

Middle East Tax Review
Up-date till June 2008



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Middle East Issue Highlights

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Egypt

Law No. 114 of 2008

The Egyptian Tax Authorities have introduced a new law – Law No. 114 of 2008 which amends some provisions of Existing laws including the Income Tax Law, Investment Law and Sales Tax Law. The law was published in the Official Gazette no. (18) On 5 May 2008.

The principal amendments in the Law are set out below:

1. Article No. (8) Of the law provides for an increase in the sales tax imposed on tobacco and oil & gas Products.
2. Article No. (9) Cancels the previous tax exemption on treasury bills granted under Law No. 17 of 1991, and previous tax exemption on all schools. This is effective from 5 May 2008.
3. Article No. (10) Clarifies the availability of licenses For free zone projects. The law specifies that no Licenses will be granted to any establishments for Free zone projects in the following sectors:

I. Fertilizer industries

II. Iron and Steel

III. Petroleum manufacturing

IV. Manufacture, liquefaction and transportation of natural gas.

Iraq

The Iraq Ministry of Oil has issued a circular explaining the new pre-qualification procedures for international oil Companies to participate in upcoming licensing rounds for planned oil and gas fields. The circular also confirms the Names of the 35 international oil companies, which have qualified to participate in the first licensing round.

The range of minimum and maximum scores under five Criteria set out for evaluation of the pre-qualification bids is as below:

Criteria Minimum score Maximum score

<u>Criteria</u>	<u>Minimum Score</u>	<u>Maximum Score</u>
Technical	7.0	22.5
Financial	50%	100%
Legal	4	4
Training	4	10
HSE	8	13

Jordan

Proposed new income tax law

In a recent interview, the Director General of Income and Sales Tax, Mr. Eyad Qudah discussed the key elements of the proposed new income tax law and outlined the principal Objective of the changes as follows:

1. To implement a Unified Tax Law to cover Income Tax, VAT and Real-estate Taxes.
2. To simplify the tax procedures.
3. Streamline the tax collection procedures.

4. To cancel taxes that was previously included in other laws, such as the “one-percent tax”.

Development areas law of 2008

Jordan has introduced new legislation to encourage Commercial and industrial growth in under developed areas. This new law sets out the rules and procedures for forming Special Economic Zones in underdeveloped areas with the Objective of:

1. Attracting investments in these areas
2. Creating an advanced investment environment for Economic activities
3. Enhancing the economic capability of the Kingdom The new law introduces various incentives for investments In the Special Economic Zones, including a flat corporate Income tax rate of 5% and exemptions from customs duties.

Exemption on basic food items from levies

The Cabinet has recently decided to exempt essential Commodities such as frozen meat and chicken from customs Duties and sales tax in order to control price hikes.

Cultural safeguard Tax

On 2 April 2008, the Parliament ratified the new Cultural Safeguard Law. Under this law, businesses involved in media Affairs are required to collect a Cultural Safeguard Tax based On 5% of billings and remit this tax to the Government to Finance cultural activities.

Kuwait

On 22 January 2008, His Highness, the Amir of Kuwait Approved the issuance of Law No. 2 of 2008 (Law No. 2), Amending Decree No. 3 of 1955 (the original tax law). The Law No. 2 became effective for the fiscal periods commencing after 3 February 2008 (the date of publishing Of the law in the official gazette). As set out in Law No. 2, the Ministry of Finance, on 20 July 2008, issued the Executive Bylaws (the Bylaws) for Implementation of amendments approved under Law No. 2. On the basis of our initial

understanding of the Bylaws, which have not been tested in practice, we present the following:

Key Reforms

A. **Reduced Tax Rate** The tax rate has been reduced to a flat rate of 15% of the Net taxable income compared to previous rates, which range from 5% on taxable income of KD 5,250 to 55% on taxable Income exceeding KD 375,000.

B. **Income subject to tax** According to Article 2 of the Bylaws the following sources of income have been included in the definition of taxable Income:

- Amounts collected from sale, rent or granting of a Franchise to utilize any rademarks, designs, patents, Copyrights or other moral rights, or those related to Intellectual property rights for use of rights to publish Literary, arts and scientific works of any form.
- Profits from disposal of assets, either through the sale Of all or part of the assets or transfer of its ownership to Others or any other form of disposal, including disposal Of shares in a company whose assets mainly consist of Immovable (fixed) capital existing in Kuwait.
- Income resulting from granting of loans in Kuwait; and
- Profits resulting from carrying out activities in the Kuwait Stock Exchange whether directly or through portfolio or Investment funds (Note).

