

# IBN HYAN CHARTERED ACCOUNTANTS

*Amendments to the Income tax Law & Executive regulations*



1. Executive Regulations of the Income Tax Law (MD 30/2012) have been issued and published in the Official Gazette on 10 February 2019.

2. The amendments are in line with earlier amendments to the Income Tax Law issued on 27 February 2017 (via RD 9/2017).

3. The amendments to the Executive Regulations provided more clarity on

- a. The provisions related to withholding tax ("WHT")
- b. Deductibility of director remuneration
- c. Donations
- d. Tax Exemption
- e. Tax card system
- f. Electronic submissions
- g. Notifications, Tax on enterprises and other matters.
- h. Special provisions related to tax on Enterprises (Small Taxpayers)



## **A: The provisions related to withholding tax (“WHT”)**

1. Royalty
2. Research and development.
3. Use or right to use computer programs or software.
4. Fees for management or performance of services.
5. Dividends : WHT on Dividends distributions will apply only to joint stock companies and mutual funds.
6. Interest : Has been defined to include any amounts obtained through debt, advances or any arrangement of financial nature, with or without guarantee or profit share.

Subsequent to the above Oman’s Capital Market Authority (CMA) issued a Directive on Wednesday 15 May 2019 that effective from 6 May 2019, the 10% withholding tax applicable on dividends and interest is temporarily suspended for a period of three years and may be extended if required.

## **B: Member’s remuneration**

### **a. Professional Companies**

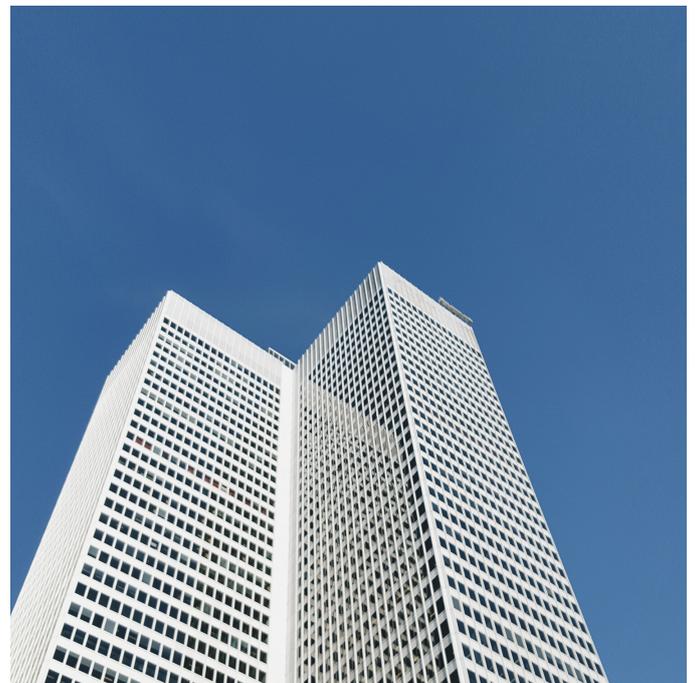
The least of the following is deductible

1. Actual remuneration paid.
2. The amount is OMR 3,500 (earlier OMR 3,000) per month per partner or proprietor.
3. It is 35% (earlier 30%) of taxable income before deducting such remuneration and adjusting any tax brought forward losses.

### **b. All companies except professional companies.**

The least of the following is deductible

1. Actual remuneration paid.
2. The amount is OMR 1,500 (earlier OMR 1,000) per month per partner or proprietor.
3. It is 25% (earlier 10%) of taxable income before deducting such remuneration and adjusting any tax brought forward losses.





## D: Tax Exemption

*The income tax paid by the Omani companies or companies that carry out their main activity in the field of manufacturing shall be exempted from income tax as follows:*

The company shall be established in Oman.

- It shall be registered with the Ministry of Commerce, Industry or others in accordance with the applicable laws and regulations.
- It shall undertake the activity in the field of industrial project (industrial establishment) in accordance with the laws, regulations and regulations governing its practice .
- It shall be licensed to carry out the activity and shall be registered in the records in accordance with the laws, regulations and regulations governing the exercise of the activity within the period specified for the exemption.
- It shall undertake its main activity in the field of industrial project.
- It shall maintain regular and approved accounts from an auditor authorized by law to practice the profession of accounting and auditing, with separate accounts for the main activity, and shall notify the Secretariat of a copy of the accounts and lists .
- It shall not benefit from the exemption stipulated in the foreign capital investment law or in any other law.

