

A photograph of a petroleum refinery at night, illuminated by artificial lights. The scene features large cylindrical storage tanks, complex piping, and metal walkways. The lighting creates a warm, yellowish glow, highlighting the industrial structures against the dark sky.

Briefing of Lebanese Petroleum Activities' Tax Law No. 57

Released on 12 October 2017

October 2017



Building a better
working world

Contents

Briefing – Lebanese Petroleum Activities’ Tax Law	3
A. At a glance	3
B. Fiscal Regime.....	4
C. Thin Capitalization.....	4
D. Capital Allowance – Depreciation	5
E. Carry Forward of Taxable losses	5
F. Movable Capital Tax.....	5
G. Capital Gain Tax	5
H. Withholding Non-Resident Tax	5
I. Employees’ Income Tax.....	6
J. Social Security	6
K. Stamp Duty.....	6
L. Built Property Tax	6
M. Value Added Tax	6
N. Customs Duties	7

Briefing – Lebanese Petroleum Activities' Tax Law

After discovery of hydrocarbon prospects, Lebanon has formulated its legislation related to hydrocarbon activities, including the Lebanese Petroleum Activities' Tax Law which is different from the general tax regime.

On 24 August 2010, the Lebanese parliament approved the Offshore Petroleum Resources Law No. 132.

On 19 January 2017, the Lebanese parliament approved Decree number 43 that includes the Tender Protocol (TP) related to the offshore licensing round, and the Exploration and Production Agreement (EPA).

On 5 October 2017, the Lebanese parliament approved the Lebanese Petroleum Activities' Tax Law - Law No. 57 (the Law) which entered into force on 12 October 2017 (date of publishing in the Official Gazette).

The Law is applicable on:

- ▶ Petroleum Right Holders Non-Operators (RhNO) and Petroleum Right Holders Operators (RhO) as defined in Law No.132/2010 (Offshore Petroleum Resources Law)
- ▶ Contractors and Subcontractors as defined in this Law and as applicable
- ▶ Employees

The Law covers activities performed by the above taxpayers on Lebanese territories and maritime Waters as defined in Law No. 132/2010.

A. At a glance

The tax rates are summarized below:

Corporate income tax (CIT) rate	20%
Capital gain tax rate	20%
Movable Capital Tax	10%
Value Added Tax (VAT) rate	11%
Dividend tax rate	10%
Interest tax rate	10% ¹
Withholding tax rate on providing services	10%
Withholding tax rate on supply of goods	3%
Stamp duty rate ²	0.4%
Built Property tax rate on offshore oil and gas facilities	Exempt
Employees' income tax rate	From 2% to 20%
Royalties on crude oil	From 5% to 12% depending on production levels
Royalties on natural gas	4% of production

Note:

1 It is to be noted that interest income from bank deposits are subject to a 7%.

2 The EPA are subject to Fixed Stamp Duty of LBP 5,000,000.

B. Fiscal Regime

The fiscal regime applied to the oil & gas industry in Lebanon consists of a combination of corporate profit tax and royalties.

Petroleum companies are subject to Lebanese Petroleum Activities' Tax Law which sets special accounting principles that Petroleum companies should comply with while calculating its taxable result subject to 20% corporate income tax rate. In addition to CIT, Royalties are imposed annually and can vary between 5% and 12% based on the production level per day for crude oil and 4% for natural gas.

RhO and RhNO must comply with the Ring Fencing, Full Cost basis of Accounting and Accrual basis of Accounting principles.

For the purposes of calculating the taxable income subject to CIT at 20%, Crude Oil and Petroleum other than Crude Oil are valued in accordance with the valuation method determined in law 132/2010 and its implementation provisions.

The taxable result of a defined financial year for Petroleum Right Holders and Petroleum Operators' Companies is the total revenues derived from petroleum activities covered by the law 132/2010 after deducting the allowable costs and expenses required in the performance of activities in that year provided that the allowable cost and expenses satisfy the following conditions:

Are necessary for the purpose of realizing the revenues.

Are actual costs and supported by documentation

Do not increase the value of fixed assets used in the petroleum activities.

