Doing business in Egypt

A tax and legal guide

Summer 2021

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Welcome to this guide

This broad base coupled with a large population, renewed political stability and the impact of a wide ranging programme of economic reform is driving consistent actual and forecast growth in GDP in excess of 5% per annum. This is creating an environment which is positive for both innovation and foreign direct investment (‘FDI”).

This guide is intended to provide an introduction to the taxation and legal aspects of doing business in Egypt,
particularly from the perspective of an inbound investor.

We hope you find the guide useful.

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Country introduction

Overview

Egypt, officially the Arab Republic of Egypt has a recorded history that dates from approximately 3200 BC.

The population of Egypt is some 100 million, making it the most populous country in the Middle East.

The Egyptian Government's policies are now focusing on economic recovery and growth through the following five channels:
- mega infrastructure projects
- tourism
- improvements to economic policy
- increasing private sector investments
- attracting GCC investments.

Sectors seen by the Government to be of particular focus for foreign investors in the short to medium term include energy, construction and real estate, transportation, and telecommunications.

Egypt made remarkable economic progress during the recent years; according to a report issued by the World Bank, Egypt has moved up 8 spots to rank 120 out of 190 countries. In 2020, Egypt made another improvement by ranking 114. Egypt's economic growth has been strong and resilient during the COVID-19 pandemic. In 2020, Egypt did record a positive growth at a rate of 3.6%, despite the impact of the pandemic which is considered the second largest growth rate in the word. Egypt ranking improved in other sectors such as Global Knowledge index 2020 by ranking 83 out f 138 countries.

The currency of Egypt is the Egyptian pound (EGP). Due to the flotation of the Egyptian pound that took place in November 2016, the Central Bank of Egypt has relaxed the restrictions and limitations on the transfer of foreign currencies.

Arabic is the primary language of Egypt. Most international business people there speak English, French or both.

Incentives for foreign investors

The Investment Law was issued on 31 May 2017, abolishing the current law and introducing new incentives for investors.

The Executive Regulations followed on October 2017.

The new Law is now in force and include notable amendments such as returning back the private free zone which was previously abolished, moreover it provides several incentives such as tax incentives, unified customs rate and free lands.

It also focuses on simplifying the incorporation process and all corporate procedures through electronic systems and one stop shop.

Legal and regulatory framework

Egypt is a civil law country, with a legal system based on the the Islamic Shari'a and Napoleonic Codes.

The Islamic Shari'a have historically been more relevant in personal matters. As for commercial activities, legislation have been enacted to regulate them.

The key laws for the establishment of a legal entity are the Investment law no. 72/2017, the Companies Law no. 159/1981 which was amended in 2018 by virtue of Law No. 4/2018 and the Capital Market Law No. 95/1992 and their Executive Regulations. Antitrust law No. 3/2005.

The Constitution (of 2014) is the supreme legislative source of law, followed by the relevant Laws and the Executive regulations, which are issued to clarify, complete, and/or explain the law.

The court system in Egypt is as follows: :

1. Common Court System: which is constituted of three tiers: courts of first instance,, courts of appeal and courts of cassation; having jurisdiction over the disputes arising between private persons/entities.
2. Administrative courts: (State Council); having jurisdiction over the disputes that the government or any of its bodies/ authorities (acting as a sovereign power) is a party in.
3. Courts of special jurisdiction: (Supreme Constitutional court, Economic courts, family courts, and Military courts).

As with other civil law systems, whilst there is not a system of legally binding case law precedents, previous judicial decisions do have persuasive authority. Certain courts can be de facto bound by the principles and precedents of the Court of Cassation for civil, commercial, and criminal matters, and the Supreme Administrative Court for administrative and other public law matters.

Establishment of business

Forms of business

The main legal entities to establish a business in Egypt are"

- Joint stock company 'JSC".
- Limited liability company "LLC".
- Representative office "RO"
- Foreign Branches.
- Sole Partnership company "SPC"

Joint stock company (JSC)

As a general rule, Joint Stock Companies do not have any restrictions regarding their activity.

Shareholders:
A Joint Stock Company must be established with at least 3 (three) shareholders at all times which may be judicial or natural persons. As a general rule, the company may be fully owned by foreign investors with the exception of some activities explicitly mentioned by law and requires a specific percentage of Egyptian national ownership.

Capital Requirement:
The minimum capital of a JSC is EGP 250,000 (two hundred and fifty thousand Egyptian Pounds). A JSC shall be incorporated upon depositing at least 10% of its issued capital, and subsequently, this percentage must be increased to 25% within 3 (three) months from the date of issuing its commercial register. The remaining amount of the issued capital must be paid within a period of 5 (five) years from the date of establishment. However, a higher capital may be required for specific activities such as importation for trading activity.

Management of the company:
A Joint Stock Company is managed by a board of directors which is composed of at least 3 (three) members who is in charge of the daily operation of the company. They may be judicial or natural persons. They could also be foreigners or Egyptians.

Depository of shares at the Central Securities Depository System
Joint Stock Companies are required to register at Central Securities Depository System through Misr Central Clearing Depository and Registry (M.C.D.R) upon registration of the company in commercial register. The Shareholders must deposit their shares in one of custodians companies which are listed at (M.C.D.R).

Limited liability company (LLC)

A Limited Liability Company is permitted to engage in all business activities with the exception of banking, insurance, saving, receiving or investment of funds for the favor of third parties, or any other activity explicitly restricted by law.

Partners:
A limited liability company is established with at least 2 (two) partners which may be judicial or natural persons. The company could be fully owned by foreigners with the exceptions of some activities explicitly mentioned by law and requires a specific percentage for Egyptians.

Capital Requirement:
For limited liability company, there is no minimum capital required for its incorporation with the exception of certain activities, a minimum required capital is required such as importation for trade or

Management of the company:
A limited liability company is managed by one or managers who in charge of the daily operation of the company. There is no restriction on the nationality of the managers unless for certain activities which an Egyptian manager is required such as importation for trade or Export .

Representative office (Ro)

The activity of a representative office is limited to conducting market study without performing any commercial activity.

A foreign company is allowed to establish a representative office or a scientific office in Egypt to carry out a market study.

A representative office is managed by a manager which his/her authorised powers are determined by its parent company.

New compliance requirements imposed on representative offices

- The representative office in Egypt should submit at the beginning of each year a statement including its employees' name, their jobs, nationalities, their salaries, the total of their salaries, the percentage of the Egyptian employees' salaries, its marketing study that was conducted during the year as well as a prove the marketing research was sent to its Parent Company, the decisions made by the Parent Company for the work exerted during the year.
- The representative office should submit to the General Authority For Investment (GAFI) the Parent Company's decision to establish a legal entity in Egypt (a subsidiary such as a limited liability / joint stock company) or a branch within three years from the date of registration of the representative office in Egypt.
- The representative office in Egypt shall submit a time frame for the completed and remaining researches, and the conclusion of those researches.
- Furthermore, the representative office shall be accorded a registration certificate from the date of its registration that shall not exceed a year which is renewed annually for three years.
- It is permissible for the Head of GAFI to prolong the above mentioned duration provided that the representative office submit reasonable explanations for such prolongation.

Foreign Branch

A foreign company could operate in Egypt by establishing a foreign branch. The purpose of a branch is limited to implementing a specific contract in Egypt.

Capital Requirement:
The minimum capital required to establish a branch is EGP 5,000 (five thousand Egyptian pounds).

Management of the branch:
A foreign branch is managed by one or more managers and are responsible for its daily operation. Their authorized powers are conferred by the parent company.

Sole Partnership Company (SPC)

The sole partnership company was introduced in 2018 in the amendments of the companies' law No. 4 of 2018. This Company has the same feature as a limited liability company.

Partner:

A sole partnership company is established with one partner at all times which may be judicial or natural person. The partner may be foreigner or Egyptian unless the activity of the company requires a certain percentage of Egyptian national ownership.

Capital Requirement:

To establish a sole partnership companies, a minimum capital of EGP 50,000 (fifty thousand Egyptian pound is required.

Management of the company:

The company is managed by one of more managers who are entrusted with the daily operation of the company and they may be foreigner of Egyptian unless the activity of the company requires an Egyptian manager.

Incorporation process

The steps to establish a new legal entity in Egypt are as follows:

- Prepare, review and authenticate the company's Article of Association from GAFI.
- Open a bank account for the company being established
- Prepare and submit the security check application for the
- foreign shareholders / partners and the board members / managers.
- Notarize the Article of Association.
- Issuing the Commercial Register and tax card.

Profit repatriation

There are no restrictions on repatriation of profits as long as supporting documentation can be provided.

Increase / reduce the Capital

The company's capital is approved by the General Authority For Investment at the incorporation date. It's permissible to increase or reduce it following the incorporation based on the company's needs and after acquiring GAFI's approval.

New Obligations required:

According to the Egyptian law, any company with direct or indirect foreign investment is required to submit a financial quarter form on GAFI's Portal 45 days maximum at the end of every quarter. Additionally, there is an annual form which must be submitted within 4 months maximum of the end of the company's financial year. Any late submitted reports could be subjected to fine not exceeding EGP 50,000.

Egyptian Investment Law No. 72 of year 2017

The Egyptian Investment Law No.72 of year 2017 was enacted and promulgated on 31 May 2017, and its related executive regulations was enacted in October 2017. According to Decree No. 96 promulgated on 17 June 2020, the period of the said law was extended to another 3 (years) starting from 29 October 2020.

The Law allows companies established pursuant to it to benefit from a set of incentives, equal opportunities and enhances competitiveness to avoid monopolisation.

It also focuses on simplifying the incorporation process and all corporate procedures through electronic systems.

