Tax Agenda Egypt

August 2024

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No.	Fact	Action
1	**Permanent establishment (PE)** Law No. 30 was introduced in June 2023 to amend/update the provisions of the Egyptian Income Tax Law. Law No. 30 amended the definition of a PE to include the following: ▸ *PE duration* A PE is deemed to be created if a project exists in Egypt for a minimum period of 90 days (i.e., 3 months) in any 12-month period, whether continuous or intermittent. ▸ *Service PE clause* The PE definition was broadened by introducing a "Service PE" clause, to include the provision of services (i.e., including consultancy services) by a nonresident entity through employees or other personnel in Egypt. ▸ *Connected projects* Connected projects provided in different periods of time in Egypt by the same nonresident company or another related party (company forming part of the same group) will be deemed to constitute a PE if the overall duration of the connected projects exceeds a period of 90 days in any 12-month period.	Nonresident entities doing business in Egypt should reassess their PE risk position. If a nonresident entity is deemed to have a PE in Egypt, then it should set up an entity in Egypt (i.e., a company or a branch), and comply with all the relevant tax laws and regulations. Hence, where a PE is deemed to be created under the new definition, this would trigger compliance and risk management, and may eventually have an impact on the group cash tax and effective tax rate (ETR).
2	**Egypt-Qatar double tax treaty (DTT) update** The Egypt-Qatar DTT was ratified by Egypt in October 2023. However, it has not entered into force yet.	The potential impact of the DTT on the specific type of income derived from either jurisdiction, would need to be assessed.

Compliance *Risk management* *Cash flow and ETR impact*

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3	**Withholding tax (WHT) credit on local dividend distributions** Based on Law No. 30, WHT deducted from dividend distributions received by an Egyptian company from another Egyptian entity should be credited upon subsequent distribution of such dividends to another Egyptian company, provided the following conditions are met: ▸ The deduction should be capped at a percentage calculated based on the redistributed dividends over the total revenues generated by the distributing company. ▸ Minimum shareholding or voting rights of 25% should be held by the distributing company in the subsidiary from which the dividends were received. ▸ The shares are held for at least two years from the date of the investment. ▸ The deduction should not exceed the WHT amount originally deducted. The above rule applies only to Egyptian resident companies. Further, the application of the abovementioned rule and conditions are expected to be clarified, once the Executive Regulations of Law No. 30 are in place.	Group companies with a vertical structure, involving at least three tiers in Egypt, should consider the impact of the dividends WHT credit on the group's effective tax rate (ETR), going forward.
4	**WHT on interest payments to nonresidents** Payments of interest made by Egyptian resident entities to nonresidents should be subject to WHT at the rate of 20% (upon making the payments). Prior to the issuance of Law No. 30, interest payments on loans with a minimum tenure of three years (i.e., long-term loans) were WHT-exempt. However, Law No. 30 abolished such exemption on long-term loans. With regard to loans that were already in place when Law No. 30 was issued, these may continue to be WHT-exempt, provided that certain conditions are met. (Accordingly, the WHT exemption abolishment impact on these loans would need to be assessed once the Executive Regulations of Law No. 30 are in place.)	As of 15 June 2023, nonresident lenders of long-term loans should account for 20% WHT on interest payments (unless an applicable DTT signed with Egypt provides relief/reduction of WHT in Egypt). Similarly, on the local entity(ies) side, attention should be given to applying WHT on interest payments (relevant to long-term loans), going forward.
5	**Thin cap rule** As per the thin cap rules for corporate income tax (CIT) purposes under Law No. 30, the debt-to-equity ratio has changed from the current 4:1, (which should continue to be applicable until the end of tax year 2023), to the following: ▸ 3:1 from 2024 through 2027 ▸ 2:1 from 2028 onward Where the new thin cap ratios are not complied with, the excess amount of interest expense would not be deductible for CIT purposes.	Local entities should consider the new thin cap ratio(s) applicable as of tax years 2024 through 2027.

