

Focus on Middle East Tax Review

June 2009



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Introduction

Dear clients welcome to the current edition of our *Middle East Tax Review*. Our June 2009 edition of the review looks at tax developments that have occurred throughout the region in the last quarter of the year 2008, and what a year 2008 has been for the region. In our December 2008 Tax review we commented “*With the U.S. and U.K worrying about sinking into recessionary mode, we can expect 2009 to be year where inbound investors into the region will continue to court business opportunities as their own markets continue to be plagued with uncertainty and limited potential for growth*”.

Little did we realize how prophetic these comments would be. The year 2009 started with an abundance of optimism and closes with a profusion of uncertainty and misgivings on a world that has been shook at its very foundations by the financial melt down of global stock markets.

We will leave it to the false economists and soothsayers to comment on where 2009 will take us. However as we face into a year of uncertainty it is important to keep an eye on the careful management of business performance, cash flows and reacting to new challenges and opportunities.

Some financial commentators make the point that the Middle East is well placed to ride out the financial storm reasonably unscathed. We believe that this viewpoint is at best naive. The financial strain that global markets are currently facing has the potential to undermine the advances that the Middle East region has achieved in recent years and business leaders need to focus all their energies on guiding companies through a year that has potential upside and downside risks of significance. Taxation risk is growing throughout the region and with business looking to stave off the potential for unwelcome and unexpected tax bills and funds held pending resolution of uncertain tax positions, tax directors throughout the world will be looking to mitigate their risks and bring closure to any pending open tax issues.

Throughout the Middle East region we continue to see tax reform initiatives taking hold as each country positions itself to develop fiscal systems that will attract inbound investment. We continue to see countries enacting new guidelines and there are also growing efforts to unify and simplify tax systems.

We see many tax challenges for 2009 and beyond and we are pleased to note that the number of our dedicated tax specialists in the region continues to grow to meet the demands of our clients. We will strive hard in 2009 to raise the bar even further when it comes to delivering ideas and solutions that optimize the tax consequences of your business decisions.

Finally we hope that you find this edition of the *Middle East Tax Review* of interest and if you would like us to put any of your colleagues on our distribution list for this and future publications please email our Managing partner, Mr. Khaled Elfakhrani at k.elfakhrani@uhy-eg.com.

Bahrain

Legislation Update

There have been no changes in tax related legislation in Bahrain in 2009.

Tax system in Bahrain

Generally speaking, Bahrain has a very liberal tax system which, in conjunction with the tax treaties concluded with other countries, makes Bahrain an attractive location for the establishment of holding companies and the structuring of international investments.

As a consequence of a very liberal tax system, transfer pricing and advance tax rulings are not applicable in Bahrain.

Corporate tax is levied exclusively on profits realized by companies engaged in the exploration, production or refining of oil in Bahrain. This corporate tax is payable at a rate of 46%.

No other business activities are subject to corporate tax in Bahrain.

Also, Bahrain does not levy personal income tax, capital gains tax, withholding tax or Zakat.

With the exception of a sales tax of 12% on gasoline, 5% on hotel services and a 15% service charge which is added to bills issued by hotels and restaurants, sales tax is not levied.

Other taxes

Personal income tax

There are no personal income taxes in Bahrain

Zakat

Bahrain does not impose Zakat (religious wealth tax).

Land Registration Tax

There is a 1% land registration fee payable to the Government on the transfer of real property.

Social insurance

Social insurance contributions are payable for Bahrainis at a rate of 15% of basic wages of which 9% is the employer's contribution and 6% is the worker's contribution. An additional 3% of basic wages, borne by the employer, is paid for all workers (both Bahrainis and expatriates) to provide cover against employment injuries.

Training levy

Companies with 50 or more employees must have a training facility approved by the Ministry of Labour. If not, such companies are required to pay a training levy at the rate of 4% of the payroll (basic pay) for expatriate employees only.

Unemployment insurance

Both Bahraini and expatriate employees are obliged to pay unemployment insurance contribution at a rate of 1%.

Tax treaty overview

So far, Bahrain has signed 15 treaties, and the treaties with China, Egypt, France, Jordan, Lebanon, Malaysia, Morocco, Philippines, Singapore, Syria, Thailand and Turkey are already in force.

Treaties with Algeria, Belgium and the Netherlands were signed some time ago; however, they are not yet in force.

