

Tax Alert

**Issuance of the Law No.11 of the year 2022 amending
certain provisions of the Income Tax Law of 2018**

February 2023

kpmg.com/qa



Tax Alert – Issuance of the Law No. 11 of the year 2022 amending certain provisions of the Income Tax Law of 2018

On 2 February 2023, the State of Qatar has issued the Law No. 11 of the year 2022 (the “Tax Law of 2022”), for the amendment of the provisions of the Qatar Income Tax Law No. 24 of the year 2018. KPMG will discuss the changes brought by the Tax Law of 2022 in detail **during our annual Tax Summit 2023, which will be held on the 28 of February.**

In the meantime, we have summarized the changes brought in by the Tax Law of 2022 and provided our initial comments as follows:

- 1 New provisions introduced
- 2 Major changes to pre-existing provisions
- 3 Other important changes

Effective Date

The Tax Law of 2022 states that all concerned/relevant parties shall implement said law but remains silent on the effective date.

KPMG Comment: *The absence of an explicit effective date could imply that the Tax Law of 2022 is applicable with immediate effect (i.e., from the date of its publication in the Official Gazette). If this should be the case – clarification will be needed whether the changes will affect the Tax Filings of the financial year ending 2022 (which are due in 2023) or the tax filings of the financial years ending 2023.*

Global Minimum Tax



In the Tax Law of 2022, the State of Qatar has expressed its commitment to introducing a global minimum tax at the rate of not less than 15% for covered entities located in Qatar “on the basis of its excess profits” in a manner consistent with international rules (the Global Base Erosion Rules – GloBE Rules) developed as part of the solution to address the tax challenges of the digital economy. The Executive Regulations (**yet to be issued**), will provide more details on the scope of application, conditions, and procedures for the application of the Global Minimum Tax.

KPMG Comment: *It is our understanding that the in-scope entities for the global minimum tax in Qatar will be determined based on the threshold and criteria provided under the GloBE rules, i.e., Multinational Enterprises with a consolidated group revenue exceeding EUR 750 million (based on their consolidated financial statements) will be in scope. However, further guidance is awaited to assess the impact on Qatari headquartered groups with operations overseas (specially how the entities which are currently exempt from tax in Qatar will be treated).*

Extended Scope of Income Subject to Tax



The Tax Law of 2022 has broadened the scope of income subject to tax in Qatar to include certain additional sources of income derived from abroad:

a) 2. Foreign dividends, interests, fees from technical services, royalties and income from real estate located abroad

As per the Tax Law of 2022, foreign dividends, interest, fees from technical services and royalties derived from abroad, as well as income from immovable property located abroad will be subject to tax, provided that these income streams are not attributable or connected with a foreign Permanent Establishment (PE) of the Qatar resident entity. Subject to tax rules apply.

b) Other sources of income derived from abroad

The Tax Law of 2022 has listed the following other types of income derived from abroad that shall now be subject to tax in Qatar.

- Profits realized by a Qatar resident entity from disposal of properties located abroad. Article 4(6) of the Tax Law 2022 however states that capital gains from the disposal of real estate located abroad would be exempt from capital gain tax.
- Income received for providing rights to distribute products or services.
- Income received with respect to the provision of marketing, procurement, financial services, communication services and broadcasting services, etc.
- Income received in connection to granting guarantees or similar financial support.

KPMG Comment: *While Qatar has followed a source-based taxation system, the Tax Law of 2022 has introduced numerous exceptions now, and additional income streams derived from abroad will now be subject to tax. Our understanding is that this decision has been taken in the context of commitments taken by the state of Qatar, vis-à-vis the EU and OECD, to implement good governance tax principles and amend its foreign-source income exemption rules to prevent double non-taxation.*

Relief for foreign taxes



The Tax Law of 2022 has introduced a tax relief mechanism, under which taxpayers can take credit of the amount of foreign taxes suffered in connection with an income taxable in the State of Qatar, within the limit of the Corporate Income Tax due in Qatar on such income, provided that (a) the foreign tax has been imposed by a foreign country and (b) the foreign tax has been effectively paid (excluding any foreign tax that has been refunded by the foreign authority).

KPMG Comment: *We understand that tax credit mechanism is introduced as Qatar simultaneously has amended the law to include different streams of income derived from abroad to be subject to tax now.*

Income attributable to a PE outside the State



Under the Tax Law of 2022, if a Qatari resident entity has a PE outside of Qatar, then income attributable to such a PE shall not be subject to tax in Qatar, provided that such income is subject to tax in the foreign country where the PE is established.

