Oman makes wide-ranging changes to tax law

Amendments to Oman's income tax law were announced in a royal decree issued on 19 February 2017 and published in the official gazette on 26 February 2017. Among other changes, the amendments increase the standard corporate income tax rate, introduce a lower tax rate for qualifying small companies, expand the types of payments subject to withholding tax and impose stricter noncompliance penalties. Certain changes are effective from the date the decree was published, others are effective for tax years commencing on or after 1 January 2017 and the effective dates for some changes will be announced when further guidelines are issued.

Corporate tax rates

The standard corporate tax rate is increased to 15% (from 12%) for Omani companies and permanent establishments (PEs) of foreign companies, and the standard taxable income exemption threshold for companies of OMR 30,000 is removed, which will bring more taxpayers within the tax net. At the same time, however, a new, lower tax rate of 3% is introduced for "small taxpayers" that fulfill the following conditions for the relevant tax year:

- The taxpayer's registered capital at the start of the tax year does not exceed OMR 50,000;
- The taxpayer's average number of employees does not exceed 15; and
- The taxpayer's gross income does not exceed OMR 100,000.

To qualify for the 3% rate, the small taxpayer may not be involved in certain business activities, such as banking and finance, insurance, public utilities concessions, air and sea transport, extraction of natural resources or other business activities identified by the Council of Ministers. In addition to the lower rate, small taxpayers are allowed to file a simplified, hard copy tax declaration. The tax authorities may use anti-avoidance provisions to reallocate income among companies if they suspect that a taxpayer has planned its activities to split larger businesses into smaller units that fulfill the above conditions in order to benefit from the lower small-taxpayer rate.

The corporate tax rate changes are effective for tax years beginning on or after 1 January 2017.

Withholding taxes

The 2017 tax law changes expand the scope of withholding tax on payments made by an Omani company (or a PE of a foreign company) to a foreign company not registered or not having a taxable legal presence in Oman. Previously, a 10% withholding tax is levied only on the following payments to nonresidents:

- Royalties (including equipment rentals);
- Consideration for research and development activities;
- Consideration for the use of, or the right to use, computer software; and
- Management fees.

The amendments extend the scope of the 10% withholding tax to apply to payments of dividends on shares, interest and fees for the provision of services. The inclusion of fees for the provision of services as a specified category subject to withholding tax is important since it is likely to cover all services performed in Oman (for a period of less than 90 days), except the supply of goods.

The withholding tax rate may be reduced under an applicable tax treaty.

The new withholding tax provisions for payments of dividends, interest and fees for the provision of services apply from 27 February 2017.

The exemption under prior law that applied to withholding tax on payments made by ministries and government institutions is abolished. These institutions now will be required to deduct and remit withholding tax on taxable payments as from 27 February 2017.

Tax exemptions

The prior tax law allowed a tax exemption on income from manufacturing, mining, operating hotels and tourist villages, agriculture, fishing, education, medical care, exporting locally manufactured goods and animal products. The tax exemption was available for a period of five years and could be renewed for another five years. The new law limits the tax exemption; as from 27 February 2017, it is available only to manufacturing income for a nonrenewable five-year period. Companies benefitting from a tax exemption under the previous regime will not be granted a five-year renewal after this date.

Noncompliance penalties

The amendments impose the following stricter penalties for noncompliance:

- A maximum penalty of OMR 2,000 (previously OMR 1,000) for failure to submit a tax return by the due date;
- Penalties for the incorrect declaration of income of no less than 1% and no more than 25% on the difference between the originally declared income and the correct taxable income;
- Penalties of OMR 2,500 to OMR 5,000 for failure to submit documents, failure to comply with information requests made by the tax authorities or failure to attend meetings with the tax authorities;
- An additional fine of up to OMR 3,000 imposed by the Minister of Finance for noncompliance with the tax laws, regulations or administrative orders;
- A penalty of OMR 5,000 for noncompliance relating to tax cards (see below for a description of the new tax card requirement); and
- Strengthened criminal punishment (i.e. imprisonment of principal officers and fines) for the intentional refusal to submit returns or other information requested by the tax authorities (including the intentional destruction or concealment of records) and the incorrect declaration of income.

Strict rules also are introduced for assessment proceedings, including provisions for onsite inspections at the taxpayer's location.

Other amendments

The new law amends the definition of a PE for a building site, a place of construction or an assembly project in Oman to now apply the same 90-day PE rule for these projects as for companies providing consultancy and other services.

The law includes a provision that brings the taxation of interest on Islamic financing transactions in line with the taxation of conventional banking interest.

A number of compliance-related changes have been made to the tax rules, including the following:

- The introduction of a self-assessment system and mandatory electronic filing of tax returns;
- A requirement that all taxpayers apply for and obtain a tax card, which will need to be quoted on all contracts, invoices and correspondence with the Omani tax authorities;
- A reduction in the general statute of limitations for tax assessments to three years (from five years), and to five years (from 10 years) in the case of fraud or nonsubmission of final returns; and a reduction in the statute of limitations for issuing a decision on an objection to eight months (from 10 months); and
- A requirement that accounts accompanying the final return be prepared under the accrual basis of accounting and in accordance with international accounting standards and other criteria determined by the Secretariat General for Taxation.

Comments

The changes to Oman's tax law are expected to support increased government revenue and the prioritized implementation of projects that serve economic and social objectives. The amendments also are an acknowledgement of the significant changes currently taking place in the international tax regulatory landscape, mainly driven by the OECD BEPS project. While Oman will need to take more specific steps to become fully aligned with the BEPS initiatives (e.g. strengthening transfer pricing regulations), changes such as the increase of the corporate tax rate to a level that is more aligned with global standards should help enhance the overall image of the tax regime.

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