

Insights: Oman Tax Law Amendments

Highlights

Executive Regulations (ER) to Oman Tax Law Amended:

Ministerial Decision No. 14/2019 (MD) is published in the Official Gazette to clarify certain provisions of the Oman Tax Law that were amended pursuant to Royal Decree No. 9/2017 (RD), issued in February 2017 (hereinafter referred to as “amended Tax Law”).

The MD is effective from the day following its publication date in the Official Gazette i.e., 11/02/2019, except for donations and withholding tax (please refer the respective sections below for details).

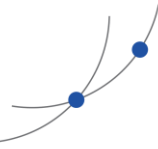
In principle, the following key amendments have been made in the ERs. Each has been explained in detail below:

Withholding Tax:

- Two important terms “interest” and “income realized in Oman” are now clearly explained and defined.
- The term “interest” has been excluded from the definition of Withholding Tax obligations for banks.
- Previously excluded from withholding Tax list of seven categories of payments for services are now defined.
- Non applicability of withholding tax on LLCs dividend is now clarified.
- Domestic General Anti-Avoidance Rules (GAAR) has been introduced in the provisions of Withholding Tax.

Other Amendments:

- Rules introduced in relation to Tax Cards.
- Specific tax compliance requirement for Government and other Public bodies.
- Regulations relating to tax Inspection, search and Seizure.
- Amendment clarification related to tax exemptions.
- Amendments in provisions governing deductibility of Bad- Debts, Managerial Remunerations to partners and donations in kind.
- E-submission of Tax Returns and other Documents
- Specific rules introduced for Small Tax Payers (STP).
- Other miscellaneous amendments



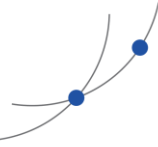
Key Amendments – Withholding Tax:

Services

- The fundamental term “Income realised in Oman” which triggers withholding tax provisions is now defined in the amended ER. As per ER, the Income would be considered as realized in Oman “**whenever the source of such fund is from Oman**”. This means if payer is located in Oman, withholding tax on such services will be applicable.
- However, specific exemption is provided to seven categories of services which shall not attract the provision of Withholding tax. They are;
 1. Conferences, seminars or exhibitions;
 2. Training;
 3. Transport and shipping of goods and insurance thereupon;
 4. Airline tickets and cost of staying abroad;
 5. Board meetings
 6. Payment for re-insurance
 7. Services rendered in relation to any activity or property located outside Oman.
- All other services except mentioned above, shall attract withholding tax regardless of place of service delivery.

Interest

- For the purpose of Withholding tax, ‘**Interest**’ is defined as any amount received “because of loan” regardless of:
 - Its type, advances, arrangements or financial facilities.
 - Whether guarantee provided or not;
 - Whether or not it gives the right to participate in Debtor’s profit;
 - Whether it included any amounts received in lieu of interest in application of the provisions relating to the determination of the taxable income for parties in Islamic financial transactions
- Income generated from bonds and sukuk (except those issued by government or Oman-based banks) shall also be considered as “interest” for the purpose of withholding taxes.



- For Government of Oman and Banks, following categories of payments are excluded from the definition of 'Interest';
 - Interest paid on amounts deposited in banks based in Oman.
 - Returns on bonds and sukuk issued by the Government or banks based in Oman.
 - Interest on inter-bank transactions and facilities with the purpose of providing and managing liquidity or finance (the term of the loan not to exceed five years)

Dividends

- Applicability of Withholding tax on payment of dividends is clarified in line with the practice followed by the Oman tax authorities. The Withholding tax shall be applicable only on dividends distributed by joint stock companies and investment funds in relation to investment instruments. Dividends paid by the limited liability companies shall not attract Withholding tax.

Withholding tax provisions are applicable on the tax due, which shall be payable effective from the implementation date of this regulation.

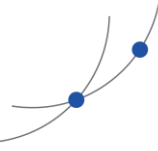
- Tax authorities to disregard the transaction **if the main objective (and not one of the main objectives)** is to avoid withholding tax in Oman.



