chargeability to tax of interest income can be found in Examples 6 -7 in the Appendix. An illustration of the chargeability to tax of royalty income can be found in Example 8 in the Appendix.

18. The principal source of statutory guidance on the meaning of accrual and derivation for general purposes is section 74 of ITA which provides as follows—

“74. “Accrued in and derived from” shall—

- (a) be defined by reference to the location of the activities which give rise to the profits;
- (b) for the purpose of (a), the activities which give rise to the profits of the business shall be deemed to take place in Gibraltar in the case of—

⁶ Section 11 ITA sets out the basic rules for the charge to income tax, deploying the concept of income accruing in or deriving from Gibraltar.

- (i) a business whose underlying activity that results in the income requires a licence and regulation under any law of Gibraltar; or
- (ii) a business which can lawfully be transacted in Gibraltar, through a branch or any form of permanent establishment, by virtue of the fact that it is licensed in another jurisdiction which enjoys passporting rights into Gibraltar and which would otherwise require such licence and regulation in Gibraltar;

(c) subsection (b) shall not apply to any branch or permanent establishment of a Gibraltar company undertaking activities outside Gibraltar to the extent of the activities so conducted outside Gibraltar;”.

19. In accordance with the principles of consistency and transparency, determinations of the ITO in the application of the concepts of accrual and derivation are drawn from judicial guidance given in decided cases which have long been regarded as fundamental to fiscal policy in Gibraltar.

The basic rule

20. **The basic rule is that in deciding whether or not profits of any person (as defined in ITA s.74) accrue in and are derived from Gibraltar, the ITO will look at what the person has done, or proposes to do, to earn the profits in question, and where the person has done it, or intends to do it.**

Leading cases

21. In particular, the ITO will apply principles derived from jurisprudence of the Privy Council in the following cases, which have always been accepted by the Commissioner as being authoritative in Gibraltar in accordance with the general principles of Gibraltar law—

(a) *Commissioner of Inland Revenue v Hang Seng Bank Ltd*⁷ (“*Hang Seng*”),

(b) *Commissioner of Inland Revenue v HK-TVB International Ltd*⁸ (“*HK-TVB*”),
and

(c) *Commissioner of Inland Revenue v Orion Caribbean Ltd (in voluntary liquidation)*⁹ (“*Orion Caribbean Ltd*”).

22. In applying, or adopting principles from, cases in other jurisdictions the ITO will, in particular, look at decisions dealing the issue of the “source” of profits. The word “source” is not used in this context in ITA, but the ITO will treat the questions set out in paragraph 20 as capable of being the same as, or similar to, questions arising in other jurisdictions about the source of income¹⁰.

Hang Seng distinction – location of business v location of profits

23. The ITO notes in particular that in *Hang Seng* a distinction was drawn between—

(a) profits of a trade, profession or business carried on in the jurisdiction, and

(b) profits arising in or deriving from the jurisdiction.

24. It follows that profits from a trade, profession or business carried on by a taxpayer in Gibraltar might have arisen in or accrued from different sources, from Gibraltar or not. Only those that accrue in and derive from Gibraltar are taxable in Gibraltar. By way of example, in the Appendix to this Guidance Examples 1, 2 and 4 provide illustrations of profits accruing in and deriving from Gibraltar (which are taxable in Gibraltar), while

⁷ [1990] STC 733.

⁸ [1992] STC 723.

⁹ [1997] STC 9.

¹⁰ See, for example, *Nathan v. FCT* [1918] 25 CLR 183 at 189-190, per Isaacs J: “The Legislature in using the word ‘source’ meant, not a legal concept, but something which a practical man would regard as a real source of income. Legal concepts must, of course, enter into the question when we have to consider to whom a given source belongs. But the ascertainment of the actual source of a given income is a practical, hard matter of fact”. In addition, *CIR v. Philips Gloeilampenfabrieken* [1955] NZLR 868, per Barrowclough CJ at 874: “The concept of derivation seems necessary to imply the concept of a source”.

Examples 3 and 5 illustrate profits which are not accrued in and derived from Gibraltar (and which are not taxable in Gibraltar).

Method of analysis

25. In *Hang Seng* it was held that the question as to where the profits resulting from a particular transaction accrued in and derived from, is always dependent on the nature of the transaction. Lord Bridge said that—

“the broad guiding principle, advocated on the attestation of many authorities, is that one looks to see what the taxpayer has done to earn the profits in question”.

26. This is only a broad principle as it is always—

“in the last analysis a question of fact depending on the nature of the transaction. It was impossible to lay down precise rules by which the answer to that question was to be determined.”

27. The approach to interpreting *Hang Seng* in *HK-TVB* was to explain the guiding principle as:

“one looks to see what the taxpayer has done to earn the profit in question and where he has done it”.

28. The proper approach, and the approach which the ITO will take, is therefore to ascertain which operations produced the relevant profits and where those operations took place.

29. In the implementation of that approach and of the broad guiding principle, the ITO will take into consideration, as far as is possible, specific judgments in applicable case law including those set out in this Guidance.

Establishing location

30. The focus is on establishing the geographical location of the activity that produced the profit for the transaction and not the activities which are antecedent or incidental to those transactions. This requires an accurate legal analysis of the transaction.
31. It is not possible for the ITO to set out specific rules to cater for every circumstance as each individual case will turn on its particular set of facts.

Specific circumstances

32. Notwithstanding paragraph 31 above, the judicial decisions referred to above provide further guidance in respect of specific circumstances.
33. The ITO notes that in *Hang Seng Lord Bridge* suggested that—

“if [the taxpayer] rendered a service or engaged in an activity such as the manufacture of goods, the profit will have arisen or derived from the place where the service was rendered or the profit making activity carried on. But if the profit was earned by the exploitation of property assets as by letting property, lending money or dealing in commodities or securities by buying and selling at a profit, the profit will have arisen in or derived from the place where the property was let, the money was lent or the contracts of purchase and sale were effected”.

Rendering of services

34. In respect of the concept of “rendering a service”, the ITO refers to the judgement in *HK-TVB* where the aforesaid concepts were explored further. In this case it was held that “rendering a service” meant a positive activity and not merely forbearing to sue; it cannot be assumed that a mere forbearing to sue produces profit. The ITO notes the example given in this case of “rendering a service” as the oversight of a Hong Kong-based engineer of a civil engineering project in another country or a salvage operation taking place outside the territorial waters of the taxpayer’s home country.

35. In respect of the provision of services by a company, the ITO will take into account all the relevant considerations and in particular the geographical location where all the income-generating activities (as distinct from back-office or administrative support functions) take place in order to determine the place where the actual services which give rise to fees are performed.

Illustrations of the chargeability to tax of fees received for consultancy services can be found in Examples 9-10 in the Appendix.

Income from services generated partly in Gibraltar and partly outside

36. A company may have some income accruing in and derived from Gibraltar and some distinctively separate income accruing in and derived from elsewhere. Each class of income will be treated separately, and that part which accrues in and derives from Gibraltar will be taxable in Gibraltar.

