

CATEGORY 2 INDIVIDUALS AND RESIDENCY

There has been a continuous increase in the demand for the status of High Net Worth Individual (HNWI) residency in Gibraltar. The status of HNWI was introduced in February 1992 by the Government of Gibraltar through the introduction of new low tax limits for HNWIs in order to encourage wealthy individuals to establish a residence in Gibraltar. These rules, forming part of the Income Tax Act, have been reviewed and promulgated several times resulting in the current Qualifying (Category 2) Individuals Rules 2004 (as amended). Although these rules revoke and replace the earlier Rules and provide amongst other changes, higher rates of tax, endorsements of certificates and an increase in fees, they do not significantly alter the original concept of HNWIs as contained in the Qualifying (High Net Worth) Individuals Rules 1992.

This article considers the implications of the Rules and establishes the criteria that will be implemented in applying for the status. Initially referred to, under the 1992 Rules, as HNWIs, these have been recognised, since 1999, as **Category 2 Individuals**.

BENEFITS

The benefits of the Category 2 status and residency in Gibraltar are attractive for individuals from countries where levels of personal income tax are particularly high, such as Britain, Germany, Canada, Switzerland and France.

A Category 2 Individual will have their Gibraltar tax capped to the maximum calculated on the first £70,000 of assessable income, with a minimum tax payable per annum of £20,000. In the first year of assessment the minimum tax payable under the new Rules shall be £1,666.67 (1/12) for each complete or part month for which the certificate is in force in that fiscal year.

REQUIREMENT FOR APPLICATION

An application for Category 2 status is made to the Finance Centre Director and if successful a Qualifying (Category 2) Individual Certificate under the Qualifying (Category 2) Individuals Rules 2004 of the Income Tax Act will be issued. In order for an individual to qualify for Category 2 status he will be required pursuant to the current Rules to have available for his exclusive use approved residential accommodation in Gibraltar for the whole of the year of assessment (July to June).

In addition, an applicant must submit a Curriculum Vitae detailing his qualifications, source of wealth and income, work experience and two references to vouch for his good financial standing and repute. One must be from a Banker confirming that the individual's financial status is in excess of £2,000,000. A copy of the applicant's passport must be included together with evidence of the ownership or rental of property.

There are particular property developments within Gibraltar which have been identified by the Finance Centre Director as being suitable for these purposes. A non-refundable application fee of £1,000 is payable on submitting an application.



TAX IMPLICATIONS OF CATEGORY 2 STATUS

The Government of Gibraltar will be looking to ensure that the individual has sufficient means to maintain himself and his family. Evidence of wealth is therefore important although it is not necessary for the individual to declare specific details of his worldwide wealth or earnings. In accordance with the bandings contained in the Rates of Tax Rules a Category 2 Individual would pay tax as follows:-

ASSESSABLE INCOME

	Maximum Tax Payable
	£
The first £4,000 of taxable Income at the rate of 17%	680
The next £12,000 of taxable Income at the rate of 30%	3,600
The next £54,000 taxable Income at the rate of 40%	21,600
	<u>£70,000</u>
	<u>£25,880</u>

Please note the maximum assessable income is capped at £70,000 with maximum tax payable £25,880.

There are no allowances or deductions. Tax is payable only up to the maximum assessable income of £70,000. Any income in excess of £70,000 is not subject to tax in Gibraltar.

Additionally, in each year of assessment the Category 2 Individual will have to make a return to the Commissioner of Income Tax. The individual can exercise an option before the termination of the year of assessment and advise the Commissioner that he shall be deemed to have a taxable income in Gibraltar in that year of assessment of £70,000 notwithstanding that the income remitted to Gibraltar is less than that amount. The advantage of this is that no tax return will need to be made to the Gibraltar Authorities.

RESIDENCY

Residency is easily obtained once the Category 2 status has been granted. An application for residency is made under the Immigration Control Act. The process for obtaining residency differs depending on whether the Category 2 Individual is an EU National or a non-EU National. Applications are made to the Governor of Gibraltar. The Governor issues a permit to any person who in his opinion is of good character and it is in the interests of Gibraltar that he be issued with such a permit. A permit is valid for such period as the Governor may specify. Generally, a permit of residence is valid for a period of one year but may be renewed subject to the continuation of the Category 2 status certificate, which certificate remains effective as long as the Finance Centre Director is satisfied, on each anniversary of the issue of the certificate, that the requirements are still met.

REQUIREMENTS FOR GRANT OF CATEGORY 2 STATUS

Each applicant will have to satisfy the authorities that he holds private medical insurance which would cover him and his family in the event of illness in Gibraltar. The individual and his family must not look to the Government of Gibraltar for medical treatment. They must be self sufficient in this respect. The property he holds must also be large enough to house his family.

Whilst the holding of a permit does not automatically entitle a person to claim citizenship or any social benefit or social security in Gibraltar, children of the family may attend local schools.

Interest and dividends

Regardless, of an individual's tax category, interest arising from a licensed bank or building society or dividends arising from companies quoted on a recognized stock exchange are not taxable in Gibraltar.

Other financial income

The Category 2 individual pays a minimum annual tax of £20,000 which equates to the tax on income of £55,300 after which only further amounts remitted to Gibraltar suffer further taxation but the maximum tax payable in the year is capped at £25,880.

Wealth tax, Capital Gains tax, Donation and Succession tax

There is no Wealth Tax, Capital Gains Tax, Gift Tax or Estate Duty in Gibraltar.

Receipt of foreign capital

There is no tax on the remittance of capital to Gibraltar.