C. **Trading in securities listed in Kuwait Stock Exchange**

1. **Capital gains**

Article 1 of Law No. 2 and Article 8 of the Bylaws provide for A possible tax exemption of profits generated from dealing In securities on the Kuwait Stock Exchange (KSE), whether Directly or through investment portfolios. No further clarification has however been provided with Regards to the definition of “profits” or “dealing”.

2. **Dividend or distribution of profits**

Treatment of dividends is not specifically addressed in Law No. 2 and in the Bylaws. However, Article 46 of the Bylaws States that: “Investment companies or banks which manage portfolios or Funds or act as custodians of shares for

foreign entities are Required to deduct corporate tax due from any payment due To such foreign entities. Tax payment should be made within 30 days from the date of deduction of tax together with a List showing names of the foreign entities and corporate tax Deduction”. It appears from the above, that the tax authority (DIT) would require that the investment companies or banks which manage portfolios or funds should deduct corporate Tax due and deposit the tax within 30 days from the date Of deduction of tax together with a list showing names of The foreign entities and amount of tax deducted from each Entity. Under the original tax law, no tax was imposed on dividends Paid to foreign shareholders by Kuwaiti companies.

3. Undistributed profits and other income

The treatment for tax purposes of undistributed profits of Companies listed in KSE is not addressed in Law No. 2 and has also not been fully clarified in the Bylaws. However, Article 13 of the Bylaws states that: “The investment funds, investment trustees and companies That manages the portfolios of the corporation's subject To the income tax decree are required to provide the tax Department with a statement including all the profits Resulting from dividend of shares that are managed or held As custodian on behalf of a corporation or any profit resulting From carrying out any activity subject to tax in portfolios or Investment funds”. It appears from the above, that where a foreign investor Holds shares in a KSE listed Kuwaiti company, the foreign Investor may also be subject to tax on its share of the undistributed taxable profit of the Kuwaiti company. This Matter however needs further clarification from the DIT.

G. Statute of Limitation

Law No. 2 and the Bylaws now include specific provisions, which provide for the Statute of Limitation period of 5 years from the date of submission of the tax declaration or from The date when the DIT becomes aware of the activities, which Have not been reported in the company’s tax declaration. The original la did not contain any provision for the Statute of Limitation and the DIT had adopted practices in this Regard, which were not always applied consistently. Please however note that the Bylaws are unclear whether the passage of five years after failure to file a tax declaration or pay taxes would exonerate the taxpayer from claims for Income tax.

Other Reforms

Tax filings by companies exempted from tax Article 13 of the Bylaws provides that companies which may Not be subject to tax due to the application of any of the tax Laws or other statutes or treaties for Avoidance of Double Taxation (tax treaty) with various countries would be required To submit their tax declarations in Kuwait

Lebanon

Value of inherited fixed assets

The Ministry of Finance issued instruction no. 959 on 24 May 2008 setting out the guidelines for determination of the value of fixed assets that are inherited in the hands of Income tax payers. As per this instruction, the tax authorities will consider the Following when determining the value of the inherited fixed Assets for taxation:

1. The Income Tax Department shall obtain the Information about the revalued amount of assets From the Inheritance Tax Department.
2. The heirs should present to the tax department a Copy of the asset transfer memorandum issued by The Inheritance Tax Department.
3. Taxpayers who are subject to tax based on deemed Profit or estimated profit will have the right to reduce the revalued amount of the asset from the Proceeds of sales at the date of sale.
4. Taxpayers who are subject to tax on an actual Profit basis may continue to calculate the Depreciation on the inherited fixed assets on the Net book value of these assets for the purpose of calculating the taxable income.

Qatar

New tax law

Qatari businesses are still anxiously awaiting the introduction of the new tax law which has been anticipated for several Years. The Council of Ministers has the law on their agenda for discussion. However, with summer vacations and Ramadan approaching, it is unlikely that the new law will be introduced before October 2008.

Uniform GCC tax rate of 10%

The Qatari Minister of Finance announced in early June 2008 that Qatar is considering to reducing the corporate tax Rate from the current top rate of 35% to 10% instead of the 12% flat rate announced in a previous statement. The Minister intimated that the GCC countries are discussing a plan to introduce a unified tax rate of 10%. The Minister Stressed that no decision concerning the plan should be expected in the short term as the GCC are still focusing on achieving monetary union by 2010. Whilst no official Study of the proposal has yet been commissioned, the Seed has been planted for what could hopefully be a more Transparent (i.e. in the case of Kuwait and Saudi Arabia) and Comprehensive (i.e. in the case of Qatar) tax system for the GCC. In the event that a new law is eventually uniformly applied across all taxable GCC states, this should enable a greater Choice of head entity location as double-taxation between The GCC states would likely be addressed.