Example 11 in the Appendix to this Guidance illustrates the point with a company providing consultancy services, where services are provided by two directors with customers in Gibraltar and elsewhere. Fees received from services provided in Gibraltar to customers located in Gibraltar are treated as accruing in and deriving from Gibraltar and are chargeable to tax in Gibraltar. Fees received from customers located outside Gibraltar, where the services were provided by the directors outside Gibraltar, are not deemed to accrue in and derive from Gibraltar.

37. In contrast to paragraph 36, in a situation where services are partly rendered in Gibraltar and partly in a place other than Gibraltar, the ITO will consider the whole of the services to have been undertaken in Gibraltar and all of the income from the provision of these services is treated as accruing in and deriving from Gibraltar. Example 12 in the Appendix illustrates this point.

Sales and Letting of Property

38. With regard to the letting of property, the ITO notes that Lord Jauncey suggested in *HK-TV B* that when Lord Bridge used the words “place where the property was let” he must have been referring to the place where the property let was situated and not the place or places where the lease happened to have been signed.
39. Lord Jauncey held that profits accruing to a resident taxpayer from the sale of foreign immovable property are likely to arise in the country where that property is situated although both the contracts of purchase and sale thereof are made in the country of residence of the taxpayer.

Illustrations of the chargeability to tax of income from property, both moveable and immovable, can be found in Examples 1-5 in the Appendix.

Trading Profits

40. The ITO will take into account all relevant considerations including (but not limited to) the geographical location in respect of —
- (a) the solicitation of orders,
 - (b) negotiation of contracts,
 - (c) conclusion of contracts,
 - (d) trade financing,
 - (e) shipment, and
 - (f) other aspects of contractual performance.

In a situation where part of the income generating activities from trading activities take place in Gibraltar, the ITO will consider the whole of the trading activity to have been

undertaken in Gibraltar and all of the income from the trading activity is treated as accruing in and deriving from Gibraltar.

Illustrations of the chargeability to tax of income from intermediary activities, namely trading of products and supply of equipment, can be found in Examples 13 and 16-19 in the Appendix.

Manufacture in Gibraltar

41. Where any goods are manufactured in Gibraltar, following the judgement in *HK-TV*, the presumption by the ITO will be that profits arising from the sale of such goods are fully taxable in Gibraltar as the profit making activities are considered to be the manufacturing operations carried out in Gibraltar.

Illustrations of the chargeability to tax of income from manufacturing of goods can be found in Examples 14-15 in the Appendix.

Investment decisions

42. It was held in *Hang Seng* that just because investment decisions were made in the taxpayer's resident country, this does not necessarily mean that the profits accrue and derive in that same country. Investment decisions will therefore not generally determine the locality of the profits.

Presumptions

43. Having considered the applicable case law, the ITO will apply a presumption that sources of income derived from the following categories **do not accrue in or derive from Gibraltar for the purposes of ITA**—

(a) the letting of property where that property is outside Gibraltar;

(b) salvage operations which take place entirely outside the jurisdiction; or

- (c) the oversight of a construction operation, where the oversight function is performed entirely outside Gibraltar;

Case-specificity

- 44. It is important to note that the principles and judgements outlined above are not intended to be a definitive statement of the law; each case will turn on its facts.
- 45. No simple, single, legal test can be employed, and the ITO will consider the facts of each case and each transaction or matter.
- 46. Such principles will nonetheless serve as useful guidance as to the considerations that the ITO will take into account when determining whether income is “accrued in and derived from” Gibraltar.
- 47. The Guidance, including its examples, will be taken into account by the ITO when determining whether income is “accrued in and derived from” Gibraltar, but each case will necessarily be a question of fact depending on the nature of the transaction or matter.

Examples

- 48. The Appendix shows examples of the application of the principles set out in this Guidance.

Issued by the Commissioner for Income Tax

[Date]

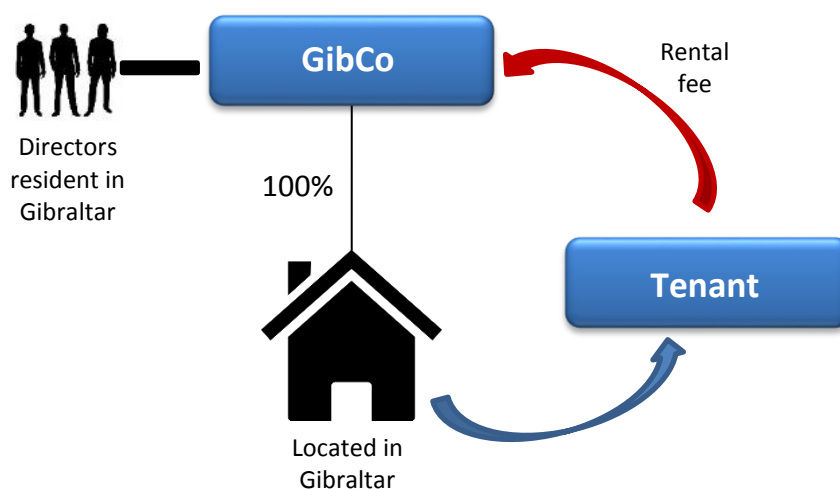
APPENDIX TO GUIDANCE ON ACCRUED AND DERIVED
EXAMPLES

Property

1. Property in Gibraltar – Directors resident in Gibraltar

Paragraphs 38 and 39 of the Guidance. Also referred to in Paragraph 24 of the Guidance.

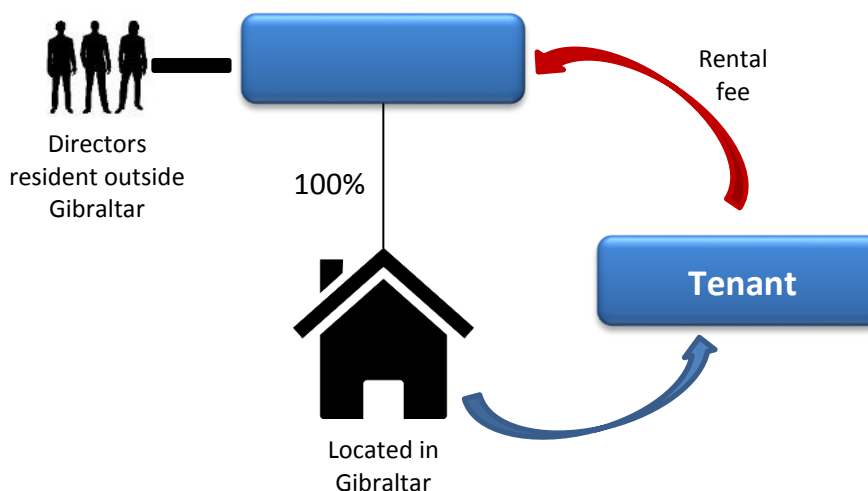
A Gibraltar company (“**GibCo**”) owns a residential property in Gibraltar which it rents out. GibCo’s directors are resident in Gibraltar. Any rental income received by GibCo is generated in Gibraltar and would be chargeable to tax in Gibraltar.