The executive regulations stipulates the following activities:

Nature of the Investment Law:

The Investment Law no. 72/2017" abolishing and replacing the former Law no. 8/1997. The Law sets out certain activities under which a company could be established and benefit from the incentives. The list is not exclusive and could include additional activities by virtue of a ministerial decree.

- Industrial activities: (including product lines, architecture designs, utilities, cinema production, and industrial development except for tobacco & wine industry);
- Agriculture and animal, poultry and fish production;
- Trade sector (projects targeting to develop the internal investment);
- Education sector;
- Health sector;
- Transportation sector;
- Tourism;
- Housing, construction & building;
- Sports;
- Electricity & Power;
- Petroleum;
- Water Sector;
- Communication & information technology.

Investment systems

The Law provides several investment systems according to area and activity of the project as follows:

A. Internal investment:

- The strategic projects that contribute to the community development with regards to public utilities and infrastructure, new and renewable energy or roads and transportation and ports, may be granted a sole approval on the project establishment and operation, this approval will be enforceable without any further procedures.
- The approval is granted by virtue of board of ministers' resolution and may include granting some of the law incentives.

B. Investment zones:

- With regards to some developing areas, the prime minister may resolve setting up specialised investment zones in different activity sectors, where the resolution shall determine the location, type of activities to be practiced and any other conditions.
- Investment areas shall benefit from the investment incentives and guarantees mentioned above, and each investment area shall be managed by a board of directors, which shall be competent of granting the license to the compliant investors.

C. Technological zones:

- The Prime Minister may, upon a proposal from the competent minister,license the establishment of Technological Zones in the field of communication and information technology industry.
- All tools, equipment & machines required to conduct the licensed activity will be exempted from taxes & customs and shall benefit the "Special Incentives" mentioned above.

D. Free zones:

- In addition to the Public free Zones, the Law includes the "Private Free Zones", which are established upon the issuance of a Prime Minister's decree and each zone shall include several projects practicing similar activities.

- The following industries are prohibited from being established in the free zone: Petroleum (not including refining), Fertilizers, Iron & Steel, alcoholic substances, weapons, ammunition and explosives, Production, liquidation and transportation of natural gas and Energy-intensive industries.
- Goods exported by free zone projects and goods, tools and equipment imported (for the purpose of practicing its activity) are exempted from custom taxes, value added taxes and other taxes and fees.

- The projects established in the free zone are subject to the following fees:

    - Free zone fees: 1% or 2% of the goods value/gross revenues according to the nature of the project.
    - Annual fees: 1/1000 of the capital with maximum amount EGP 100,000.

Investors services centre

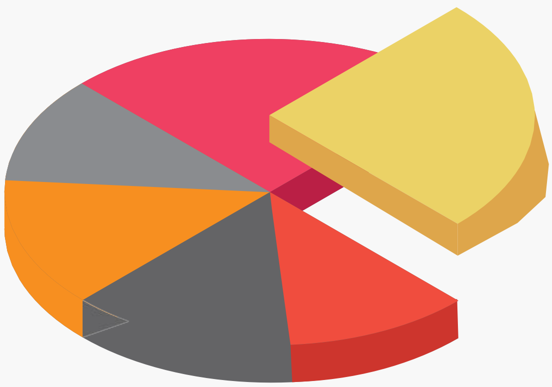
- A new department shall be opened in the General Authority for Investment "GAFI" (Investors Services Centre), this centre shall include representatives for all competent authorities and will provide incorporation, post incorporation services and permits electronically for all types of legal entities & whether subject to Companies or Investment Law.

    - The centre shall decide upon the investment requests within no later than 60 days from the date of submission (including all the required documentation), otherwise the application shall be deemed approved.
    - With regards to the approvals/permits, the Law has provided 2 business days grace period for the centre's representatives to request any additional documentation from the investor, calculated from the date of submitting the application and the documents, otherwise the application shall be deemed compliant.

Ratification Offices

JSC which exclusive activity is "Ratification Offices" and satisfying certain criteria and conditions may be licensed by GAFI as "Ratification Offices", whereby it will have the right to review the documents submitted by the investor to obtain a certain permit / license / approval and issue a ratification certificate testifying the compliance of the project with the requirements of such permit/license/ approval.

This certificate shall be valid for one year only, and shall be deemed an official document acceptable in front of the competent authorities which cannot reject it except through a justifiable objection within no later than 10 days from the date of submission.



Investment guarantees:

The law has provided several guarantees which are as follows:

- All investments shall receive fair and just treatment.
- All the resolutions related to the investment project must be justified and notified to the investors.
- The Investment funds cannot be seized except by virtue of a final judgment.
- The license issued for the investment project shall not be revoked or suspended and the real-stated properties allocated for the project shall not be reclaimed before issuing a warning to the investor of the violation he is charged with granting him a grace period to rectify the causes of the breach.
- Foreign investor shall have the right set up, establish, expand and funds his investment from abroad with forreign currencies.
- Investors are entitled to own, manage, use and dispose of the project. They could make profits and transfer those profits abroad.
- In case of liquidation, the competent authorities must notify the liquidator and GAFI of any due liabilities within no later than 120 days from the date the liquidator submits an application in this regard, otherwise the liquidated company shall be released.
- Investors subject to the investments law could benefit from importing the necessary raw materials, equipment, spare parts, machinery, production supplies that suit the nature of their activities and necessary for the operation of the project without the need to be registered at the Importers Register, moreover it can export its products without the need to be registered at the Exporters Register.
- The investors have the right to appoint foreigners with a maximum amount of 10% of the total work force. However this rate could increase 20% of the total work force in case that it is not possible to appoint national workers who have the adequate qualification of the project. Additionally, for some strategic projects may be exempted from such quota.

Investment incentives

The Law provides several incentives some of which are general for all projects established under this Law, others are special incentives only applicable to projects of certain activities:

A. General incentives:

- Companies shareholders' & founders & establishment owners are granted investors' residency for a period of one year at least (to be renewed) and not exceeding the project duration.
- The Articles of association of the companies established under this law are exempted from the stamp tax and notarization and publication fees for 5 (five) years from the date of registration in the commercial register, moreover the land contracts of the project are exempted from the registration fees.
- A unified custom rate of 2% (two percent) of the value of all imported equipment necessary for establishing the project.
- The foreign employees in the investment project can reach up to 20% of the total workforce.

B. Special incentives:

- 30% or 50% tax discount provided based on the geographical area of the project on the investment costs. The discount should not exceed 7 (seven) years from the date of initiating the activity. Moreover, in all cases, the investment incentives shall not exceed 80% of the paid up capital of the project until the startup of the activity.

C. Additional incentives:

- Projects that initiated its activity, based on research undertaken in Egypt, having Egypt one of its principal places of business, the main source of its funds is the foreign currency transferred from abroad, exporting at least 50% of its production, it activity transfers an advanced technology to Egypt and the Additional incentives may be granted by virtue of board of ministers resolution:
    - Permit the establishment of a special custom offices dedicated for the investment project's import or export matters.
    - The government bears in whole or part of the utilities cost of the real-estate property dedicated to the investment project upon its operation.
    - The government bears some of the employees' technical training costs.
    - Refund 50% of the value of the land allocated for industrial projects which started its activity within 2 (two) years from the date of receiving the land.
    - Allocate lands free of charge for some strategic activities prescribed in the law.

Customs and VAT for equipment

Reduced customs rate

The unified customs rate is 2% on imported tools, equipment, and machinery necessary for the establishment of the business.

Value Added Tax (VAT)

There is a decrease in the VAT rate from 14% to 5% on imported equipment and machinery necessary for the establishment of the business and use in production (whether goods or services).

Simplified incorporation procedures

GAFI shall decide upon the incorporation request within no later than one business day from the date of submitting the request completed

Each legal entity shall have one official unified number for dealing with all governmental sectors.

Feasibility of transferring the incorporation shares during the first 2 financial years, after obtaining the competent minister's approval.

Lands allocation

Competent administrative authorities shall prepare to GAFI detailed map for all lands available for investment, which shall be updated every 6 months.

Disposing such lands shall be upon the investor's request or an invitation from GAFI.

Disposal is through sale, rent, rent ended by ownership, or license to use.

Disposing lands to investors satisfying certain criteria, free of charge by virtue of presidential decree, against paying a monetary guarantee not exceeding 5% of the project's investment costs to be refunded after 3 years of starting activity.

Supreme investment council

A supreme council shall be founded, headed by the president in order to take all the necessary actions for having a better investment climate, legislative reform, approving investment policies and plans, following up the implementation of the investment plans and programs highlighting the investment opportunities, studying and finding solutions for investment drawbacks, and resolving the disputes that may arise between different governmental authorities with regards to investment area. The resolutions of such council are binding to all governmental authorities.

General authority for investment and free zones"GAFI"

GAFI, being the competent authority for regulating and enhancing the investment and executing this law and the companies law 159/1981, shall publish annually a list of the companies benefiting from the incentives stipulates upon in this law, also a list of the companies benefiting from the government lands according to this law.

- Investment areas shall benefit from the investment incentives and guarantees mentioned above, and each investment area shall be managed by a board of directors, which shall be competent of granting the license to the compliant investors.

Closing business

For JSCs and LLCs a liquidator needs be assigned to finalize the liquidation process; the process can be summarized as follows:

- The company will convene an extraordinary general assembly meeting to put the company under liquidation and appoint the liquidator.
- Authenticating the minutes of meeting from GAFI.
- Putting the company under liquidation and registering the liquidator's name in the commercial register.
- Finalizing the liquidation process.
- Deregistering the company from the commercial register.
- Closing the tax and social insurance files.
- The customs authority, tax authority and social insurance authority will be notified by GAFI and the liquidator that the company became under liquidation and those authorities.

