



# The Ministry of Finance reviews the list of non-cooperative jurisdictions and proposes the removal of Gibraltar

Tax Alert



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# The Ministry of Finance reviews the list of non-cooperative jurisdictions and proposes the removal of Gibraltar

Spain has begun the process to officially remove Gibraltar from its list of non-cooperative jurisdictions, on which it has appeared since 1991.

The Ministry of Finance has submitted for public consultation the [Draft Order](#) amending the list of countries, territories and harmful tax regimes classed as non-cooperative jurisdictions.

The Draft Order, which has been presented for **public consultation** between **22 May and 1 June 2026**, proposes a significant review of Spain's current list of non-cooperative jurisdictions. Particularly noteworthy among the proposed changes is the removal of Gibraltar from the list, having featured on it for over three decades.

The Draft Order also proposes including the regime applicable to Russian international holding companies on the list of harmful tax regimes.

The future Order would enter into force on the day following its publication in the Official State Gazette, although certain transitional rules and temporary provisions are provided for in respect of the Russian regime.

## Regulatory framework for non-cooperative jurisdictions

The proposed amendment comes in the wake of the reform introduced by [Law 11/2021](#), which replaced the traditional concept of “tax haven” with the broader and more up-to-date concept of “non-cooperative jurisdiction”, as provided for in additional provision 1 of Law 36/2006.

The 2021 reform aligned Spanish legislation with international standards promoted by both the European Union and the OECD, incorporating criteria relating to tax transparency, the effective exchange of information, and the existence of harmful tax regimes.

It was under this new regulatory framework that Order HFP/115/2023 was enacted, updating the list previously contained in Royal Decree 1080/1991 and including both non-cooperative jurisdictions and certain harmful tax regimes.

## Spanish list of non-cooperative jurisdictions (Order HFP/115/2023)

| Spanish list of non-cooperative jurisdictions (Order HFP/115/2023) |                                                                      |                              |
|--------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------|
| 1. Anguilla                                                        | 2. Kingdom of Bahrain                                                | 3. Barbados                  |
| 4. Bermuda                                                         | 5. Dominica                                                          | 6. Fiji                      |
| 7. Gibraltar                                                       | 8. Guam                                                              | 9. Guernsey                  |
| 10. Isle of Man                                                    | 11. Cayman Islands                                                   | 12. Falkland Islands         |
| 13. Mariana Islands                                                | 14. Solomon Islands                                                  | 15. Turks and Caicos Islands |
| 16. British Virgin Islands                                         | 17. US Virgin Islands                                                | 18. Jersey                   |
| 19. Palau                                                          | 20. Samoa, as regards the harmful tax regime for offshore businesses | 21. American Samoa           |
| 22. Seychelles                                                     | 23. Trinidad and Tobago                                              | 24. Vanuatu                  |

Order HFP/115/2023 provided for the periodic review of the list with a view to ensuring a dynamic approach that would keep pace with developments in international standards on fiscal transparency and fair taxation.

## The case of Gibraltar

Gibraltar was first included on the Spanish list of tax havens under Royal Decree 1080/1991 and has remained on it ever since.

In March 2019, Spain and the United Kingdom signed an agreement on taxation regarding Gibraltar, which introduced significant changes in relation to the determination of tax residence of both individuals and legal entities, enhanced administrative cooperation and the exchange of information (for more information see our [Tax alert](#)).

The Draft Order now justifies Gibraltar's removal from the list on the grounds that it currently meets the standards of transparency and fair taxation.

## Key changes in the Draft Order

The proposed update marks the first review of the list since the adoption of Order HFP/115/2023, and includes the following changes:

### 1. Removal from the Spanish list of certain jurisdictions and harmful tax regimes

The Draft Order provides for the removal of the following jurisdictions:

- Barbados
- Dominica
- Gibraltar
- Seychelles
- Trinidad and Tobago

Samoa's regime for offshore businesses is also removed from the list.

### 2. Inclusion of a new harmful tax regime relating to Russia

The Draft Order adds the tax regime applicable to Russian international holding companies to its list of harmful tax regimes.

This regime is included as number 25 on the list of harmful tax regimes classed as non-cooperative jurisdictions.

### 3. Tax implications of Gibraltar's exclusion

From the perspective of Spanish domestic tax law, Gibraltar's exclusion from the Spanish list would entail a structural change in its tax treatment, as it would no longer automatically trigger certain anti-abuse measures provided for in domestic legislation relating to personal income tax (PIT), corporate income tax (CIT) and non-resident income tax (NRIT).

Broadly speaking, Gibraltar would be treated as an ordinary jurisdiction. This would entail the elimination of enhanced requirements regarding certain presumptions (e.g., the presumption regarding deductible expenses for CIT purposes).

Likewise, it would end Gibraltar's automatic exclusion from certain tax benefits, such as the double taxation exemption for corporate income tax or the exemption for work carried out abroad provided for in Article 7(p) of the PIT Law, which were hitherto not applicable to transactions or postings linked to Gibraltar due to its classification as a non-cooperative jurisdiction, and would now potentially be applicable in accordance with the general requirements of domestic legislation.

However, it is worth noting that there is currently no double taxation agreement in place between Spain

and Gibraltar, meaning that certain issues, such as the application of the NRIT withholding on income earned by residents of Gibraltar without a permanent establishment in Spain, remain unresolved.

### Entry into force and transitional regime.

The future Order will enter into force on the day following its publication in the Official State Gazette and will apply as follows:

- In the case of taxes without a tax period, to taxable events arising as of the date of its entry into force.
- In the case of taxes with a tax period, to tax periods beginning on or after that date.

The Draft Order includes a specific transitional provision to clarify that, for the purposes of legal certainty, the current wording of Order HFP/115/2023 as it stood prior to this amendment will continue to apply to current tax periods.

The inclusion of the tax regime applicable to Russian international holding companies on the list of harmful regimes will enter into force six months after the publication date. It will apply, for taxes without a tax period, in respect of taxable events arising from its entry into force, and for all other taxes, to tax periods beginning on or after that date.

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