2. Property in Gibraltar – Directors resident outside Gibraltar

Paragraphs 38 and 39 of the Guidance. Also referred to in Paragraph 24 of the Guidance.

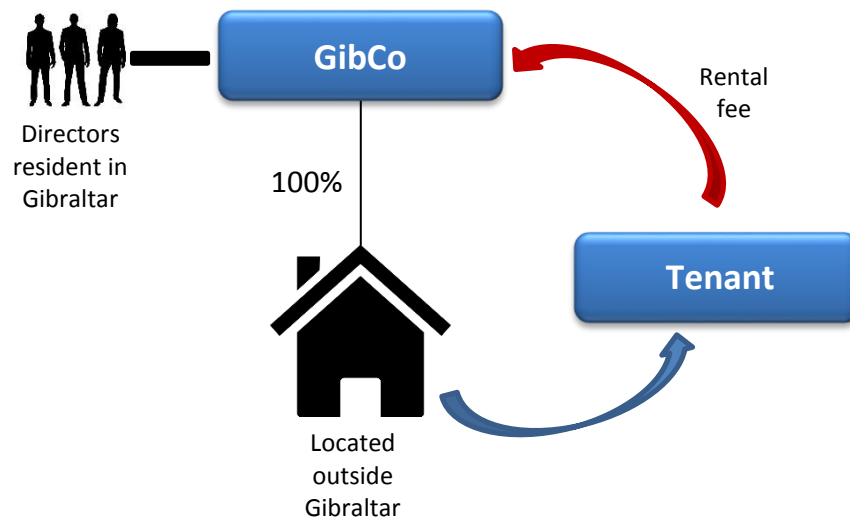
A Gibraltar company (“**GibCo**”) owns a residential property in Gibraltar which it rents out. GibCo’s directors are resident outside Gibraltar. Any rental income received by GibCo is generated in Gibraltar and would be chargeable to tax in Gibraltar.



3. Property outside Gibraltar - Directors resident in Gibraltar

Paragraphs 38 and 39 of the Guidance. Also referred to in Paragraph 24 of the Guidance.

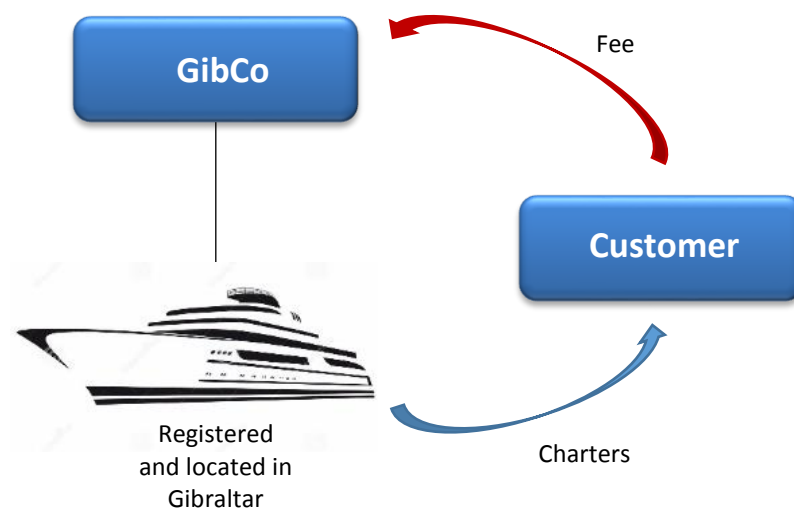
A Gibraltar company's ("GibCo") sole purpose is to own a residential property outside Gibraltar which it rents out. GibCo's directors are resident in Gibraltar. Any rental income received by GibCo is generated outside Gibraltar and therefore no income accrues in or is derived from Gibraltar.



4. Charter of vessels located in Gibraltar

Paragraphs 38 and 39 of the Guidance. Also referred to in Paragraph 24 of the Guidance.

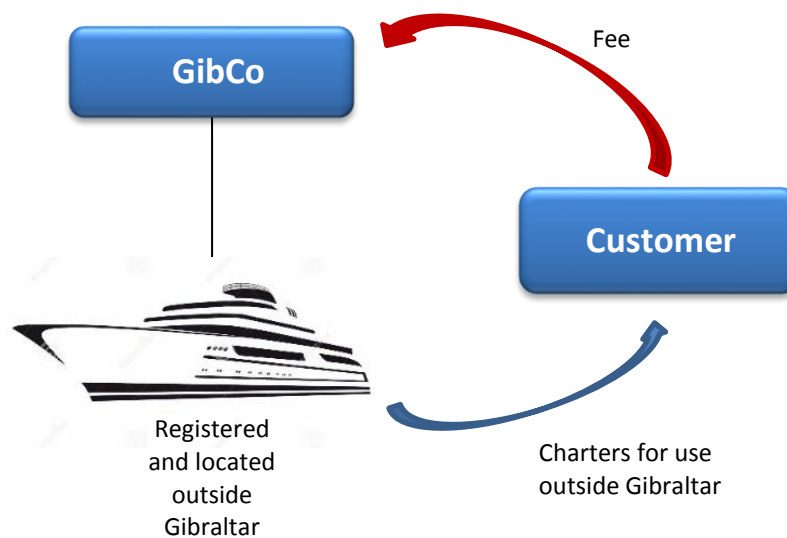
A Gibraltar company ("GibCo") holds a yacht registered and located in Gibraltar which it charters in return for a fee. The charter income received by GibCo would be deemed to accrue in and derive from Gibraltar and would be chargeable to tax in Gibraltar.



5. Charter of vessels located outside Gibraltar

Paragraphs 38 and 39 of the Guidance. Also referred to in Paragraph 24 of the Guidance.

A Gibraltar company (“**GibCo**”) holds a vessel registered and permanently moored outside Gibraltar which it charters to customers outside Gibraltar for use outside Gibraltar in return for a fee. The charter income is generated outside Gibraltar and therefore is not accrued in or derived from Gibraltar.