Experience suggests that predicting the duration of the legislative procedures required in these countries in order to put the signed treaties in force is difficult. The time frame largely depends on the economic interests that partner countries have with Bahrain.

Egypt

Initiatives by the Tax Authority to solve previous tax disputes and allow corporate tax payment in installments

Request for settlement of tax disputes

Mr. Ashraf El Araby, the head of the Egyptian Tax Authority, has asked all taxpayers to end their tax disputes at all levels including Internal Committees, Appeal Committees and Resolution Committees and finalize their old tax disputes up to the year 2004.

The process of settlement requires a taxpayer to submit an application to the head of the Egyptian Tax Authority setting out all the points of dispute. The latter will form a committee with the relevant tax Authority to revisit all tax disputes.

Mr. El Araby declared that he would personally follow up every case. The current initiative is in line with the procedures that have been recently applied to resolve the problems resulting from the Income Tax Law preceding the New Income Tax Law. This includes accountants' requests to resolve problems of large taxpayers in each Industry sector.

The tax authority has defined five sectors including banks, insurance, financial lease companies and oil and gas companies.

Accountants presenting proposals to solve the problems in these sectors must have clients working in the same sectors for confidentiality purposes.

The Tax Authority has made it clear that any approval of proposals from accountants will be dependent upon a taxpayer's commitment to pay any outstanding taxes arising from the settlement initiative.

The initiative can also be used to settle current disputes in the same sectors that are currently before appeal committees, internal committees and also courts.

The head of the Egyptian Tax Authority has also indicated that if the first phase initiative is a success, this will be followed by its application in other sectors to cover most disputes within a period of 24 months.

Corporate tax payment in installments

The Minister of Finance declared in the media that he is in the process of issuing a new decree stating that corporate tax payments can be paid in three equal installments. The first installment should be paid in April (upon submitting the corporate tax return), the second in May and the third in June.

Jordan

New Development Zones

The Hashemite Kingdom of Jordan has introduced the Development Zones Law. The Development Zones Commission (DZC) was established as a Jordanian governmental entity late 2008 responsible for creating, regulating and monitoring the development zones in Jordan.

In accordance with the Development Areas Law No. 2 (2008), DZC aims to increase Jordan's Foreign Direct Investment (FDI), encouraging economic growth within certain zones, enhancing the economic capabilities of the Kingdom, and creating an advanced investment environment for economic activities.

There are three development zones:

1. King Hussein Bin Talal Development Area (KHBTD):

Established in 2006, strategically located at the crossroads of major transportation highways linking Jordan, Syria, Iraq, and Saudi Arabia, and comprising approximately 21 km² of land in Mafraq, the KHBTD represents an extraordinary opportunity for:

- Industrial Clusters
- Transit and Logistics Clusters
- Community Services and Utilities Clusters
- Housing Clusters

The potential to connect overland routes with access to major regional ports, and the planned conversion of the adjacent King Hussein Airbase into a mixed use airport, means that the KHBTD could become not only a leading location for industrial production, but also a regional transportation hub for onward movement of goods throughout the region.

2. Ma'an Development Area (MDA):

Established in 2007, the MDA is made up of four different yet complementary clusters that will cover approximately 9 km².

- Industrial Parks
- Residential Communities
- Skill Development Centers
- Hajj Oasis

The four clusters have been conceived to create synergy between them and leverage the unique attributes of each, while being tailored to the needs of local and regional markets. This renders the MDA an all-inclusive and unique area, offering some of the region's most advantageous incentives to investors.

3. Irbid Development Area (IDA):

Established in 2007, comprising 3.2 km² of development area located 10km east of the capital Amman, with four locally established universities offering world class engineering programs of study and hosting an impressive array of healthcare expertise and service offerings, IDA offers opportunities in:

Information and Communications Technology
 Health Care Research and Development

According to the Development Zones Law, the following tax exemptions will be granted to investors:

Corporate Income Tax	5%	On all taxable income from activities within the area.
General sales tax (VAT)	0%	On goods sold into (or within) the development area for use in economic activities.
Import duties	0%	On all materials, instruments, machines, etc to be used in establishing, constructing and equipping an enterprise in a development area.
Social services tax	0%	On all income accrued within a dependent area or outside the kingdom.
Dividends tax	0%	On all income accrued within a dependent area or outside the kingdom.
Stamp duty law	0%	On all contracts
Universities fees	0%	On reported net income
Additional taxes	0%	On air tickets, electricity consumption and other government fees
Scientific research fees	0%	On reported net income
Technical and vocational education training fees	1%	On profit available for distribution of all kinds of companies
Culture safeguard fees	0%	On media advertisement billings

Kuwait

On 20 July 2008, the Ministry of Finance issued executive bylaws for the implementation of provisions approved under Law No. 2 of 2008. Law no. 2 amends the original Income Tax Decree No. 3 of 1955 and became effective for fiscal periods commencing after 3 February 2008.

