# Egypt: The Egyptian Government issues the Unified Tax Procedures Law No. 206 of 2020

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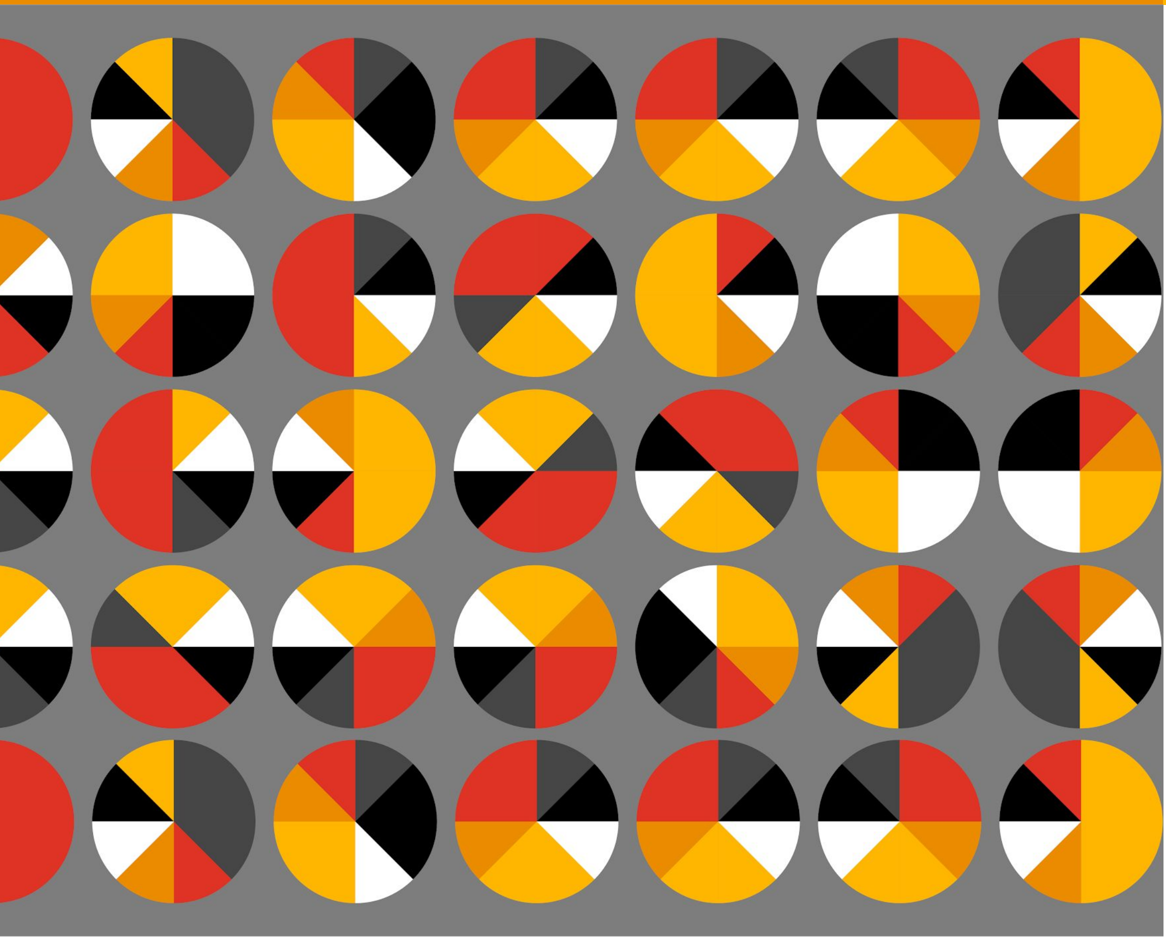

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## In brief

On 19 October 2020, the Egyptian Government issued the Unified Tax Procedures Law No. 206 of 2020 (the "Law") amending certain articles of the income tax law, value added tax law, stamp tax, state development tax, and other similar taxes, and effective as of 20 October 2020.

In this alert, we summarize the key provisions of the Law, as stipulated in Egypt's Official Gazette on 19 October 2020.

