Jordan: Approved amendments to the Income Tax Law

December 2018

In brief

On 2 December 2018, the new Jordanian Income Tax Law no. (38) for the year 2018 ("Amended Law") which amended the Income Tax Law no. (34) for the year 2014 ("Current Law") has been approved, and has been published in the Official Gazette.

A high level summary of the key amendments under the Amended Law are set out below:

- Increase of the corporate income tax rate for the industrial sector
- Introduction of corporate income tax reductions for selected industrial sectors
- Introduction of a national contribution tax to apply at sector specific rates
- Introduction of a capital gains tax for specific types of Jordanian shares
- Exemption from corporate income tax for venture capital funds
- Introduction of thin capitalisation rules for related party debt
- Reduction of tax allowances and increase in tax rates for individual taxpayers
- Amendments to certain penalties and tax administration matters

The Amended Law will come into force on 1 January 2019, with executive regulations expected to be issued in due course.

In detail

Corporate income taxation

Increase of corporate income tax rate for the industrial sector

The corporate income tax rate for companies operating in the industrial sector has been increased to 20% (currently 14%).

New industrial sector corporate income tax rate reductions

Certain companies engaged in manufacturing and other industrial sectors will benefit from a reduction in their corporate income tax rate for five years from 2019.

Companies that are eligible for the rate reduction will be clarified in guidelines to be issued in due course.

That said, the Amended Law specifies that companies that manufacture medicine and clothing are subject to the below corporate income tax rate reductions. Other eligible companies in the industrial sector will be subject to lower rate rate reductions (also set out below):

Financial Year	Medicine And clothing	Others
2019	50%	25%
2020	30%	20%
2021	20%	15%
2022	10%	10%
2023	5%	5%

Introduction of national contribution tax

The Amended Law introduces a "national contribution tax", on the taxable income of all legal persons and individuals at specific rates, depending on the industry sector / type of activity:

Industry	Rate
Banks and companies that undertake electricity generation and distribution activities	3%
Companies that undertake mining raw materials activities	7%
Financial intermediary and brokerage firms, currency exchange companies, juristic persons who undertake financial leasing activities	4%
Main telecommunications companies, insurance and reinsurance companies	2%
Other companies not listed above	1%
Any amount exceeding JOD 200,000 of the annual taxable income for individuals	1%

Amendment to the capital gains tax article

A new capital gains article in the Amended Law exempts legal persons from capital gains tax on gains generated from the disposal of Jordanian shares with the exception of:

- Gains realised from depreciable assets; and
- Gains from the disposal of "*Housas*" shares, a specific class of shares (e.g., LLCs)

The above exceptions will be taxed at a capital gains tax of 20% for companies and at the new personal income tax brackets for individuals.

Further, capital gains on the disposal of "*Housas"* and "*Ashom"* (i.e. shares in private shareholding companies and public shareholding companies) of IT companies will be exempt from tax on their first disposal. For this exemption to apply, the first disposal should take place within the earlier of (a) 15 years from 1 January 2019 or (b) 15 years from the date of registration / incorporation.

Under the Current Law, no capital gains tax applies with the exception of gains realised from depreciable assets, although in practice the Jordanian tax authority may seek to tax a gain on share disposals as "goodwill".

More information is expected to be issued in due course on the definition of IT companies.

Removal of the exemption for the trading of shares

The Amended Law removes the current list of exemptions / exempted activities provided in Article 4.a.7 of the Current Law.

This includes the removal of the tax exemption for income generated from the trading of shares.

Venture capital funds

A corporate income tax exemption has been introduced for venture capital funds.

Introduction of tax on e-commerce activities

The Amended Law applies corporate income tax on income generated from e-commerce activities (i.e. the sale of goods and services online).

Further details are expected to be issued on this 'digital tax' in due course.

Agricultural activities

A cap of JOD 50,000 for legal persons and JOD 1,000,000 for individuals has been introduced in respect of the existing income tax exemption for agricultural activities.

Any amounts exceeding the above cap for legal persons are subject to 20% corporate income tax, and taxable at the new personal income tax brackets (see below) for individuals.

Income of general and limited partnerships

There will be a minimum annual tax of JOD 500 imposed on general and limited partnerships that generate taxable income but do not prepare audited financial statements.

