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International tax

Libya Highlights 2016

Investment basics:

Currency – Libyan Dinar (LYD)

Foreign exchange control – Although there is a foreign exchange law, in practice, foreign exchange transactions are allowed.

Accounting principles/financial statements – Libyan CPA standards, although most entities apply International Financial Reporting Standards (IFRS). Financial statements (audited by a Libyan licensed accounting firm) must be filed annually.

Principal business entities – These are the joint stock company, branch and representative office. A limited liability company is available only to Libyan nationals.

Corporate taxation:

Residence – An entity established in Libya is considered tax resident in Libya.

Basis – Any income generated in Libya from assets held in Libya or work performed therein should be subject to income tax in Libya.

Taxable income – Tax is imposed annually on net income accrued during the tax year. Taxable income includes income from business operations, less allowable expenses. Libyan companies and branches of foreign companies should be taxed on the basis of their submitted tax declarations, duly supported by audited financial statements, including statements of depreciation and general and administrative expenses.

However, "deemed profit"-based taxation may apply when a foreign entity is not registered at the time of contracting, the entity does not hold statutory books in Libya or the books are not maintained in accordance with the local regulations. The authorities also can assess tax on a deemed profit basis if they consider amounts, margins, etc. inaccurate or out of line with industry norms (e.g. cases involving potential concealment, many intercompany transactions, etc.).

Taxation of dividends – Dividends are not taxed in Libya.

Capital gains – Capital gains are treated as income and taxed at the standard rate.

Losses – Net operating losses generally may be carried forward for five years, and losses incurred by upstream oil and gas companies may be carried forward for 10 years. The carryback of losses is not permitted.

Rate – 20%

Surtax – A 4% defense contribution applies in addition to the corporate income tax. A stamp duty of 0.5% also is levied on the total corporate income tax liability.

Alternative minimum tax – No, but because the tax authorities can challenge transactions that do not appear to be on arm's length terms, etc., deemed profit taxation has a similar result in Libya (see above under "Taxable income").

Foreign tax credit – A foreign tax credit generally is not available, unless so provided in an applicable tax treaty.

Participation exemption – No

Holding company regime – No

Incentives – The promotion of investment law is designed to encourage the investment of national and foreign capital in Libya. Tax benefits are granted to companies that can contribute to the diversification of the local economy, the development of rural areas, the increase of employment, etc.

The tax exemptions applicable to companies registered/governed by the investment law include: a five-year exemption from income tax; an exemption from tax on distributions and gains arising from a merger, sale or change in the legal form of the enterprise; an exemption for profits generated from the activities of the enterprise, provided the profits are reinvested; an exemption from customs duties on machinery and equipment; and an exemption from stamp duty. A free zone has been established in Misurata (Qasr Hamad port area).

Withholding tax:

Dividends – No

Interest – Interest paid on bank deposits is subject to a 5% tax.

Royalties – Royalties (except those derived from the oil and gas sector) generally are taxed as ordinary income on the basis the asset is held/used in Libya.

Technical service fees – Income from work performed in Libya is considered Libya- source income and is subject to tax accordingly.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – The employer is responsible for withholding and remitting payroll tax.

Real property tax – No

Social security – Social security contributions must be made by the employer at a rate of 11.25% for foreign companies and at a rate of 10.50% for companies with a Libyan participation, calculated on the gross wages/salary. The employee contributes 3.75%.

Stamp duty – Stamp duty is levied at varying rates (although there also are certain fixed duties), typically between 1% and 3%, on the execution of documents. Stamp duty of 0.5% is levied on payments made to the tax authorities.

Transfer tax – No

Anti-avoidance rules:

Transfer pricing – Although Libya does not have formal transfer pricing rules, the tax department has the authority to assess tax on a deemed profit basis under the general anti-avoidance provisions.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Other – Libya has a general anti-avoidance rule.

Compliance for corporations:

Tax year – The tax year is the calendar year, although a different year may be used, subject to approval.

Consolidated returns – Consolidated returns generally are not permitted; each entity should file a separate return.

Filing requirements – The annual return must be supported by audited financial statements (a balance sheet, profit and loss statement and a statement of operations). The financial statements must be audited by a Libyan licensed accounting firm.

The return must be filed within four months of the end of the tax year.

Penalties – Penalties apply for failure to file, late filing or other forms of noncompliance.

Rulings – No

Personal taxation:

Basis – Individuals are taxed on Libya-source income.

Residence – The liability to taxation typically is based on the source of income (particularly for non-Libyan nationals); therefore, residence generally is not a key factor in determining tax liability in Libya.

Filing status – Each taxpayer must submit a tax return; there is no joint filing.

Taxable income – Tax is levied on salary or wage income (including allowances) derived from employment, professional income and, in certain circumstances, investment income.

Capital gains – Capital gains generally are treated as ordinary income and taxed at the standard rate applicable to the taxpayer.

Deductions and allowances – Limited personal allowances and deductions are granted in calculating taxable income.

Rates – The payroll tax rates are as follows: annual taxable income of less than LYD 12,000 is subject to a 5% rate, and annual taxable income exceeding LYD 12,001 is subject to a 10% rate. An exemption generally applies for income below LYD 1,800 (for a single individual) or LYD 2,400 (for a married adult who has no dependent children). Married couples have an exemption of LYD 300 for each minor child. Special rates apply to certain types of professional income. Income earned from commercial activities is subject to a 15% rate and income from handicrafts is subject to a 10% rate.

Other taxes on individuals:

Capital duty – No

Stamp duty – Stamp duty is levied at varying rates.

Capital acquisitions tax – No

Real property tax – No

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – Social security contributions must be made by both the employer and the employee. The employer contributes 11.25% (in the case of a foreign company) or 10.50% (in the case of a company with a Libyan participation) of gross wages/salary. The employee contributes 3.75%.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld and remitted by the employer at the individual's applicable rate.

Penalties – Penalties apply for failure to comply, late filing or other forms of noncompliance.

Value added tax:

Taxable transactions – Libya does not levy a VAT or sales tax.

Source of tax law: Income Tax Law No. 7 of 2010 and Regulations of Income tax No. 7 of 2010, Stamp Law No. 12 of 2004 and Law No. 8 of 2012

Tax treaties: Libya has approximately 10 tax treaties.

Tax authorities: Tax Department of the Secretariat (Ministry) of Finance

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