MIDDLE EAST INCOME TAX NEWSLETTER

December 2024 Quarter

The Newsletter is prepared by Moore Pakistan in collaboration with all Middle East member firms under the guidance of Moore Global Tax Group.

It is an update on changes in tax legislation, regulations and other important matters affecting the Middle East Region and includes summaries of important court cases especially regarding international taxation.

It shall not be considered as advice under any circumstances and the reader must consider consulting a tax partner in the relevant country, if the circumstances so require.

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PAKISTAN

TAX LAWS (AMENDMENT) ACT, 2024

Restrictions on non-filers

New restrictions are imposed under the income tax law on various transactions by any “ineligible person”, which is defined as a person who has not filed his tax return for immediately preceding tax year **and** does not have “sufficient resources” for such transaction i.e. 130% of cash and cash equivalent in his last wealth statement in case of an individual and in its last financial statements in case of a company or firm.

The bans include purchase of motor vehicles, transfer of property, purchase and sale of shares and securities including units of mutual funds, opening or maintaining a bank account and cash withdrawals beyond a certain limit.

Exchange of taxpayer’s data between FBR and banks

A new provision has been added in the income tax law allowing exchange of information between the tax department and banks in case of a taxpayer whose banking information is at variance with data algorithm to be provided to banks. The data algorithm is quite unclear at this moment.

FBR NOTIFICATIONS (56 IN TOTAL)

Fair market value of immovable property

The tax department revised the market values of various categories of properties (up to 75%) in 56 cities in Pakistan including Karachi, Lahore and Islamabad. The objective is to bring official market values for tax purposes closer to actual. The revised values would be applicable from November 1, 2024, onwards.

CASE-LAW

Supreme Court’s judgement dated November 28, 2024
Inter Quest Informatics Services v CIT

[Payment for software for own use is not “royalty” and is exempt under Treaty as business profits]

A non-resident company (the NRC) which was resident of Netherlands claimed income tax exemption in respect of income derived in Pakistan for its software license under Article 7 of tax treaty between Pakistan and Netherlands (the Treaty). The basis remained that such income was in the nature of “business profits”, not taxable in Pakistan because the NRC did not have any permanent establishment (PE) in Pakistan. The tax department taxed the same as “royalty” under the law read with Article 12 of the Treaty.

The SC thru majority decision held that the receipt was taxable as “royalty” under Article 12 of the Treaty and not exempt as “business profits”. The NRC filed review petition against the decision on various grounds.

The SC finally held that there were apparent mistakes on the face of the records in the majority decision as possibility of adjustment of Pakistan tax in Netherlands and availability of alternate remedy under Article 24 of the Treaty were no grounds for the HC to decline to answer questions of law raised before it.

The SC agreed with the petitioner’s argument that reference of the OECD MC by the HC was inconsequential as the only material difference between the definitions of royalty under the OECD MC and the UN MC is that the latter definition includes payments received as consideration “for the use of, or the right to use, industrial, commercial or scientific equipment”, however, software is admittedly not an “equipment”.

The SC observed that the majority decision did not decide the fundamental question i.e. under which clause of the definition of “royalties” under the Treaty the payment fell and merely made a casual remark that the definition included payments for “information concerning industrial, commercial or scientific experience”.

The SC upheld the minority decision, which discussed the clauses of the definition of “royalties” in detail and opined that the payment did not fall under any clause thereof.

The SC reiterated the minority decision that if payment is for <u>use</u> of copyright in a program i.e. for reproducing or distributing it then it would be “royalty” and other payments giving user only a right to use a program do not fall under the ambit of “royalty”.

TAX TREATY

Double taxation avoidance agreement with Latvia

The Governments of Pakistan and Latvia signed an agreement aimed at avoiding double taxation and preventing fiscal evasion concerning income taxes. The Agreement would be effective in Pakistan for tax years beginning on or after July 1, 2025.

OECD

International tax transparency on real estate

The OECD published a report in July 2024 titled “*Strengthening International Tax Transparency on Real Estate - From Concept to Reality”*. It aims to build a framework for international collaboration and exchange of information among tax authorities of various states regarding real estate ownership, similar to other tax transparency reporting frameworks such as the OECD Common Reporting Standard. The proposals are in a very early phase. However, all stakeholders should be wary of further developments and the impact it would cause if enhanced international exchange of information regime in respect of real estate cross-border ownership and income is adopted in future years in the Europe and beyond.

BAHRAIN

DOMESTIC MINIMUM TOP-UP TAX

Executive Regulations

The National Bureau for Revenue (NBR) published Decision No. 172 of 2024 on December 15, 2024, detailing the Executive Regulations for Decree-Law No. 11 of 2024 concerning domestic minimum top up tax (DMTT). The regulations provide comprehensive guidelines for tax implementation and enforcement, aligning with the OECD's Base Erosion and Profit Shifting Pillar Two Framework. All companies meeting the threshold limit of EUR 750 million should register themselves on or before January 30, 2025.

