Jordan: Proposed amendments to the Income Tax Law

October 2018

In brief

On 11 September, the Jordanian Cabinet approved a new draft law amending the Income Tax Law no. (34) for the year 2014 ("Current Law"), and issued further amendments to the draft law on 27 September 2018 ("Proposed Law"). The Proposed Law is subject to further debate, review and amendment.

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

- Increase of the corporate income tax rates for most industry sectors
- Introduction of new industrial sector corporate income tax reductions
- 20% capital gains tax on the sale of Jordanian shares
- Exemption from corporate income tax for venture capital funds
- Introduction of a 1% social solidarity tax
- 10% withholding tax on interest payments made by banks and financial institutions
- 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 Proposed Law (if enacted) is likely to come into force by 1 January 2019, with executive regulations expected to be issued in due course.

In detail

Corporate income taxation

New corporate income tax rates

Summary of the proposed changes:

- **Industrial companies:** 20% (currently 14%)
- **Telecommunication companies:** 26% (currently 24%)
- **Electricity generation and distribution companies:** 26% (currently 24%)
- **Insurance and reinsurance companies:** 26% (currently 24%)
- **Mining companies:** 30% (currently 24%)
- **Financial intermediation and financial institutions:** 30% (currently 24%)
- **Financial leasing companies:** 30% (currently 24%)
- **Banks:** 37% (currently 35%)

The tax rate for companies engaged in other activities is not expected to change (currently 20%).

New industrial sector tax liability reductions

Reduced corporate income tax rates will now be available for companies operating in the industrial sector.

The extent to which a company is considered to fall within this tax rate reduction will be determined based on the company's classification on its registration certificate as issued by the Companies Control Department in Jordan.

Companies operating in the manufacturing of medicine and clothing can enjoy accelerated reductions in the corporate income tax rates over other companies in the industrial sector. The amount of the proposed reductions is set out below:

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

20% capital gains tax on disposal of shares

A 20% capital gains tax would apply on the sale of Jordanian shares. Currently, no capital gains tax applies under domestic law, although in practice the Jordanian tax authority may seek to tax a gain as "goodwill".

New social solidarity tax

A 1% social solidarity tax will apply on taxable income of all corporate entities and individuals that are subject to tax.

Venture capital funds

A corporate income tax exemption has been proposed for venture capital funds. Further details to follow in due course.

Agricultural activities

A proposed cap of JOD 25,000 is expected to be introduced on the existing corporate income tax exemption on agricultural activities. Further details to follow in due course.

Export of goods and services

Income from the export of goods and services from Jordan would be subject to corporate income tax at the applicable tax rate. Currently, the exports of goods and services are exempt from corporate income tax for specific activities provided certain conditions are met as provided under instructions No.79 for the year 2017 and No.106 for the year 2016.

Income of general and limited partnerships

There is expected to be a minimum tax of JOD 1,000 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 normal corporate income tax rules.

Amendment to "mining raw materials activities" definition

The proposed definition of mining raw material activities is expected to exclude cement. As a result, such activities are expected to fall within the definition of industrial activities and subject to tax at 20% (currently 24%).

Increase in taxes in development zones

The current corporate income tax rate of 5% for companies established in development zones is expected to increase progressively as follows:

Year	Rate
2019	7%
2020	10%
2021	14%
2022	17%
2023	20%

Separately, companies established in development zones **prior** to the effective date of the Proposed Law (expected to be on 1 January 2019), which undertake industrial manufacturing activities are expected to be subject to different corporate income tax rates, being:

Year	Rate
2019	5%
2020	5%
2021	6%
2022	7%
2023	8%

The activities performed by such companies should contribute to an incremental 30% increase in the "value" of the products procured (the amount of the increase to the "value" is typically confirmed with the Ministry of Industry and Trade).

Further, companies established **after** the effective date of the Proposed Law are expected to be subject to a different bracket of income tax rates, as follows:

- First year of production: **5%**
- Second year of production: **6%**
- Third year of production: **7%**
- Fourth and subsequent years of production: **8%**

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 Proposed Law, there is expected to be an increase in the current corporate income tax rate (0%) for income generated from "transit" activities (i.e. import of goods temporarily for subsequent export) to 6% provided these companies do not sell such goods to the local Jordanian market.

Otherwise, companies established in free zones which are engaged in the sale of goods or provision of services into the local Jordanian market are expected to be subject to a

20% corporate income tax rate.

New thin capitalisation rule

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

Interest on the related party debt exceeding the 3:1 debt to equity ratio would 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 for the prior two years (i.e. paid in share capital plus retained earnings).

No restriction should apply on unrelated party financing.

Building and land tax

The current building and land tax is expected to be deductible for corporate income taxes purposes (whereas it is currently creditable against any tax liability due).