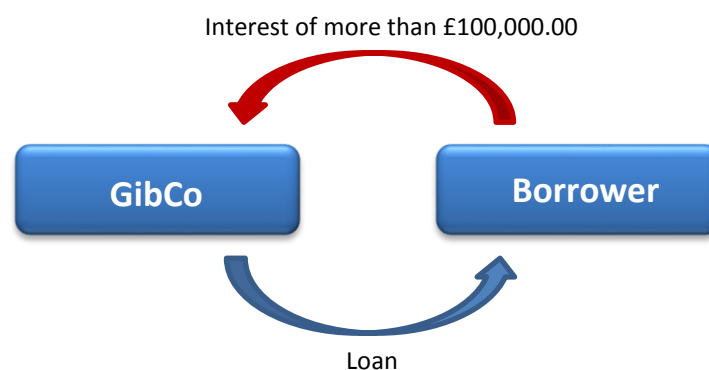


Interest

6. Inter-company interest of more than £100,000.00 per annum

Paragraph 17(a) of the Guidance

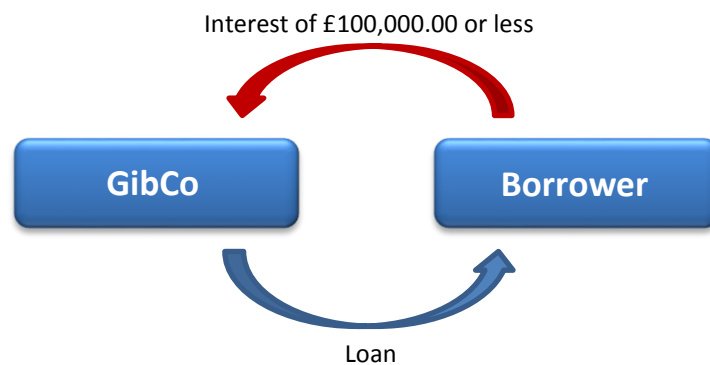
A Gibraltar company (“**GibCo**”) has provided an interest bearing loan to another company and the loan is not granted in the course of money lending activities as set out in Schedule 3, Part III of the ITA. The interest received (or receivable) by GibCo is more than £100,000.00 per annum. All inter-company interest received by a Gibraltar registered company is deemed to accrue in and derive from Gibraltar. As the interest received by GibCo exceeds £100,000.00, and does not fall within the exemption under Schedule 1, Table C, Class 1A of the ITA, the entirety of such interest would be chargeable to tax in Gibraltar.



7. Inter-company interest of £100,000.00 or less per annum

Paragraph 17(a) of the Guidance

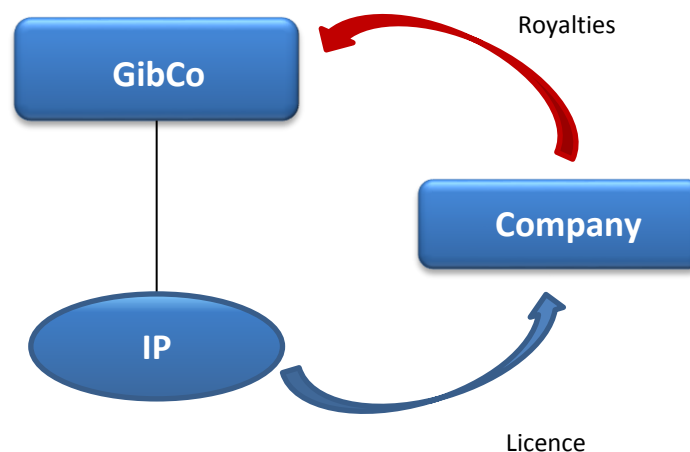
A Gibraltar company (“**GibCo**”) has provided an interest bearing loan to another company and the loan is not granted in the course of money lending activities as set out in Schedule 3, Part III of the ITA. The interest received (or receivable) by GibCo is £100,000.00 or less per annum. All interest income received by a Gibraltar registered company is deemed to accrue in and derive from Gibraltar. However, interest received (or receivable) by GibCo which amounts to £100,000.00 or less per annum is exempt from any charge to taxation in Gibraltar, pursuant to Schedule 1, Table C, Class 1A of the ITA, unless the loan is granted in the course of money lending activities as set out in Schedule 3, Part III of the ITA.



Royalties

Paragraph 17(b) of the Guidance

8. A Gibraltar company (“**GibCo**”) owns intellectual property rights (“**IP**”). GibCo grants a licence to another company (“**Licensee**”) for use of the IP and in return the Licensee pays GibCo royalties. Pursuant to Schedule 1, Table C, Class 3A of the ITA, royalties are deemed to accrue and derive in Gibraltar where the company in receipt of the royalties is a company registered in Gibraltar irrespective of where the Licensee is located or where the Licensee will make use of the IP. Accordingly, the royalties received by GibCo would be chargeable to tax in Gibraltar.

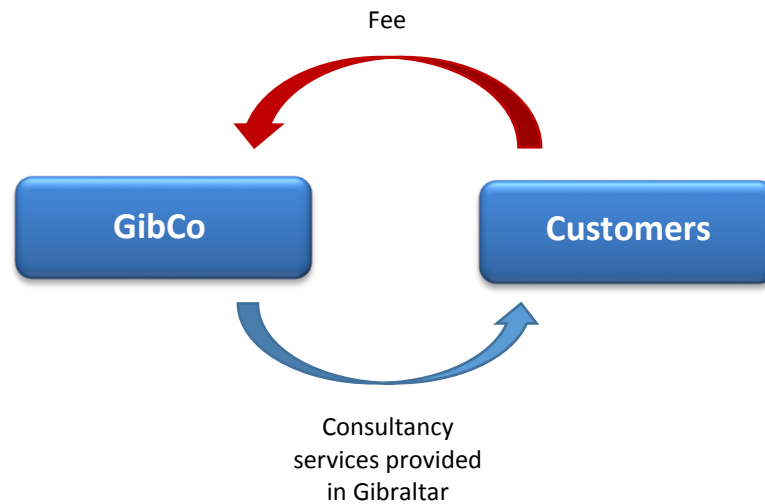


Consultancy

9. Consultancy services provided in Gibraltar

Paragraphs 34 and 35 of the Guidance

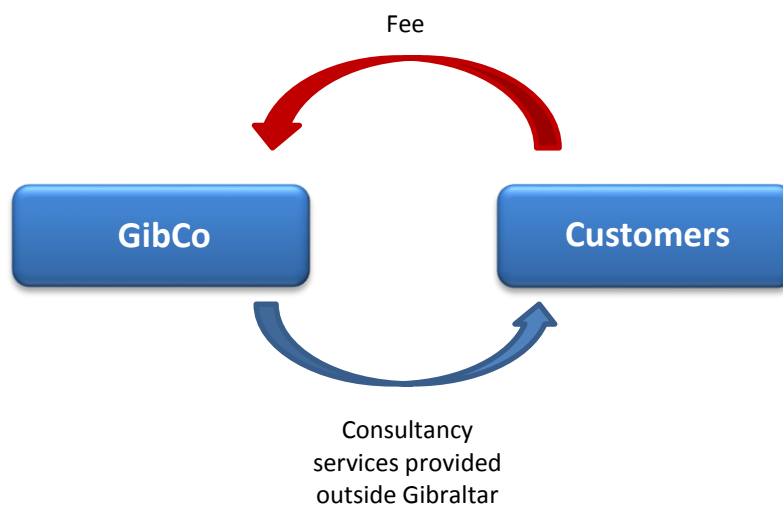
A Gibraltar company (“**GibCo**”) provides consultancy services for a fee. The expertise and the consultancy services are provided by the company’s director, who is based in Gibraltar, to customers in Gibraltar. Fees received from such customers are deemed to accrue and derive in Gibraltar.



10. Consultancy services provided outside Gibraltar

Paragraphs 34 or 35 of the Guidance

A Gibraltar company (“**GibCo**”) provides consultancy services for a fee. All the services are provided in person in the country where each respective customer is located, which customers are not located in Gibraltar. Fees received from such customers are not deemed to accrue and derive in Gibraltar.