For foreign branches

- Prepare and submit the required documents to GAFI and the commercial register office.
- Obtain the commercial register approval on deregistering the branch from GAFI.
- Obtain GAFI's approval on the deregistration.
- Deregister the branch from the commercial register.
- Obtain an official extract of the commercial register confirming the deregistration.

For representative offices

- Prepare and submit the required documents needed to GAFI.
- Obtain a certificate from GAFI.
- Indicating that the Representative Office has been closed, addressed to the competent authorities/entities.

Key considerations

There are a number of alternative forms of entities open to investors.

Restrictions do exist concerning Egyptian stakeholders and management.

The time taken and the processes required for business establishment can be greater than in many countries.

The new Investment Law and the operation of the GAFI is intended to streamline processes and provide incentives.

Introduction of the health insurance system in Egypt

Egypt is embarking on implementing a new comprehensive health insurance system, starting from the financial year 2019. This new system will be implemented within a 15 years period and over six phases.

Each phase will comprise five governorates at a time, whereby Cairo and Giza governorates, among others, will be in the final phase of implementation.

The new health insurance system will be financed through sever sources and among them are the following:

- A contribution of 0.25% of total annual revenues to be paid by all entities and such contribution cannot be deducted as an expense for corporate income tax purposes.
- EGP 0.75 of the value of each pack of cigarettes sold (local/ foreign) and such value shall be increased every three years until it reaches EGP 1.50.
- 10% of the value of each unit sold from tobacco cut-filler products (other than cigarettes).
- Fees, ranging between EGP 1,000 and EGP 15,000, paid by hospitals, medical clinics, treatment centers, pharmacies and pharmaceutical companies to subscribe to the new health insurance system.

Individuals who wish to benefit from the new health insurance system will be required to pay a subscription fee, depending on the category they fall in, as detailed below:

- The employer will pay a subscription of 4% of the employee's portion of the salary subject to social insurance and the employee will pay a 1% of that portion to reach a total of 5%.
- The employee will pay a subscription of 3% of the above-mentioned portion of the salary to insure his wife in case of her unemployment (or no stable fixed income).
- Business owners or self-employed professionals or Egyptians working abroad will pay a subscription of 5% of the portion of salary/ wage subject to social insurance or of their income reported in the income tax return, whichever is greater.
- The foreign expats residing in Egypt may also be allowed to subscribe in the new health insurance system, according to certain conditions and in case of reciprocal treatment by their home country.

The above mentioned subscription fees will only be paid when the new health insurance system is applied in the relevant governorate (i.e. for example, no fees should be paid by Cairo citizens/ individuals until the last phase of implementation of the system). The party collecting such subscription fees will be required to submit them within 30 days from the date of collection.

Any non-compliance with the new health insurance system may result in financial or imprisonment penalties.

Taxation

Corporate income tax

In Egypt, companies are generally liable for corporate income tax ("CIT") at a flat rate of 22.5%; excluding the Suez Canal Authority, the Egyptian Petroleum Authority and the Central Bank of Egypt, which are liable for CIT at the rate of 40%; as well as the companies operating in the oil and gas exploration and production activities; which are liable for CIT at the rate of 40.55% in Egypt.

Corporate income tax is imposed on:

- Companies that are resident in Egypt on all profits realized from Egypt and abroad.
- Companies that are non-resident in Egypt with regard to profits realized through a permanent establishment in Egypt.

The income of a company may include any, or all, of the following:

- Profits from a commercial and/or industrial activity.
- Income from the use and/or disposal of buildings or assets.
- Amounts received on shares of associations of capital yield paid by the government, local government units, public juridical persons.
- Rental amounts, license fees, royalties received.
- Income from any other activity performed in Egypt.

Tax return and tax payments

Companies are required to submit a tax return within four months of the end of their financial year where they are required to assess the amount due in the form of a self-assessment.

Corporate taxpayers are likely to have a credit balance arising from local withholding taxes suffered (see further details in the Withholding tax section). Credit is given for such advance payments made on the taxpayer's behalf against the total tax liability arising from the tax return.

The balance of the tax is due and payable on the date on which the return is submitted.

Taxpayers have the right to submit an amended corporate income tax return within one year of the original submission date. However, in case of tax evasion or receiving a tax audit notification from the Egyptian tax authority ("ETA"), the taxpayers would not be entitled to submit such amended return.

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.

E-filing of corporate income tax returns:

The Egyptian tax authority ("ETA") is currently applying the electronic filing ("**e-filing**") of income tax returns on a compulsory basis. In other words, taxpayers are currently required to submit their income tax returns electronically on the ETA's website; whereby, the hard copies are no longer acceptable by the ETA.

When it comes to individual taxpayers, they still have the option to pay their annual income taxes due electronically or manually.

Taxpayers (i.e. other than the individuals) are accordingly required to register on the ETA's website to create an account and to obtain a username, password and a specific code to be provided to their tax advisor(s). Following the registration process, taxpayers shall prepare their annual income tax returns on the ETA's website, and then have them reviewed/ verified by their tax advisor(s). Prior to electronically submitting the income tax return(s), both the taxpayer and the tax advisor are required to sign-off the income tax return.

Upon submitting the income tax return, the taxpayer will be required to pay the tax due through one of the following methods:

- Bank transfer through the taxpayer's own bank; or
- Using smart card to pay/ transfer the tax due to the ETA; or
- Through the banks/ the National Post Authority with which the ETA has specific agreements.

Deductions allowed while calculating the taxable income

In calculating the taxable profits of the commercial and/or industrial activity, deductions are allowed for any costs/expenses that are necessarily incurred in realising them; noting that in order for such deductions to be certified by the ETA, certain conditions must be met.

Deductions are particularly allowed for the following:

- Interest on business loans, or the portion of a loan used for business purposes; provided that certain conditions are fulfilled.
- Tax depreciation and tax paid and borne, except that paid or payable under the Income Tax Law,
- Social Insurance premiums paid on behalf of workers and the company;
- Private saving, or pension plans, but not exceeding 20% of the total salaries of the workers per year;
- Insurance premiums against the ill health of the business owner, to a maximum of EGP 10,000 per year or 15%, whichever is lower; and
- Donations to the Egyptian Government, local administrative units and other public juridical persons.

Deductions are not allowed for the following:

- Reserves and appropriations,
- Financial fines and penalties,
- Income tax payable,
- Loan interest, which exceeds twice the credit and discount rate announced by the Central Bank of Egypt or not complied with the arm's length principle; and
- Loan interest and other debts paid to non-taxable or tax-exempt natural persons (i.e. individuals).

Permanent establishment ("PE")

The concept of PE has been introduced to the Egyptian Tax Law in 2005.

Based on the Egyptian income tax law provisions, a PE should mean every fixed place of work, through which all or some works of projects of a person not residing in Egypt are executed; comprising in particular the following:

- Headquarter,
- Branches,
- Building used as a sale outlet,
- Office,
- Factory,
- Workshop,
- Mine, oilfield or gas well, quarry, or any other place for extraction of natural resources, including timber, or any other product from the forests,
- Farm or saplings; and
- Building site, construction or assembly project, installation, or supervisory activities associated with any of that.

In addition to the above, a person working on account of a non-resident company of Egypt shall create a PE for the non-resident company in Egypt, if such person has the authority or the power to conclude/ratify the contracts in the name of such company, unless the aspects of his/her activity are limited to purchasing commodities or goods for the non-resident company. Also a person working on behalf of a non- resident company should create a PE for such company in Egypt if he dedicates most or all of his time for it.

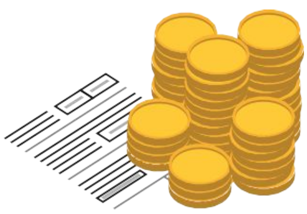
Losses

Prior year losses can be used to reduce the taxable profit of a company in a subsequent year. In other words, if there is a remaining portion of a loss incurred, it can be transferred annually to the following years. Losses can be carried forward for up to 5 years.

However, the company should not be able to bring forward losses if a change in its ownership has taken place and the following three conditions are all met:

- If the percentage of change of ownership exceeds 50% of shares, quotes, or voting rights of the company, and
- The company's activities are changed, and
- The company is either a Joint Stock Company or a Company Limited by Shares whose shares are not listed on the Egyptian Stock Exchange.

If any of the above-mentioned conditions is not met, the company would still have the right to carry forward its losses.



It is worth noting here that capital gains (i.e. gains arising from the sale of securities) cannot be offset against the operational carried forward tax losses, discussed above. Please refer to the "capital gains and losses on securities" section, for more information in this regard.

Withholding tax ("WHT")

Payments made to Local Entities

Any Egyptian entity has a liability for WHT against any payments in excess of EGP 300 made to any local supplier of goods or services at the time of payment.

The rates of WHT applicable to local payments for local services and supplies are as follows:

- Contracting and supplying 1%
- All types of services 3%
- Commissions 5%

These payments of WHT are prepayments of the provider's/supplier's liability to Income Tax. The amounts received are included in the individual or corporate person's income and subject to income tax under the prescribed rates. However, a tax credit is provided for the WHT already paid against the total tax liability.

Payments made to Non-Residents

Egyptian resident companies making payments of interests, royalties or services to non-resident ones, should generally be subject to WHT in Egypt at the rate of 20%, at the time of making such payments.

However, the 20% WHT rate applied on such payments may be reduced or even eliminated as per the provisions of the relevant double tax treaty ("DTT") signed between Egypt and the country where the recipient of such payment is resident (if any).

Dividend distributions

In 2014, a tax on dividend distributions has been introduced and has been subsequently amended in August 2015. The latest amendments have been introduced in September 2020.

Based on which, dividend distributions made by an Egyptian resident company to resident/non-resident individuals or companies, are subject to WHT at the rate of 10% in Egypt, provided they are unlisted on the Egyptian stock exchange.

