

# Client Alert

Latham & Watkins  
Tax Department

## New for 2010: Changes to Qatar's Tax Regime and International Tax Developments

Since 1 January 2010, many businesses operating in Qatar, as well as groups looking to invest in Qatar, are now subject to a lower headline rate of corporate income tax, and are able to benefit from a wider range of tax treaty structuring options than has previously been the case.

Simultaneously, Qatar has introduced a number of accompanying changes to its tax regime, including a withholding tax obligation for certain types of payments made to non-residents. The United States has also been considering tax law changes which could potentially affect non-US bond issuers; a summary of these potential changes is included in this *Alert*.

### Reduced Tax Rate

Previously, Qatar's corporate tax regime consisted of a tax bracket system, under which the tax rate applying to a particular company was determined by the amount of taxable income it generated. The rates varied from 0 percent for companies earning less than QR100,000 (US\$27,473) in a particular year, to 35 percent for companies generating more than QR5,000,000 (US\$1,373,626) in the same period.

This system has now been substantially simplified—as of 1 January companies will be taxed on their taxable profits at a flat rate of 10 percent, benefitting businesses with substantial interests and activities

in Qatar. The flat rate regime will potentially reduce the tax cost of doing business in Qatar, as well as reducing the administrative burden on companies and increasing certainty regarding groups' taxation affairs.

The existing 2.5 percent additional social charge, the proceeds from which are applied towards cultural and sporting ends by a national social fund, continue to apply. However, as before, this will only be charged on the taxable profits of Qatari companies whose shares are listed in Qatar.

The new 10 percent general Qatari corporate tax rate matches the 10 percent tax rate levied on companies established in the Qatar Financial Centre in Doha. The rate goes into effect as of 1 January 2010.

### Other Tax Changes

Income Tax Law No. 21 of 2009 provides for various changes to the assessment, collection and compliance regimes applicable to the taxation of individuals and companies operating in Qatar. Of particular interest is Article 11 of the new tax law, which imposes a withholding tax on payments made in respect of technical remunerations (at a rate of 5 percent), as well as on certain interest, commission, brokerage, management, attendance and service fees paid to non-residents (all at a rate of 7 percent).

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It is understood that the new tax law should not apply to entities established in the Qatar Financial Centre in Doha, and that such entities, being resident in Qatar, should not be considered non-residents to whom the withholding tax obligations attach.

Businesses already operating in Qatar, as well as groups considering investment into Qatar, will need to consider carefully the impact of the new tax law on their current and future activities. It may be helpful to consider structuring solutions which could help to mitigate or eliminate particular tax issues created by the new rules.

Further implementing decrees, as well as interpretative guidance for the new rules, are expected from Qatar's Minister of Economy and Finance and Qatari tax authorities, although these are not yet available.

## **New Tax Treaties**

Treaties for the avoidance of double taxation (tax treaties) are entered into by States in order to help prevent businesses with cross-border operations from being taxed twice in respect of those operations (*i.e.* once where the operations are conducted, and once in the jurisdiction to which the profit is repatriated). Qatar has entered into a number of tax treaties already, and although its portfolio is not as extensive as those established by many European jurisdictions or by the US, Qatar is actively seeking to expand its network of tax treaties. Agreements recently concluded with the UK and the Netherlands represent a significant extension of this network. The Netherlands tax treaty has now been ratified and entered into effect on 1 January 2010; the treaty with the UK is awaiting UK ratification.

The new treaty between Qatar and the Netherlands is highly beneficial for cross-border investors, providing for zero withholding on interest payments made between Qatar and the Netherlands in most situations, and also zero withholding on dividend payments where at least 7.5 percent of the dividend payer is owned by the

recipient. Where an equity investment is required but the 7.5 percent threshold will not be met, alternative structuring solutions may be available.

When it comes into force, the treaty with the UK will largely exempt dividends and interest paid from Qatar to tax residents of the UK, or paid from the UK to tax residents of Qatar, from withholding taxes.