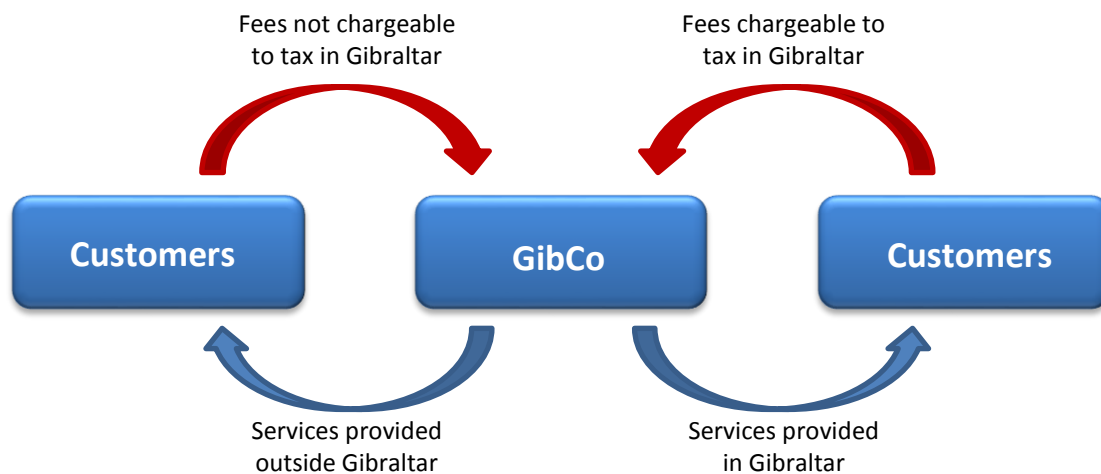


Part of income generated in Gibraltar, part of income generated outside Gibraltar

11. Consultancy services provided in Gibraltar and elsewhere by residents

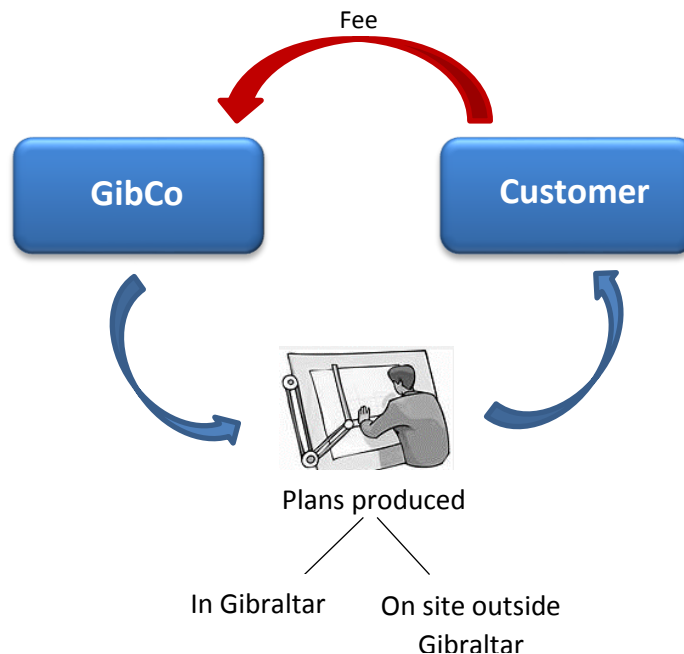
Paragraphs 36 of the Guidance

A Gibraltar company (“**GibCo**”) provides consultancy services for a fee. The expertise and the consultancy services are provided by the company’s two directors to customers in Gibraltar and customers in countries other than Gibraltar. The services are provided to the customers in their respective places of business. The income received by GibCo for the services provided outside Gibraltar is distinctively separate to the income received for the services provided in Gibraltar. Fees received from services provided to customers located in Gibraltar would be deemed to accrue in or derive from Gibraltar and would therefore be chargeable to tax in Gibraltar. Fees received from customers located outside Gibraltar, as the services were provided by the director(s) outside Gibraltar, are not deemed to accrue and derive in Gibraltar.



Paragraph 37 of the Guidance

12. A Gibraltar company (“**GibCo**”) provides architectural services for a single project to one customer in return for a fee. GibCo produces part of the plans in Gibraltar and the other part is produced on site outside Gibraltar. The services as a whole are treated as undertaken in Gibraltar and therefore all fees received from the provision of these services are deemed to accrue and derive in Gibraltar.

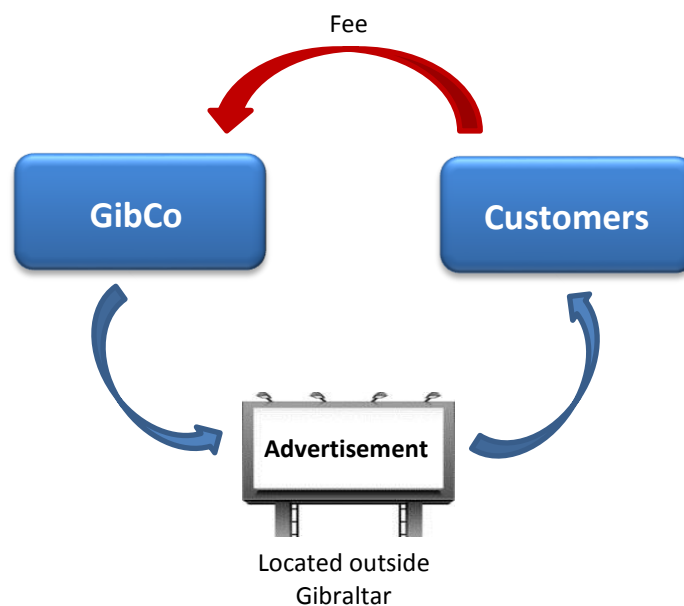


Marketing activities

13. **Marketing activities outside Gibraltar**

Paragraph 40 of the Guidance

A Gibraltar company (“**GibCo**”) provides marketing services outside Gibraltar in return for a fee. The company’s sole director, who is based outside of Gibraltar, negotiates and enters into contracts in respect of advertisements displayed outside Gibraltar. The negotiations are conducted in person in the country where each respective advertisement is located. The fee received by GibCo from such activities would not be deemed to accrue and derive in Gibraltar.