The Ministry of Finance has now issued further guidance on the Kuwait income tax law through the "Executive Rules and Regulations of the Kuwait Income Tax Decree No. 3 of 1955 and its amendments" (Rules).

It is our understanding from informal discussions held with senior officials at the Ministry of Finance that the above-mentioned rules are applicable for tax declarations commencing on or after 3 February 2008. There are, however, certain provisions relating to tax administration such as obtaining a tax card, which are applicable with immediate effect.

1. A summary of the key reforms included in the Rules:

a) Tax Cards

As per the Bylaws, a new system of tax cards has been introduced. All tax payers will be issued with tax cards which must be renewed annually. All government departments and public authorities are prohibited from dealing with companies that do not hold an active tax card

b) Tax deductibility of payments to an agent or a guarantor (Sponsor)

Amounts paid to a tax payer's agent or sponsor in Kuwait as commission will be restricted to a maximum rate of 2% (previously 3%) of contract revenue, net of reimbursed costs, if any.

2. Trading in securities listed on the Kuwait Stock Exchange (KSE)

Further to our update on this matter in the December 2008 issue of our Middle East Tax Review, we have held notes from senior officials at the Ministry of Finance to clarify the provisions for taxation of foreign entities investing in securities listed on the KSE. The Ministry of Finance has provided further information unofficially and on the condition that there would be no responsibility on their part if the final rules were different than those indicated by them.

The indications given by the Ministry of Finance officials are:

i) Income subject to tax

a) No tax shall arise on capital gains arising from trading in securities listed on the KSE, irrespective of the period of the holding of the investment. The Ministry of Finance has, however, not indicated whether their aforementioned view towards capital gains arising from trading in securities listed in the KSE would differ if the shareholding of a foreign investor in company listed on the KSE were to exceed a certain threshold, i.e. in the case of strategic investments by foreign entities in companies listed on the KSE.

b) Dividend income shall be subject to a 15% withholding tax. The tax shall be required to be withheld by the foreign investor's custodian in Kuwait.

c) The Ministry of Finance is aware of the fact that certain double tax treaties may have specific provisions, different from the Kuwait Tax Law, about taxation on dividend income.

Based on our experience, we anticipate that, for foreign investors seeking relief in accordance with double tax treaties, the Ministry of Finance may insist that the treaty benefits only become available once the foreign investor has submitted a tax declaration and all necessary documents to substantiate its entitlement to the treaty benefit. As the custodian is expected to retain and deposit withheld tax as per the domestic tax law, it is not clear what procedures, if any, would need to be followed by the tax payer in order to reclaim excess tax paid, if any, under the domestic law.

We expect to receive further clarification from the Ministry of Finance in due course.

ii) Tax compliance procedures

- a) The Ministry of Finance may only require the local custodian/broker of the foreign investor to provide information about the foreign investor, deduct 15% tax on payments of dividends to the foreign investor and deposit the tax with the Ministry of Finance.
- b) Based on our unofficial discussions with the Ministry of Finance, it would appear that, if a foreign investor was purely investing in securities listed in the KSE and had no other operations/income in Kuwait; there may not be a requirement to submit a tax declaration in Kuwait as tax shall be withheld and deposited by the local custodian/broker.

However, the new tax law does include a provision requiring each taxpayer to register with the Ministry of Finance and obtain a tax card. By inference, it therefore appears that foreign investors may be required to register and obtain a tax card from the Ministry of Finance. This tax card may have to be renewed annually.

It is not clear at this stage if foreign investors with no income or operations other than investing in listed securities in Kuwait would also need to apply for a tax card. We are awaiting further clarification from the Ministry of Finance in this regard.

Lebanon

Employment income subject to employee income tax

The Ministry of Finance issued Circular No. 428 dated 19 February 2009 relating to the implementation of Articles 48, 49, 50 and 56 of the Lebanese Income Tax Law. Below is a brief summary of Circular No. 428 which replaces circulars and regulations previously issued and relating to the implementation of Articles 48, 49, 50 and 56 (concerning taxable employee income).