Draft law under consideration on the tax Status of Qatari shareholding companies

The Council of Ministers has deferred discussions of a Draft law to provide a tax exemption to certain Qatari Shareholding (i.e. public) companies. In recent years, foreign Investors have been allowed to own shares in listed Qatari Shareholding companies and as a result these entities are Deemed to be taxable under Qatar income tax regulations. In 2006 the Qatar tax department sought to bring these

Companies into the tax net and issued notices to companies To file tax returns. This initiative was met with strong Resistance from the local business sector as any move to tax Companies listed on the Doha Securities Market was viewed as a deterrent to foreign investors to enter the market. As a result of consultations between business groups and the Ministry of Finance, the initiative was put on the back burner Pending further clarification at a Ministerial level.

The draft law is expected to answer the question as to whether listed companies will or will not be taxable. Given The practical difficulties of measuring the percentage of

foreign ownership in listed companies and the lack of Guidance on the mechanics of applying the tax, it is hoped that the draft law will confirm that publicly listed companies will be entitled to a tax exemption rather than being considered as taxable entities. An exemption would provide Certainty to public companies and should also provide Guidance on the treatment of dividends distributed by public Companies to foreign shareholders.

Taxation of GCC companies with Investments in the Qatari business sector

Having being thwarted in introducing taxation on Qatari Publicly quoted companies; the Qatar Tax Authority has begun to transfer its attention to the tax status of GCC Publicly quoted companies that have investments in Qatari Businesses. Stock markets throughout the GCC region are Open to foreign investment and accordingly GCC publicly Quoted companies are deemed to be taxable entities in Qatar as the tax exemption provided for GCC owned entities under Law No. 9 of 1989 applies only to companies that are wholly Owned by GCC national investors. In recent months, the tax department has written to a Number of Qatari companies whose investors consist of Both Qatari investors and GCC publicly quoted companies informing them that they are deemed to be taxable entities as a result of the tax status of their GCC shareholders. The tax authority has provided guidance that the foreign Shareholding percentage may be measured either by the Average shareholding held by foreign investors over the Year or the shareholding held at year end. This issue is posing real practical difficulties for GCC companies as data On the percentage foreign ownership is not always readily Available and there are inherent difficulties on allocating the Tax liability that may arise across both the GCC and foreign Shareholders of the company.

Sport and Social Levy of 2.5% on public companies The Deputy Emir and Heir Apparent H H Sheikh Tamim bin Hamad al Thani has issued a new law requiring shareholding Companies to contribute to a fund which will support social And sports activities in Qatar. Any Qatari shareholding companies which submit their Shares to public subscription will be subject to a levy of 2.5 Per cent of the annual net profits. The levies will be allocated to a fund, which with support Sport, cultural, social and charitable activities. An Emiri Decision on the establishment of the fund, the determination Of its objectives, financial resources and management of The fund shall be issued upon a proposal by the Minister of Finance.

Saudi Arabia

Dividend income

The Department of Zakat and Income Taxes (DZIT) has Recently clarified that dividend income received by investors From an investee company is subject to tax in the hands of The investing company. The DZIT in its letter stated that the Investee and the investor have separate legal personalities And status. Accordingly, the investor should not exclude the Income from the investee company from its taxable income. The DZIT also clarified the treatment of dividend income For zakat purposes. Dividends distributed by an investee Company to an investor company which has been subject to zakat should not be subject to zakat again in the hands of the Investor unless the dividends relate to prior years.

Depreciation rates

The DZIT in a recent circular clarified that the tax payers are allowed to use lower tax depreciation rates on fixed assets Instead of the standard depreciation rates specified in the tax Laws.

Syria

New companies act and code of commerce

The President of the Republic of Syria has approved the new Company Law no. 3 of 2008. The Law together with Law no. 33 of 2007 will replace the current Code of Commerce No. 49 of 1949 with effect from April 1, 2008. The new law comprises of 227 articles clarifying the legal Framework for various economic and commercial activities carried out by companies. The issuance of this law is considered as a step towards Modernizing company law procedures and bridging the gap between company law in Syria and internal norms. The new Law aims at simplifying procedures as Syrian society takes Steps towards a social market economy. It should also be Seen in the light of the country's current negotiations to join The World Trade Organization. Some of important aspects of the new law are set out below:

1. The process for converting partnership firm to Limited liability partnership and converting limited Liability companies in to a joint stock companies is Set out clearly.
2. The process and procedures for mergers and the Types of companies which are entitled to merge is Documented.
3. It provides the Syrian Commission for Financial Markets and Securities (SCFMS) a supervisory role over the public offerings of the shares of Joint Stock Companies.
4. It requires closed joint stock companies (Closed corporations) established under the old Commercial law to convert to a Partnership, or a Limited Liability Partnership or a Limited Liability Company within three years of the validity of new law.
5. Foreign firms or individuals are permitted to Participate in all types of corporate entities.
6. It grants tax exemptions as follows:
 - An offshore company is exempted from taxes on its capital, its current capital revenue, and on its income tax.
 - A holding company's income resulting from owned shares Or allotment in other companies are exempted from any Taxes.
 - Loans made by a holding company to its subsidiaries are exempted from taxes.
 - Companies that merge and their shareholders are exempted from all taxes and fees including fees for transfer of ownership.

Enactment of new laws:

A number of new laws are for enactment by the Republic of Syria including the following:

1. Capital lease law

2. Foreign Company Law
3. Law governing the ownership of Syrian land by foreigners
4. A new draft law for establishing the “Public Authority for Development and Real Estate Investment”.

Additional municipality surcharge tax and administrative fees A new Legislative decree no. 35 of 2007 has been Introduced. This decree sets out the additional municipality Surcharge tax and additional administrative fees for each Governorate and provides the right to determine the Additional fees without exceeding a maximum limit of 10%. On 6 March 2008, executive and implementation Instructions for the above mentioned decree issued and Published in the Official Gazette.

Some of the major surcharges included in the Damascus Council Resolution are:

10%	On Current Capital Revenue Tax
3%	On Real Estate Revenue Tax
5%	On Stamp Duty
5%	On Custom fees
1%	On mobile bill and prepaid cards
3%	On Consumption and Sales Tax for certain items
1%	On Penalty levied
25 SP	On each borrowing / facility exceeding SP 5,000 from any of the joint stock, public or private banks.

This percentage will differ in accordance to governorate Legislative decree no. 41 of 2007

The President of the Syrian Republic issued Legislative Decree no. 41 of 2007 establishing the Tax and Duties Commission, which will be the authority responsible for enforcement of the tax laws in Syria.

UAE

Value added tax (VAT)

With the onset of the summer months and the annual Migration of families for a well

deserved vacation initiatives With respect to the implementation of a valued added Tax regime in the region is likely to take a brief respite. However we expect the implementation of VAT is one of the Hot topics for later on in the year and it is our intention to Keep readers abreast of the latest developments on it's roll Out in the region. The Dubai Customs Authority continue to work on the Pilot VAT regime for the region and in June Ahmad Butti Ahmad, Director General of Dubai Customs confirmed that Draft laws have already been submitted for approval to the UAE's federal authorities and are awaiting approval. He also announced that the report on the level of Value Added Tax to be used in the UAE recommended a 3% threshold, and that the final decision is to be taken by UAE's federal authorities. It is expected that the revenues from the new VAT system will replace revenues collected by way of customs duties, With the intention of cancelling customs duties after the roll Out of the VAT system.

We foresee many interesting challenges for the region with the implementation of VAT on a country by country basis. A key issue to be resolved is what of the future of the GCC Customs union. With the UAE being the first country to Migrate to a VAT regime, what impact wills this migration Have on other GCC States that continue to levy the GCC Customs tariff of 5 %. With many transshipment of goods Arriving in Dubai for shipment or transit to other GCC states An interim solution will need to be worked out on how to Handle VAT and customs duty tariffs that may exist in parallel Universes. The key objectives of VAT are to provide a fresh source of revenue for the government as well as to empower the government with a tool to drive fiscal policy. VAT is a Consumer tax. Although it is collected by VAT registered Businesses on their supplies of taxable goods and services, it is the ultimate consumer who bears the cost of VAT. Businesses will have to review their business processes and Operations in order to accommodate VAT whereas residents will start to pay their bills for goods and services inclusive Of a VAT. There will however be a threshold to ensure that smaller businesses do not have the administrative burden of Implementing VAT.

Although the UAE has long been considered a tax haven, VAT is a natural evolution to possibly replace the customs Duty which may be phased out with the introduction of the Free Trade Agreements. Since VAT is well established within the international community, its introduction will likely not negatively impact the regions position. This is particularly true since the proposed 3-5%

VAT rate is well below the Minimum 15% rate that you see within the European Union.