In summary, the newly issued law aims to establish unified tax procedures for filing and regulating direct and indirect taxes. As such, taxpayers will have a single tax code for their tax registration for the different types of taxes.

The key issues addressed by the law involve filing of returns, financial penalties, rights and obligations of the Egyptian Tax Authority ("ETA") and taxpayers as relevant to tax audit, appeal, refund, documentation retention, etc.

## In detail

### Amended corporate tax returns

- Taxpayers have the right to submit an amended corporate income tax return within one year of the original submission date.
- Taxpayers will lose their right to submit an amended tax return upon either of the following:
    - Tax evasion
    - Receiving a tax audit notification from the Egytian tax authorities ("ETA")
- In case the amended tax return provides a lower tax due than the original return, the taxpayer should submit a refund request to the ETA. The ETA will review the case and respond to the taxpayer within six months of the request's submission date.

### Payroll tax returns / reconciliations

- The Law states that taxpayers are required to submit quarterly payroll tax returns to the ETA including the following information; names and number of employees (along with other relevant data), total salaries, allowances, and withheld taxes, along with the payment receipt.
- Taxpayers are also required to submit, to the ETA, an annual tax reconciliation every January and settle any tax variances which may arise therefrom. The employer has the right to deduct such variances from its employees.

### Value added tax returns

- The Law states a new deadline for the monthly value added tax returns, which is a period of one month from the end of the tax period (which used to be two months, previously). It's important to note that the ETA has announced that September's return could be submitted until the end of November with no penalties.
- For businesses which involve; i) importation/exportation, ii) ad-hoc provision of a VATable service, where those businesses only engage in a limited number of transactions per year; the taxpayer should be eligible to submit a VAT return only for the month of the relevant transaction. An approval from the head of the tax authority should be obtained for that purpose.
- Taxpayers who are not subject to VAT should still register with the ETA's online platform. An annual fee, that does not exceed EGP 500, applies on such registration.

## Advance ruling

- Taxpayers can file an advance ruling to get the ETA's opinion on any transaction / arrangement with a considerable tax impact, and the ETA should provide its (binding) response within 30 days from receiving the request, along with the relevant supporting documents.

## Tax refund

- In case of tax overpayment, the ETA is obliged to utilize the mentioned tax for settling the taxpayer's previous tax obligations or refund the tax overpayment unless the taxpayer requests the ETA to utilize the overpayment against future tax obligations.
- Overpaid taxes shall be refunded by the ETA to the taxpayer within 45 days following receipt of the taxpayer's refund request, along with the relevant supporting documentation.
- Additionally, an interest (equal to 2% above the Central Bank of Egypt Credit and discount rate for the relevant year) shall be applied, in case the ETA fails to meet the above mentioned timeline.

## Tax appeal procedures

- Upon a taxpayer's appeal on a tax assessment, an appeal form should be submitted to the ETA, including the disputed points in detail, and explaining the basis of the objection. Otherwise, the form will be inadmissible. The ETA shall notify the taxpayer of the committee's date to review their objection within 30 days of submitting the appeal form.
- The ETA will only consider the dispute points detailed in the submitted appeal form. In other words, no further dispute points shall be raised or discussed during the appeal process.

## Financial penalties

The Law has stated a range of financial penalties for non-compliance with the tax laws as follows:

### Penalty of EGP 3k up to EGP 50k applicable in the following cases:

- Non-compliance with the deadlines of submitting the different types of tax returns (such as: corporate income tax, payroll tax, VAT, and state development tax) for a period not exceeding 60 days from the tax return due date
- Including false information in the tax returns
- Non-cooperation during tax audits
- Non-compliance with Transfer Pricing three-tier filing requirements
- The above mentioned penalty could be doubled or tripled in case of recurrence

### Penalty of EGP 5k up to EGP 200k applicable in the following cases:

- Non submission of tax returns for a period exceeding 60 days following their due date
- The above mentioned penalty could be doubled or tripled in case of recurrence within a three year period

### Penalty of EGP 20k up to EGP 100k applicable in the following case:

- The taxpayer not notifying the ETA of change(s) in the company's tax registration information within a period of 30 days of such change

## Tax clearance certificate

- Tax clearance certificates shall be issued by the ETA within 40 days of the date of receiving a taxpayer's request.