Gross Taxable Employee Income:

For the purpose of determining gross taxable employee income, gross income is meant to include total salaries, remuneration, compensation, bonuses, rewards, tips and all benefits whether in cash or in kind which are paid by an employer to his employees.

In practice, the tax authorities may assume interest income on employees interest free loans and consider this interest as employee income subject to employee income tax (i.e. although the Lebanese income tax law is silent about the treatment of assumed interest in case of employees' interest free loans, it is normal practice to subject the assumed interest to employee income tax as a benefit in kind.).

Net Taxable Employee Income:

For the purpose of determining net taxable employee income, the following deductions are made from an employee's gross taxable income:

1. Deductions from employees' salaries for contributions to pension schemes;
2. Reimbursements of expenses incurred in carrying out business related activities, such as:
 - a. Direct business expenses that are borne by the employee in the process of performing the job and that should be originally borne by the employer. One example of such an expense is the expenses incurred by employees using their personal cars to perform jobs assigned to him by an employer.

Based on the above, business transport costs which include maintenance, insurance, fuel and other related expenses should not be considered as employee benefits subject to tax after exclusion of the portion related to personal use.

In practice, the split of the car expenses (i.e. car insurance, car depreciation, and fuel or mechanic fees) between business use and personal use is not covered in the Lebanese income tax law. Accordingly, any assumptions used to come up with a split rate would be subject to validation by the tax authority.

- b. Representation allowances that do not exceed 10% of the basic salary. In the private sector, a representation allowance in excess of 10% of the employee's basic salary is subject to tax on profits (30% of the basic salary of offshore foreign employees is considered as a representation allowance and not subject to employee income tax.)

c. Transportation allowances as per the Labor Law, as per decree No. 501 dated 14 October 2008; all employees are eligible to receive a transportation allowance of LL 8,000 (USD 5) per working day effective 1st May 2008 for a maximum of 22 working days per month. Any excess is deemed to be an additional taxable benefit.

d. Employee meals or food allowances supported by authorized food vouchers, provided that the value of each voucher does not exceed LL 5,000 (USD 3.50).

e. Uniform allowance, provided the nature of the business requires a uniform

f. 50% of the amounts paid to pilots and aircraft crew members in return for actual flying hours.

g. Official schooling allowances: As per Lebanese labor law, each employee is eligible to receive an amount of LL 500,000 per year for every child attending a private school or university and an amount of LL 200,000 and LL 300,000 per year for each child attending a public school or university respectively. Allowances should not exceed an amount of LL 1,000,000 per year for a maximum of three children. Any annual amounts in excess of the amounts allowable by the law are considered to be extra benefits and should be taxed accordingly. The schooling allowance is disbursed only when the beneficiary provides the required documents that support an entitlement to this allowance.

h. Birth, marriage or death grants, provided that these benefits are granted by virtue of clear comprehensive internal company policies and procedures approved by the Ministry of Labor.

3. Family allowances are deducted as follows

a. LL 7,500,000 per year for every employee or worker;

b. LL 2,500,000 is added if the employee is married and its spouse is not working;

c. LL 500,000 for every dependent child (not more than 5), under the following conditions:

Male children between 18 and 25 are considered minors if they are continuing their university studies;

Female children are considered minor until they get married; or if they had been married and lost their marital status.

Deductions for children occur on the salary of the father, not the mother. The mother will not benefit from such deductions unless the father is deceased or is unable to work due to health problems.

In addition to the above, Circular No. 428 emphasizes that employees performing additional activities subject to corporate income tax on profits derived from industrial, commercial and noncommercial professions may benefit from family exemptions in accordance with point 3 above only under corporate income tax. Hence, the tax payer does not have the option to benefit from the family exemption at the level of employment income in order to reduce his total tax liability.

Oman

Free Trade Agreement (FTA) with USA

The Oman-US FTA signed on 19 January 2006, is effective from 1 January 2009.

The FTA aims to liberalize market access for goods and services. It will open up opportunities for businesses both in Oman and USA.

Under the FTA, Oman will provide a level playing field for US investors. It will provide the same treatment to US investors as it gives to Gulf Co-operation Council (GCC) investors. The FTA is expected to boost investments from the US.

