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Overview of 2010 Reform of Tax Laws

This year's session of the General Peoples Congress saw substantial reform of Libyan tax laws in the passing of Law 7/2010 Concerning Income Tax and Law 8/2010 Amending Certain Provisions of The Schedule to Law 12/2004 Concerning Stamp Duty. Both of these laws came into legal effect on the date of their publication in the Official Gazette on 28 April 2010. Each law will be reviewed in turn.

Law 7/2010 on Income Tax ("*Law 7*")

- Law 7 marks a substantial reform of the Libyan income tax regime through the introduction of new rates of taxation as well as through changing and doing away with long established concepts and abolishing certain taxes and changing the relationship between taxpayers and the Tax Authority. For example, Law 7 abolishes tax on real estate, agriculture and livestock and tax on foreign income earned abroad by residents in Libya as well as taxes on salaries and wages of government employees.

- The relationship between the tax payers and the Tax Authority has changed markedly as the Tax Authority will now accept tax declarations as filed by the taxpayer and will assess the taxes based on such declarations. The implication of this is that unlike the previous practice, the declaration submitted by the taxpayer will be the basis for the assessment of tax without waiting for final assessment by the Tax Authority, however, if the Tax Authority has reason to believe that the tax payer did not submit a full or accurate declaration of his income, then the Tax Authority maintains the right to make additional assessment of tax , in addition to imposing the fines provided by the law.

- A major departure from the old practice seen in Law 7 is that the taxpayer has the choice to prepare his income statement either on an accrual or cash basis.

- Law 7 adopts a flat rate of tax for almost all income instead of the sliding scale method adopted by the previous law. The following is a summary of some of the relevant new rates and associated changes:

1. **Corporate Income Tax:** The income statement must be certified by a registered Accredited Public Auditor and the statement must be submitted within 4 months from the end of the financial year instead of 7 months under the previous law. The rate is 20%.

2. **Payroll Tax:** The rate for this tax is now 5% for the first LYD12,000 of annual income and 10% for any amounts in excess of LYD12,000. The minimum income exempted from tax has been increased and the range of exemptions has been widened, so that now an unmarried person will be exempted for LYD1,800 of annual income and a married person will be exempted for LYD2,400 of annual income plus a further exemption of LYD300 per dependent child.

- Law 7 removed maximum limits on certain deductibles from taxable income such as installments for life insurance, installments for general insurance and now recognizes installments paid towards health insurance as deductable expenses.

- Among the new exemptions provided by Law 7 is an exemption for income realized pursuant to a life insurance policy and income from retirement and pensions as well end of service indemnities.

- Law 7 also makes resort to petition committees easier by removing the requirement to pay 20%-30% of disputed tax amounts. Preliminary Petition Committees must now issue their decision in relation to a petitioned dispute within 2 months from the date of submission of the petition and likewise the Appeal Petition Committees must now issue their decision within 3 months from submission of an appeal.

- Law 7 reinstated the statute of limitations so that now the Tax Authority's right to claim unpaid tax is barred by the lapse of seven years, although it is not determined when the seven years starts. Moreover, the statue of limitations for the tax payer to claim refund of payments made to the Tax Authority is time barred by the lapse of five years instead of three years.

- Lastly, Law 7 Law has also strengthened the punishments for violations of the Law such as tax evasion or submitting incorrect information. Such punishment is in the form of a financial fine which can now reach 4 times the amount of tax due. A personal liability is introduced for persons in charge of managing an activity, such as a company, who do not comply with the statutory requirements for holding books and records or who prevent a tax official from performing his duties. Punishment for such offences is in the form of a financial fine ranging from LYD10,000-50,000, which the person in charge of managing the activity will be personally liable.

- It is worth noting that there has been no change to the Jihad Tax so the rates under the law regulating Jihad Tax are still the same.

Law 8/2010 Amending Certain Provisions of the Schedule to Law 12/2004 Concerning Stamp Duty ("*Law 8*")

- The rate of Stamp Duty due on supply, construction, transportation, public utilities concessions and any other contracts the subject of which is the provision of service or conduct of work has been reduced from 2% to 1% of the value of the contract and Exploration and Production Sharing Agreements (EPSA's) are now expressly added to this category for the first time. This enhances the interpretation that the EPSA's were not subject to stamp duty tax under the previous law as no express mention was made therein.

- Furthermore, stamp duty on transactions involving vehicles and the like have been reduced from 3% to 2% and stamp duty on other moveables the value of which exceeds LYD100 is also reduced from 2% to 1%.