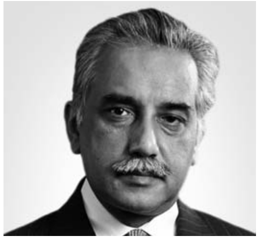
TAXATION IN OMAN

Mansoor Malik and Ravinder Singh from Al-Busaidy Mansoor Jamal & Co. answer key questions



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WHICH LOCAL LAWS GOVERN THE TAX REGIME?

The Omani tax regime is governed by a corporate taxation law published in the Official Gazette in June 2009, which came into effect on January 1, 2010. Secondary legislation in the form of executive regulations was issued in January 2012. Oman has entered into double taxation treaties with a number of countries and signed, but not yet ratified, double taxation treaties with a number of others.

WHAT IS THE APPLICABLE RATE OF TAX IN OMAN?

Companies, including Omani firms, partnerships, joint ventures, sole proprietorships and permanent establishments of foreign companies, are subject to Omani income tax. A flat rate of 12 per cent on taxable income exceeding RO30,000 ($77,922) is levied annually on all companies registered in Oman, irrespective of the extent of foreign participation, branches and permanent establishments of foreign companies. Foreign businesses that provide periodic consultancy or other services in Oman, either through their own employees or designated agents, need to be aware that aggregate periods of 90 days or more spent in Oman in any 12-month period will create a permanent establishment for the purpose of liability to corporate tax.

Income from the sale of petroleum is subject to a special provisional rate of 55 per cent.

There is no specific capital gains tax or special tax treatment of gains, such as those derived from the sale of fixed assets. These gains are taxed at the same rates as ordinary income. Dividends or gains on the sale of locally listed shares sold through the Muscat Securities Market (MSM) are exempt from tax.

CAN A FOREIGN COMPANY AVOID PAYING TAX IF IT DOES NOT ESTABLISH A LEGAL PRESENCE IN OMAN?

The director general of taxation has the authority to determine whether a foreign company conducting business in Oman constitutes a permanent establishment as defined in the Tax Law. He would have the right to levy tax on such companies even if they do not have a registered presence in Oman.

ARE BRANCHES OF FOREIGN COMPANIES REQUIRED TO PAY TAXES ON INCOME GENERATED OUTSIDE OMAN?

No. Branches of foreign companies and other foreign-owned entities operating in Oman are subject to tax only on income arising in Oman.

HOW ARE TAXES PAID?

Companies are required to file a provisional tax return and pay the estimated tax within three months of the end of their financial year. The final annual income tax return must be filed within six months of the end of the company's financial year, accompanied by audited financial statements and payment of all tax due.

A foreign person who has more than one permanent establishment in Oman must file a single tax return that covers all of the permanent establishments, and the amount of tax payable will be based on the aggregate taxable income.

ARE THERE ANY TAX HOLIDAYS OR TAX EXEMPTIONS?

Tax holidays are available to companies, including those incorporated under Oman's Foreign Capital Investment Law, engaged in:

- Manufacturing
- Mining
- Exports
- Operating hotels and tourist villages
- Agriculture
- Livestock farming and animal product processing
- Fishing and fish processing
- Higher education
- Private schools and nurseries
- Private hospitals
- Teaching and training institutions in education and medical care

The minister of finance has the discretion upon receiving an application to that effect to renew the exemption for up to five years. However, the executive regulations provide that a renewal will not be available to any company which, during the initial five-year exemption period, earned net profit equivalent to more than 50 per cent of the capital paid up at the beginning of the exemption period.

Foreign shipping and aviation companies are exempt from paying tax in the sultanate if Omani shipping and aviation firms enjoy reciprocal treatment in the respective foreign country. Omani companies and sole proprietorships engaged in shipping are exempt from tax.

KEY CONTACT
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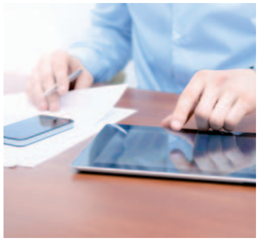
ARE ANY INCOMES EXEMPT FROM TAX?



In addition to the above, any dividends or gains made from the sale or disposal of securities listed on the MSM are exempt from tax. Income realised by investment funds established in Oman under the Capital Market Authority Law, or established overseas for dealing in shares and securities listed on the MSM, is also exempt from income tax. These exemptions are for indefinite periods.

The tax authorities may grant, on a case-by-case basis, a foreign tax credit for certain taxes paid overseas by Omani companies and sole proprietors. The credit may be granted up to the amount of Oman's 12 per cent tax rate, irrespective of whether Oman has concluded a tax treaty with the source country.

ARE THERE ANY CUSTOMS DUTY OR INDIRECT TAXES?

Most imported goods attract a customs duty of 5 per cent levied on the cost, insurance and freight value of goods imported. There is no sales tax in Oman. There is also no inheritance or gift tax. There is no value-added tax at present, although proposals to introduce a flat rate applicable to the Gulf countries are said to be in the pipeline.

IS THERE A PERSONAL INCOME TAX?

There is no personal income tax in Oman.

DOES OMAN HAVE WITHHOLDING TAX?

Withholding tax at a rate of 10 per cent is imposed on certain payments to foreign companies that do not have a permanent establishment in Oman. The tax relates to payments for:

- Royalties*
- Consideration for research and development
- Management fees
- Consideration for the use of or right to use computer software

*Royalties include payments for the use of or right to use software; intellectual property rights; patents; trademarks; drawings; equipment rentals; consideration for information concerning industrial, commercial or scientific experience; and concessions involving minerals.

If a foreign company has a permanent establishment in Oman, but the permanent establishment in the sultanate is unconnected to the receipt of income that is subject to withholding tax, withholding tax applies to such payments.

Companies or permanent establishments in Oman that pay these items must deduct tax at source and remit it to the secretary-general of taxation. The tax is final.

In practice, it is likely that companies may have difficulty in deciding whether the tax has to be deducted at source, either because it is not known whether the foreign company has a permanent establishment in Oman or there may be doubt whether the payment falls within the categories above.

The tax department is empowered to levy additional tax at 1 per cent a month of the tax due if a company fails to deduct tax at source and remit it to the taxation department. The tax department also has the right to commence proceedings against companies for recovery of tax that ought to have been deducted at source.

Oman does not levy withholding tax on dividends, interest or technical service fees.

IS OMAN A SIGNATORY TO INTERNATIONAL TAX TREATIES?

There are a number of tax and investment protection treaties in force in Oman, although some are relatively limited in scope. An avoidance-of-double-taxation treaty has been in force for some time with several countries, including France, Lebanon, South Africa, Italy and the UK. A treaty with the US is under negotiation.

IS STAMP DUTY AND MUNICIPALITY TAX PAYABLE?

Stamp duty applies to the acquisition of real estate at the rate of 3 per cent of the sales value. A local municipality tax is payable on property leases calculated by reference to the amount of the rent. Various fees are charged for registering documents with government authorities.

WHAT ARE THE PENALTIES FOR LATE PAYMENT OF TAXES?

Delay in the payment of income tax normally results in additional tax calculated at 1 per cent a month on the outstanding amount. The director of taxation may impose other penalties in the event of non-compliance, including an additional assessment of up to 50 per cent of the value of the tax payable by the corporation.

If a taxpayer fails to declare their actual income, the secretary-general may impose a fine not exceeding 25 per cent of the difference between the value of the tax payable and the tax declared. Criminal penalties, including imprisonment, may be imposed on company officers who deliberately fail to comply with tax regulations.

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