Changes in NBR portal

The NBR portal has undergone significant upgrades to incorporate and support the new DMTT. The portal includes dedicated modules for DMTT registration, filing, and compliance along with detailed submission guidelines. The “My Documents” section has been updated to provide easy access to acknowledgment letters, notifications and DMTT related filings, ensuring a comprehensive digital experience which aligns with Bahrain's evolving tax framework.

Guide and Manual

The NBR also issued (i) Guide to the Scope of DMTT Law & Registration Requirements and (ii) DMTT Registration Manual to help companies understand the Law and the Regulations better as well as the latest changes made to the NBR Portal.

QATAR

Domestic minimum top-up tax

Qatar's Council of Ministers approved draft amendments to the Income Tax Law on December 4, 2024, to introduce a Qualified Domestic Minimum Top-up Tax (QDMTT) of 15% for in-scope MNE groups. The Shura Council approved these amendments on December 23, 2024, aiming to uphold tax parity and fairness between local and multinational companies operating in Qatar. The General Tax Authority (GTA) clarified that the new amendment applies to global multinational companies and enterprises with foreign branches generating annual revenues exceeding QAR 3 billion. This includes both Qatari companies with branches abroad and international companies with branches in Qatar. Individual taxpayers and local companies in Qatar are excluded from this amendment, maintaining the existing 10% corporate income tax.

The GTA highlighted that the amendment delivers substantial economic benefits, primarily by shielding multinational Qatari companies from the 15% tax abroad and ensuring that tax revenues remain within Qatar to support the national economy. It further added that, in the absence of local collection, this tax rate would be imposed by other countries on the targeted companies. Qatar's implementation of the Pillar Two framework demonstrates its commitment to aligning with global tax reforms, ensuring a minimum tax rate for large multinational enterprises, fostering tax equity, and curbing base erosion and profit shifting.

EGYPT

New tax facilities

The new Egyptian Minister of Finance and his deputies introduced a package of tax facilities and incentives to promote fresh investments and to solve long debated tax problems between the tax administration and taxpayers. Such facilities and incentives have been declared in a meeting at the Ministry of Finance in their new premises in the Egyptian city - the New Administrative Capital, which was attended by Moore Egypt Senior Partner and other Non-Governmental Organizations representatives. The details of these planned facilities and incentives were earlier disclosed in September 2024 Newsletter.

These facilities are now approved by specialized committees of the People Assembly, and after public discussion and approval of the Assembly, these would be published in the form of law in the official Gazette to be effective from early 2025. Some of the proposed facilities are explained in ensuing paragraphs.

To enhance tax registration and to shrink informal economy, amnesty will be given for the last period of corporate tax, value added tax, stamp tax and state development tax to the new taxpayers who will register their activities after the issuance of this law.

The Unified Tax Procedures Law introduced vide Law No. 206 of 2020 provides for severe penalties for non-submission or delay in submission of corporate tax return. Penalties are proposed to be forgiven for : non-submission or delay in submission of corporate tax return for the years 2020-2023; and non-submission, refiling or amendment of tax declarations in respect of Transfer Pricing files.

Taxpayers who have been assessed on deemed profit bases for the years before 2020 can claim to resolve their dispute and pay 30% in addition to the self-declared tax dues. Moreover, taxpayers can pay 40% in addition to the latest agreed tax dues in case of : (i) non filing of the income tax declaration; (ii) submission of income tax return at zero tax; and (iii) submission of income tax return at a loss.

Those taxpayers who have been assessed on regular books bases for the years before 2020, they can claim exemption from 100% of penalties and additional tax provided that they settle their original tax dues prior to or within three months from the date of issuance of this subject law.

Since penalties in many cases may exceed double or triple of original tax dues due to delay by tax authority in examining declaration which may take 3 to 5 years, the delay interest, penalties and additional tax should not exceed 100% of the original tax.

The law no.152 was issued and a new regime of simplified tax treatment was introduced for the first time in 2020 to support the Small and Medium Enterprises (SMEs) whose revenues do not exceed LE. 10 M. It is proposed to increase the revenue threshold from LE. 10 M to LE. 15 M and moreover the following tax facilities and incentives are proposed for SMEs having revenues not exceeding LE.15 M:

- exemption from state development and stamp tax and the notarization fees for incorporation of companies, their credit facilities contract and their land registration contracts.
- Capital gains tax on fixed asset and production machinery sales and dividends will be exempt from dividend tax, withholding tax and advance tax payment.
- Payroll tax declaration would be presented annually instead of monthly, quarterly or annual basis.
- Inspection (audit) for corporate tax purposes would be done after 5 years from the date of registration as SME for tax purposes instead of annual basis.

OMAN

Postponement of personal income tax

The Oman was on course to become the first GCC country to introduce personal income tax and the draft law was approved by the Oman's Parliament in July 2024 and later forwarded to the State Council for approval. The Council voted on December 11, 2024 to postpone the implementation of the Personal Income Tax Law. The Economic and Financial Committee of the Council has stated that an "in-depth study' needs to be done before the law is implemented. If and when the draft law is implemented, individuals earning monthly salaries of above RO 2,500 (over RO 30,000 income annually) will be subjected to income tax.