KPMG Comment: *We recommend companies to analyze cases where they have a PE located in jurisdictions with no corporate taxes and assess the impact on the Group – as income attributable to such PEs will now be subject to tax in Qatar.*

Tax-exempt income



Under the Tax Law of 2022, the following income streams shall now be exempt from Corporate Income Tax:

The followings will now be subject to tax in Qatar:

- Income of private associations and institutions, private charitable associations and institutions, and private institutions of public interest
- Capital gains achieved by a Qatar resident entity from (a) the disposal of immovable property outside the State and (b) movable property that constitutes a part of the PE's properties owned by the Qatar resident entity outside the State and (c) from any shares or parts or other foreign rights.
- Board of directors' ("BOD") remuneration/income received by a Qatar resident entity, as a member of BOD in a company resident outside the State.

KPMG Comment: *Under the Tax Law of 2018, private associations and institutions were outside the scope of corporate income tax. Now under the Tax Law of 2022 these are considered exempt from tax only. Therefore, we understand that such organizations will now be required to comply with all the tax obligations such as filing of annual tax return, preparation of audited accounts etc.*

As mentioned earlier, the Tax Law of 2022 has simultaneously included capital gains from the disposal of property under the scope of income subject to tax in Qatar as well as the expanded scope of exemptions, this is unclear, and we anticipate further guidance under the Executive Regulations to clarify this.

2

Major changes to pre-existing provisions

The Amending Law has also introduced some changes to pre-existing provisions of the Income Tax Law, mainly related to

- 1) the tax residency criteria for natural and legal persons and
- 2) definition of the Permanent Establishment and
- 3) full compliance requirements applicable to private associations and foundations, private charitable organizations, and private foundations of public interest.

In the table below, we have summarized the key changes introduced by the Amending Law in comparison to the Income Tax Law of 2018.

Subject/provisions amended	Income Tax Law No.24 of 2018	Amending Law No.11 of 2022	KPMG Comment
Tax residency criteria for natural persons	<p>A natural person was considered tax resident in Qatar, if one of the below criteria applied</p> <ol style="list-style-type: none"> 1. having a permanent home in Qatar or 2. spending 183 days or more in Qatar or 3. having the "Center of Vital Interests" in Qatar. 	<p>The third condition of having the "Centre of Vital Interests" in Qatar has been abrogated.</p> <p>Also, a new criterion is added i.e., the Qatari nationality. Therefore, every Qatar national shall systematically be considered as a Qatar tax resident.</p>	<p><i>Further guidance is required whether the automatic consideration of Qatari national as tax residents has an impact on the tax residency of GCC nationals in Qatar. under the law 9/1989 that equalizes the GCC citizens in tax transactions.</i></p>
Tax residency criteria for legal persons	<p>A legal person was considered tax resident in Qatar, if one of the below criteria applied</p> <ol style="list-style-type: none"> 1) incorporation under Qatari legislations, or 2) head office situated in the State of Qatar or 3) place of effective management is situated in the State of Qatar. 	<p>A legal person incorporated in the State of Qatar is considered tax resident under the condition that its "place of actual administration and management" is situated in the State of Qatar.</p> <p>The definition of "place of actual administration and management" has been provided by the Amending Law.</p>	<p><i>The wording of the new law raises the (new) question what happens with a legal person incorporated outside Qatar but has the place of effective management in Qatar. Under the old law such a legal person was considered resident in Qatar.</i></p>
Definition of Permanent Establishment (PE)	<p>The definition of PE is similar to the PE definition provided by the OECD Model Tax Convention and provides examples of forms of business that can constitute a PE: "Fixed place of business through which the business of a taxpayer is wholly or partly executed. This shall include a branch, {...}, an oil or gas well {...}, a building site {...}, etc.)</p>	<p>The definition of PE has been reduced as follows: "a fixed place of business through which the business is wholly or partly executed".</p>	<p><i>The updated Executive Regulations (yet to be issued) will have to provide more details on the practical impact of this change.</i></p>

3

Other important changes

Economic Substance Regulations “ESR”



a. ESR’ reporting requirements

The Tax Law of 2022 has introduced a new article on the ESR’ requirements, under which any “covered entity” that fulfills certain criteria, will be required to submit the report on the minimum indicators of its substantial activities. The criteria for qualifying for reporting and definition/scope of “minimum indicators” as well as the different deadlines applicable will be provided by the updated Executive Regulations (**yet to be issued**).

b. Significant penalty and other consequences for non-compliance

The Tax Law of 2022 introduced a significant penalty of 15% on the net income, for failing to comply with the ESR requirements, as provided by the Law and the Executive Regulations (yet to be issued).