The FTA also affirms the importance of avoiding e-commerce barriers and the applicability of WTO rules. Under the agreement, the US and Oman agree not to impose customs duties on digital products transmitted electronically. The e-commerce commitments will help Oman to increase its productivity, and spur innovation and participation in the global digital economy.

Recently, a ministerial decision has been issued in respect of registering branches of American companies. Consequent to the FTA, American companies are entitled to register branches in Oman before obtaining contracts from the Government of Oman. (This facility is not available to companies from any other countries)

The branch entity can register in the Commercial Register of the Ministry of Commerce and Industry without establishing physical presence (a branch) in Oman.

Double Tax Treaty between Oman and Belgium

A double tax treaty between Oman and Belgium was signed on 16 December 2008. The treaty follows the OECD Model Convention.

Withholding tax rates applicable as per the treaty are as follows:

Dividends: 10% in general cases and 5% of the gross amount of dividend if the beneficial owner holds directly at least 10% of the capital of the company paying the dividend. (However, Oman does not impose any withholding taxes on dividends.)

Royalty: 8% of the gross amount

Interest: 5% of the gross amount, with certain exceptions. Oman does not impose any withholding tax on interest.

Business Profits

The definition of Permanent Establishment (PE) also includes a clause on a “construction PE” where the site or project continues for a period of more than six months.

Business profits of an enterprise which are directly attributable to a PE are to be taxed as per the treaty provisions and the expenses which are incurred for the PE including executive and general administrative expenses are allowed as deductions.

However, deductions will not be allowed if paid (other than towards the reimbursement of actual expenses) to the head office of the enterprise by way of royalties, fees or commission for specific services performed or for management and interest (except in the case of a banking enterprise).

Likewise, in the determination of profits of a PE, amounts charged to the head office by way of royalties, fees or commission for specific services performed or for management and interest (except in the case of a banking enterprise) should not be taken into account.

Taxability of an Omani branch of a company registered in a GCC Free Trade Zone (FTZ)

According to Royal Decree 54/2003 (article 11), a company established in accordance with the laws enacted in any GCC country shall be taxed at the rates applicable to local Omani companies.

Omani companies are taxed at 12% on taxable income in excess of RO 30,000. Accordingly, the Omani branches of companies established in GCC countries are to be taxed at 12%, while the branches of foreign companies are taxed up to a maximum rate of 30%.

Since 2003, uncertainty has prevailed as to whether the Omani tax department would consider a company formed in a FTZ as a company formed under the laws of a GCC country.

In a few recent cases, based on the facts and submission of appropriate documentation, the Omani tax department has decided that companies registered in a FTZ are to be considered as GCC registered companies. Accordingly, the tax rate of 12% will apply to Omani branches of FTZ companies.

Qatar

Qatar France Double Taxation treaty update protocol to amend the 1997 Qatar France treaty

The Double Tax Agreement between Qatar and France has been in place since 1997. Amendments to the treaty have, however, been proposed and drafted. Of note in the amended version is an amendment to the Business Profits provision relating to the deduction allowable to French companies operating in Qatar for head office overheads. The currently applicable 1997 agreement allows deductions of expenses which are:

“Incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether the State in which the permanent establishment is situated or elsewhere, provided that such expenses are justifiable and reasonable in terms of international practices.”

The proposed amendment to the treaty includes a change to this paragraph and the revised wording is as follows:

“Incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether the State in which the permanent establishment is situated or elsewhere, provided that such expenses are **reasonable and necessary for the activities carried out by that permanent establishment.**”

Whilst the expenses which are reasonable in terms of international practices allowed the taxpayer to use a formula to calculate an appropriate proportion of the expenses applicable to the Qatari operations (generally based on a Qatar revenue to worldwide revenues allocation base), the insertion of the phrase “necessary for the activities” appears to limit the allowable expenses to those which have a direct link with the Qatari project.

The adoption of the amended wording will dictate that in order to ensure that all relevant deductions are obtained in accordance with the treaty; a schedule may need to be prepared showing the levels of expenses incurred by various departments in the head office and indicating a basis for allocating such expense to the Qatari project.

For example, expenses relating to a Human Resources department could be allocated on the basis of a pre-specified rate per head in Qatar, with the supporting argument that such services (i.e. recruitment, training, etc.) are necessary for the Qatari operations and are calculated on a reasonable basis.