Additionally, dividend distributions made by Egyptian listed companies to tax residents or non-residents should be subject to WHT at a flat rate of 5%,

Having said that, it is notable that the WHT applied in Egypt on dividend distributions made by Egyptian resident companies to non-residents of Egypt, could be further reduced or even eliminated as per the provisions of the relevant DTT concluded between Egypt and the country where the recipient of such dividends is resident (if any).

Dividends income received by Egyptian resident companies from other resident ones, should be subject to the participation exemption rule; whereby, 90% of the dividends income received would be exempt from CIT (i.e. only 10% of the dividends income would be taxable); which in turn means that such dividend income would be subject to effective CIT rate of 2.25% upon applying the participation exemption rule.

Capital gains tax ("CGT")

Capital Gains Tax has been introduced for the first time in 2014 and has been subsequently amended in August 2015 with the latest amendments being made on September 2020.

Capital gains on securities

Sale of listed securities: Capital gains realized from the sale of listed Egyptian securities by resident shareholders are subject to 10% capital gains tax ("CGT"). However; please note that the application of such tax on listed securities is currently on hold till the the end of 2021.

In other words, residents investing in any listed securities are not subject to CGT until the end of 2021 unless these bonds are government ones, then in this case 10% CGT should be imposed (for resident investors) .

On the other hand, in case of non-resident shareholders, capital gains realized on the sale of listed securities should be exempt from CGT.

Sale of unlisted securities: Capital gains realized from the sale of unlisted Egyptian securities by both resident and non-resident shareholders, are subject to CGT at the rate of 22.5% in Egypt. However, such tax may be eliminated as per the provisions of a relevant DTT (if any) in case the supporting documents are provided.

However, new CGT guidelines have been introduced relating to the sale of unlisted shares on the EGX by non-residents, published in December 2020.

The Guidelines have set down the required procedures and documentation for CGT filing by non-residents, along with the financial penalties and legal sanctions for non-compliance.

Moreover, in case of individual shareholders, the capital gains realized from the sale of unlisted securities should be added to their taxable income; hence, subject to personal income tax ("PIT") with the highest tax bracket being 25%, as discussed in the PIT section.

Capital losses on securities

Capital losses realized from the sale of securities can be offset against the capital gains arising during the same tax year from the sale of securities to the extent that they both arise in the same tax year.

Non-compliance penalties

Non-compliance of capital gains will result in imposing an annual delay fine , calculated as the credit and discount rate announced by the Central Bank of Egypt (which is currently 8.75%) plus 2%, divided by 12 months, which should result in almost 1% delay fine.

Transfer pricing ("TP")

Since the issuance of the 2005 law, corporate tax returns have had a disclosure requirement for related party transactions and transfer pricing (TP) In 2010, the Egyptian Tax Authority ("**ETA**") issued the first part of the TP Guidelines, which followed the OECD TP Guidelines.

The first part of the Egyptian TP Guidelines, provided guidance on the following points: the arm's-length principle, the method of establishing comparability, the choice of the most appropriate TP method(s), and the documentation requirements.

The Egyptian Minister of Finance has issued a Ministerial Decree published in the official Gazette on the 22 of May 2018, amending some provisions of the executive regulations regulations of the income tax law that relate to the Egyptian TP. Such amendments were a prelude to the Final Egyptian TP

Guidelines which were released recently on the 23 of October 2018 with the latest amendments being made in December 2020.

The headline changes presented in the updated Egyptian TP ("**ETPG**") are the three- tiered approach to TP documentation and the introduction of the advance pricing agreement ("**APA**") program.

The Three-tiered approach to Transfer Pricing documentation

The updated ETPG introduced the three tiered approach to Transfer Pricing documentation and it includes the mandatory filing of namely, the master file, local file and the country by country ("**CbCR**") reporting. The ETA confirms that the new documentation requirements shall be implemented for fiscal years ending the 31 December 2018, and it shall be applied on the consolidated reporting periods (for financial statement purposes) and not the taxable years or the financial reporting periods of subsidiary entities.

The CbCR reporting facilitates the reporting process for multinational enterprises ("**MNE**"). The CbC report provides a template for MNEs to report annually and for each jurisdiction the necessary information relating to the MNE's global allocation of income, taxes paid, and other indicators regarding the economic activity in order to assess the overall related party transactions taking place between affiliated enterprises within the same group.

The threshold for the CBC reporting are set out in the ETPG as follows:

- Egyptian parented groups with a foreign subsidiary(s) with an annual consolidated group revenue of equal or exceeding EGP 3 billion (145 million Euro) will be required to prepare and file a report with the ETA.
- Egyptian subsidiaries of foreign parented groups will be subject to the Organization of Economic Cooperation and Development's ("**OECD** ") threshold of 750 million Euro and required to file a report with the jurisdiction in which the ultimate parent entity is resident.
- The ETPG confirms that the taxpayers are required to prepare and submit their TP documentation on an annual basis.

Documentation filing deadlines

- The master file should be prepared in accordance to the taxpayer group's ultimate parent's tax return filing date and made available to the ETA in "due course".
- The entity by entity local files must be submitted to the ETA within two months following the date of filing the tax return.
- The CbC report should generally be submitted one year following the close of the relevant financial year that it covers. The first CbC report should be prepared for the group's financial year ending December 2018.
- All CbC report notifications should be made no later than the last day of the fiscal year to which the CbC report relates.

Non-compliance penalties

Effective 20th of October, 2020, taxpayers are subject to a penalty of EGP 3k up to EGP 50k for non-compliance with the TP three-tier filing requirements (Master file, Local file, and CBCR). This penalty would be doubled or tripled in case of recurrence. Additionally, non-disclosure of the related party transactions within the annual corporate tax return is now subject to a penalty of 1% of the value of the undisclosed related party transactions.

Furthermore, the following penalties shall apply, effective 4th of December 2020:

- 3% of the value of the related party transactions in case of not submitting the local file.
- 3% of the value of the related party transactions in case of not submitting the master file.
- 2% of the value of the related party transactions in case of not submitting the CbCR or the CbCR notification.

In case of multiple breaches to the above listed TP filing requirements, the penalty shall not exceed 3% of the value of the related party transactions

Advance Pricing Agreement ("APA")

The APA system provides Egyptian taxpayers with the benefit of agreeing in advance with the ETA on the methods to be followed by the taxpayer to determine arm's length arrangements acceptable for tax purposes when it comes to related party transactions.

Such APA program should deliver benefits to the taxpayers such as the certainty on TP methods, tax outcomes, increased transparency and reduced risks of audit and penalties.

The APA program is introduced for the first time in Egypt and accordingly, the ETA decided to restrict its application to the unilateral APA(s) at this stage and to introduce the bilateral and multilateral APA(s) in the future. In addition, the option to apply for the APA is open to all the taxpayers subject to the provisions of the law including the Permanent establishments ("**PE**").

The process of applying for and concluding the unilateral APA may take between 3 to 6 months and this may vary according to the case at hand. The stages of APA administration and application process include:

- A written request for a pre-filling meeting by the taxpayer at least 6 months before an APA is proposed to take effect, including an information package containing information prescribed by the ETA.
- Notification of consensus from the ETA following the meeting followed by submission of an APA application form and accompanying documentation by the taxpayer.
- Review of the APA application and the documentation package by the ETA.
- Evaluation and negotiation of the APA terms followed by APA acceptance and signing (or declining the application)
- Annual filing of an APA compliance report by the taxpayer within 60 days of the tax return filing.

As per the Final Transfer Pricing guidelines, the acceptable methods are listed as follows:

- Comparable Uncontrolled Price Method;
- Cost plus Method;
- Resale Price Method;
- Profit Split Method; and Transactional Net Margin Method.

Following the updated guidelines, the hierarchy is no longer applicable in applying the transfer pricing methods. In addition, the updated ETPG allows taxpayers to use other methods in the event that none of the listed methods can be applied on the considered transactions.

However, the ETA expects the taxpayers to first maintain and prepare sufficient documentation to explain the reason why those methods cannot be reliably applied on the transaction. Moreover, the updated ETPG includes a statement the ETA considers the "Global Formulary apportionment" as the least reliable method to be used in determining the arm's length price of the controlled transaction. And in any case, the comparability analysis should be performed to select the appropriate transfer pricing method.

Base Erosion and Profit Shifting ("BEPS")

It is notable that Egypt joined the BEPS Project that was launched by the member states of the OECD and the G20 countries. Such initiative is aimed at stopping multinational companies from avoiding /evading taxes, and specifically targets situations which may result in aggressive tax planning or evasion.

"Aligning the tax outcomes with value creation" is the main objective of the BEPS project that its is aiming to achieve.

Egypt is a member of the BEPS Project, and has signed the inclusive framework agreement with the OECD; which entail the adoption of four minimum standard actions as a necessity in a specific time-frame agreed upon with the OECD. And the four minimum standard actions are as follows:

- **Harmful tax practices:** This action focuses on the harmful tax competition in light of the tax systems such as preferential tax regimes as well as tax havens.
- **Treaty abuse:** This action includes specific measures that aim at combating the abuse of double tax treaties to avoid taxation. This includes the Limitation of Benefits ("LoB") test which mainly limits benefiting from treaty provisions in case the taxpayer failed to meet certain requirements (such as substances, etc.); and the Principal Purpose Test ("PPT") test which denies the treaty benefits if 'one' of the principal purposes of such transaction/arrangement was to avoid tax
- **Transfer pricing documentation:** Transfer pricing is one of the main issues that the BEPS project aimed to focus on. This action has introduced a three tiered approach for proper transfer pricing documentation; comprising the local file, master file and the country by country reporting. Please refer to the Transfer pricing section.
- **Dispute resolution:** The main purpose of this action is to introduce the mechanisms/procedures that would facilitate the process of dispute resolution between taxpayers and tax authorities, via adopting an exchange of information mechanism that would help to interact with the relevant authorities to gather information about taxpayers and to determine the country which has the taxation rights under certain transactions/structures.