In other words, the UAE will certainly be able to retain its competitive position within the region even after the Introduction of VAT. In light of the current high inflation across the GCC, Governments are keen to ensure that VAT will be inflation Neutral. With the intended low initial rate of VAT, it is Probable that the effect on inflation will be minimal, even Though the scope of VAT is much broader than the current Customs duty. The authorities are also keen that the Administration of VAT is a cost efficient as possible in order To reduce the likelihood of price increases to pay for the Administrative cost of VAT compliance. To this aim, VAT Compliance will be heavily IT reliant.

We expect that the campaign to make businesses aware of the impending implementation of VAT to gather momentum From September 2008 onwards and UHY would begin to roll out Guidance to clients over coming months. Taxpayers will also need sufficient lead time to ensure that they are ready For VAT. Staff will need to be trained, processes will have to be implemented and systems will need to be modified to accommodate VAT. This is not something that happens Overnight, especially when we are starting from zero as far a Consumption tax is concerned in the GCC.

The key phases for implementation of VAT systems by taxpayers may be described as follows:

- Phase 1 requires a detailed review of your business processes and operations.
- Phase 2 includes a process and impact study. At the end of Phase 2 a VAT Implementation Report is prepared. This includes a detailed mapping exercise to identify all relevant Transactions that will be impacted by VAT as well as identify gaps. At this stage changes to existing processes and procedures are proposed.
- Phase 3 involves the implementation phase where the issues identified in Phases 1 and 2 will be blended and complemented with the legislation to revamp all relevant business processes and operations impacted by VAT to ensure that your company is ready for VAT Implementation.
- Phase 4 is a post implementation phase in order to review, identify and troubleshoot any issues or teething problems that may arise. At this stage, taxpayers will also look at new planning opportunities to improve processes and cash flow management.

As noted earlier UHY should talking to clients over coming Months on the challenges

ahead so for those executives concerned about next steps please watch this space.

General

Restatement of corporate results for reporting weaknesses due to taxes

While companies are getting a better handle on their internal controls overall as a result of Sarbanes Oxley process improvements, taxes remain a potentially painful exception. Taxes once again were the leading cause of material weaknesses in corporate financial reporting through the first six months of 2008, accounting for about 30% of all such weaknesses. SOX 404 mandates that all publicly-traded companies must establish internal controls and procedures for financial reporting and must document, test and maintain those controls and procedures to ensure their effectiveness.

The purpose of SOX is to reduce the possibilities of corporate fraud by increasing the stringency of procedures and requirements for financial reporting. Although the number of reports of material weakness has dropped by 44% since 2005, tax-related material weaknesses have fallen by only 25%. And the number of such tax-related problems reported for the first six months of 2008 is running 12% ahead of the number reported for the same period last year—123 vs. 106 in the first half of 2007.

Material weaknesses often lead to restatements of financial results. Since 2006, although the number of restatements has decreased, tax-related restatements are on the rise, according to UHY data. One reason for the stubbornly high rate of tax-related weaknesses is that companies have to report financial results at an ever faster pace, meaning that they also increasingly have to rely on estimates. This often creates a discrepancy between the amount of taxes companies end up having to pay and the amount they had reserved.

The trend is also being driven by regulators, who are increasingly familiarizing themselves with tax matters. Regulatory staff has become more educated in the tax area and there is now an increasing focus on tax risk. More The Securities and Exchange Commission and other regulators, as well as auditors, are ramping up their knowledge on tax issues and cracking down on tax-related material weaknesses.

Conversely, financial employees at companies still lack specific knowledge related to

tax risk management, which is also contributing to tax-driven material weaknesses and restatements. There is currently a skills gap in the area of tax accounting and competition to recruit qualified tax accounting staff is intense. Training in tax accounting is lacking at many companies and big companies struggle to integrate their tax departments with their accounting and audit departments.

Multinationals are especially vulnerable to such weaknesses. Employees of U.S. companies based in subsidiaries overseas often lack knowledge of U.S. tax accounting rules which are complicated and understanding the specific implications of Fin 48 - Accounting for Uncertainty in Income Taxes is challenging even to experienced US tax consultants. Fin 48 creates a single model to address uncertainty in income tax positions. FIN 48 clarifies the accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. It also provides guidance on derecognizing, measurement, classification, interest and penalties, accounting in interim periods and disclosure.

To cope with these challenges companies need better processes and procedures related to tax accounting that address the risk of material weaknesses. Without such processes and procedures in place, companies invite problems when employees with tax expertise leave the Organization. On top of hiring a tax risk coordinator dedicated to tax risk management and tax accounting, companies need to also start their tax risk management strategy by assessing tax risk to get a handle on where the problems are.

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