The minimum tax will not apply if such partnerships prepare audited financial statements. In such cases, they will be subject to the normal corporate income tax rules.

Amendment to "mining raw materials activities" definition

The definition of mining raw material activities excludes cement. As a result, the mining of limestone is expected to fall within the definition of industrial activities and subject to tax at 20%.

Increase in taxes in development zones

The current corporate income tax rate of 5% for companies established in development zones will increase to 10%.

Companies established in development zones, which undertake industrial manufacturing activities will continue to be subject to the corporate income tax rate of 5% (and not subject to the new rate of 10%).

To access the 5% corporate income tax rate, the activities performed should contribute to an incremental 30% increase in the "value" of the products procured locally (the amount of the increase to the "value" is typically confirmed with the Ministry of Industry and Trade).

Increase in taxes in free zones

Currently, all companies established in free zones are subject to a corporate income tax rate of 0% for specific activities, provided certain conditions are met (as set out in the Jordanian investment law).

Under the Amended Law, establishments in free zones that are engaged in: (i) industrial activities, or (ii) the sale of goods or provision of services into the free zone will be subject to corporate income tax based on the applicable sector rates (see above) or personal income tax brackets (see below).

New thin capitalisation rule

A 3:1 debt to equity ratio will apply in respect of related party debt (e.g., shareholder loans etc.).

Interest on related party debt exceeding the 3:1 debt to equity ratio will not be deductible for corporate income tax purposes.

For the purposes of the debt to equity ratio, equity is the higher of: (i) paid in share capital, or (ii) average equity.

No restriction applies on unrelated party financing.

A "related party" definition has been introduced

A related party will include: (i) an individual or anyone who is related to this individual by means and up to a second degree relationship who holds more than 50% of capital in a legal person, (ii) a legal person that holds more than 50% of the shares or controlling interest in another legal person or (iii) an individual who is related to another individual by means of marriage or by means of a first degree relationship.

Currently, there is no definition of related party and this determination is typically at the discretion of the relevant tax inspector.

Withholding tax on interest

Individuals will be subject to a 5% withholding tax and legal persons will be subject to a 7% withholding tax on the receipt of interest, commissions and profits derived from deposits made by banks and financial companies paid by resident banks to other resident banks. The withheld amounts will be deemed as a final tax for the natural persons and non-resident legal persons (can be reduced under applicable double tax treaties).

No interest withholding tax will apply on interest from deposits, inter-bank commissions, and other interest and profits as specified under the executive instructions (to be released in due course).

Exemption for dividends

Under the Current Law, dividends distributed by a Jordanian company are exempt from corporate income tax. This exemption does not extend to the receipt of dividends from mutual investment funds, main telecommunication companies, mining raw material companies, insurance and reinsurance companies, financial intermediaries, financial companies, and legal persons carrying out financial leasing activities.

Under the Amended Law, the exemption will apply only to dividends paid by limited liability companies, general partnerships, limited partnership, private and public shareholding companies that are resident in Jordan.

Further, the Amended Law appears to introduce either (i) a new tax rate of up to 10% on "profits" received from Jordanian subsidiaries; or (ii) a 90% participation exemption on "profits" received from Jordanian subsidiaries, provided these subsidiaries are at least 10% owned by the recipient company.

The Amended Law is unclear in this regard and as such further clarity is being obtained from the Jordanian tax authorities.

Personal taxation

Lowering of annual exemptions

The annual exemption from personal income taxation for resident individuals and dependants has been reduced from JOD 12,000 to JOD 10,000 for the year 2019 and to JOD 9,000 for all subsequent years.

Following this reduction, the effective exemptions available will be JOD 20,000 (being JOD 10,000 for individuals and an additional JOD 10,000 for dependants) for 2019 and JOD 18,000 for all subsequent years.

Lowering of additional exemption

The additional exemption of up to JOD 4,000 available in respect of medical treatment, education, rent, interest on the housing loans and murabaha on housing has been reduced to the following:

- *Taxpayer:* JOD 1,000 from 2020 onwards.
- *Spouse of taxpayer:* JOD 1,000 from 2020 onwards.
- *Each child of taxpayer:* JOD 1,000 for each child and capped at JOD 3,000.

Technical services and legal services expenses will not be subject to this exemption under the Amended Law.

Collectively, considering the different exemptions above, the total exemption available for individual taxpayers should not exceed JOD 23,000.