A "related party" definition will be introduced

A related party is expected to include: (i) an individual or corporate entity that holds more than 50% of the shares or voting rights in a corporate entity, or (ii) an individual who is related to another individual by means of marriage or of a second degree relationship (e.g., cousins, aunts, uncles etc.).

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

Withholding tax on interest

A 10% withholding tax (currently 5%) would apply on interest, commissions and profits derived from deposits made by banks and financial companies. An exemption to the interest withholding tax would apply where interest, profits and commissions are paid by resident banks to other resident or non-resident banks.

No interest withholding tax will apply on entities specified under the executive instructions. Further details on this exemption to follow in due course.

Exemption on taxation on the receipt of dividends

Under the Current Law, dividends received 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 Proposed Law, this exemption is expected only to apply on receipt of dividends from limited liability companies, general partnerships, limited partnership and private shareholding companies that are resident in Jordan.

The exemption will not extend to the receipt of dividend from the abovementioned legal persons (as provided under the current law).

Further, if the company receiving the dividends owns 25% or more of the paying company, the tax payable on the dividend income should not exceed 10%. The current Proposed Law is unclear in this regard and further clarification is expected in due course.

Personal taxation

Lowering annual exemptions

The annual exemption from personal income taxation for resident individuals would be reduced from JOD 12,000 to JOD 9,000.

For couples, the annual exemption will be reduced from JOD 24,000 to JOD 18,000 in 2019 and further to JOD 17,000 in 2020.

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 will be reduced to JOD 1,000 from 2020.

Technical services and legal services expenses will continue to be subject to an exemption of JOD 4,000.

Lowering pension salaries exemption

The exemption for pension income is expected to be reduced to JOD 2,500 (currently JOD 3,500).

Changes to personal tax rates

A summary of the proposed changes to the income tax brackets for individuals with an annual income up to JOD 300,000:

Proposed 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 - 300,000	-

If the annual income of an individual exceeds JOD 300,000 but does not exceed JOD 1,000,000, the individual would be subject to a flat rate of 25% on all taxable income.

If the individual earns income in excess of JOD 1,000,000, the individual would be subject to a flat rate of 30% on all taxable income.

Tax administration

A new "tax evasion" definition would be introduced

Tax evasion is expected to be 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, in order not to pay or declare the tax, in whole or in part"*.

New article on invoices

There is expected to be a new article introduced to oblige taxpayers to issue proper invoices. There are already guidelines for issuing proper invoices under the Jordanian Sales Tax Law, and it is expected that the new article will follow the same guidelines.

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, there is expected to be a new article 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. Further details on what constitutes proposer evidence is expected to be issued in due course.

Limitation of appeals

The proposed amendments are expected to introduce a two-time limit for taxpayers to appeal at court for the same contended matter.

Exchange of information

A new article is expected to be 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.

Update to penalties for late filing

An update to late filing penalties will be introduced. The penalty will be the higher of 5% of the tax due, charged on a monthly basis (capped at 25% of the tax due), **or** a deemed penalty, as follows:

- **JOD 100** for individuals;
- **JOD 200** for general partnerships and limited partnerships; and
- **JOD 500** for public shareholding companies, private shareholding companies and limited liability companies.

New penalties on the understatement of tax

The understatement of tax in a taxpayer's submitted tax return, is subject to the following penalties:

- **10%** of the understated tax amount, where the understated tax is greater than 20% but less than 50% of the actual tax due;
- **25%** of the understated tax amount, where the understated tax is greater than 50% but less than 75% of the actual tax due;
- **50%** of the understated tax amount if such amount is greater than 75% of the actual tax due.

This penalty is not expected to apply where the understated tax is less than 20% of the tax due.

New penalty for the higher tax balance.

A new penalty will be introduced where a taxpayer claims a tax credit in excess of their actual advance tax payments. The penalty will amount to 75% of the excess amount claimed.

New penalties for tax evasion

A penalty equal to 200% (currently 100%) of the tax due would apply in the case of tax evasion.

Additionally, depending on the amount of tax/period of evasion the taxpayer may face criminal proceedings.

Books and records

A new article is expected to be 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 will be introduced for taxpayers in the following cases:

- On the settlement of court cases submitted before 31 December 2017.
- Late filed income tax returns for years prior to 2018.
- Final taxes related to "previous periods". The Proposed Law does not define what is meant by "previous periods".
- Unpaid taxes not disclosed within 180 days of the enactment of the Proposed Law.

Further details to follow in due course.

The takeaway

The Proposed Law (if enacted) is likely to come into force by 1 January 2019, with executive regulations expected to be issued in due course.

In general, the Proposed Law appears to be aimed at raising additional tax revenues. Although the Proposed Law is not yet final, there are a number of proposed changes that would impact the tax treatment of companies in Jordan. As such, we recommend the proposed changes are closely monitored and advice sought where necessary.

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