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6	**Supporting documentation for tax deductibility (e-invoice and e-receipt)** Expenses and costs are generally deductible for CIT purposes, provided that they are supported by proper documentation necessary to perform the entity's main activities. As per Law No. 30, all costs and expenses should be supported by e-invoices and e-receipts, starting July 2023 and January 2025, respectively. Hence, as of the abovementioned dates, in the absence of e-invoices/e-receipts, expenses would be disallowed for CIT deductibility and (input) value-added tax (VAT) recoverability purposes (leading to approximately 36.5% additional tax cost). It should be highlighted that all Egyptian entities should now be registered for e-invoicing purposes, in accordance with Law No. 30. The Egyptian Tax Authority (ETA) has also announced that starting from July 2023, local entities that are not using e-invoicing would be unable to access the customs duty portal (i.e., Nafeza) , which would negatively impact their eligibility to import and export goods.	Entities should review whether their e-invoices (as of July 2023) and e-receipts (as of January 2025) are in place to support the deductibility of their expenses. Otherwise, the relevant amounts should be either properly treated in their returns (as nondeductible) or provided for in their books. Additionally, where an Egyptian entity is not registered for e-invoicing, appropriate actions should be taken to have this done as soon as possible, to avoid potential challenges by the ETA.	● ●	☐
7	**Payroll tax (PT) rates and exemptions** Part of the Egyptian Income Tax Law amendments, based on Law No. 30 (which should be effective as of July 2023), addresses PT as follows: ▸ The annual personal exemption has been increased from EGP15,000 to EGP20,000. ▸ The first income PT bracket (subject to 0% tax) has been broadened from EGP1 to EGP30,000, to EGP1 to EGP40,000. ▸ PT progressive rates have been amended, and to fall within the new bracket of 27.5%, the applicable annual earnings should be more than EGP1.2m.	Egyptian entities should be aware of such updates to comply with the updated PT exemptions and brackets, especially if an inhouse team (e.g., HR) calculates PT.	● ●	☐
8	**Temporary employees' PT obligations** Entities who hire temporary employees are required to withhold 10% (flat rate) from their salaries and wages and remit such amounts to the ETA within 15 days of the following month. As per Law No. 30, starting from January 2024, such entities are required to notify both the ETA and the primary employer of the temporary employee(s), of the amounts paid to them, along with the withheld PT (as the primary employer would apply the PT brackets, as applicable).	Egyptian entities that hire temporary employees should ensure that they calculate PT properly and withhold it from the salaries of such employees. Additionally, such Egyptian entities should provide notifications to the ETA and the primary employer of the temporary employees. In addition, the administrative work associated with the hiring of temporary employees should be considered as of January 2024 and onward.	●	☐

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9	**PT unified system** As part of its efforts toward unifying the standards for calculating PT, the Egyptian Government has launched a new portal — Unified Payroll Tax Portal — aimed at improving the financial and taxation compliance process/procedures. The ETA requires taxpayers to register with the portal, starting from March 2023. In this respect, a new set of regulations were issued between March 2023 and October 2023, requiring local entities to enroll in the new PT portal across phases. The employer should include details regarding the entities' employees (such as national IDs, social insurance, salaries and other benefits) on the portal whereby, PT would be calculated automatically through the portal. Additionally, initial quarterly/annual forms would be drafted automatically by the system to be reviewed and submitted by the entities. It should be highlighted that although not all Egyptian entities are currently obliged to enroll with the portal, the ETA's plan is to have all Egyptian entities registered with the portal by December 2024.	Entities that are currently required to register with the PT unified system, should register (according to the timeline determined by the ETA), and consider the impact on their current PT compliance process.
10	**Simplified registration for VAT purposes** Remote services provided by nonresidents (i.e., which do not have a legal presence and are not deemed to have a PE in Egypt) to locally nonregistered individual taxpayers (i.e., business-to-customer or B2C transactions), should be subject to VAT via the simplified registration mechanism, e.g., shipping services B2C, if their revenues in Egypt reach a threshold of EGP500,000 in any 12-month period. Simplified registration is currently mandatory (subject to meeting the abovementioned threshold), whereby, nonresident registrants should account for VAT upon issuing invoices to their local (B2C) customers and file a monthly VAT return via the ETA's tax portal (before the end of the month following the transaction date). Noncompliance with the simplified registration rules could potentially lead to financial penalties, and in worse cases, banning of the nonresident entity from operating in Egypt. Based on the VAT Law and its Executive Regulations, service providers should register for VAT purposes via simplified registration by July 2023 (and goods providers should register by July 2025).	Nonresident entities who fall under the simplified registration rules should register with the ETA to avoid potential penalties associated with noncompliance and any other consequences (such as the ETA banning the nonresident entity from doing business in Egypt). Further, they should account for the administrative work associated with such registration in Egypt (i.e., adding Egyptian VAT to their invoices and filing monthly VAT returns in Egypt). Businesses need to consider the impact on business due to this effective increase in change made to the end customer from a commercial perspective.
11	**Government entities withholding VAT** As of February 2022, government entities should withhold VAT and excise tax amounts from payments to local providers of goods/services. Government entities should fully withhold excise tax and 20% of the VAT amount due, and remit them to the ETA within 10 days from the deadline for their payments.	Local entities generating revenues from the provision of goods/services to government entities should be aware of the VAT amounts withheld in order to reconcile their VAT payments (that are made upon submission of the VAT return). The government entity and the local entity are jointly responsible with respect to the compliance requirements, i.e., the withholding of a portion of the VAT and issuing appropriate invoices with VAT/excise tax, respectively.