Also, in case of failing to submit the ESR’ report or not fulfilling one of the “minimum indicators” or failing to provide documentary evidence thereof to the Authority, as requested, the concerned entity shall be deemed as not carrying out a substantial activity in Qatar and may not be able to obtain its tax residence certificate from the General Tax Authority.

KPMG Comment: On 17 October 2021, Finance Minister Resolution No. 20 of 2021 was issued regarding ESR with immediate effect, but forms and further guidance is still outstanding. We understand the same is transposed into the Tax Law of 2022 to streamline the process and that t. Executive Regulations to Tax Law of 2022 will provide reporting mechanism to that effect.

New definitions introduced



The Tax Law of 2022 has introduced under Article 1 of the Income Tax Law various new definitions, which should be given due attention by taxpayers, when interpreting/applying the other provisions of the same Tax Law of 2022 and the Income tax Law of 2018.

The main new definitions that have been added by the Tax Law of 2022 are:

- “non-profitable organization”
- “Immovable property”
- “place of actual administration and management”
- “Business”
- “Qatari project”
- “Foreign project”

Ultimate Beneficial Ownership details “UBO”



The Tax Law of 2022 has specified that various companies, including Trust Funds, must provide, at the GTA’s request, the details on their shareholders and ultimate beneficial owners.

KPMG Comment: Whilst the Companies in Qatar were already required to submit the details of the UBOs with the Ministry of Commerce and Industry under the Law No. 1 of 2020 related to the Unified Economic Register. Now the same can be requested by the GTA as well as further enforcement measure.

We recommend taxpayers to adopt a proactive approach by preparing and maintaining accurate and up to date information on their shareholding structure and ultimate beneficial owners, so the same can be submitted to the GTA, if required.

Provisions under the Tax Law of 2022 relevant to Transfer Pricing



Besides the above-mentioned changes in the definitions, Articles 1 now also includes the definition of arm’s length principle which further aligns the definition to the OECD definition.

Further, Article 33 provides further reference to the foreign associated enterprises and the transactions therewith, that would be covered under Article 33.



Contact us



Barbara Henzen
Partner, Tax

E: bhenzen@kpmg.com

T: +974 44576444



Haythem Zayed
Partner, Tax

E: haythemz@kpmg.com

T: +974 44576444



Imran Ayub
Director, Tax

E: iayub@kpmg.com

T: +974 4457 6529



Abhishek Jain
Director, Tax

E: anjain@kpmg.com

T: + 974 4457 6538



Uma Patankar
Associate Director, Transfer Pricing

E: upatankar@kpmg.com

T: + 974 4457 6589



Anand Krishnan
Associate Director, Tax

E: ankrishnan@kpmg.com

T: +974 4457 6444



Priyanka Jaiswal
Associate Director, Tax

E: pjaiswal@kpmg.com

T: + 974 4457 6511



Khalil Khbabez
Manager, Tax

E: kkhbabez@kpmg.com

T: + 974 4457 6574



Diego Tay
Manager, Transfer Pricing

E: diegot@kpmg.com

T: + 974 4457 6444



Damir Milanko
Manager, Transfer Pricing

E: dmilanko@kpmg.com

T: + 974 4457 6444



Nouman Azam
Manager, Tax

E: noazam@kpmg.com

T: + 974 4457 6444



Yousef Abdel-Aziz
Manager, Tax

E: yabdelaziz@kpmg.com

T: + 974 44576444



home.kpmg/qa

The information contained in this Alert is based on an unofficial translation of the Law No. 11 of the year 2022 amending certain provisions of the Income Tax Law of 2018. The Alert is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we have endeavored to provide an exact translation, there can be no guarantee that the translation is accurate. Should any discrepancies or misunderstandings arise, the original Arabic text of the law shall prevail. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2023 KPMG LLC, a limited liability company registered with Qatar Financial Centre Authority (QFCA), State of Qatar and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

© 2023, KPMG Qatar Branch is registered with the Ministry of Commerce and Industry, State of Qatar, and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.