

Insights and Commentary from Dentons

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This document was authored by representatives of one of the founding firms prior to our combination launch, and it continues to be offered to provide our clients with the information they need to do business in an increasingly complex, interconnected and competitive marketplace.

The Qatar Update – Supplement

Tax Law No. (21) of 2009 – Key Provisions

Summary

Effective from 1 January 2010, Law No.(21) of 2009 (the Tax Law) introduces some major changes to the tax regime in Qatar and replaces Law No.(11) of 1993. Most significant are the introduction of a flat rate of income tax for foreign-owned resident businesses and a new withholding tax regime, as well as anti-avoidance measures, reporting regimes and new penalties.

At first glance, the reduction in the tax rate appears to be an incentive to foreign business. However the withholding tax regime, which imposes a significant onus on all businesses to collect tax from businesses that do not have a permanent establishment in Qatar, and the taxing of total contracts that are only partially executed in Qatar, amongst other provisions, have widened the tax base. The end result is likely to be the generation of a higher tax revenue from foreign business whether resident in Qatar or not.

The business community is experiencing a degree of uncertainty and lack of clarity over the intention and interpretation of many of the new provisions. The Ministry of Economy and Finance will issue executive regulations to provide further guidance on specific terms of the Tax Law, although these are not expected to be available for some months. In the meantime, businesses will have to monitor how the tax department is enforcing the new provisions as a guide to interpretation and practice.

If you would like more information on an item of interest in this Update or would like to give us your comments, please contact louise.capon@dentonwildesapte.com.

Key provisions

Income tax

The previous sliding scale of tax rates applicable to resident foreign business (up to 35 per cent) is abolished and a new flat rate of 10 per cent has been introduced on the taxable income of eligible tax payers.

Tax payers include:

- companies registered in Qatar;
- foreign entities with a permanent establishment in Qatar; and
- foreign individuals resident in Qatar (excluding employees).



Taxable income includes:

- total income from activity carried out in Qatar;
- interest on loans acquired in Qatar;
- interest earned outside Qatar from amounts generated by activity carried out in Qatar;
- total income from the partial or total implementation of contracts within Qatar;
- profits from selling shares of listed or unlisted companies whose assets are based in Qatar; and
- some dividend income and capital gains earned on real estate.

The Tax Law does not apply to profits of wholly-owned Qatari entities or natural persons, interest or bank returns of natural persons, interest on public treasury bonds, development bonds and public corporation bonds, or salaries and wages.

Companies in the oil and gas sectors remain subject to the rates in their underlying agreements with the state. The minimum tax rate remains at 35 per cent.

Withholding tax

Resident entities are now responsible for withholding tax from payments to entities and individuals not having a permanent establishment in Qatar. The payments to which withholding tax applies and applicable rates are:

- (a) 5 per cent on royalties and technical fees; and
- (b) 7 per cent on interest, commissions, intermediary fees, board remunerations and other amounts paid for services undertaken totally or partially in Qatar.

Technical fees include payments of any kind made as consideration for management or technical or consultancy services. Technical fees are defined broadly and potentially may encompass engineering and design services, legal services, seismic services and marketing services, amongst many others.

Any withholding tax deducted should be paid to the tax department by the 16th day of the month following the month in which the payment was made. Withholding tax is final as the taxpayer cannot claim a refund against it.

The Tax department has issued a circular announcing that it has suspended the application of withholding tax on interest payments until further notice. We understand that there is discussion within the Tax department about abolishing withholding tax on interest and a reduction in the 7 per cent rate on other payments to 5 per cent. However, such changes have not been officially announced and non-interest payments remain subject to withholding tax at 7 per cent.

Withholding tax on consultancy payments

As the Tax Law imposes a flat income tax of 10 per cent on foreign individuals (except employees) and entities resident in Qatar, any foreign individuals or entities performing consultancy services for Qatari entities from outside of Qatar will be subject to 5 per cent withholding tax for technical fees. Non-resident consultants who enter Qatar to perform their services may be subject to a higher withholding tax at 7 per cent as the consultancy agreement may be considered a contract performed partially or totally in Qatar. The tax department may provide more directions on this issue in the executive regulations.

Anti-avoidance

Under new anti-avoidance provisions the tax department can review and alter transactions and impose market values on pricing to bring them within the scope of the tax regime.

Reporting

It is now mandatory to register with the tax department within 30 days of commencing business and existing taxpayers must register by 30 January 2010. Companies, Institutions, Ministries and government bodies must all notify the tax department within 30 days of entering into contracts and transactions.

Records, documents and financial statements must be:

- prepared in accordance with International Accounting Standards;
- maintained in Qatar; and
- kept for 10 years.

Tax returns must be submitted within four months from the end of the tax period and audited financial statements must also be submitted where capital or income exceeds QR100,000 or where a head office is located outside Qatar.

Exemptions

Tax exemptions granted according to Law No.(11) of 1993 will remain in place until the expiry of such exemptions. The Minister and Council of Ministers may approve exemptions under the Tax Law for either three or six years, a reduction from the previous six or ten years.

Penalties

Late filing of tax returns is subject to fines of QR100 per day up to a maximum of QR36,000. Non-payment of tax within 30 days of filing a return incurs fees of 1.5 per cent of the tax due per month. Failing to deduct withholding tax results in a penalty equal to the amount of withholding tax plus payment of the original amount that should have been deducted.

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