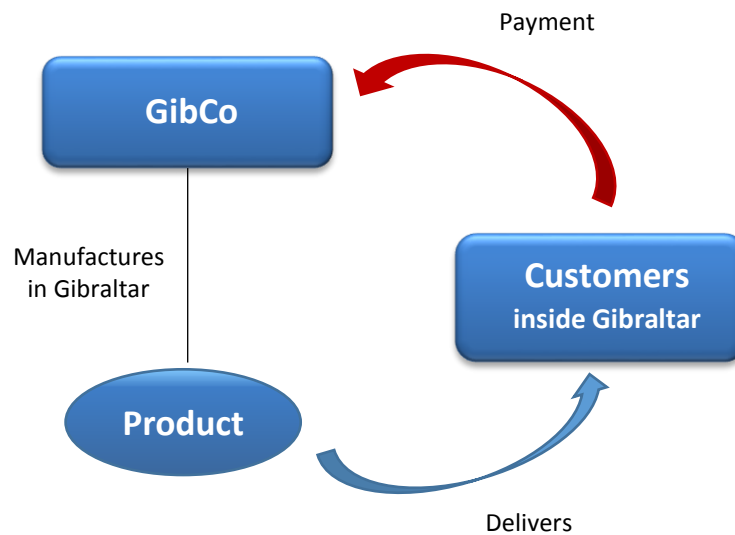


Manufacturing of goods

14. Manufacturing of products in Gibraltar and delivers to Gibraltar customers

Paragraph 41 of the Guidance

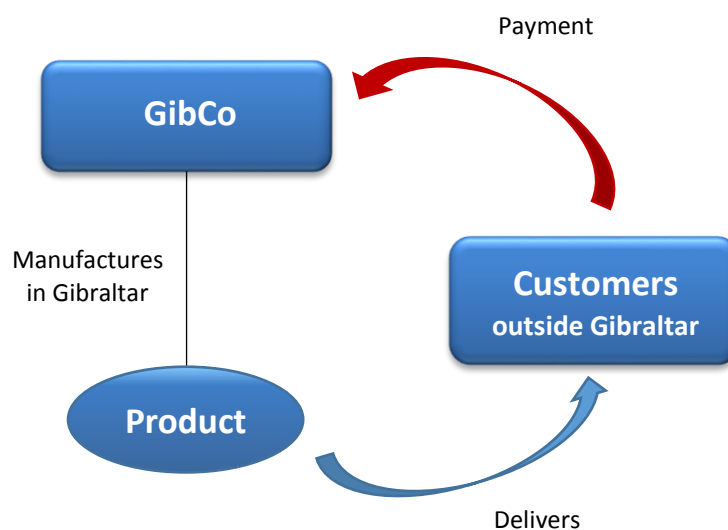
A Gibraltar company (“**GibCo**”) manufactures products in Gibraltar and sells the products to customers. The income received by GibCo from manufacturing and delivering the products is accrued in and derived in Gibraltar and would therefore be chargeable to tax in Gibraltar.



15. Manufacturing of products in Gibraltar and delivers to foreign customers

Paragraph 41 of the Guidance

A Gibraltar company (“**GibCo**”) manufactures products in Gibraltar and sells the products to customers located outside Gibraltar. The income received by GibCo from manufacturing and selling the products is accrued in and derived in Gibraltar and would therefore be chargeable to tax in Gibraltar. The location of the customer is therefore irrelevant.

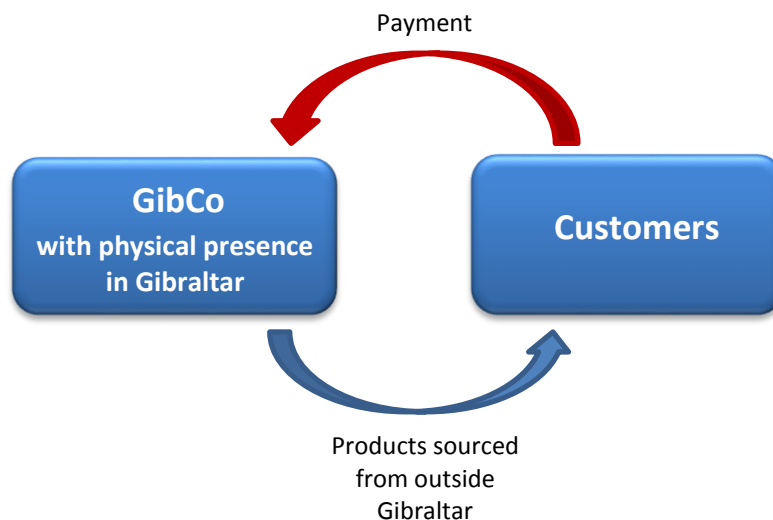


Intermediary activities

16. Trading of products – Physical presence in Gibraltar

Paragraph 40 of the Guidance

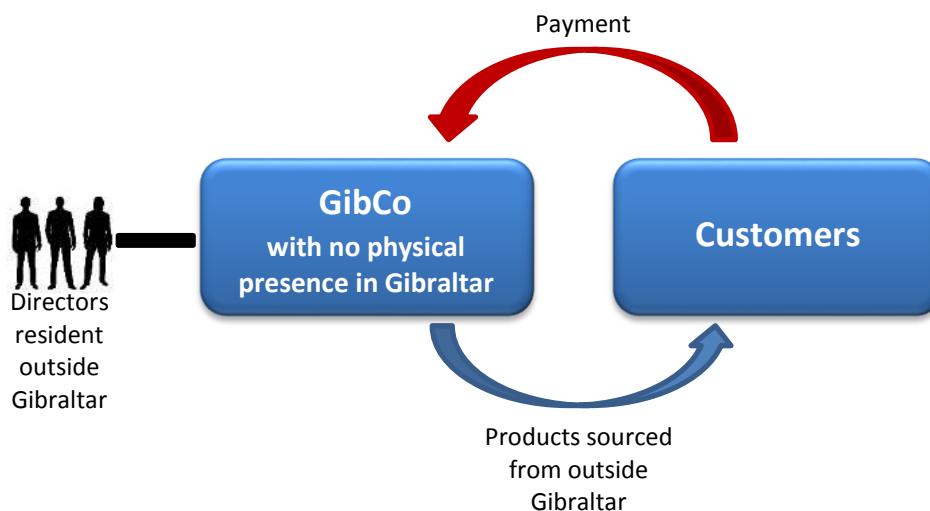
A Gibraltar company (“**GibCo**”) sells products to customers based outside Gibraltar. GibCo sources its products from other countries, and GibCo has a physical presence in Gibraltar in the form of a local premises from where it solicits orders, negotiates and concludes contracts. The company’s trading profits are chargeable to tax in relation to income received irrespective of whether the products are shipped to the customers from Gibraltar or from outside Gibraltar.



17. Trading of products outside of Gibraltar

Paragraph 40 of the Guidance

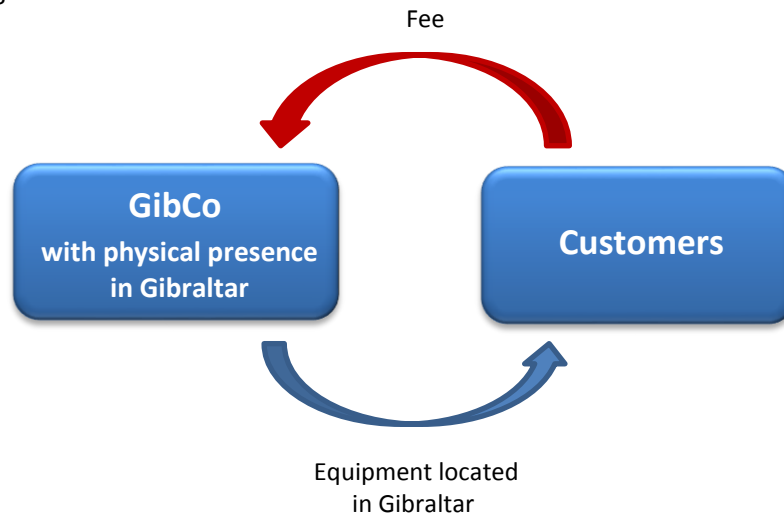
A Gibraltar company (“**GibCo**”) sells products sourced from other countries to customers who are located exclusively outside Gibraltar. GibCo does not have a physical presence in Gibraltar and the company’s two directors are based outside Gibraltar and conclude all contracts at the location of the customers. The products are shipped directly to GibCo’s customers and do not enter Gibraltar. The company’s trading profits are not taxable, as the trading profits received from its customers outside Gibraltar are deemed not to accrue in or derive from Gibraltar.