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12	**Further guidance with respect to the application of transfer pricing rules** In September 2023, the ETA issued a detailed explanatory guide with respect to the application of transfer pricing requirements as per the Unified Tax Law procedures, to tackle the main issues that taxpayers face in Egypt. The following are the highlights of the guide: ‣ Clarity on the deadlines for submitting the local file, which is two months following the date of submission of the CIT return ‣ Applicability of delay fines for the late submission of transfer pricing files ‣ Confirmation that payment of dividends should not be considered as a related party transaction (RPT) ‣ Clarity on the requirement to disclose/include balance sheet items in the CIT return and transfer pricing files as RPT ‣ Affirmation that transactions taking place between affiliates (including joint ventures) should be considered as RPT ‣ Specification on the requirement for transfer pricing files submission by free zone companies	Entities with RPT amount exceeding the materiality threshold of EGP8m until February 2024 and EGP15m thereafter, and currently subject to transfer pricing requirements should be aware of the new clarifications and guidance issued by the ETA to avoid any future challenges. Additionally, entities that were not aware of the transfer pricing requirements should prepare for the expected administrative and compliance requirements to facilitate compliance with the Unified Tax Law Procedures. According to the Unified Tax Law procedures, noncompliance with the local transfer pricing rules may trigger financial penalties up to 3% of the aggregate RPT.
13	**Released tax incentives for green hydrogen** In January 2024, Egypt introduced new tax incentives for green hydrogen projects. The following are the highlights of the incentives: ‣ Cashback of 33% to 55% on the annual CIT paid on a project ‣ VAT exemptions on equipment, tools, machinery, raw materials and transport used for project development ‣ Discount of 30% on fees for the use of seaports, maritime transport and ship servicing ‣ Discount of 25% on the value of industrial land rights for green hydrogen production ‣ Discount of 20% on the value of land rights for storage at ports, for up to 10 years after signing project agreements with the government ‣ Exemption from real estate tax, and custom duties exemption on the import of equipment	To avail the mentioned incentives, the potential beneficiaries should meet the following conditions: ‣ Obtain the preapproval of the Prime Minister. ‣ Secure 70% of the investment cost of a project from financial institutions outside of Egypt. ‣ Start operations within five years of concluding agreements.

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14	**Incentives under amendments to Investment Law No. 72** In July 2023, Egypt amended the Egyptian Investment Law No. 72 of 2017 through Law No. 160 of 2023, which introduces further investment tax incentives. All investment projects established under Law No. 160, except free zone projects, shall enjoy the following incentives introduced by this amendment: ▸ Section A: Includes the companies/projects located in the economic zone of SCZone and the Golden Triangle areas which shall enjoy a percentage equivalent to 50% of the total investment cost as a discount from the taxable profit. Law No. 160 amends Investment Law No. 72 to extend the discount to more areas, e.g., New Administrative Capital and Ras El-Hekma) ▸ Section B: Includes companies/projects located in other geographic areas most in need of economic development. A discount on taxable profit, equivalent to 30% of the total investment cost, is applicable to such areas. The abovementioned deduction shall not exceed 80% of the paid capital and for a period of time that does not exceed seven years from the date of operation.	To be eligible to avail the incentives, projects must be initiated within a maximum of three years post the issuances of the executive regulations. This period could be extended up to nine years, based on the Prime Minister's decision.

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