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On 2 February 2023, Qatar published Law No.11 of 2022 ("the amendments") amending several provisions of the Income Tax Law No. 24 of 2018 ("the Tax Law") in the official Gazette. The amendments are effective from 2 February 2023 (i.e., the date of their publication in the official Gazette).

The amendments have introduced a number of important changes to the Tax Law. The details of some of these key changes are expected to be issued by the General Tax Authority ("GTA") as amendments to the Executive Regulations of the Tax Law in the near future.

We have summarized some of the amendments below.

Global Minimum Tax

The amendments highlight Qatar's commitment to introducing Global Minimum Tax. Although details in relation to the application of Global Minimum Tax will be covered in the changes to the Executive Regulations of the Tax Law, the amendments imply that measures will be introduced to achieve minimum effective tax rate of 15% for in-scope entities.

Expansion of the scope of income tax

The amendments have preserved the overarching principle of taxing income arising from sources in Qatar. However, the amendments specify various types of income generated outside Qatar that will now be subject to income tax in Qatar. This includes income generated from real estate, immovable property, dividends, royalties, interest, and technical service fees as long as such categories of income are not attributable to a foreign permanent establishment ("PE") of the Qatari Project.

There is also an indication that income derived by a Qatari Project from a broad range of services provided outside Qatar (such as marketing services, procurement and financial intermediation services, fees paid to obtain guarantees or similar financial support, communication services, broadcasting services, etc.) will now be subject to income tax in Qatar.

The expansion in the scope of income tax is expected to bring various categories of foreign income within the tax net of Qatar, which can contribute to raising the overall effective tax rate of entities within the scope of Global Minimum Tax. The inclusion of these new categories of income could also result in raising the tax liability of Qatari entities that may currently be outside the scope of Global Minimum Tax.

> **"The amendments highlight Qatar's commitment to introducing Global Minimum Tax."**

> The amendments introduce a new reporting requirement around economic substance and ultimate beneficial ownership.

Relief for foreign taxes

As the amendments bring various categories of income generated outside Qatar into the tax net of Qatar, the amendments also provide relief for income taxes paid outside Qatar on foreign income (subject to certain conditions). The amendments further clarify that the relief will be limited to the extent of the tax liability in Qatar.

Reporting of substantial / core activities

a. Reporting requirement

The amendments introduce a new requirement for entities to submit a report to the GTA regarding the minimum indicators of their core activities in Qatar. We expect that the changes to the Executive Regulations of the Tax Law will specify the criteria which will bring entities into this reporting requirement.

b. Issuance of Qatar tax residency certificate

The amendments state that entities that do not meet the substantial activity criteria in Qatar may not be issued with a Qatar tax residency certificate by the GTA.

c. Penalty for non-compliance

The amendments introduce a flat penalty of an amount equal to 15% of net income in cases where the "physical existence and substance tests" are not met.

Reporting of ultimate beneficial ownership details

The amendments specify that various entities (i.e., companies / partnerships, foundations, etc.) are required to maintain accurate and up-to-date information about their intermediate and ultimate legal and beneficial owners at all times. This information should be made available to the GTA when required.

Others amendments

<u>Changes to the definition of a PE</u>

PE is now defined as "having a fixed place of business" and "the realization of income or profit". This definition deviates from the OECD's PE definition to a certain extent and significantly expands the scope of a PE, which needs to be carefully assessed.

Changes to residency criteria

The amendments have replaced one of the previous residency tests for corporates from "effective place of management" to "main and actual place of administration". This new test encompasses effective place of management with reference to "senior strategic functions" as well as expands the residency test by referring to "carrying out daily business activities".

In addition, any individual holding Qatari nationality is now considered as resident in Qatar. The amendments also remove the previous reference to "centre of vital interests" as there were some ambiguities related to this residency test under the Tax Law.

Definitions introduced in the amendments

The amendments have introduced several new definitions which provide guidance on new provisions introduced in the amendments as well as clarifies some provisions of the Tax Law. Some of the key new definitions include "dividends", "technical service fees", "interest", "project", "actual place of administration", "business", "person", etc.

Tax status of private associations and foundations, private charitable organizations, and private foundations of public interest

Under the Tax Law, entities mentioned above were considered outside the scope of tax and were not subject to most provisions of the Tax Law. However, the amendments have brought these entities within the ambit of the Tax Law and these entities shall now be considered as within the scope of the Tax Law as tax-exempt entities.

This change will require these entities to comply with the provisions of the Tax Law, such as filing tax returns, preparing audited financial statements, etc. Accordingly, such entities should assess the impact of the amendments on their tax status in Qatar.

Changes to the anti-avoidance provision

Under the Tax Law, the GTA had a right to counteract any artificial arrangements carried out with an intention to avoid the payment of tax due through the application of one or more of three measures (i.e., applying the arm's length principle, recharacterizing arrangements where the form was not in line with the substance, or adjusting the amount of tax due).

The amendments have now removed the arm's length measure while maintaining the other two, which may result in potential discretionary adjustments by the GTA.

However, the amendments stipulate that Qatari enterprises should follow in their commercial or financial relations with foreign related parties those conditions that would apply between independent enterprises.

> **The changes to the Executive Regulations of the Tax Law are expected to clarify the application of the requirements arising from the amendments.**

Let’s talk

For a deeper discussion or in case of any queries, please contact our below colleagues or visit our dedicated TLS web page.

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

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