Other departments may allocate expenses on a relevant basis (i.e. proportion of total revenue) and, at the time of inspection from the Qatar tax authority the nexus between each type of expense and the Qatari project would need to be justified for the purposes of demonstrating “necessity”, and the calculation would be used to demonstrate “reasonableness”.

Given that the amended treaty is not yet applicable, the application of the amended article has not been tested and the Qatar tax authority’s interpretation of the article may be inconsistent with its apparent intention.

Saudi Arabia

Effective date of the double tax treaty between the United Kingdom and Saudi Arabia

The tax treaty between the Kingdom of Saudi Arabia and the United Kingdom of Great Britain and Northern Ireland will take effect for Saudi Arabia as follows:

1. In respect of withholding taxes, for amounts paid on or after 1 January 2010.
2. In respect of corporate tax, for taxable years beginning on or after 1 January 2010.

Equity swap transactions

The Department of Zakat and Income Tax (DZIT) issued a letter in respect of the taxation of swap transactions advising the following:

1. Gains pursuant to the disposal of securities will be exempt from tax.
2. Transfer of dividends to non-resident foreign investors through a resident broker, will be subject to 5% withholding tax.
3. Resident brokers should report any income and expenses from these securities in their declaration, in addition to the commissions received under the capital agreements, and settle the amount due thereon at the year-end.

The unified law of insurance protection extension for GCC nationals

The GCC Supreme Council has approved new regulations in respect of the Unified Law of Insurance Protection Extension for GCC citizens working abroad in any of the GCC countries other than their home countries.

Under the above unified law, GCC citizens working in Saudi Arabia are subject to GOSI contributions as follows:

1. Occupational Hazards Branch (OHB) at 2%, as per Saudi GOSI regulations.
2. Annuity (pension) branch (PB) at the applicable rates in their home countries as per the schedule below showing GOSI pension rates, the maximum and minimum monthly levels of contributory wages for GCC citizens working in Saudi Arabia and the implementation dates:

The amount of GOSI contributions for GCC citizens should be settled as follows:

GOSI contributions in respect of OHB at 2% to be settled to GOSI offices in Saudi Arabia.

GOSI contributions in respect of PB to be transferred to GOSI offices in employees' home countries through National Commercial Bank Branches in Saudi Arabia.

Tax/zakat treatment of a Saudi owned company registered in Jebel Ali free Zone

In response to requested clarification, the DZIT has advised that a company registered in Jebel Ali Free Zone (JAFZ) which acquired shares in a Saudi resident company is subject to zakat on its share in that Saudi resident company. Companies registered in any of the GCC states are considered Saudi resident for the purpose of calculating zakat.

Remittance of dividends/profit by the Saudi resident company to the JAFZ Company will be subject to 5% withholding tax

10% retention of contract value

In a clarification the DZIT has stated that the retention of 10% of the total contract value is applicable to contracts signed by the private sector (companies or individuals) with government entities.

To release the payments due to tax payers on contracts signed with the government, entities are required to be registered with the DZIT and the tax payer should have a valid certificate covering the period for which it is requesting the release of the final payments.

Saudi Arabia approves anti-money laundering rules

According to a press release, Saudi Arabia's Capital Market Authority has approved a new set of anti-money laundering regulations.

The regulations require authorized persons to monitor accounts owned by "politically-exposed persons" more thoroughly than other accounts. It also requires people to establish the source of any assets held by politically-exposed persons.

Saudi Arabia plans share buyback law

According to a press release, Saudi Arabia has issued a draft law that would allow listed companies to buy back their shares. However, no fixed date has been given as to when the law would take effect.

Consolidated zakat return

This DZIT has approved the submission of consolidated zakat returns for holding companies and their wholly owned subsidiaries. The DZIT confirmed that consolidated zakat returns can be submitted for the parent and its 100% (direct and indirect) owned subsidiaries.

However the zakat-payer should obtain a prior approval from DZIT's – Head office for the consolidation.

Syria

New rules issued by the Damascus security exchange

Trading Rules – Decision no. 231 of 2009

▶ Decision no. 231 was issued by the Damascus Securities Exchange, regarding trading rules within the market. These rules regulate the trading mechanism by clarifying the types of trading sessions and the conditions under which the trading of securities is suspended. The rules also explain the mechanism adopted in sequencing the orders and how they can be amended or cancelled by one of the brokers. Trading rules clarify the obligations of brokers towards the market and investors as well as some general provisions.

▶ Securities are priced as follows:

Securities are priced with a value greater than zero.