18. Supply of equipment – Gibraltar base

Paragraph 40 of the Guidance

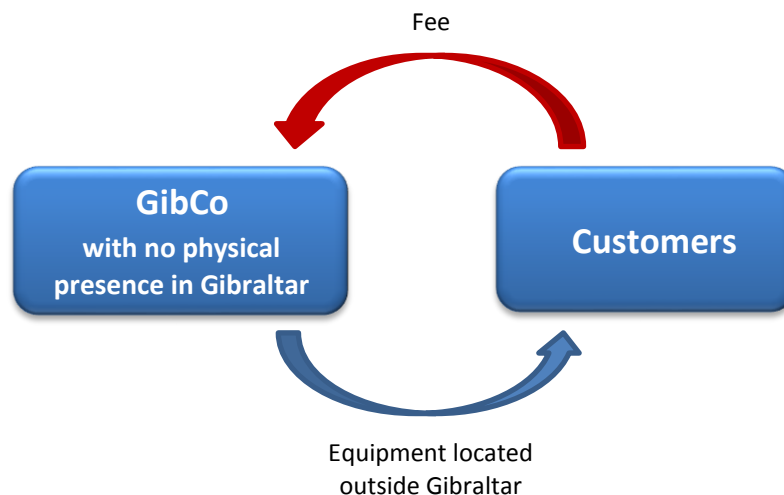
A Gibraltar company's ("GibCo") activity consists of the supply of equipment by way of rental to customers based in Gibraltar and outside in return for a fee. GibCo has a physical presence in Gibraltar in the form of a local premises from where it provides such services and stores the equipment. The company's profits from the rental would be deemed to accrue in and derive from Gibraltar and would therefore be chargeable to tax in Gibraltar.



19. Supply of equipment – foreign base

Paragraphs 40 of the Guidance

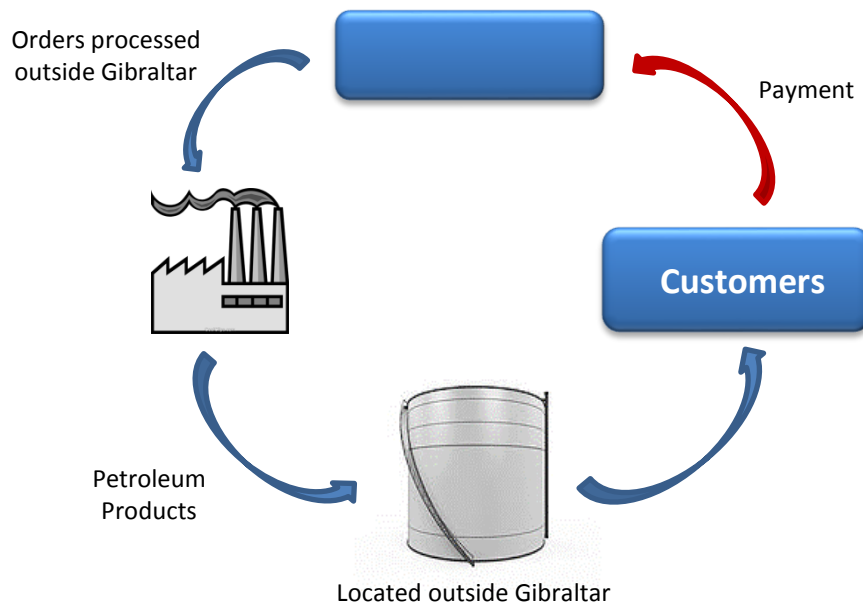
A Gibraltar company's ("GibCo") activity consists of the supply of equipment to the oil and gas industry. GibCo's customers are located exclusively outside Gibraltar and GibCo does not have a physical presence in Gibraltar. The company's sole director, who is based outside Gibraltar, runs the business of the company outside Gibraltar and the equipment belonging to the company is located outside Gibraltar. The company's profits from the lease of the equipment are not chargeable to tax, as the profits received from its customers outside Gibraltar do not accrue in or derive from Gibraltar.



Procurement of petroleum products

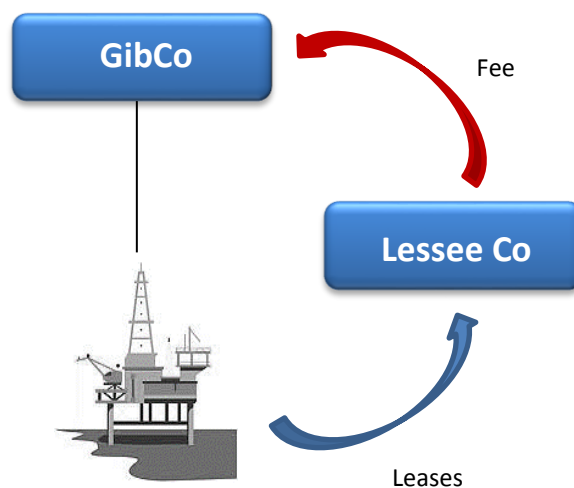
Paragraph 39 of the Guidance

20. A Gibraltar company (“**GibCo**”) sources petroleum products directly from refineries located outside Gibraltar. The directors of GibCo conduct business with the refineries directly, in the country where each such refinery is located. The products are delivered from GibCo’s storage terminals located outside Gibraltar to customers outside Gibraltar. All orders are processed outside Gibraltar. No income generating activities are carried out in Gibraltar, and therefore no income accrues or derives from Gibraltar.