Multilateral instrument (“MLI”)

The MLI in itself has been put in place by the OECD as a mechanism to apply the changes that resulted from the BEPS project into actual application through updating the DTT network automatically. This means that countries that sign the MLI will adopt the changes that are made to the DTT articles without having to re-negotiate those treaties. So, its main purpose is to apply the changes brought by the BEPS project into action on a global level simultaneously, so that the international tax standards would become gradually unified.

Egypt has signed the MLI on the 7th of June 2017; and currently the MLI is being discussed in the Egyptian parliament and expected to be ratified in the coming period. And so, once this is done, the DTTs which Egypt has chosen to be covered under the MLI will be automatically changed.

Once the MLI is ratified, the ETA would most likely impose stricter substance requirements on the claimants of DTTs’ benefits; and so, having a solid business and economic substance in the country where the DTT benefit claimant is resident is necessary in order to mitigate the risk of denying the DTT benefits in Egypt.

General Anti Avoidance Rules (“GAAR”)

The GAAR is a tool to manage the risk of tax avoidance and combat abusive tax arbitrage arrangements, and has been introduced in Egypt in 2014, long time before becoming a member of the BEPS project. It was mainly introduced to strengthen the ETA’s anti-avoidance strategy and help it tackle abusive tax avoidance schemes.

The primary objective of the GAAR is to deter taxpayers from entering into abusive arrangements for the purpose of obtaining a tax advantage without having proper business rationale or substance in place; hence, similar to the PPT test that has been introduced by the BEPS Project.

Under the GAAR rules, the ETA has the right to disregard a transaction/structure, if its main purpose was revealed to get tax advantage of tax treaty benefits.

- A written request for a pre-filling meeting by the taxpayer at least 6 months before an APA is proposed to take effect, including an information package containing information prescribed by the ETA.
- Notification of consensus from the ETA following the meeting followed by submission of an APA application form and accompanying documentation by the taxpayer.
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More than a year ago Egypt signed an inclusive framework agreement with the OECD, to become a member to the BEPS Project. Accordingly, Egypt has signed the multilateral instrument agreement with the BEPS member countries, and should start implementing it soon. Such agreement requires the implementation of the minimum standards action points of the BEPS Project (i.e. four actions only) in order to cope with the dramatic changes being introduced to the tax environment.

Personal income tax

In general, this tax is withheld at source from payments to Egyptians and foreign nationals working in Egypt. A tax is imposed on the total net income of the resident individuals for income earned in Egypt as well as the income earned outside Egypt for resident individuals whose center of commercial, industrial or professional activities is in Egypt.

Investment income (i.e. dividends and capital gains) realized by Egyptian tax residents from sources outside Egypt (i.e. from their investments abroad) is taxable in Egypt, as it’s defined, under the Egyptian income tax law, as a commercial income.

Tax is also imposed on the income of non-resident individuals for their income earned in Egypt.

Based on the law no.26 for the year 2020, the personal income tax brackets have increased up to maximum 25%

Tax rate	Annual net taxable income					
	Up to EGP 600K	EGP 600K-700K	EGP 700K-800K	EGP 800K-900K	EGP 900K-1M	More than EGP 1M
0%	Up to EGP 15K	-	-	-	-	-
2.5%	EGP 15K-30K	Up to EGP 30K	-	-	-	-
10%	EGP 30K-45K	EGP 30K-45K	Up to EGP 45K	-	-	-
15%	EGP 45K-60K	EGP 45K-60K	Up to EGP 60K	-	-	-
20%	EGP 60K-200K	EGP 60K-200K	EGP 60K-200K	EGP 60K-200K	Up to EGP 200K	-
22.5%	EGP 200K-400K	EGP 200K-400K	EGP 200K-400K	EGP 200K-400K	EGP 200K-400K	Up to EGP 400K
25%	More than 400K	More than 400K	More than 400K	More than 400K	More than 400K	More than 400K

Taxable income

Taxable income is defined as payment from employment, including salaries, wages, overtime, bonuses, paid leave, commissions, profit shares and all cash and in-kind benefits. Reimbursement for expenses of spouses and dependents is also considered taxable income. In addition, school tuition fees, long-term living expenses, and overseas and hardship allowances are taxable.

The Income Tax Law exempts some payments of expenses and benefits paid to individuals, including:

- Severance pay
- Meals distributed to workers
- Employees' subscriptions to special insurance funds
- End of service payments and pensions
- Employees' payments of Social Insurance.

Rates of tax

Employees are taxed according to the following brackets; and are entitled to annual salary tax exemptions (EGP 9,000):

Non-resident employees are subject to tax at the same tax brackets mentioned above with also the annual exemption of EGP 9,000.

The tax due is to be calculated at the rate noted for each bracket, and the tax credits should apply accordingly to the relevant income bracket for the taxpayer.

Administration

Egyptian resident employers are required to withhold the tax payable from the employees' salaries according to the PIT rates, and remit it to the tax authority within 15 days of the end of the month in which the payment has been made.

The resident company is also required to complete quarterly salary returns and submit them to the tax authority, in addition to an annual reconciling return that should be submitted by the end of January of each year.

If the employer is not resident in Egypt, or has no centre or establishment in Egypt, the obligation to deliver the tax transfers to the employee, who must calculate his Egyptian tax liability and submit an individual tax return to the appropriate tax district office.

The individual tax return should be submitted by the employee on an annual basis during the period starting the 1st of January until the 31st of March of each year.

Value Added Tax (VAT)

General Overview:

On the 8 September 2016, the VAT Law was issued under the Law no. 67 of 2016. It is an indirect tax on the domestic consumption of goods and services, at each phase of the supply chain.

The law enforced two different types of taxes which are the VAT and the schedule tax/excise tax. The VAT standard rate is 14% (the rate was 13% from the date of law enforcement till July 2017), it is levied on all the taxable goods and services; except for some others exempted. On the other hand, the Schedule Tax is levied only once on specific goods and services.

The standard VAT rate, as of the 1 July, became 14%, applicable on all goods and services, except for machinery and equipment used for production purposes, which are subject to a 5% VAT (although buses and passenger cars are subject to different tax rates).

Exported goods and services are subjected to 0%.
The threshold for registration is EGP 500,000 of the annual turnover.

Reverse charge mechanism

The VAT law introduced the reverse charge mechanism in Egypt for the first time, whereby transactions involving non-residents providing services to resident entities have become subject to VAT in Egypt.

The non-resident persons, selling or providing taxable commodities or services to a resident persons in Egypt, must appoint a fiscal representative or an agent, in order to assume all the undertakings, including registration, payment of the tax, the additional tax and any other due taxes; otherwise, the resident person will be liable to settle the tax and such other due taxes through the reverse charge mechanism.

Input VAT deduction

The Registrants whom providing a taxable commodities or services have the right to deduct the input VAT incurred on all of their direct, indirect costs and inputs.

The credit balance in the return will be carried forward to the subsequent periods until the deduction is fully covered.

Tax exemption

One of the government's purposes of the tax exemptions is to give incentives to some activities, such as the education services. The government exempts the educational services, books, and the pamphlets.

There are some exempted commodities and services which are used on a daily basis, such as dairy products, banking operations, and transportations for passengers.

In addition, there are some other exemptions, such as the products and services for armament, defense and national security, as well as the agreements concluded between the Egyptian government and foreign countries, the international and regional organizations, the oil & Gas, and mining agreements.

Registration requirements

- Businesses supplying taxable goods and services, reaching the threshold (i.e. EGP 500K) under the VAT law are obligated to register within 30 days from the date of reaching the VAT registration threshold.

- Every producer, provider or importer of a commodity/ service subject to the schedule tax should have himself registered as per the Egyptian VAT Law, regardless the volume of sales or production (regardless of the level of turnover).

- The tax inspectorate must notify the taxpayer of his registration within fourteen days following the date of submission of the registration application. The taxpayer shall be governed by the provision of the law as of the date of registration.

Administration

The VAT returns must be submitted on a monthly basis, and the deadline for submitting the tax returns is within one months from the end of each tax period. The ETA has announced that September's return could be submitted until the end of November with no penalties.

As mentioned earlier, all companies must register on the tax authority's website to be a able to submit all their kinds of tax forms online as hard copy tax returns are not acceptable anymore. An annual fee, that does not exceed EGP 500, applies on such registration.

E-filing of VAT returns

The ETA has introduced a new e-filing system for the submission of the VAT returns, hence taxpayers will be required to submit their VAT returns (i.e. monthly VAT and/or schedule returns) electronically through the ETA's website, starting from January 2019. Accordingly, the manual filing of VAT returns will not be acceptable as of the latter date mentioned.

The account created by taxpayers for the e-filing of corporate income tax returns shall be used to access the ETA's website. Such account will provide taxpayers the access for the e-filing of all relevant taxes, including VAT. Taxpayers will be required to prepare their monthly VAT returns online by uploading the required excel sheets (i.e. sales, purchases and adjustments sheets) on the ETA's website.

Customs duty

Custom duty is a liability that rests with the person who is importing the goods from abroad.

Customs duty rates on imported goods range from 5% to 60%, with the exception of vehicles, non-essential and luxury consumer goods, and alcoholic beverages, which may be as high as 135%.

Where entities import machines and equipment as capital assets to establish the company's project, the machines and equipment may be subject to a reduced customs duty of 2%.

Machines, equipment and similar capital assets (with the exception of private motor cars) imported on a temporary basis are subject to fees at 20% of the original customs duty for each year or fraction of a year during which they remain in Egypt until they are exported.