The Law provides for specific revenues and expenses that should be included in the computation of taxable result.

The Law disallows the deduction of the following items:

- ▶ Capital interest
- ▶ Losses that affect the taxpayer due to the activities of institutions, branches, agencies, offices or others located outside of Lebanon
- ▶ Costs and expenses incurred abroad by the taxpayer on behalf of institutions, branches, agencies, offices or others
- ▶ Costs paid prior to signing the EPA
- ▶ Taxes stipulated in Sections 1 and 2 (income tax on petroleum activities and employees' income tax) of the second chapter of this Law and in the Legislative Decree No 144 dated on 12/6/1959 and its amendments (Income Tax Law)
- ▶ Taxes and fees paid or due to a foreign country on income generated in Lebanon or for any other reason
- ▶ All types of fines

C. Thin Capitalization

The Law sets the following rules for RhO and RhNO deductability of interest on debt and loans:

- ▶ Interest on the portion of loans and debt, which exceeds 150% of the related equity in the case of thin capitalization
- ▶ Interests on the portion of loans and debt, which exceeds 60% of the recoverable costs balance approved by the Petroleum Administration

The calculation of the non-deductible interest on loans should be made as per the above two treatments and the greater amount will be added back to the taxable result.

D. Capital Allowance – Depreciation

The Law allows the depreciation and amortization of tangible and intangible assets including Capital Expenditures which include the Exploration and Development costs accounted for based on fixed rates of the asset's historical cost without adding the difference resulting from the revaluation operations. The principle of calculating these depreciation and amortization shall be determined by a joint resolution issued by the Minister of Finance and Minister of Water and Energy.

E. Carry Forward of Taxable losses

RhO and RhNO can carry forward the deficit that occurred in a specific year to the subsequent years, provided that this deficit is recovered from the total realised profits in any of the subsequent years and the deficit or profit balance will remain subject to the legal provisions stipulated in this Law.

In case of a transfer of portion in the EPA, the new assigned taxpayer can benefit from part of the assignee's carry forward taxable losses proportionally to the portion transferred to him and the assignee shall no longer benefit from that part.

F. Movable Capital Tax

Gains resulting from the transfer of shares of RhO and RhNO are subject to movable capital tax at the rate of 10% and the gains resulting from the transfer of shares of companies that own direct or indirect contributions in RhO and RhNO are subject to movable capital tax based on the share of investment in non-movable properties and petroleum rights in Lebanon from the total investment in the company whose shares are being transferred.

Investments in financial instruments are not in the scope of this Law, including hedging and derivatives, that are subject to the provisions of Legislative Decree no 144 dated on 12/6/1959 and its amendments (Income Tax Law).

Interests payments, and even if related to the purchasing activity, are taxed at a rate of 10% under the provisions of title three of the Income Tax Law.

G. Capital Gain Tax

The gain resulting from the disposal of fixed tangible assets, intangible assets and financial assets shall be included in the taxable income subject to 20% CIT.

H. Withholding Non-Resident Tax

The following payments made to foreign persons not having Permanent Establishment in Lebanon are subject to withholding non-resident tax as follows:

- ▶ Payments for buying material that will be installed inside Lebanon, the installation costs are taxed at 3% (based on 15% profit and 20% tax) in case separated. However, if the installation costs were not separable, the total purchase costs will be subject to tax at 3% (based on 15% profit and 20% tax);
- ▶ Payments for providing services performed inside or outside Lebanon, are taxed at 10% (based on 50% profit and 20% tax).

RhO and RhNO have the withholding and reporting tax obligation of WHT unless the person is a registered Permanent Establishment or registered Resident in Lebanon.

As for the person who is a Resident in a country that has a double tax treaty with Lebanon, these taxpayers must withhold the mentioned tax on the amounts due to them, provided that the person requests the refund of the withheld tax based on a request submitted to the Tax Administration.

The details of application of this clause shall be determined through a decision issued by The Minister of Finance.

I. Employees' Income Tax

Foreign and local employees, working in the Petroleum industry or in providers of services and materials taking place on the Lebanese territories and maritime waters, are subject to employees' income tax rates, brackets and exemptions in accordance with the income tax law. The income tax rates range between 2% and 20% depending on the income level.