Following the entry into force of the new treaty, the Netherlands will constitute a tax efficient holding jurisdiction for Qatari investors making cross-border investments. The Netherlands boasts wide tax treaty and investment protection treaty networks, which can further assist with the structuring and protection of onward investment. Correspondingly, it will now be even easier for international investors to access investment opportunities in Qatar, especially when structuring their affairs through the Netherlands.

## **Potential US Tax Changes**

The US Congress has proposed draft legislation that may change US tax rules governing the issuance of bearer bonds and the withholding rules relating to non-US institutions holding securities issued by US entities. Under current law, "foreign-targeted obligations" may be issued in bearer form, so long as they comply with the so-called TEFRA C or D requirements. The proposed legislation would essentially eliminate the availability of bearer bonds for US issuers: bearer bonds issued by a non-US issuer would still be exempted from the US excise tax, so long as they are foreign-targeted and there is a legend on the face of the obligation to the effect that any US person who holds the obligation will be subject to limitations under US income tax laws. As currently drafted, it is unclear if a legend is required for bearer bonds issued under the TEFRA C rules (where there is no connection with the US market or US investors). Additionally, the proposed legislation would impose a withholding tax at a 30 percent rate on the payment of US source interest, dividends and certain other income

as well as the gross proceeds from the sale of property producing US source interest or dividends, if a non-US institution receiving the payment fails to satisfy certain information reporting requirements. There is no certainty as to whether the proposed legislation will eventually be enacted, and if so, in what form. Latham & Watkins will continue to monitor the progress of the draft legislation and consider its potential impact on our clients.

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Latham & Watkins' international tax practice advises clients on investments from and into Qatar and the rest of the MENA region, as well as tax structuring and issues in connection with finance, corporate and trade transactions.

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If you have any questions about this *Client Alert*, please contact one of the authors listed below or the Latham attorney with whom you normally consult:

**Craig A. Stoehr**

+974.406.7731  
craig.stoehr@lw.com  
Doha

**Sean Finn**

+44.20.7710.1000  
sean.finn@lw.com  
London

**Alex Cole**

+44.20.7710.1885  
alex.cole@lw.com  
London

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**Abu Dhabi**

Bryant B. Edwards  
+971.2.495.1700

**Barcelona**

Jordi Domínguez  
+34.93.545.5000

**Beijing**

Allen C. Wang  
+86.10.5965.7000

**Brussels**

Howard Rosenblatt  
+32.2.788.6000

**Chicago**

Diana S. Doyle  
+1.312.876.7700

**Doha**

Bryant B. Edwards  
Craig A. Stoehr  
+974.406.7700

**Dubai**

Bryant B. Edwards  
+971.4.704.6300

**Frankfurt**

Hans-Jürgen Lütt  
Anders Kraft  
+49.69.6062.6000

**Hamburg**

Tobias Klass  
Götz T. Wiese  
+49.40.4140.30

**Hong Kong**

Joseph A. Bevash  
+852.2522.7886

**London**

Daniel Friel  
+44.20.7710.1000

**Los Angeles**

Laurence J. Stein  
Samuel R. Weiner  
+1.213.485.1234

**Madrid**

Jordi Domínguez  
+34.91.791.5000

**Milan**

Fabio Coppola  
+39.02.3046.2000

**Moscow**

Mark M. Banovich  
+7.495.785.1234

**Munich**

Thomas Fox  
Stefan Süss  
+49.89.2080.3.8000

**New Jersey**

David S. Raab  
+1.212.906.1200

**New York**

David S. Raab  
+1.212.906.1200

**Orange County**

David W. Barby  
+1.714.540.1235

**Paris**

Christian Nouel  
+33.1.4062.2000

**Rome**

Fabio Coppola  
+39.06.98.95.6700

**San Diego**

David O. Kahn  
+1.619.236.1234

**San Francisco**

Kirt Switzer  
+1.415.391.0600

**Shanghai**

Rowland Cheng  
+86.21.6101.6000

**Silicon Valley**

Kirt Switzer  
+1.650.328.4600

**Singapore**

Mark A. Nelson  
+65.6536.1161

**Tokyo**

Hisao Hirose  
+81.3.6212.7800

**Washington, D.C.**

Nicholas J. DeNovio  
+1.202.637.2200