### State development tax

- Businesses addressed by the state development tax law (issued in July 2020) are required to submit a monthly return.
- The above mentioned financial penalties should also apply to state development tax returns.
- Business sectors to which state development tax applies, include entertainment / leisure, sport unions and clubs, manufacturers of pet food, manufacturers of mobile phones and internet services providers.

### Documentation retention

- Taxpayers are required to maintain books, records, and supporting documents for a period of five years as of the date of submitting the tax return.

### ETA's access to information

- Tax auditors have the right to access taxpayers' premises and request to review books, documents, etc. without prior notice. This applies regardless of whether or not the taxpayer is taxable (e.g. free zone entities).

### Exchange of information

- The ETA has the right, as per the Law, to exchange taxpayers' information with the tax authorities in jurisdictions that have double taxation avoidance treaties ("DTT") with Egypt. Exchange of information should be limited to the purpose of DTT application.
- Furthermore, the ETA may enter into agreements, or protocols with other authorities, organizations, institutions, etc. to allow for the exchange of information with those entities.
- The exchange of information in the above context, shall not breach the confidentiality of commercial, industrial or professional information relevant to the taxpayer.

### Transfer pricing compliance and penalties

Under the Law, taxpayers engaged in commercial or financial related party transactions of **EGP 8 million or more** should prepare and submit the three-following tiers of documentation requirements (applicable as of 2018, according to the Egyptian Transfer Pricing "TP" Guidelines).

#### Master file:

- The master file provides an overview of the group's business operations as a whole, encompassing information about the economic activity, intangibles owned and overall TP policies adopted by the group.
- The master file should be submitted to the ETA at the same time of the parent entity's corporate income tax return filing date.

#### Local file:

- The local file is more detailed than the master file and it provides information on an entity level regarding the business activities conducted by the local entity. It also provides information about the industry in which the business operates in and it analyzes the financial performance of the entity. For clarification, there should be one local file per entity on an annual basis.
- The local file should be submitted to the ETA two months following the submission of the corporate income tax return.

## Country by Country Report (CbCR):

- The CbCR showcases the global allocation of revenues, income taxes paid, stated capital and retained earnings per jurisdiction. It also shows the key economic activities of the entities of the group. The CbCR is more qualitative in nature than the master file and local file.
- CbCR notification forms disclose to the ETA the reporting entity, the ultimate parent entity and the year to which the report relates.
- CbCR should be submitted to the ETA no later than one year after the end of the fiscal year in concern and the CbCR notification forms should be submitted before the end of the fiscal year to which the report relates.

## Penalties on non disclosure / non compliance

- Taxpayers who fail to disclose their related party transactions (in the relevant section of the corporate tax return) will be subject to a penalty of 1% imposed on the total value of related party transactions in the respective year.

## Executive Regulations

- The Minister of Finance shall issue the executive regulations of the unified tax procedures law within a period of six months from the issuance date of the law.
- The existing laws shall remain in force until the issuance of the executive regulations, as long as they do not contradict with the provisions of the Law.

## Key takeaway

Following the issuance of Law No. 206 of 2020, certain article amendments have been enacted regarding the filing and compliance procedures of corporate income income, payroll tax, value added tax, state development tax, transfer pricing guidelines and other similar taxes`.

The main points to note are as follows:

- New filing requirements for the submission of the amended CIT returns, payroll quarterly returns, monthly VAT returns have been introduced.
- New provisions and procedures for advance rulings, tax refund, tax appeal and issuance of tax clearance certificates are set.
- New range of financial penalties are enacted for non-compliance with the various tax laws and filing requirements.
- Minimum transfer pricing threshold of EGP 8 million is now applied for filing the TP documentation. Non disclosure of the related party transactions within the annual corporate tax return should be subject to a penalty of 1% of the value of the transaction not disclosed.
- New procedures for the ETA's access to taxpayers information, and a documentation retention period has been set.
- Procedures for the exchange of taxpayers' information by the ETA, with tax authorities in other jurisdictions that have DTTs with Egypt, for the purpose of DTT application are now introduced.

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## Let's talk

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


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