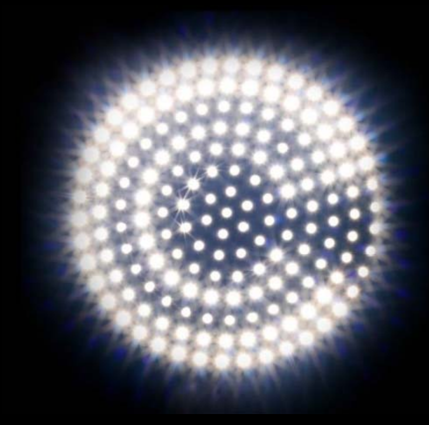
International Tax
Egypt Highlights 2018



Investment basics:

Currency – Egyptian Pound (EGP)

Foreign exchange control – Following the floatation of the EGP on 3 November 2016, the central bank relaxed some restrictions on the export of capital and the repatriation of funds. Following a decree issued by the central bank on 28 November 2017, the previous limits on foreign currency transactions have been abolished.

Accounting principles/financial statements – Corporate taxable profits are calculated primarily according to Egyptian Accounting Standards and adjusted by specific provisions based on the tax law.

Principal business entities – These include the joint stock company, limited liability company, partnership limited by shares, limited and unlimited partnership, branch and representative office of a foreign company, and the single owner limited liability company.

Corporate taxation:

Residence – A company is deemed to be tax resident in Egypt if it is established according to Egyptian law, if its main or actual center of management is in Egypt or if the government or a public juridical person owns more than 50% of its capital.

Basis – Resident companies are taxed on their worldwide income; nonresident companies are taxed only on Egyptian-source income.

Taxable income – Corporate tax is imposed on the total profits of a company after deducting the necessary and relevant expenses incurred in deriving the profits (the "tax pool"). Statutory payments to employees under profit-sharing rules may not be deducted for corporate income tax purposes and are not subject to the salary tax.

Taxation of dividends – Under a "dividend exemption" (DIVEX) mechanism, 90% of the dividends received by a resident parent company from another entity (whether or not resident in Egypt) are exempt from corporate tax. The mechanism applies where the Egyptian resident parent holds at least 25% of the shares of the subsidiary for at least two years before the distribution or, if the holding period is not met at the time of the distribution, the parent commits to hold the shares in the subsidiary for two years. If the ownership is less than 25%, the dividends are excluded from the tax pool together with related costs, based on a formula specified in the law.

For resident parent companies receiving dividends from resident subsidiaries that qualify for the DIVEX mechanism, the effective tax on dividends is 22.5% on 10% of the dividend, in addition to the 5% withheld at source by the subsidiary (effective rate of 7.25%).

Capital gains – Capital gains derived by a resident or nonresident company from the sale of shares listed on the Egyptian stock exchange are subject to a reduced 10% corporate income tax rate in a separate income tax pool. However, this tax has been "suspended" (i.e. an exemption is granted) until 17 May 2020; the 10% tax will apply on resident and nonresident sellers subsequent to that date (subject to the provisions of an applicable tax treaty).

Capital gains derived by a resident or a nonresident entity from the disposal of unlisted shares in Egyptian companies are included in taxable income and taxed at the standard corporate tax rate.

Losses – Losses may be carried forward for five years (three years for losses incurred on the trading of shares). The carryback of losses is not permitted, except for losses incurred by a construction company on long-term contracts.

Rate – The standard corporate tax rate is 22.5%. Companies engaged in the exploration and production of oil and gas are taxed at a rate of 40.55%.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign taxes paid overseas may be deducted from Egyptian income tax payable, but the deduction may not exceed the total tax payable in Egypt.

Participation exemption – See under "Taxation of dividends" and "Capital gains."

Holding company regime – No

Incentives – Projects established under the free zone system are not subject to tax or duties in Egypt.

The investment law provides investment projects that are established after 31 May 2017 fiscal incentives in the form of a reduction of the net taxable profits (a deduction equal to 50% of the "investment costs" for investments made in geographic locations most urgently in need of development (designated as Sector A), and 30% of the investment costs for projects established in Sector B (all areas not designated as Sector A)). The deduction may be utilized over a maximum period of seven years from the date activity commences, and is capped at 80% of the paid-up capital at the date activity commences.