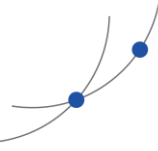
Key Amendments – Deduction of Expenses:

Amendments are made to regulations relating to deductibility of bad debts, managerial remuneration and donation. The revised position compared with previous regulations are summarised below;

Previous Regulations	New Regulations
Bad Debts:	
<p>Bad Debts were allowed as deduction only if the taxpayer complied with certain condition after taking legal proceedings in relation to bad debt exceeding OMR 1,500/-</p>	<p>Now, the taxpayer should provide evidences to substantiate that they took reasonable steps to recover the amount post issuance of the final judgement obliging the debtor to pay the debt. In view of this obtaining a final judgement and initiating the execution process may become mandatory requirement to claim any significant amount of bad debt.</p>
Managerial Remuneration:	
<p><u>Non-professional Companies</u> Least of the following was allowed as a deduction;</p> <ul style="list-style-type: none"> - Actual remuneration paid; - OMR 1,000 per month per partner for all companies except professional companies; - 10% of taxable income before deducting such remuneration and adjusting any tax brought forward losses for all companies expect professional companies <p><u>Professional Companies</u> Least of the following was allowed as a deduction;</p> <ul style="list-style-type: none"> - Actual remuneration paid; - OMR 3,000 per month per partner; - 30% of taxable income before deducting such remuneration and adjusting any tax brought forward losses 	<p><u>Non-professional Companies</u> Least of the following will be allowed as a deduction;</p> <ul style="list-style-type: none"> - Actual remuneration paid; - OMR 1,500 per month per partner for all companies except professional companies; - 25% of taxable income before deducting such remuneration and adjusting any tax brought forward losses for all companies expect professional companies <p><u>Professional Companies</u> Least of the following was allowed as a deduction;</p> <ul style="list-style-type: none"> - Actual remuneration paid; - OMR 3,500 per month per partner; - 35% of taxable income before deducting such remuneration and adjusting any tax brought forward losses



Donation
Previous Regulations
donations were allowed as a deduction only if the same were made to specified institutions, subject to prescribed limits.
New Regulations
<p>ER RD 9/2017 introduced changes in relation to the deductibility of donations with respect to the word “donation” which is substituted by “donation made in cash or kind”.</p> <p>ER with effective from 1st January 2018 provides that the Donation in kind shall be deductible if;</p> <ul style="list-style-type: none"> - Donated Asset is recorded in the Financial statements of the donor; - The value of the donated asset should be computed as follows; <ul style="list-style-type: none"> a) For depreciable asset lower of the following: <ul style="list-style-type: none"> i. Net book value in the year in which the donation took place. ii. 10% of the original Cost b) For Non-depreciable assets, original cost of the asset shall be considered. - The Original cost is to be substantiated through supporting documents. In case of absence of the same the value will be determined by the tax authorities. - The total donation (cash as well as kind) is still subject to restrictions as imposed under the Tax Law (5% of taxable income) - Specified conditions have been introduced in relation to donations made (cash or in kind) through a fund: <ul style="list-style-type: none"> a) Fund to be independent from the taxable person; b) Fund constituted to carry out charitable activities; c) Fund licensed in accordance with the applicable laws and regulations; d) Donated asset to the fund should have been recognized under the assets of the donor and should have been used for his business activity before such donation; e) Donor to submit supporting documents for original cost incurred to acquire the asset being donated;



Procedural Amendments

Tax Card:

The amended Tax Law introduced the concept of a “tax card”, requiring every taxpayer in Oman to mention a tax card number on all correspondence, invoices, memoranda, contracts or other similar documents entered into by the taxpayer.

Following rules have been included in relation to the tax Card;

- The application for the Tax Card to be made in Form 11.
- Tax Cards must be issued by the Tax authorities within **1 week** of application submission.
- Following details would be included on Tax Card:
 - Name of tax payer;
 - Tax file Number
 - Commercial registration Number or license Number
 - Expiry date of the Card
- Tax card to be endorsed by the tax department or its appointee and would be stamped by the tax department.
- The card may be issued in paper form or as a smart card and is valid for two years.
- A renewal application is to be filed **at least one month prior** to expiry. The tax department will not renew the tax card if the taxpayer in Oman has not complied with all obligations under the Tax Law as of the date of the renewal. Please note that a similar approach is currently followed by the tax authorities when issuing Tax Clearance Certificates (TCC) to taxpayers. Any changes to tax card details must be immediately communicated to the tax department.
- Only one tax card will be issued for a foreign person conducting operations/business in Oman through more than one permanent establishment.
- In case of cessation, dissolution or liquidation, the tax card must be surrendered **within 14 days** of such event.