Based on the latest amendments made to the customs law, a change has been made to the rules and the fees / customs to be paid when it comes to the temporary importation of machine or equipment related to some activities such as the renewable energy projects. Based on such amendment, the rate to be paid upon such importation is reduced to 10% of the value of customs duties that is paid in case of final importation (instead of 20%) and that should be paid for 10 years instead of 5 years. This has also been made to encourage such types of projects in Egypt.

There are rules allowing reduced customs duties on component parts which are assembled in Egypt into a complete product

Egypt has signed several bilateral and multilateral agreements to promote and develop competitiveness including the levels of customs duties.

It's worth mentioning that the Ministry of Finance is currently working on issuing a new Customs Duty Law, which is expected to be released in the near future.
Based on law no.207 for the year 2020, new fees to be paid for the services provided by the customs authority, not exceeding EGP 10,000. Furthermore, the law toughened the penalties for customs violations or customs smuggling

Other taxes

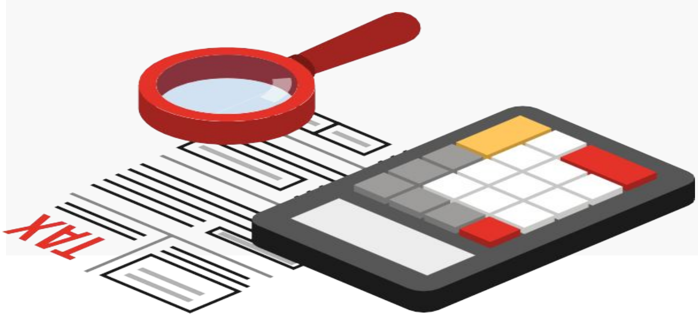
Stamp Tax

- There are two distinct types of taxes:
  Nominal Stamp Tax, which is imposed on certain documents,
  regardless of their value; at the rate of EGP 0.9 per paper. (Please note that the USD equivalent of EGP 0.9 amount depends on the daily CBE conversion rate, due to the flotation of the Egyptian pound); and,
- Proportional Stamp Tax, which is imposed at prescribed rates on the values of certain financial transactions.

The main situations in which stamp tax can arise are:
- Land registration/property transfers/transfer of deeds (including lease agreements)
- Banking Transactions
- Payments by Governmental Bodies
- Securities' sale transactions.

Stamp tax on banking transactions

The stamp tax on Banks' loans is applicable on the Egyptian banks and the branches of foreign banks in Egypt with the exception to the non-resident Banks. The stamp tax is at the rate of 4 per thousand (i.e. 0.4%) annually, and is applied on the beginning balance of each quarter during the year, in addition to the amount of utilization (the amount of utilization from the credit facilities balance granted by banks during each quarter. It is notable that such stamp tax is due to within 7 days following the end of each quarter during the year.



Stamp tax on sale / purchase of securities

The stamp tax is applied on the total proceeds realized from buying or selling any kind of securities regardless they are Egyptian or foreign, listed or non-listed and without deducting any costs (i.e. value of the transaction).

There are very limited exemptions provided in the stamp tax law.

In such case, the buyer and seller each should apply the stamp duty on the total proceeds based on the following rates:

- In case of non-resident buyer/seller, 0.125%
- In case of resident buyer/seller, 0.05%

However, if the sale transaction exceeds 33%, then such transaction would be considered as acquisition transaction, thus should be subject to 0.3% stamp tax.

The 0.3% is imposed on each of the buyer and the seller (i.e. a total of 0.6% for both of them) with respect to the acquisition or existing investment, where either of the following conditions is met:

- If the sale and purchase transaction involves 33% or more of the value or the number of shares or voting rights in a resident company; or
- If the sale and purchase transaction involves 33% or more of the assets or the liabilities of a resident company by another resident company in return of shares in the acquiring company.

In both cases above, the buyer and seller should each pay the 0.3% stamp duty on the gross transaction value without deducting any cost. If the sum of sale and purchase transactions performed by one person in one entity has reached the limit mentioned above (i.e.,33% or more) through 2 years from the first transaction by such a person and from the date of this law, the whole transaction should be considered as one transaction and consequently be subject to the 0.3% stamp duty. The seller shall pay 0.3% if he reaches the exit limit and the buyer shall also pay 0.3% when he reaches the acquisition limit and after deducting any stamp duty paid before.

It is worth noting, that this type of stamp tax is non deductible for corporate income tax purposes.

Other types of stamp tax

Payments made by governmental entities are subject to a 2.4% stamp tax (with certain exemptions), and it should be borne by the recipient, by means of withholding.

There are other types of stamp taxes, which are imposed at nominal rates and others that are imposed at proportional rates, depending on the nature of the transaction that has been undertaken and /or the document being exercised.

Real estate tax

Real estate tax is levied on all constructed real estate units across the country with annual rental value exceeding EGP 1,200 for commercial units, and EGP 24,000 for residential units.

The tax rate is 10% of the annual rental value of the taxable real estate.

Committees, called "assessment committees", are formed in every governorate, to be responsible for assessing the market value of the constructed real estate units. The assessment shall be based on a qualitative classification of these real estate units, according to the building standard, the geographical position and the annexed utilities.

The annual assessment is applicable for a five year term and then reassessment procedures will be initiated from one year to three years before the end of each term. However, based on recent amendments, the application of the annual rental value assessed for the last five years (i.e. from 2013 to 2018) will be extended for three more years until 2021.

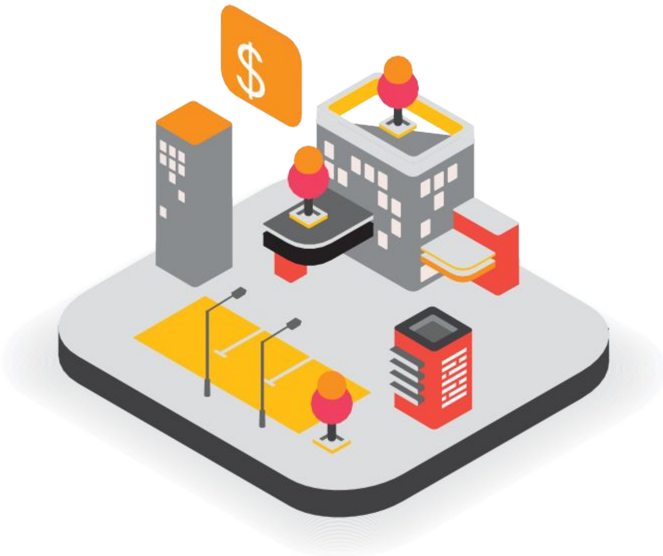
In determining the annual rental value, a certain percentage (which differs for residential and non-residential / commercial realities) can be reduced for allowable deductible expenses which are borne by the taxpayer for maintenance, etc.
The tax is assessed in January of each year and can collected in two equal installments at the end of June and December of the same year. Nevertheless, the taxpayer has the option to pay the whole tax amount on the date of the first installment (i.e. at the end of June).

A new article was recently introduced to real estate tax law, allowing by means of a decision from the Egyptian Cabinet, real estate tax exemption for the real estate actually exploited in the production and services activities stated by the Egyptian Cabinet; provided that the decision includes the below, for each production or service activity:

- The percentage of exemption; and
- Its duration.

Penalties

On October 2020, the Egyptian Government issued the Unified Tax Procedures Law amending certain articles of the income tax law, VAT, stamp tax, state tax and other similar taxes.



The new law stated financial penalties that should apply if the taxpayer failed to comply with the tax laws (in addition to a delay fine that should also apply for each month late in paying the taxes due). The financial penalties are as follows:

Penalty of EGP 3K up to EGP 50K applicable in the below 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 50 K up to EGP 2 million applicable in the below 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 below cases:

- 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.

Audit and accountancy

During incorporation, a company should state the name of the auditor performing the audit in its Article of Association. Certain types of businesses, include banks and insurance companies, are required to have two auditors mentioned in their Articles of Association.

The financial accounts and the tax return should be prepared on an annual basis for each financial year, which is usually a 12 month period. An exception to the rule is if the company is incorporated after 7 days from its start of its financial year, then the company may have an extended financial year (23 months).

Filing accounts should be prepared in accordance with the Egyptian Accounting Standards and presented to the following authorities (there are no filing fees):

- Egyptian Stock Market (obligatory for Banks)
- GAFI
- Tax authority.

In addition, it is obligatory for certain types of businesses, such as banks, to publish their annual financial statements in two national newspapers. The statements should be prepared in accordance with the Egyptian Accounting Principles; International Financial Accounting & Reporting Standards may be prepared for management purposes only.

It is legally required to maintain local books and records in hand-written Arabic. Electronic recording of the books and registers is also permitted.

Supporting documentation must also be kept for the, entries in the books, and receipts are required to be issued for any payments received.

The Egyptian Tax Law has stipulated a statute of limitation for a period of five years. In case no assessment takes place within the five years period, the Company's self-assessment is considered the final one (i.e. the corporate tax return).

Egyptian Accounting Standard No. (48) " Revenue from Contracts with Customers

A Summary of the Most Significant Amendments
1-The new Egyptian Accounting Standard No.(48) "Revenue from Contracts with Customers" shall supersede the following standards and accordingly such standards shall be deemed null and void:
a. Egyptian Accounting Standard No. (8) "Construction Contracts" amended 2015.
b. Egyptian Accounting Standard No. (11) "Revenue" amended 2015.
2-The control model was used to recognize revenue instead of the risk and rewards model.
3-Incremental costs of obtaining a contract with a customer are recognized as an asset if the enterprise expects to recover those costs and the costs of fulfilling the contract are to be recognized as an asset when certain conditions are met.
4-The standard requires that the contract have commercial content in order for the revenue to be recognized.
5-Expanding the requirements of disclosure and presentation.