## C: Donations

*Donations made in respect of assets in-kind may not be deductible if it exceeds 10% of the cost of the acquisition of the asset . The contributions made through the Fund Created by the taxable to carry out the business .*

1. The Fund shall be independent from the taxable entity.
2. The Fund shall be established as a direct charity established by the organization.
3. The Fund shall be licensed in accordance with applicable laws and regulations.
4. The donated asset or movable property of the Fund shall be restricted Taxable assets and used in the exercise of its activity .
5. The taxable person shall submit documents proving the original cost incurred for the acquisition of the asset - the movable or the real estate - of the donor .

In all the above cases deduction should not exceed above 5% of the gross taxable income of tax payer.





## Tax Exemption (cont)

- It shall notify the Secretariat of a copy of the licenses issued for the commencement of the activity or the registration certificate in the Register according to the last renewal.
- The minimum investment of the Corporation or the Omani fixed assets company shall not be less than R.O.1 million.
- It shall achieve the Omanization percentage specified by the Ministry of Manpower during the last three financial years of the exemption period.

The exemption shall be limited to the income achieved by the Omani Corporation or Company from the commencement of its main activity in the field of the industrial project (the industrial establishment) except for the contractors of the implementation of the projects without any other activities.

The number of activities of the company shall not exceed 90% of the total annual income of the corporation or the company.

The exemption shall be restricted for a period of five years starting from the date of commencement of the establishment or the Omani company in production.

Exempted by following the following procedures:

1.The legal representative of the Omani corporation or company shall submit to the Ministry of Commerce and Industry the exemption request specifying the particulars relating to the establishment or the company from the commercial register and other official records and documents accompanied by official documents attesting to the availability of exemption conditions, And the proposed date from which to begin. The application shall be in accordance with Form No. (10) Income Tax annexed to these Regulations.

2.The application and its annexes shall be submitted within (8) months from the date on which the exemption period begins.

3 - The Ministry shall study the request and give an opinion thereon, specifying the following:  
a -the field in which the institution or the company undertakes its main activity.  
b -the availability of the conditions of exemption in respect of the institution or company.

c. The date on which the exemption period is to commence. (3) Three months from the date of submission of the completed papers.

4. The Secretariat shall study the application and its annexes to ensure that the conditions for exemption are met.

5. A decision shall be issued by the responsible minister.



## E: Tax card system

Tax cards are to be issued upon official request from taxpayers using the specified Income Tax Form No. 11 provided by the amendments.

New taxpayers are required to apply for the tax card at the time of tax registration.

Existing taxpayers are expected to commence process of applying for the tax card immediately from the effective date of these Executive Regulations.

The tax card will be issued either in paper form or as an electronic smart card with in one week from the date of submitting the application.

The tax card will be valid for a period of two years and taxpayers are required to apply for renewal on expiry.

The use of tax card by the Ministries, Government authorities & other parties (40% or more government owned companies) is emphasized.

These organizations are obliged to notify the tax authorities of names and details of contracting parties it deals with and that did not provide a copy of the tax card.

A specified Income Tax Form No. 20 for this purpose is provided along with the amendments.



## F: Electronic submissions

Under the ITL, all declarations of income, accounts, any registers and other exhibits are required to be submitted electronically on the E-portal of the SGT through the principal officers or authorized representatives of the taxpayer.

The documents submitted in E-portal is deemed to have been signed by the person responsible for them and received from the Secretariat on the date of receipt.

The use of the SGT portal is emphasized to such an extent that any notice issued and posted on the portal is deemed to be received on the date of posting.

The taxpayers need to be vigilant in terms of electronic notices received for timely appropriate action.



## **G: Notifications, Tax on enterprises and other matters**

The Notifications of the tax payer information or business particulars as prescribed in the law shall be submitted to the secretariat general in the below mentioned forms.

Establishment- Form No 2

Omani Company - Form No 3

Permanent Establishment - Form No 4

Foreign person providing services in Oman-FormNo 5

As per the amended regulations the department shall be notified within 60 days (earlier 90 days) from the date of incorporation or date of commencement whichever is earlier.

Notification of any change of the taxpayer information shall be submitted in Form No 6 within 30 days (earlier 60 days) from the date of such change.

### **Bad Debts**

The taxable procedures required for the collection of the debt .The deduction of bad debts during any tax year shall be in accordance with the following condition:

1. The debt shall be arisen due to transaction carried out by taxpayer to produce gross Income.
2. The amount of debt shall be included in the accounting records.
- 3.The procedures mentioned below required to be adapted and failed to collect the entire or part of it shall be debt.
  - a.Issuing final judgement to the debtor to pay.
  - b.Issuing an order for the payment by a competent judge in favor of taxpayer.
  - c.Proof of debt due to the taxpayer in front of a competent court of law in case of liquidation of debtor's estate or in event of his death.
  - d.Claim for debt to the liquidators of the debtor's estate.
  - e.Adoption of the procedures required to claim and final acceptance of debt in front of the bankruptcy receiver.

f.The involvement of taxpayer in judicial reconciliation in the event of judgement issued declaring his bankruptcy

g.Adoption of the procedure required for realization of debt.

h.Any other procedure deemed by the law.