The Syrian pound is considered the basis for pricing traded securities.

The Board of Directors may, after getting the approval of the Commission Board, approve securities being priced in currencies other than the Syrian pound, if these securities were issued in a foreign currency.

▶ Trading sessions are divided into the following stages:

The pre-opening period.

The opening period.

The continuous trading period.

The closing period.

Securities Clearing and Settlement System – Decision no. 232 of 2009

A new decision no. 232 was issued by the Damascus Securities Exchange regarding the clearing and settlement system of securities.

▶ This decision clarifies the detailed mechanism related to the clearing and settlement process at the Damascus Stock Exchange. It shows the role of the clearance center in this process also determines the settlement period for securities traded in the market to be on the second day after the trading day (T+2), with the possibility of adjusting the settlement period as the market's Board of Directors deems appropriate, after approval by the Board.

▶ The rights and obligations between the seller and the buyer of securities arise at the time of concluding the trading contract in the market.

▶ Trading contracts, for settlement purposes, are divided into:

Accepted trading contracts.

Suspended trading contracts.

The by-laws of the Settlement Guarantee Fund – Decision no. 233 of 2009

▶ Decision no. 233 was issued by the Damascus Securities Exchange regarding the by-laws of the Settlement Guarantee Fund.

▶ A new "Settlement Guarantee Fund" has been established in the market. This fund has its own legal identity and financial administrative autonomy.

- ▶ The fund is controlled and supervised by the Board. It is examination and its accounts will be audited by the commission.
- ▶ The Settlement Guarantee Fund shall seek to:
 - Cover any cash deficits of Fund members and purchasers of securities and cover any deficit in Fund member's securities accounts that result from sales.
- ▶ Fund members are responsible jointly and individually for completing the settlement process.
 - The system also set the Fund's resources and obligations imposed on members who are financial brokers, brokers for their own benefits and any other party proposed by the Board of Directorates. Membership of the Fund is mandatory.

New Rules Issued by the Syrian Commission on Financial Markets and Securities

Brokers and Customers Interaction System

A new decision no. 1 dated 6th January, 2009 was issued by the Syrian Commission on Financial Markets and Securities regarding the interaction system between brokers and their customers.

The system regulates the relationship between brokerage firms and investors who are interested in buying and selling securities in the market.

Brokers should have a written policy regarding procedures for accepting new clients.

Before providing any services, the broker must establish the genuine identity of the client, their financial position, their contractual capacity, their investment expertise and the objectives that are related to the services requested.

The broker may not provide any services if the client refuses to provide any of the requested information.

A dealing agreement should be concluded between the broker and the client. This agreement should identify the rights and obligations of the brokers and their clients.

The decision stated the terms which should be included in the dealing agreement and specified the documents and the information that should be attached to the agreement; such information should be updated at least annually.

Any interaction between a broker and clients, for the purpose of trading in the market, must be on a cash basis which entails the client opening a cash account. Any settlement of securities purchased and sold for the benefit of the client must be done entirely through this account.

- ▶ In order to separate the broker's fund from the clients' funds, the broker should:
 - Open a bank account dedicated to the broker's funds.
 - Open a bank account dedicated to the customer's funds.
- ▶ The broker should prepare bank reconciliation for the account dedicated to his customers on a weekly basis and should match each bank account and each client account.
- ▶ Brokers should with non-Syrian clients within in a maximum of four days of the execution of the purchasing transaction.

Legislative Decree no.6

Legislative decree no. 6 was issued in February 2009. This legislative decree established a commission in Syria named Exports Development and Promotion Commission, linked to the Minister of Economy.

This decree also formed the Higher Counsel of Exportation, which has the following tasks:

1. To establish export strategies and policies for Syria,
2. To review all related laws and regulations,
3. To supervise the commission and evaluate its results.

The basic objectives of the commission are

1. To developing and promote exports in accordance with development plans.
2. To contribute to improving the quality of Syrian products and raise their efficiency and competitiveness.
3. To encourage investments dedicated to export.