Date of Implementation

Standard No. 48 applies to financial periods beginning on or after January 1, 2021

Egyptian Accounting Standard No. (49) "Lease Contracts

A Summary of the Most Significant Amendments
1- The new Egyptian Accounting Standard No. (49) "Lease Contracts" shall supersede and revoke Standard No. (20),"Accounting Rules and Standards related to Financial Leasing" issued in 2015.
2- The Standard introduces a single accounting model for the lessor and the lessee where the lessee recognizes the usufruct of the leased asset as part of the company's assets and recognizes a liability that represents the present value of the unpaid lease payments under the company's liabilities, taking into account that the lease contracts are not classified in respect of the lessee as operating or finance lease contracts.
3- As for the lessor, he shall classify each lease contract either as an operating lease or a finance lease contract.
4- As for the finance lease, the lessor must recognize the assets held under a finance lease contract in the Statement of Financial Position and present them as amounts receivable with an amount equivalent to the amount of the net investment in the lease contract.
5- As for operating leases, the lessor must recognize the lease payments of operating lease contracts as income either based on the straight-line method or based on any other regular basis.

Impacts

The Company has early adopted EAS 49 using the modified retrospective approach on 1 January 2019. There was no cumulative effect of adopting EAS 49 on retained earnings due to the practical expedient adopted by management.
The Company has elected to account for short-term leases and leases of low-value assets using the practical expedients. Instead of recognizing a right-of-use asset and lease liability, the payments in relation to these are recognized as an expense in profit or loss on a straight-line basis over the lease term.
The new accounting policy was adopted without restating comparative information and did not result in any cumulative adjustment to retained earnings.

Date of Implementation

Standard No. (49) Applies to financial periods beginning on or after January 1, 2020, and early application is permitted if Egyptian Accounting Standard No. (48) “Revenue from contracts with customers” 2019 is applied at the same time. With the exception of the effective date above, Standard No. (49) 2019 applies to leasing contracts that were subject to the Financial Leasing Law No. 95 of 1995 - and its amendments, and they were processed according to Egyptian Accounting Standard No. (20) “Accounting rules and standards related to financial leasing operations”, as well as Financial leasing contracts that arise under and subject to the law of financial leasing and factoring

Egyptian Accounting Standard No. (47) " Financial Instruments

A Summary of the Most Significant Amendment

1-The new Egyptian Accounting Standard No. (47) “Financial Instruments” replaces the corresponding topics in Egyptian Accounting Standard No. (26) “Financial Instruments: Recognition and Measurement.” Thus, the Egyptian ccounting Standard No. (26) Was modified and reissued after withdrawing the special paragraphs. With the topics covered by the new standard (47) and the aggravation of the scope of the amended Standard (26) to deal only with limited cases of coverage accounting according to the establishment's choice.

2-According to the requirements of the standard, financial assets are classified on the basis of their measurement - subsequently - either at amortized cost, or at fair value through comprehensive income. or at fair value through profit or loss, according to the business model of the financial assets management and the contractual cash flow characteristics of the financial asset.

3-The model of realized losses in the measurement of the impairment of financial assets has been replaced by the expected credit loss models, which requires measuring the impairment of all financial assets measured at amortized cost and financial instruments that are measured at fair value through other comprehensive income from the moment of the first recognition of that regardless of when there is an indicator of the loss event.

4-Based on the requirements of this standard, each of the following criteria has been modified:

-Egyptian Accounting Standard No. (1) “Amended Financial Statements” 2019
-Egyptian Accounting Standard No. (4) “Cash Flow Statement”.
-Egyptian Accounting Standard No. (25) “Financial Instruments: Presentation”.
-Egyptian Accounting Standard No. (26) “Financial Instruments: Recognition and Measurement”.
-Egyptian Accounting Standard No. (40) “Financial Instruments: Disclosures”

Date of Implementation

Standard No. (47) Applies to financial periods beginning on or after January 1, 2021, and early application is permitted, provided that Egyptian Accounting Standards No. (1), (25), (26), and (40) modifications 2019 are applied together on the same date and The Company has early adopted EAS 49 using the modified retrospective approach on 1 January 2019. There was no cumulative effect of adopting EAS 49 on retained earnings due to the practical expedient adopted by management

Currency devaluation:

As of 3 November 2016, The Central Bank of Egypt has decided to free float its currency. As a result of this extraordinary economic measure, most entities experienced an extraordinary amount of forex in the mentioned date, due to the monetary assets and liabilities in foreign currencies which affects the net activity of these entities significantly.

These events required the issuance of an annex to the Egyptian Accounting Standard number 13 on the 7th of February 2016 to deal with the effects of the changes in the foreign exchange rates in 2016, which stipulate upon an optional and exceptional accounting treatments to represent the effect of free floating the Egyptian currency in financial statements for entities with EGP as its functional currency.

ERP control

In order to keep up with the wide usage of enterprise resource planning (ERP) systems and to be able to meet the international standards, ERPs are required to meet certain criteria in order to be valid by the tax authority.

Suppliers (companies) that use ERP systems must maintain electronic accounts that clarify their annual revenues and costs for at least 5 years including the documents related to those revenues and costs.

1. General controls

- Segregation of Duties
- Documentation
- Control over the automated assets
- Control and security over the ERP system

2. Application controls

- Input Controls
- Processing Controls
- Output Controls

3. Financial reporting and tax controls

- General Provisions
- Controls over applying the General Ledger
- Controls over applying the Revenues
- Controls over applying the Purchases
- Controls over applying the inventories.

Additional legal considerations employment law

Employment contract

Employment contracts are required to be in writing, with three copies maintained in Arabic. The employer, employee and social insurance office each keep one copy of the employment contract, which must include certain information as specified in the Labour Law.

The labour contract should include the following contents:

- Name of the company and the employer “himself or the representative” and the address of the workplace.
- Name and personal details of the employee (name, address, date of birth, place of birth, ID, qualifications).
- Compensation (salary, bonuses, annual raises, benefits).
- Duration of the contract and its renewal regulations.
- Working hours, days off, leave.
- Confidentiality agreements and code of ethics, if any.
- Regulation for termination of the contract.

Probation period

If an employee is hired on probation, the employment contract should indicate the probationary period, which cannot exceed three months. Neither shall an employee be appointed under probation more than once for the same employer.

Types of employment contract

1. An indefinite employment contract is a contract which is not restricted to a limited period and does not have an expiration date (i.e. only includes the starting date).
   If the period of a definite employment contract expires and the company does not renew or terminate it before its end date, the contract is automatically becomes an indefinite contract (with no end date). This applies to Egyptian employees.
2. A definite employment contract is a contract which is issued for a definite period of time, has a start and an end date and will be terminated with the expiry of its period, although it may be renewed by express agreement between the two parties for one or more other periods through a new definite period contract according to Article No. 106 from the Labour Law No. 12 for year 2003.

Working hours

As per the Labour Law, employees should not work more than eight hours a day or 48 hours over a six day working week.

It is common practice that private sector employees work 5 days a week, usually Sunday to Thursday. The number of working hours may be increased to 9 hours a day including a one hour break.

Annual leave

An employee is entitled to a minimum annual paid leave of 21 days for every full year of service and a proportional amount if the period of service is less than one year (eligible to be used after 6 months of employment). This annual leave is increased to 30 days after the employee has worked for 10 consecutive years or is over 50 years old.

Public leave

In addition, every employee is entitled to full pay for official holidays designated by the Ministry of Manpower and Immigration, not to exceed 14 days a year.

If employees are required to work during official holidays, the employees are entitled to overtime (paid at twice their normal rate). The weekly days off and the official holidays shall not be counted as part of the annual leave.

The employer is not entitled to terminate the employee’s service due to sickness, unless the employee is absent due to sickness for more than 180 days in a year. After the employee utilizes all his entitled sick leave, a governmental medical committee should evaluate the employee’s ability to work. The committee takes the final decision related to the employee’s ability to work or not.

Performing pilgrimage or visiting Jerusalem

Regarding religious respects, the Labour Law stated that an employee who has spent five consecutive years in the service have the right to full paid leave for a period not exceeding one month for performing pilgrimage or to visit Jerusalem and such a leave shall be enjoyed only once during the entire period of service.

Maternity and child care leave

A female having spent 10 months in the service of an employer shall be entitled to a maternity leave of 90 days with full wage payment including the period preceding giving birth. The female employee is not entitled to this maternity leave for more than twice during her working period.

During the 24 months following the date of child birth, she has the right to be excused from work for one hour daily for feeding her child.

Benefits/rights

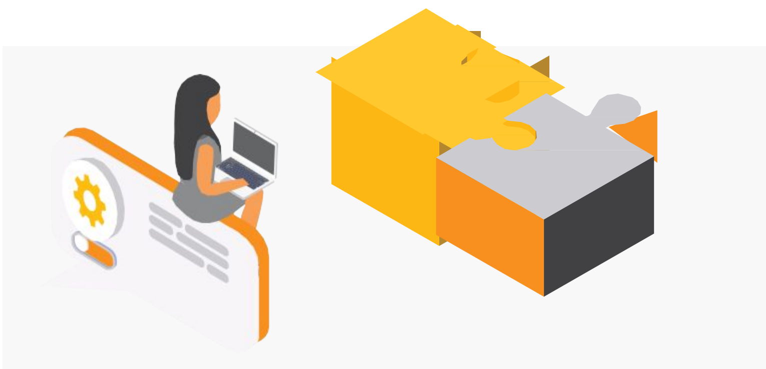
The social security system

On 1st of Jan 2020, a consolidated pension and social insurance law (Law no. 148 for year 2019) have been applied to workers in Egypt’s private and public sectors, executive regulations will provide further details on implementation of the law.