Point to be noted:

Following aspects are not yet mentioned by ER on the Tax Card:

- Timeframe post implementation within which the tax card needs to be applied by the taxpayer
- Prescribed fees

Compliance Requirement for ministries and other public bodies:

Applies To:	Requirement
Ministries	If a contracting party does not submits its tax card to public bodies, then such public bodies are required to submit the contracting party's details in Form 20
Authorities	
Public establishment and other such other public juristic persons	
Units of State administrative Apparatus	Semi-annual filing of contract details executed in Form 19 and other specifics requested by the tax department
Companies where Sultanate owns more than 40%	

Tax inspection, search and seizure related rules:

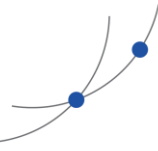
- Earlier, ER provided tax authorities the right to inspect a taxpayer's premises during his working hours. However, the amended ERs introduced certain clarification regarding procedural provisions related to inspection proceedings.
- Authorities are now required to provide in written notification to taxpayer highlighting the following:
 - Date and Time of visit
 - Tax years under inspection
 - Documents, accounts and other items necessary for perusal.
- In case there is suspicion of tax evasion, there is no requirement for the tax authorities to issue notification prior to entering the business premises of the taxable person during his working hours.
- The taxpayer should enable the tax department to inspect documents, accounting records, etc.
- A receipt should be provided by the tax department for the seized documents. The original seized documents should be returned within 30 days. However department can retain the copy of the same.
- The tax authorities have been further empowered to seek assistance from the authorities if it is revealed that the taxpayer has attempted to hide, destroy or falsify records/documents.

Tax exemption related clarifying amendments:

- Regulations concerning tax exemption removed given the amended Tax Law removed all exemptions, except for taxpayers engaged in industrial activity.
- Provisions in relation to renewal of exemption also now removed.
- Earlier ER specified certain terms for granting exemption to taxpayers engaged in the field of industrial activity. The same has been retained with addition to two more condition which are as follows:
 - Minimum amount of investment in fixed assets shall not be less than OMR 1 million.
 - Omanisation quotas specified by the Ministry of Manpower to be achieved during the last three financial years of the exemption period. Additionally, Omanisation quotas should be a balanced distribution between different management levels for the Omani establishment or company, such as the upper management level, professional functions and supporting functions

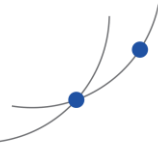
Electronic service of notice or decision deemed valid:

- RD 9/2017 made online filing of tax returns by tax payers mandatory. The amended ERs now further clarify that delivery of a notice/decision through the portal to the taxpayer is to be treated as a valid delivery of such notice/decision. Accordingly, it will be important for the taxpayer to keep continuous track of online communications from the tax authorities to ensure timely receipt of notices, query letters, orders, decisions, etc.
- This amendment will prevent conflicts in relation to non-delivery of assessment orders and decisions for determining the due date of filing objections and appeals.



Special Rules introduced for Small Tax Payers:

- A new lower tax rate of 3% was introduced under the amended Tax Law in relation to STPs who meet certain specified conditions.
- The amended ERs provide STPs with an option to apply for presumptive taxation wherein:
 - Eligible taxpayers submit a request to the tax authorities along with the tax return. Such choice will remain valid until the taxpayer files an application for cancellation along with the tax return submitted for any subsequent tax year.
 - The Tax Authority will determine the deductibility of cost and expenses subject to a maximum of 95% of the gross income of the taxpayer i.e., taxable profit will be determined at least at 5% of the gross income in such cases.
- Losses from earlier years are allowed to be carried forward and offset as per the existing law.
- STPs will be taxed at the lower rate subject to fulfilment of the following conditions:
 - The owner or partner of the STP is fully dedicated to its management, and does not engage in any other work in any other unit or party.
 - In cases where the owner or partner is fully dedicated to more than one establishment or company, then exemptions shall be provided to one as chosen by the owner or partner. This will be based on the declaration provided by such owner or partner along with the return. In the absence of such declaration, the tax authorities will determine the exempted company/establishment.
 - There should be at least two Omani persons working on a permanent basis and the period of service should be at least six months in the tax year. The STP is required to submit proof of their employment— specifically manpower records—to SGT.
- In case of an unjustified exemption, tax authorities may determine the tax liability for the tax year.
- With the Non-Compliance of any provisions specified under RD 9/2017, the benefit of the lower tax regime will be withdrawn.
- The ERs have been amended to include provisions clarifying that STPs may continue to avail the benefit of a lower tax rate during any tax year where:



- Increases in share capital at the start of the tax year do not exceed 20% of original limit of OMR 50,000 as introduced in the amended Tax Law i.e., \leq OMR 60,000 in total.
- Increase in the total income at the end of the tax year does not exceed 50% of original limit of OMR 100,000 as introduced in the amended Tax Law i.e., OMR 150,000 in total
- Increase in the average number of workers during the tax year does not exceed 10 workers from the original limit of 15 workers i.e., \leq 25 in total.
- **Form No. 17** for submitting the return in case the STP has been notified.
- Relaxation available with the STPS not to submit returns/accounts is no longer applicable.

Other Matters:

- As per the amended ERs, tax authorities are empowered to suspend dealings with any accounting and auditing firm/individual, if such firm/individual has assisted taxpayers to furnish incorrect information/accounts/returns.

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