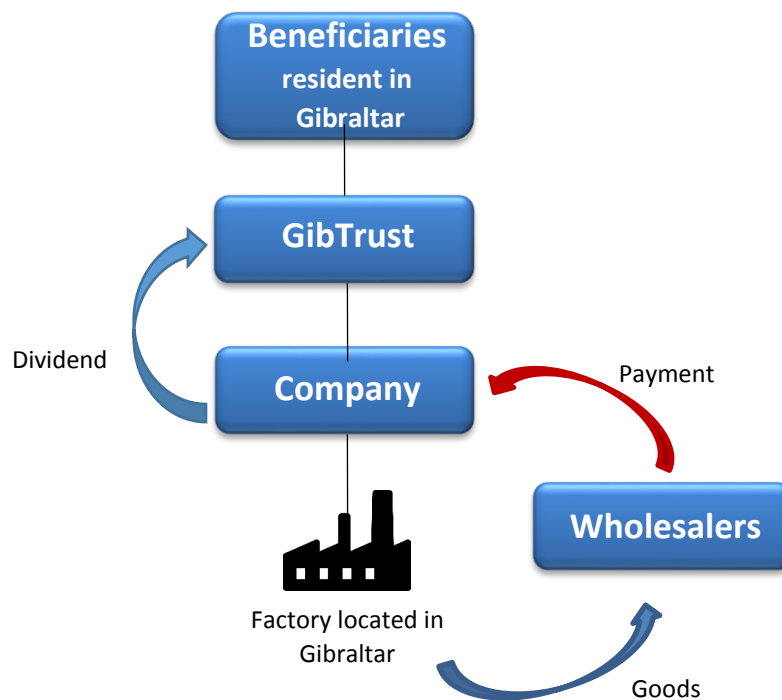
Paragraphs 37 and 38 of the Guidance

21. A Gibraltar company (“**GibCo**”) owns an oil rig which it leases to another company to perform mobile drilling services in foreign waters in return for a fee. No income generating activities are carried out in Gibraltar, and therefore no income accrues or derives from Gibraltar.

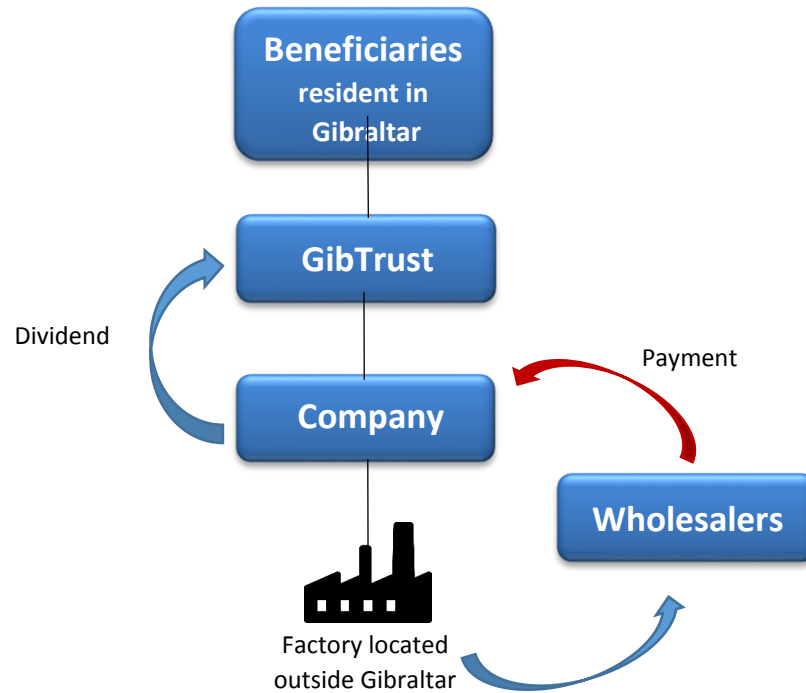


Gibraltar Law Trusts – Gibraltar Resident Beneficiaries

22. A Gibraltar law trust (“**GibTrust**”) with Gibraltar trustees and Gibraltar ordinarily resident beneficiaries owns a company (“**Company**”) which operates a factory situated in Gibraltar and sells its goods to wholesalers. The Company issues dividends to GibTrust. The income received by the Company from selling its goods is accrued and derived in Gibraltar and will be chargeable to tax in Gibraltar. The dividend received by GibTrust would be chargeable to tax in Gibraltar and a Tax Credit will be available to GibTrust.

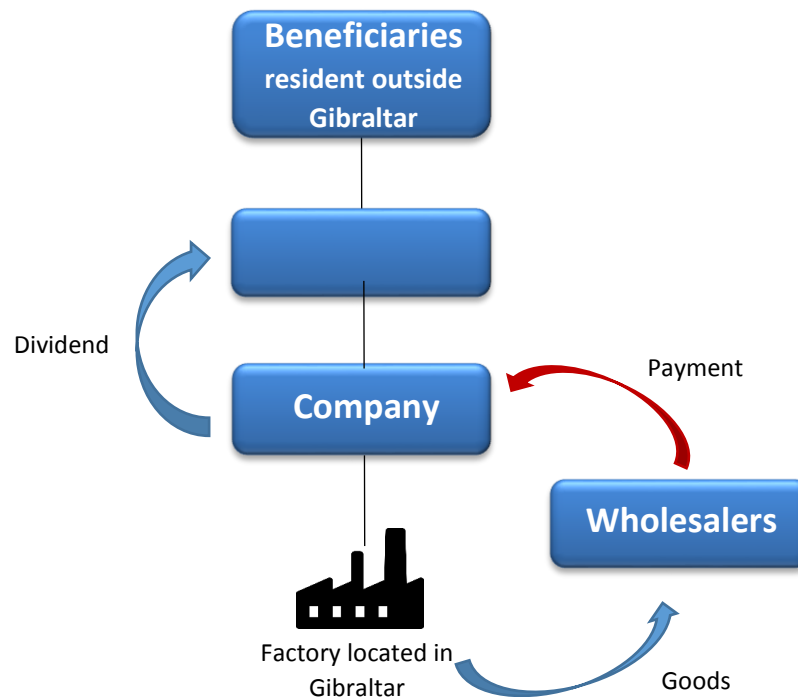


23. A Gibraltar law trust (“**GibTrust**”) with Gibraltar trustees and Gibraltar ordinarily resident beneficiaries owns a company (“**Company**”) which operates a factory situated outside Gibraltar and sells its goods to wholesalers. The Company issues dividends to GibTrust. The income received by the Company from selling its goods is not deemed to accrue in or derive from Gibraltar and is therefore not chargeable to tax. The dividend issued by the Company to the GibTrust will be exempt from tax in the hands of GibTrust as the underlying source of the income is not chargeable to tax in Gibraltar.



Gibraltar Law Trusts - Non-Gibraltar Resident Beneficiaries

24. A Gibraltar law trust ("**GibTrust**") with Gibraltar trustees and beneficiaries who are ordinarily resident outside Gibraltar owns a company ("**Company**") which operates a factory situated in Gibraltar and sells its goods to wholesalers. The Company issues dividends to GibTrust. The income received by the Company from selling its goods is accrued and derived in Gibraltar and will be chargeable to tax in Gibraltar. The dividend issued by the Company will be exempt from tax in the hands of GibTrust as the beneficiaries are not ordinarily resident in Gibraltar.



25. A Gibraltar law trust ("**GibTrust**") with Gibraltar trustees and beneficiaries who are ordinarily resident outside Gibraltar owns a company ("**Company**") which operates a factory situated outside Gibraltar and sells its goods to wholesalers. The Company issues dividends to GibTrust. The income received by the Company from selling its goods is not deemed to accrue in or derive from Gibraltar and is therefore not chargeable to tax. The dividend issued by the Company to the GibTrust will be exempt from tax in the hands of GibTrust as the underlying source of the income is not chargeable to tax in Gibraltar.

