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Global Tax Alert

Gibraltar implements EU Exit Tax provisions

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HM Government of Gibraltar has published legislation to implement the remaining part of Council Directive (EU) 2016/1164 (the Anti-Tax Avoidance Directive or ATAD), which introduces an Exit Tax.

The Exit Tax applies to any of the following circumstances:

- An entity transfers assets from its head office to its permanent establishment (PE) outside Gibraltar and Gibraltar, as the European Union (EU) Member State of the head office, no longer has the right to tax the transferred assets due to the transfer.
- An entity transfers assets from its PE in Gibraltar to its head office or another PE outside Gibraltar and Gibraltar as the Member State of the PE no longer has the right to tax the transferred assets due to the transfer.
- A taxpayer transfers its tax residence from Gibraltar to another jurisdiction, except for those assets which remain effectively connected with a PE in Gibraltar.
- A taxpayer transfers the business carried on by its PE from Gibraltar to outside of Gibraltar and Gibraltar, as the Member State of the PE, no longer has the right to tax the transferred assets due to the transfer. A transfer of business is defined as being where the entity ceases to have a taxable presence in Gibraltar and acquires a taxable presence in another jurisdiction, without becoming tax resident in that other jurisdiction.

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A transfer of assets is defined as being where Gibraltar loses the right to tax the transferred assets, while the assets remain under the ownership of the same taxpayer.

Tax would be applied at the applicable corporate rate on the difference between the market value of the transferred assets less their value for tax purposes.

The legislation applies to accounting periods commencing on or after 1 January 2020.

For additional information with respect to this Alert, please contact the following:

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