Oman: Executive Regulations amendments to the Income Tax Law

February 2019

In brief

The much awaited amendments to the Executive Regulations of the Income Tax Law (MD 30/2012) have been issued and published in the Official Gazette on 10 February 2019. The amendments are in line with earlier amendments to the Income Tax Law issued on 27 February 2017 (via RD 9/2017). Consistent with expectations, the amendments to the Executive Regulations provided more clarity on a number of tax law provisions related to withholding tax ("WHT"), deductibility of director remuneration, tax card system, electronic submissions and notifications, donations, tax on enterprises, and other matters. Most of the provisions introduced by the amendments are effective from the following day from the date of issuance in Official Gazette (i.e. from 11 February 2019), while some of them are effective for tax years starting on or after 1 January 2018.

In detail

Ministerial Decision 14/2019

Ministerial Decision No. 14/2019 issued by the Ministry of Finance published in the Official Gazette on 10 February 2019 ("the amendments"), provided clarity on a number of provisions and regulations introduced by amendments to the Income Tax Law (ITL) vide Royal Decree No. 9/2017 dated 27 February 2017. Major amendments to the Executive Regulations are:

Withholding Tax ("WHT")

In line with the earlier amendments to ITL, amendments to the Executive Regulations(effective from 11 February 2019), widened the categories of payments subject to WHT to include dividends, interest and fee for services. The amendments provided definition of dividends and interest and confirms the position already being followed by the Oman tax authorities in practice. Under the amended Executive Regulations, WHT on dividends distributions will apply only to joint stock companies and mutual funds. Therefore, WHT is not applicable to dividends distributed by limited liability companies.

Interest, has been defined to include any amounts obtained through debt, advances or any arrangement of financial nature, with or without guarantee or profit share and includes income accrued from bonds, instruments and amounts obtained as a compensation on interest.

The amendments also elaborated on categories of payments that shall not be considered as service payments subject to withholding tax. These are:

a) Participation in organizations, seminars, conferences, or exhibitions

b) Training

c) Freight charges and insurance on it

d) Air tickets and reimbursement

e) Board of director meetings

f) Reinsurance payments

g) Any services related to an activity or property outside Oman

Member's remuneration

The deductions on account of member's remuneration for limited liability companies has been increased for the first time since 1998 from tax years beginning on or after 1 January 2018.

In accordance with amendments, least of the following is allowed as a deduction for member's remuneration:

1. Actual remuneration paid; or
2. OMR 1,500 (earlier OMR 1,000) per month per director for all companies except professional companies. For professional companies, the amount is OMR 3,500 (earlier OMR 3,000) per month per director; or
3. 25% (earlier 10%) of taxable income before deducting such remuneration and adjusting any tax brought forward losses for all companies expect professional companies. For professional companies, it is 35% (earlier 30%) of taxable income before deducting such remuneration and adjusting any tax brought forward losses.

Donations

The ITL introduced deduction for donations paid in cash or kind. These amendments clarified that donations in cash or kind should be allowable for each of the various categories defined in the ITL.

Further, the amendments introduced new provisions of deductibility of donations in kind, which may be in the form of assets (fixed assets, stock, etc), to clearly demonstrate and document the basis of determining the value of those donations made.

Further, the amendments introduced provisions to allow deduction for donations made to charitable trusts established by the taxpayer.

Tax Exemptions

In conformity to the amendments to ITL, the amendments replaced the existing provisions of the Executive Regulations related to tax exemptions for companies carrying out certain activities, with new provisions limiting tax exemption to be granted only to companies carrying out their main activity in the field of manufacturing sector. Similarly, the amendments cancelled respective provisions related to renewal of tax exemption thereby limiting tax exemption period to five years only.

Tax Card system

The amendments introduced the mechanism for issuance of tax cards. Tax cards are to be issued upon official request from taxpayers using the specified Income Tax Form No. 11 provided by the amendments. New taxpayers are required to apply for the tax card at the time of tax registration. Although not specifically mentioned in the amendments, we believe that the existing taxpayers are expected to commence process of applying for the tax card immediately from the effective date of these Executive Regulations.

The tax card will be issued either in paper form or as an electronic smart card.

The tax card will be valid for a period of two years and taxpayers are required to apply for renewal on expiry.

The use of tax card by the Ministries, Government authorities & other parties (40% or more Government owned companies) is emphasised and these organisations are obliged to notify the tax authorities of names and details of contracting parties it deals with that did not provide a copy of the tax card. A specified Income Tax Form No. 20 for this purpose is provided along with the amendments.

Electronic filing of returns and notifications

Recently, the tax authorities emphasised the filing of withholding tax returns electronically effective 1 November 2018.

In view to further encourage use of electronic filing mechanism, provisions clearly defining the responsibilities of the principal officer were introduced in these amendments. The use of the SGT portal is emphasised to such an extent that any notice issued and posted on the portal is deemed to be received on the date of posting. The taxpayers needs to be vigilant in terms of electronic notices received for timely appropriate action.

Penalty for auditors

A new provision has been introduced giving wide powers to the tax authorities authorising temporarily restricting use of services of an auditor authorized legally to practice the profession of accounting and auditing in Oman. Penalty can be imposed in cases where it is proved that an auditor helped the taxpayer submitting any documents or information related to tax obligation for the taxpayer in an incorrect way.

Special provisions related to tax on enterprises

In line with the introduction of special rates for SME in order to stimulate small business activity in the ITL, the amendments provide clarity on rules and conditions required to be fulfilled by the enterprises to be taxed at lower tax rates i.e. either 3% or 0%.

Those provisions also includes rules on deductibility of cost and expenses. Further, the amendments introduced a deemed profit regime for those enterprises where maintaining separate books of accounts is not feasible.

The deemed profit margin adopted will be subject to tax authorities' approval and shall not be less than 5% of total revenue earned during the tax year.

The amendments introduced a specified Income Tax Form 17 to be used by the enterprise subject to the special rules for submitting its tax returns.

Onsite examination and assessment

More detailed rules have been set out by the amendments in relation to the provisions of onsite examination and assessment.

The amendments outlined the responsibility of taxpayers as well as the rights of tax inspectors in relation to onsite assessment process.

The takeaway

Amendments to the Executive Regulations issued brought clarity to a number of matters and improving tax administration.

Companies will need to consider immediately the impact of the clarifications on withholding taxes, director's remuneration and several other matters like emphasis on e-filings and how this may help ameliorate the compliance obligations. The provisions empowering the tax authorities to restrain auditors from taking incorrect positions for clients may have a far reaching impact.

Lets talk

For a deeper discussion of how this issue might affect your business, please contact:

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