Domestic minimum top-up tax

The Oman announced the implementation of 15% minimum top-up tax on multinational enterprises (MNEs) operating in Oman. It is applicable on the income of MNE entities derived in Oman whose total group turnover is RO equivalent of 750 million Euros or more in any two of the last four years.

This step aims to combat base erosion and profit shifting (BEPS) and to ensure that appropriate level of tax is paid by MNEs operating in a tax jurisdiction, in line with BEPS Pillar 2 GloBE Rules.

The Tax Authority (TA) is yet to issue executive regulations for the implementation of the law.

MOORE

Administrative enforcement by tax authority

The Sultanate of Oman has streamlined income tax assessment procedures and has completed the income tax assessments till the year 2019 even if the taxpayer has not submitted the annual return of income for the concerned year in accordance with Article 143(2) of the Income Tax Law.

The TA has issued an announcement on ‘administrative enforcement’ carried out by the TA whereby taxpayers are required to take the following actions to avoid any penalties and additional taxes:

i) file annual return of income within the prescribed timelines for the years 2020 onwards;

ii) monitor tax portal of the taxpayer on a monthly basis to check the tax status or visit the TA’s headquarters in Muscat or any of its branches in the Governorates;

iii) update the contact information (email address, local phone number, P.O. Box) of Responsible Person of taxpayer on tax portal so that the TA can communicate with taxpayer on administrative enforcements.

If taxpayer is not compliant with his tax obligations, the TA shall give him notice through the registered communication channels i.e. email address or P. O. Box to pay tax and if the taxpayer fails to pay tax, the TA shall implement the administrative enforcement in the manner outlined below:

i) directly addressing the Ministry of Finance and banks operating in Oman to transfer the amounts executed against the taxpayer to the TA;

ii) If sufficient funds are not available in taxpayer’s bank account, the concerned authorities such as the Royal Oman Police and the Ministry of Housing and Urban Planning may seize the taxpayer’s assets.

Double taxation avoidance agreements

The Sultanate of Oman has signed separate agreements for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income during the year 2024 with the following countries:

- Ireland
- Estonia
- Cyprus
- Tanzania and
- Bahrain.

SAUDI ARABIA

Waiver of penalties further extended

The Zakat, Tax and Customs Authority had earlier announced an initiative to exempt taxpayers from penalties for late registration, late payment, and late submission of tax declarations for the period from June 1, 2021 to November 30, 2024. The aforesaid initiative has been further extended for the period uptil June 30, 2025.

UAE

Tax procedures guide on tax residents and tax residency certificate

The Federal Tax Authority (FTA) issued a detailed tax procedural guide - TPGTR1 in relation to tax resident and tax residency certificate. It provides general guidance on the UAE corporate tax and tax residency rules.

Transfer pricing disclosure form

The TP Disclosure Form is now available on the Emara Tax Portal and is integrated into the corporate tax return. This form is currently available only to taxpayers whose corporate tax return was due on December 31, 2024.

Deadlines for payment of tax and filing of tax return postponed

The FTA has issued public clarification - CTP004 whereby the deadline to file tax returns and settle corporate tax liabilities for certain tax periods have been postponed. This public clarification is issued in addition to the Decision No. 7 of 2024 which was effective from September 25, 2024.

Guide on real estate investment for natural persons

The FTA has issued a guide - CTGREI1 in relation to real estate investment for natural persons including the application of the Cabinet Decision No. 49 of 2023 which excludes from corporate tax the real estate investment income derived by a natural person upon fulfilment of specified conditions.

Guide on corporate tax return

The FTA has issued a detailed guide - CTGTXR1 to provide general guidance on filing and completing corporate tax returns.

Domestic Minimum Top-up Tax

The FTA has announced that domestic minimum top-up tax (DMTT) of 15% would be implemented on multinational enterprises (MNEs) operating in the UAE from financial year beginning from January 1, 2025. The DMTT will not be in addition to the existing 9% tax rate but will be a substitution for the 9% tax rate.

The DMTT will apply to MNEs operating in the UAE with a consolidated global revenue of EUR 750 million in two of the four financial years immediately preceding the year in which DMTT is applicable.

Ministerial decision on corporate tax groups

The Ministry of Finance (MoF) has issued the Ministerial Decision No. 301 of 2024 on corporate tax group for tax law purposes which would be applicable for tax periods commencing on or after January 1, 2025 whilst the older ministerial decision will apply for tax periods up to December 31, 2024.

Ministerial decision on participation and foreign permanent establishment exemptions

The MoF has released the Ministerial Decision No. 302 of 2024 (MD) on various aspects relating to claim of participation exemption and foreign permanent establishment exemption under the corporate tax law. The MD has repealed the Ministerial Decision No. 116 of 2023 issued earlier in this regard.