The Law provides for the following:

- ▶ In case of a foreign non-resident employer, the liability to withheld the employees' income tax from the employees' benefits and remit it to the tax authorities on a quarterly basis is transferred to the employee residing in Lebanon.
- ▶ Resident employer who contracts a non-resident party to perform work or services in Lebanon executed by non-resident persons is responsible to withhold the employees' income tax from the non-resident persons' benefits and remit it to the tax authorities.

J. Social Security

Employers and employees are subject to social security contributions as follows:

Each employer has to account for the following monthly contributions:

- ▶ 8.5% of the employee's total income towards the end of service indemnity
- ▶ 6% of the employee's total income (with an income ceiling of LBP 1,500,000 approximately USD 1,000) towards the family contributions
- ▶ 8% of the employee's total income (with an income ceiling of LBP 2,500,000 approximately USD 1,670) towards the sickness and maternity contributions.

The employee has to contribute an additional 3% towards sickness and maternity.

The Law provides that employers have no social security contributions due on foreign employees who do not benefit from social security schemes.

K. Stamp Duty

The Exploration and Production Agreement is subject to Fixed Stamp Duty of LBP 5,000,000. However, contracts other than EPA are subject to fiscal stamps at the rate of 4 per thousand.

L. Built Property Tax

Constructions, installations and fixations used to carry out Petroleum Activities in the maritime Waters, in accordance with the definition of these Waters in Law No 132 dated 24/08/2010 (Offshore Petroleum Resources Law), are exempt from the built property tax.

M. Value Added Tax

Persons who practice Petroleum Activities or Providers of services and materials to these persons, within the Lebanese territories or maritime waters are subject to VAT at 11%.

Supply of oil & gas products outside the Lebanese territories and maritime waters are considered as zero rated (subject to VAT at zero rate with the right to deduct VAT).

The distribution of expenditures based on the EPA between RhO and RhNO is not subject to VAT. However, the exchange of services between RhO and RhNO is subject to VAT.

RhO and RhNO are considered the VAT representatives for non-resident person with respect to common transaction that are carried out with them, including delivery of goods or services on the Lebanese territories or maritime waters. RhO and RhNO must declare and settle the VAT payable on this service in accordance with applicable laws and regulations.

N. Customs Duties

It is exempt from Custom duties the equipment, machinery, tools, vehicles, spare parts and materials provided that goods do not have equivalence in the national production, are imported by RhO and RhNO or their agent to be used in the Petroleum Activities; and are imported to be re-exported.

It is exempted in accordance with the Customs Law particularly Article 316, the operations of importing household appliances, clothing, personal effects held for personal use by the foreign employees working for the RhO and RhNO in Lebanon, or by their families.

Goods that were exempted upon import shall not be sold, assigned, transferred, leased or have their objective of use changed in Lebanon, only after acknowledging the Custom Administration; and after payment of customs duties in accordance to the goods' condition and their value on the date of transfer.

This briefing contains information in summary form, and has been prepared for general guidance only and does not constitute a professional advice. It should not be regarded as offering a complete explanation of the Lebanese Petroleum Activities' Tax Law matters referred to.

EY cannot accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any materials in this briefing.

Should you have any queries please feel free to contact our Beirut Tax service-line key roles who would be happy to discuss how we can meet your needs

Romeo Gedeon

Associate Partner

+ 961 1 760 840

Romeo.Gedeon@lb.ey.com

Zeina Frenn

Director

+ 961 1 760 804

Zeina.Frenn@lb.ey.com

Hassan Fadda

Director

+ 961 1 760 810

Hassan.Fadda@lb.ey.com

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

The MENA practice of EY has been operating in the region since 1923. For more than 90 years, we have grown to more than 6,000 people united across 20 offices and 15 countries, sharing the same values and an unwavering commitment to quality. As an organization, we continue to develop outstanding leaders who deliver exceptional services to our clients and who contribute to our communities. We are proud of our accomplishments over the years, reaffirming our position as the largest and most established professional services organization in the region.

© 2017 EYGM Limited.
All Rights Reserved.

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com/mena