

Subsidiary Legislation made under s.30A.

**Income Tax (International Tax Agreement Return)
Notice 2021**

LN.2021/208

Commencement **29.3.2021**

In exercise of the powers conferred on him by section 30A of the Income Tax Act 2010, the Chief Minister has issued this Notice-

Title.

1. This Notice may be cited as the Income Tax (International Tax Agreement Return) Notice 2021.

Forms specified for returns made under section 30A of the Income Tax Act 2010.

2. The form specified for the making of returns in accordance with section 30A of the Income Tax Act 2010 is as follows-

2010-21

Income Tax

2021/208 Income Tax (International Tax Agreement Return) Notice 2021



Return ES1



Return of information

International Agreements on Taxation Matters (Spain) Regulations 2021
Sections 3D and 30A of the Income Tax Act 2010.

IMPORTANT - PLEASE READ

THIS RETURN MUST BE FILED BY 30 APRIL 2021

This return is not mandatory. The Income Tax Office has provided you with the facility to complete and file this in the event that you trigger the residency rules contained under Article 2(2)(a)(iii) OR (iv) of the International Agreement on taxation and the protection of financial interests between the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland regarding Gibraltar (the "International Agreement"). If you do trigger these rules and are incorporated, or equivalent, **PRIOR TO 16 November 2018**, completion and submission of this Return will enable the Income Tax Office to identify you so that these rules are not applied on you.

This return should be completed by any legal person, entity or other legal structure or arrangement that was incorporated in Gibraltar **BEFORE 16 November 2018** **AND** satisfies **EITHER** of the following conditions contained in Article 2(2)(a) (iii) and (iv) of the International Agreement. These are shown below:

2(2)(a)(iii) The majority of natural persons in charge of effective management are tax resident in Spain.

2(2)(a)(iv) The majority of the interests in the capital or equity, voting or profit-sharing rights are under the direct or indirect control of either natural persons who are tax residents in Spain or legal persons, entities and other legal structures or arrangements linked to tax

Pursuant to Article 2(2)(d) of the International Agreement, the Income Tax Office shall provide the Spanish tax authorities with a list of the legal persons, entities and other legal structures or arrangements that meet the conditions set out above and also meet all of the conditions set out in (i) to (v) of Article 2(2)(b) as shown below. The list must include details on the legal and beneficial ownership and the natural persons in charge of effective management.

Please complete this return by entering information in the shaded boxes. You will need to provide evidence in relation to points (i) to (vii) below and the corresponding documentation can be imported into your return by clicking on the PDF icons provided.

Guidance has been provided to assist you in compiling this return. Any queries should be emailed to taxtreaty.queries@gibraltar.gov.gi.

Name of company

Taxpayer Reference

Date of incorporation or similar (dd/mm/yy)

Confirmation of Article 2(2)(b) conditions and provision of corresponding documentation

has:



(i) a fixed place of business through which the business is wholly or partly carried on in Gibraltar with an adequate number of employees, with the necessary qualifications and an adequate amount of operating expenditure with regards the core income generating activities; and



(ii) is effectively subject to and pays Corporation Tax in Gibraltar on its profits at the prevailing rate in accordance with Gibraltar tax legislation (presently 10% or 20%); and



(iii) for the period between the date of its incorporation and the 31 December 2018, operated in or from Gibraltar and has done so without interruption or a change in its trade since 1st January 2011; and



(iv) more than 75% of its income in respect of the financial year immediately preceding the 31 December 2018, accruing in and deriving from sources in Gibraltar in accordance with Gibraltar tax legislation as may be amended from time to time; and



(v) less than the level of income as set out in Note 4 in respect of the financial year immediately preceding the 31 December 2018 from sources in Spain in accordance with Article 13 of the codifying legislation of the Non-resident Income Tax Act of the Spanish tax legislation as may be amended from time to time:

- A. 5% for a legal person, entity and other legal structure or arrangement whose annual turnover exceeds 6 million euros;
- B. 10% for a legal person, entity and other legal structure or arrangement whose annual turnover exceeds 3 million euros but does not exceed 6 million euros;
- C. 15% for a legal person, entity and other legal structure or arrangement whose annual turnover does not exceed 3 million euros.

where annual turnover referred to above includes that of the legal person, entity, other legal structure or arrangement, together with the turnover of any related party incorporated in Gibraltar, where related party is defined in accordance with International Accounting Standard (IAS) 24 on Related Party Disclosures.

Information on legal & beneficial ownership and persons in charge of effective management

Please include the NAME, DATE OF BIRTH and RESIDENTIAL address for **EACH** natural person you are reporting on and the NAME, INCORPORATION NUMBER OR SIMILAR and REGISTERED address for **EACH** legal person you are reporting on.



(vi) List of legal & beneficial ownership



(vii) List of persons charged with effective management

Please provide any documentary evidence required for this return. Use the seven PDF buttons provided above.

	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)