Any legal action taken by the taxpayer to claim his debt against the debtors all be considered as part of the legally required procedures to collect the debts in the following circumstances.

1.The debt shall be acknowledged and undisputed both in maturity and in amount.

2. Assentation from repaying the debt shall be attributed to the debtor's inability to repay.

3.The value of the debt shall not exceed R.O

1,500/-. 4.The claim of the debt shall be explicit and firm.

5.Seriousness of the procedure shall be proved by the official document and records submitted by the taxpayer.

Any debt considered as bad according to any procedure of waiver or reduction shall be allowed as deduction, provided the same has to be proven by document and official records.

The debt shall not be considered as bad in the following cases.

1.If it has resulted from the transaction in the production of tax exempt income by the taxpayer.

2.If it has resulted form the transaction with a related person, unless he had adopted any action of recovery as mentioned above.

In addition to the above, the amended regulation states that if the taxpayer is not able to collect it in whole or in part of the debt. A final judgment shall be issued to oblige the debtor to pay the taxable debt and to take the necessary legal measures for execution under the bond of debt in accordance with the methods prescribed by law

## Penalty for auditors

New provision has been introduced giving wide powers to the tax authorities authorizing temporarily restricting use of services of an auditor authorized legally to practice the profession accounting and auditing in Oman.

Penalty can be imposed in cases where it is proved that an auditor helped the taxpayer submitting any documents or information related to tax obligation for the taxpayer in an incorrect way.

The provisions empowering the tax authorities to restrain auditors from taking incorrect positions for clients may have a far-reaching impact.

## Onsite examination and assessment

The amendments outlined the responsibility of taxpayers as well as the rights of tax inspectors in relation to onsite assessment process.

The SGT is generally required to issue advance notification of the site inspection.

However, if the SGT suspects tax evasion, enforcement officers may enter the taxpayer's workplace during working hours without advance notification to the taxpayer.



## H: Special provisions related to tax on Enterprises (Small Taxpayers)

A new lower rate of 3% on taxable income has been introduced and would apply to taxpayers upon meeting the following conditions:

- Available to Omani establishments, Omani Partnerships, or Omani LLC
- No more than RO 50,000 registered capital at the start of the year
- Average number of employees not to exceed 15
- Gross income is limited to RO 100,000 for any tax year.
- Such a taxpayer is not involved in business of banking, insurance and financial institution, public utilities concessions, air and sea transport, and extraction of natural resources or as decided by the Council of Ministers.

Such small tax payers are not required to provide any audited financial statements; therefore, only a simplified manual tax declaration supported by income statement would suffice.

This simplified tax declaration is to be submitted within three months from the end of the year.

The tax authorities are empowered to use relevant anti-avoidance provisions, if the taxpayers plan their activities in a manner to split larger businesses into smaller units to meet the above conditions and benefit from lower tax rate.

In addition, for the above as per the new regulations

The establishment shall continue to be subject to the provisions of the law during any tax year in any of the following cases:

Increasing the capital of the establishment at the beginning of the tax year (20%) what is specified above.  
Increase the total income of the establishment at the end of the tax year by not more than (50%) what is specified above.

Increase the average number of employees in the establishment during the tax year to (10) ten workers than what is specified what is specified above.

The average number of employees specified as per the Law shall be determined by the sum of the number of employees at the beginning of the tax year and at the end divided by two.

An entity shall be exempted from paying tax for any tax year in accordance with the provisions of the law if it satisfies the below conditions:

1. The owner of the institution or partner in the Omani company shall be full time free of charge for the management of the enterprise or the Omani company and not associated with any working relationship in any company. **OR**
2. If two or more Omanis are employed, permanently appointed in the Omani Corporation or Company for Six months during the tax year, and the Omani Corporation or Company shall provide the documents evidenced by their employment, in particular the labor force records.

In order to avail the special provision of the law if the owner of the institution or partner of the Omani company has more than one company, the exemption from paying the tax for any tax year for the company which is chosen by the owner provided that the General Secretariat should be intimated by the owner on behalf of the company of his choice when submitting the income declaration for that tax year.

In the event of failure to notify on the date specified for submission of the declaration, the General Secretariat may choose the Omani corporation or company exempted from the tax. Income tax form No 17 should be filed within due date specified as per the law i.e. 3 months from the end of the tax year. Also the taxable loss for the taxable year of the establishment or Omani company which fall under special category shall be carried forward and deducted from the taxable income for the year and the following years until the loss is settled.

