



Supporting documentation Application for UK tax treaty relief UK/Gibraltar Double Taxation Agreement

The Income Tax Office in Gibraltar can only process a request under HMRC's **Form DT – Company**, in connection with an application for relief at source from UK income tax on interest payments made pursuant to the provisions of the Double Taxation Agreement in force between the UK and Gibraltar, subject to the following being provided:

1. A copy of the applicant company's –
 - Certificate of Incorporation; and
 - Memorandum & Articles of Association.
2. A certificate of good standing issued by the Company Registrar in Gibraltar.
3. A copy of the finance agreement under which the interest on which the relief is being sought is charged.
4. A letter issued by the directors of the applicant company, accompanied by a sworn statement in the form of an affidavit, or equivalent, signed by the applicant company's directors, stating that –
 - (a) the applicant company has held all board meetings for the accounting period for which the treaty relief is being sought in or from Gibraltar;
 - (b) the applicant company's directors are ordinarily resident in Gibraltar as defined in section 74 of the Income Tax Act 2010;
 - (c) the applicant company is subject to tax on a territorial basis in accordance with the provisions of the Income Tax Act 2010 and within the scope of the definition of the term "resident of a territory" for the purposes of Article 4 of the Double Taxation Agreement between the UK and Gibraltar and the corresponding OECD Commentary;
 - (d) the applicant company has not made a similar claim or is subject to treaty residence in any jurisdiction other than Gibraltar;
 - (e) the applicant company is solely resident in Gibraltar.
 - (f) the applicant company meets the following criteria:
 - (i) it is within the scope of the definition of a "person" for the purposes of the Double Taxation Agreement between the



UK and Gibraltar and the corresponding OECD Commentary;

- (ii) it is “resident” as defined by Article 4 of the Double Taxation Agreement between the UK and Gibraltar and paragraph 8.3 of the Commentary on Article 4 of the Model Convention with respect to taxes on income and capital;
- (iii) in the event the applicant company is borrowing to finance the provision of a loan, the spread between the interest rates charged is at arm’s length, either by virtue of there being no loans or borrowing from connected parties or in cases where connected parties are involved, the spread is calculated by reference to the approved transfer pricing methods allowed by and in a manner consistent with the OECD Transfer Pricing Guidelines applicable at the time of entering the loan arrangements;
- (iv) it is the beneficial owner of the interest;
- (v) as beneficial owner of the interest it falls within the classification provided in Article 11(3)(a) of the Double Taxation Agreement between the UK and Gibraltar, including which classification it is, and therefore eligible for the treaty relief.

[End]