Contributions are required at the following rates:

Employee contributions

- The employee contribution percentage is 11% of the total social insurance salary.
- The subscription wage in 2021 has been determined with a minimum of EGP 1,200 and maximum limit of EGP 8,100.



Employer contributions

The employer contribution percentage is 18.75% of the total social insurance salary.

In addition to the above, any managers/board of directors whose names are included in the commercial register of the company will be socially insured as employers and would be subject to social insurance at a flat rate of 21% of the total maximum wage (i.e. EGP 8,100).

Contractual social security system

This system applies to all companies which by nature are most likely using seasonal and temporary workers who are usually not socially insured in carrying out certain assignments.

Those workers are to be registered under the competent contractual social insurance office, in which the company is responsible for paying the percentage applicable to the given assignment to the concerned social insurance office.

The social insurance percentage is determined to be (18.25%) taken from the salaries of the workers performing the assignment.

Annual increment

Employees are entitled to a periodical annual increment of not less than (7%) of the basic social insurance salary.
The minimum mandatory annual increase is currently EGP 134.40.

Overtime pay

The minimum overtime premiums are 35 percent of normal pay for overtime worked during daylight, 70 percent for that worked at night, and 100 percent on weekends and 200 percent on official holidays.

Bonuses

There is no obligation to pay annual bonuses.

Minimum wage

The minimum wage is 1,200 EGP per month.

Recruitment resources

There are two key types of labour available for recruitment:

- Readily available number of new graduates who are looking for new jobs.
- A number of employees who wish to leave their original employers looking for better advantages and benefits.

Usually foreign companies use professional firms to undertake a market survey and guide the employer on how to ensure competitive advantage among competitors recruiting in the same field.

Other commonly used methods for recruitment are as follows:

- Newspaper advertisement
- Web advertisement
- Selecting resumes though professional sites
- Using external recruitment agencies
- Internal referrals.

Unions

There are professional syndicate unions representing the labour rights in the private sector to bargain with the government in different areas, for example:

- Annual salary increase
- Special salary increase
- Minimum level of wages
- The labour disputes between employers and employees.

Termination of employment

During probation period

The probation period should not exceed three months and neither shall an employee be appointed under probation more than once.

In case the employee proves unsuitable for the job during the allotted period. This allows the employer to cancel the contract during the period.

Dismissal under “Definite” contract

The employer has the right to terminate the employment contract upon its expiry without any indemnity to be paid to the employee. In the event of dismissing the employee within the period of the contract, the employee will be entitled to compensation equal to the equivalent salary of the remaining period of his signed contract.

To illustrate, if the contract is issued for one year and the employer decides to terminate the hiring after 8 months, he has to pay the remaining 4 months’ salary in the contract.

Dismissal under “Indefinite” employment contract

Any of the two parties may terminate the contract at any time in case the contract is indefinite, taking into consideration, proper notice time, proper working conditions, stating reasons whether on the employer’s or employee’s behalf.
The employer may not dismiss the worker unless due to reasons as stated in the provisions of the Article No. 69 of the Labour Law.

An employee is entitled to 60 days’ notice period for dismissal if his period of service does not exceed 10 years, and 90 days’ notice period if that period exceeds 10 years. (Should the employer desire to dismiss the employee without giving him the relative notice period, the employee shall receive two or three month’s salary payment instead of such notice).

Court decisions have tended to award payments of not less than the wage of two months’ salary for each year of employment for unjustified dismissal.

Legal terminations

Grounds for legal termination without notice include the expiry of a definite employment contract, retirement, resignation, death or the incapacity of the employee to perform the relevant job based on a report from the concerned governmental committee & authorities. In all circumstances, any case of employment terminations the company should be in compliance with the Egyptian Labour Law & its penal regulations.

Legal obligations

There are other legal obligations to consider, including the legal annual increase and profit share. Under the profit share, employees of a Joint Stock Company, Limited Liability Company,or Foreign Branch are entitled to a share in the distributable profits. The share is fixed at an amount not less than 10% of distributable profits and not more than the total annual salaries of the employees.

However, Limited Liability Companies with capital less than EGP 250,000 are not subject to this distribution of profit share.

Customary benefits

Customary benefits that can be paid to employees and varies from one company to another include the following:

- Bonus or performance pay
- Allowances
- Profit share
- Private medical insurance
- Tuition reimbursement
- Fellowship fund
- Stock Options.

Foreign Employees:

As a general rule, any foreign employee working in Egypt whether for a long or short term should issue a work permit. An Egyptian legal entity must sponsor the foreign employee and respect the ratio prescribed by law which is 10 Egyptian employees for every foreign employee.

The foreigner's qualification and expertise must be adequate for the position and must have an experience certificate for the latest 3 (three) years in the same profession.

There should be a real need of the foreign expertise in the Egyptian market

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Two Egyptian assistants must be hired for each foreign employee.

Work Residency for the Board Members of a Joint Stock Company and Managers of a Limited Liability Company:

A- Work Residency for the Board Members of a Joint Stock Company (JSC):

Under the companies 'law No. 159 of year 1981, the board of directors of a JSC should either have a percentage in the shares of the company or be a representative of one of the shareholders of the company. Moreover, the following capital should be paid in the bank account as follows:

- For the appointment of a foreign board member, the capital should be USD 35,000;
- For the appointment of 3 (three) foreign board members, the capital should be USD 50,000; and
- For the appointment of 6 (six) foreign board members, the capital should be USD 100,000.

B- Work Residency for the managers in the commercial register of a Limited Liability company (LLC):

Under the companies' law No. 159 of year 1981, a work residency of the managers of an LLC mentioned in its commercial register is issued when the following capital is deposited in a bank account in Egypt:

- For the appointment of a foreign manager, the capital should be USD 35,000;
- For the appointment of 3 (three) foreign managers, the capital should be USD 50,000; and
- For the appointment of 6 (six) foreign managers, the capital should be USD 100,000 or more.

The board members in a JSC and managers in an LLC are not included within the quota as the above-mentioned requirements must be adhered to issue their work residency.

Egypt key tax indicators

Tax indicators	Resident	Non-resident *
Fiscal year end	Calendar year	Calendar year
Companies		
Income tax	General tax rate is 22.5%. For companies engaged in exploration and production of oil and gas, the tax rate is 40.55%.	Not applicable, unless the foreign company has a permanent establishment in Egypt (refer to comments opposite)
Tax on capital gains	Generally, 10% if shares are listed on the Egyptian stock exchange. This capital gains on listed securities has been suspended until the end of 2021. For the unlisted shares, the capital gains are subject to 22.5% tax.	Generally, non-resident are exempt from CGT on gains realised from the sale of listed shares on the Egyptian stock exchange. For the unlisted shares, the gains are taxed at 22.5%.
Value added tax	A standard rate of 14% is applied to all goods and services, except for machinery and equipment that will be subject to 5%.	Reverse charge mechanism - whereby transactions involving non-residents providing services / royalties to Egyptian resident entities have become subject to VAT in Egypt.
Individuals		
Individual marginal tax rate (max)	Progressive rates of up to 25%.	Progressive rates of up to 25%.
Basis of taxation	Worldwide income	Egyptian-source income only
Withholding tax		
Dividends	10% from unlisted shares 5% from listed shares	10% from unlisted shares 5% from listed shares
Interest	Not Applicable	20%. However, interest payments on loans of a duration more than three years in Egypt are exempt from WHT in Egypt.
Royalties	Not Applicable	20%
Management service fees	3% local WHT (advance payments for CIT purposes)	20%
Customs	Goods : 0% to 60% depending on the specific nature of the goods, passenger cars : 40% or 135%, alcohol 600% to 3,000%. Tobacco products are subject to specific customs duties based on the quantity/ weight.	
Exchange controls	Theoretically, there are no foreign exchange controls in Egypt. In practice there may be constraints on cash and cheque deposits in other currency. Due to the current circumstances, this should be further confirmed with the relevant bank.	
Thin capitalisation	A 4:1 debt to equity ratio applies. Any interest on debt exceeding this ratio will be disallowed.	
Transfer pricing	Related party transactions must be carried out at arm's length terms and conditions.	
Double tax treaties	Albania, Algeria, Austria, Bahrain, Belarus, Belgium, Bulgaria, Canada, China, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Holland, Hungary, India, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Korea, Kuwait, Lebanon, Libya, Macedonia, Malaysia, Malta, Mauritius, Morocco, Netherlands, Norway, Pakistan, Palestinian Territories, Poland, Romania, Russia, Serbia & Montenegro, Singapore, Saudi Arabia, South Africa, Spain, Sweden, Switzerland, Syria, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States and Yemen Please note that, the treaty with Oman and Sudan is still pending and has not been enforced yet.	
Treaties awaiting conclusion or ratification	Armenia, Croatia, Ethiopia, Mongolia, Oman, Slovakia, Slovenia, Sudan, Thailand, Vietnam.	

* Not tax resident in Egypt and no permanent establishment in the Egypt.

About PwC Middle East

Established in the region for 40 years, PwC has more than 5,200 people in 12 countries across the region: Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, the Palestinian territories, Qatar, Saudi Arabia and the United Arab Emirates.

Our regional team operates across the Middle East bringing international experience delivered within the context of the region and its culture. We can bring the collective knowledge and experience of more than 250,000 people across the entire global PwC network in advisory, assurance and tax to help you find the value you are looking for.

The Middle East Tax & Legal practice offers expertise across the region and can provide assistance with the following areas:

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- International taxation
- Tax and Zakat advisory
- Tax compliance, management and accounting services
- Global mobility and human resource services
- Services for U.S. citizens and Green Card holders
- Transfer pricing
- Mergers and acquisitions
- Legal

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