

QATAR LAW Q&A: TAX MATTERS

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HOW FAVOURABLE IS THE TAX REGIME IN QATAR?

The most favourable in the world. That is, according to the 2009 Forbes Tax Misery and Reform Index, which ranked countries in terms of the harshness of their tax regimes. The index took account of Qatar's recent tax legislation, effective from 1 January 2010, which replaced a tax rate of 10-35 percent on foreign-owned businesses with a flat rate of 10 percent (except for oil and gas operations) as described in more detail below. Withholding tax and transfer pricing were also introduced.

IS THERE PERSONAL INCOME TAX IN QATAR?

No, those employed in Qatar pay no tax on income arising from their employment.

IF I ESTABLISH A COMPANY IN QATAR, IS THERE CORPORATION TAX?

In general, private companies established in Qatar pay tax on their taxable profits at a flat rate of 10 percent. Taxable profits are profits derived from sources in Qatar, calculated in accordance with the law, and exclude profits attributable to Qatari (and other GCC) nationals as described below.

There are various exceptions. Income from certain activities, such as agriculture and fishing, is exempt, and petroleum companies engaged in oil and gas operations are taxed at the rate specified in their development agreements, provided the rate is at least 35 percent.

Companies listed on the Qatar Exchange are exempt, but subject to a 2.5 percent contribution to a special fund to support sporting, cultural, social and charitable activities.

Every taxpayer carrying on an activity in Qatar must register with, and obtain a tax card from the tax authority, the Public Revenue & Taxes Department. Tax declarations must be filed at the tax authority within four months of the end of the accounting period. Taxpayers should note that if it is necessary for a company to have an accounting period that is not a calendar year (e.g. to reflect an overseas corporate group's financial year-end), the tax authority's permission is required.

These rules also apply to branches of overseas companies with a permanent establishment in Qatar.

IF I ESTABLISH A COMPANY WITH A QATARI PARTNER, HOW WILL THAT AFFECT THE TAX CALCULATION?

In general, a foreign investor can only own up to 49 percent in a Qatari private company. It is therefore important for foreign investors to understand how corporation tax is calculated in a joint venture with a Qatari partner.

Qatari companies wholly-owned by GCC nationals are exempt from corporation tax. With respect to Qatari companies with non-GCC shareholders, corporation tax is not levied on any share of the profits attributable to a Qatari (or other GCC) national, tax resident in Qatar (referred to as a "Local Shareholder" in this article). For these purposes, "share of the profits" is not the amount actually received on a distribution, but the amount of profits a Local Shareholder would receive were all pre-taxable profits distributed to the shareholders at the end of the financial year.

Accordingly, if a company has two shareholders, a Local Shareholder and a non-GCC shareholder, and the Local Shareholder is entitled to 40 percent of the profits on a distribution, 60 percent of the pre-tax profits would be subject to corporation tax at 10 percent. The idea is that foreign shareholders pay tax on the profits attributable to their shares, whether such shares are distributed or retained by the company (as opposed to a withholding tax). This corporate taxation based on the nationality and residency of the shareholders is rather unusual, and potentially complex if the percentage of foreign shareholders changes during the course of the financial year.

It is worth noting that, in a joint venture company with Local Shareholders and non-GCC Shareholders, calculating the actual profits payable on a distribution to properly reflect the tax liability may not be straightforward, especially when dealing with retained earnings from previous years. Both the Local Shareholder(s) and non-GCC Shareholder(s) should seek advice to ensure the basis of any distributions is clear from the outset.

WHAT IF I DO BUSINESS IN QATAR THROUGH AN OVERSEAS COMPANY, WITHOUT ESTABLISHING A LEGAL PRESENCE IN QATAR? CAN I AVOID CORPORATION TAX?

In order to conduct any business in Qatar a legal presence is usually required, such as the incorporation of a company or the registration of a branch. However, to the extent that it is permissible to do any business in Qatar through a non-resident entity without a legal presence, any payments made to the non-resident entity in respect of activities performed wholly or partially in Qatar, are subject to withholding tax.

This includes payments to non-resident entities without a permanent establishment in Qatar, and to non-resident entities with a permanent establishment but no commercial registration and tax card.

The rate of withholding tax is five percent for royalties (which includes royalties for the use of intellectual property, and for the use of industrial, commercial or scientific equipment or information) and for managerial, technical and consultancy services. There is a seven percent rate for all other services.

IS THERE ANY CAPITAL GAINS TAX?

With respect to Qatari companies, capital gains are aggregated with other income and are subject to corporation tax.

The sale by a non-resident of shares in a private company, tax resident in Qatar, is taxable at a rate of 10 percent. The sale of shares in a company listed on the Qatar Exchange is generally not subject to tax.

ARE THERE ANY TAX IMPLICATIONS FOR ENTERING INTO TRANSACTIONS WITH RELATED PARTIES?

Qatar has adopted transfer pricing legislation which relates to transactions between related business entities. If such transactions cannot be shown to have been priced on an arm's length basis, using a Comparable Uncontrolled Price method, there may be an increase in tax liability. The Comparable Uncontrolled Price method compares the price for goods or services in a controlled transaction (i.e. between related parties) with the price charged for goods or services in a comparable

uncontrolled transaction (i.e. between unrelated parties) in comparable circumstances. With the permission of the Qatar tax authority, it is possible to use a different transfer pricing method recognised by the Organization for Economic Cooperation and Development (e.g. cost plus, resale price, etc.) where economic data is unavailable.

For these purposes, companies are related to each other under the following circumstances:

- (i) One of them owns (alone or with other related parties), directly or indirectly, more than 50 percent of the capital, voting rights or income rights of the other; or
- (ii) related persons own, directly or indirectly, more than 50 percent of the capital, voting rights, or income rights of both companies.

WHAT IF I ESTABLISH A BUSINESS IN THE QATAR FINANCIAL CENTRE (QFC)?

Certain financial services businesses can be established in the QFC. The rules relating to corporation tax, withholding tax and transfer pricing described above are not applicable to entities registered in the QFC. Instead, QFC entities are subject to the separate jurisdiction of the QFC and a 10 percent corporation tax on taxable profits (calculated in accordance with the QFC Tax Regulations) which arise in or derive from Qatar. The QFC has separate rules on transfer pricing.

There is no tax exemption for any share in the profits to which a Local Shareholder is entitled.

ARE THERE ANY INDIRECT TAXES?

Customs duties are imposed on the importation of all goods from outside the GCC, subject to certain exceptions. The standard rate of customs duties, standardised across the GCC, is five percent of the total amount of the goods and their associated insurance and shipment costs, plus a legalisation fee if the commercial invoice and certificate of origin have not been attested to by the Qatari Embassy. Higher tariffs apply to certain products such as iron bars and rods, cement, records and musical instruments and tobacco.

The GCC is a member of the Greater Arab Free Trade Agreement, has entered into free trade agreements with Singapore and the EFTA states, and is discussing similar proposals with other jurisdictions. The reduction in tax revenue resulting from these actions is a key driver for the implementation of VAT in the GCC.

There is no VAT at present, but it is anticipated that a single GCC-wide VAT will be introduced within the next few years, although this is unlikely to occur before 2015. It is expected that the rate will be low, around three to five percent, and that VAT would be chargeable on a broad range of goods and services.

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