In order to achieve these objectives, the commission has several tasks such as:

1. Forming plans, strategic programs and promoting exports;
2. Coordinating and collaborating with national, public and private companies to provide whatever is needed to promote exports;
3. Managing programs provided by local, regional and international financing funds;
4. Promoting products by contributing to international fairs and conferences;
5. Studying and analyzing economic indicators and providing suggestions, which may help develop the legislative, regulatory and institutional export infrastructure;
6. Preparing studies of and researches on foreign markets and marketing opportunities;
7. Constructing a database regarding national and international trade;
8. Providing advisory and technical services to institutions, companies and exporters for the purpose of managing production and improving its quality in order to encourage sales in foreign markets.
9. Establishing an international trade point linked to the World Trade Point Federation (WTPF);
10. Qualifying and training employees in the fields of marketing and exporting;
11. Encourage the establishment of specialized exporting companies.
12. Contributing to the planning process of the international trade of Syria and contributing to identifying and eliminating any obstacles facing exporters.
13. Providing studies and consultations about the international situations of imported materials.
14. Provide assistance in establishing direct relations between Syrian exporters and importers from other countries.
15. Making suggestions that will link export development plans with investment attraction plans.

UAE (United Arab Emirates)

News

Delhi High Court Rules that UAE Liaison Offices in India are not a PE.

In a 13 February 2009 ruling, the Delhi High Court held that liaison offices in India that aid or support the main activity carried out in the UAE by the head office are not permanent establishments under the UAE-India Tax Treaty since they carry out services that are “auxiliary” in character.

The High Court’s ruling overturns a May 2004 assessment issued by the Indian Revenue Department, which sought to collect income tax from a UAE company providing money remittance services through liaison offices in India.

According to the Revenue Department, the liaison offices’ activities in India contribute directly to the UAE Company’s earning of income and therefore a real and substantial relationship exists between the business carried out in the UAE and the liaison offices in India. This “business connection” creates a permanent establishment for the UAE Company in India and the income accruing from Indian sources is taxable in India.

In rejecting the Revenue Department’s position, the High Court said that the liaison offices did not contribute directly or indirectly to the earning of profits or gains by the UAE head office because every aspect of the transaction was concluded outside India and the fee for performing the service was likewise earned outside India. Since the services performed by the liaison offices in India were only supportive of the transaction carried out in the UAE, the Court concluded that these are classified within the term “auxiliary” activity and therefore the liaison offices are not permanent establishments as defined in the tax treaty.

*[*UAE Exchange Centre Ltd. v. Union of India, 13 February 2009]*

Tax Treaty Update

The UAE – Philippines Tax Treaty Takes Effect

The UAE-Philippines tax treaty took effect on 01 January 2009 after entering into force on 02 October 2008.

In summary, the treaty provides for a reduced rate (generally 10%) on withholding tax on dividends, interest and royalties paid from the Philippines to a UAE company. The Philippines may also impose a tax of up to 10% on branch profits remitted to the UAE head office.

Under the treaty, gains derived by a UAE resident from the alienation of shares of a Philippine company are taxable only in the UAE, except when the assets of the Philippine company consist principally of immovable property situated in the Philippines. In such case, the gains may be taxed in the Philippines.

The treaty does not require a company to be subject to tax in the UAE in order to be considered “resident” under the tax treaty. It only requires that the company is incorporated in the UAE to be eligible for treaty benefits.

UAE Signs Tax Treaty with Vietnam

The United Arab Emirates and Vietnam signed a tax treaty in Dubai on 16 February 2009.

Under the treaty, Vietnam may impose a withholding tax up to 10% on dividends, interest and royalties paid to the UAE. It must be noted, however, that Vietnamese domestic law does not currently levy withholding tax on dividends paid to the UAE.

General:

Singapore- GCC Free Trade Agreement

Singapore’s Prime Minister Lee Hsien Loong, the Qatari Prime Minister Sheikh Hamad bin Jassim Al Thai and the GCC Secretary-General signed the GCC’s first Free Trade Agreement in Doha on 15 December 2008.

The GCC-Singapore Free Trade Agreement (“GSFTA”) is designed to help promote and facilitate the greater flow of goods, services, investment and people between the two economies. The GSFTA is a comprehensive free trade agreement covering areas including trade in goods, trade in services, investments, and rules of origin, customs procedures, government procurement, electronic commerce, and economic cooperation.

Singapore and the GCC have committed to liberalize various services sectors beyond its WTO commitments. The sectors for which Singapore will enjoy preferential access include professional services including legal services, accounting services and engineering services; and business services such as construction services, distribution services and hospital services. The GCC will enjoy preferential treatment for sectors such as professional services including legal services and integrated engineering services, and business services such as advertising and retailing services, and transport services.

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