Lowering pension salaries exemption

The exemption for pension income has been reduced to JOD 2,500 (currently JOD 3,500).

Additional exemption for handicapped people

The Amended Law has introduced an annual exemption of JOD 2,000 for people with full or partial handicap(s).

Changes to personal tax rates

A summary of the changes to the income tax brackets for individuals is set out below:

Amended Law (JOD)	Current Law (JOD)
5% on 1- 5,000	**7%** on 1-10,000
10% on 5,001- 10,000	**14%** on 10,001- 20,000
15% on 10,001- 15,000	**20%** on 20,001 +
22% on 15,001- 20,000	-
25% on 20,001 - 1,000,000	-
30% on 1,000,001+	-

Tax administration

A new "tax evasion" definition would be introduced

Tax evasion is defined as *"using fraudulent methods to achieve fraud, deception, falsification, concealment of data, the disclosing of fake data or participation in any of these acts intentionally, in order not to pay or declare the tax, in whole or in part or reducing the tax as specified in the law".*

New article on invoices

Taxpayers are required to issue proper invoices for the provision of services and/or the sale of goods in Jordan.

Further guidelines with respect to the above are expected to be issued in due course.

Amending submitted tax returns.

The permitted period to amend a tax return is expected to be limited to two years (previously unlimited) provided no audit notice has been issued and the return was not automatically accepted by the tax authorities.

Periods open for reassessment reduced to two years and new article introduced

The tax authority would have a reduced period of two years (previously four years) to reassess previously filed and automatically accepted tax returns where: (i) the law was applied incorrectly, or (ii) transactions were omitted, that were identified in later years.

In addition, a new article is introduced requiring tax inspectors and objection committees to ensure proper evidence is presented to justify an increase to a taxpayer's taxable profits in the case that the taxpayer has submitted audited financial statements.

Limitation of appeals

A two-time limit for taxpayers to appeal at court for the same contended matter has been introduced.

Exchange of information

A new article is introduced allowing the tax authority to oblige taxpayers (both in the public or private sector) to share information requested by the tax authorities.

Further, such taxpayers will be obligated to connect their IT systems with the IT systems of the tax authority (where requested).

Finally, the tax authority will provide instructions and guidelines on the exchange of information under international agreements.

In all cases, the bank secrecy should be maintained as stated in the Banks Law and not affected unless a court decision states otherwise.

Update to penalties for late filing

An update to late filing penalties has been introduced and is as follows:

- **JOD 100** for individuals;
- **JOD 300** for legal persons, except for private and public shareholding companies; and
- **JOD 1,000** for private and public shareholding companies.

New additional penalties for tax evasion

The following acts of tax evasion are subject to penalties (ranging from JOD 200 - JOD 500):

- Understatement of tax, where the understated tax is greater than 25% of the actual tax due; and
- Claiming a tax credit in excess of actual advance tax payments made, where the claim is greater than

25% of the actual advanced payment.

New penalties for tax evasion

Depending on the amount or tax evaded and number of occasions of tax evasion, the taxpayer may face criminal proceedings.

Books and records

A new article is introduced to target and penalise taxpayers who have designed or prepared, or assisted in designing and preparing, a program or accounting software intended for the purpose of producing inaccurate books and records to evade paying taxes.

Exemption from penalties

Certain exemptions from these new penalties have been introduced for taxpayers in the following cases:

- Late filed income tax returns for years prior to 2018, where the due taxes are less than JOD 1,000,000.
- Final taxes that are less than JOD 1,000,000 relating to periods prior to the enactment of the Amended Law.

Further details to follow in due course.

The takeaway

The Amended Law will come into force by 1 January 2019, with executive regulations expected to be issued in due course.

In general, the Amended Law appears to be aimed at raising additional tax revenues. Given that the Amended Law is final, there are a number of changes that would impact the tax treatment of companies in Jordan. As such, we recommend that advice sought where necessary as soon as possible to consider the potential tax impact to you.

PwC Middle East Tax Contacts

Stephan Stephan, *Amman*
Tax and Legal Services Leader - Jordan & Iraq
T: +962 (6) 500 1300
E: stephan.stephan@pwc.com

Mohammad Al-Akhras, *Amman*
Tax Director
T: +962 (6) 500 1300
E: mohammad.al-akhras@pwc.com