Withholding tax:

Dividends – Dividends paid to a resident or a nonresident entity are subject to a 10% withholding tax. The rate is reduced to 5% where the corporate recipient holds at least 25% of the capital or voting rights in the payer company for at least two years. In cross-border situations, the rate may be further reduced under an applicable tax treaty.

Interest – Interest paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced under an applicable tax treaty. Tax on interest is withheld at the domestic rate and the recipient must apply for a refund to benefit from a reduced withholding tax rate under a treaty, unless an advance ruling is obtained. Interest paid to a nonresident on a long-term loan (i.e. a loan with a term of at least three years) is not subject to withholding tax.

Royalties – Royalty payments made to a nonresident are subject to a 20% withholding tax, unless the rate is reduced under an applicable tax treaty. Tax on royalties is withheld at the domestic rate and the recipient must apply for a refund to benefit from a reduced withholding tax rate under a treaty, unless an advance ruling is obtained.

Technical service fees – Outbound payments for "services" trigger, in principle, a 20% withholding tax unless otherwise provided in an applicable tax treaty. It is common for the Egyptian tax authorities to reclassify service payments that are suspected to include a right to use "experience," and apply the withholding tax treatment applicable to royalties.

Branch remittance tax – Profits realized by a branch or permanent establishment of a foreign company are deemed to be distributed to the head office within 60 days from the year-end and are subject to the 5% dividend withholding tax, subject to the provisions of an applicable tax treaty.

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – Most real property in Egypt is subject to a real estate tax. A 10% rate applies on the annual rental value after allowing a 32% deduction to cover related costs for nonresidential property, and a 30% deduction for residential property. Exemptions are provided for nonresidential property that is used for commercial, industrial and administrative purposes with an annual rental value of less than EGP 1,200, and for residential units with an annual rental value of less than EGP 24,000. The user of the property pays the tax, which is due in two installments. The annual rental value of real estate is assessed every five years.

Social security – The social security regime applies only to local nationals, unless a social security agreement with another country applies.

Stamp duty – Stamp duty is charged at variable and fixed rates: 0.1% per quarter for banking transactions; 20% on commercial advertisements; and rates ranging from 1.08% to 10.08% on insurance premiums.

A new "Stamp Tax/Duty" regime applies to the total value of trading in securities (i.e. Egyptian or foreign securities, listed or unlisted), excluding public treasury bills ("T-bills") and bonds, without any deduction allowed for expenses. The tax is imposed on both the buyer and the seller, at a 0.125% rate from 20 June 2017 until 31 May 2018, a 0.15% rate from 1 June 2018 until 31 May 2019 and a 0.175% rate from 1 June 2019. However, a 0.3% rate applies to both the buyer and the seller, without any deduction allowed for expenses, in the case of: (1) a sale or acquisition of 33% or more of the shares or voting rights of a resident company, whether in terms of number or value; or (2) a sale or acquisition of 33% or more of the assets or liabilities of a resident company by another resident company, in exchange for shares in the acquiring company. If multiple transactions conducted by one legal person related to a company result in exceeding the 33% limit above during the two years following the first transaction, the seller and buyer are subject to a 0.3% rate on the total amount of the transactions, with the right to offset any stamp duty already paid on such transactions.

Transfer tax – No

Anti-avoidance rules:

Transfer pricing – Related party transactions must be conducted on arm's length terms. Transfer pricing rules apply to the exchange of goods, services and the licensing of intangibles (brand, technology etc.), as well as to loans (financing, guarantee fees, cash pooling agreements, etc.). Five transfer pricing methods are specified: the comparable uncontrolled price, resale price, total cost plus profit margin, profit split and transactional net margin methods, with priority given to the comparable uncontrolled price method. However, if the information needed to apply this method is unavailable, the other methods are used in a hierarchical order. The transfer pricing rules recommend that taxpayers follow a four-step approach to demonstrate that their controlled transactions are in accordance with the arm's length principle.

Egyptian taxpayers are expected to prepare annual transfer pricing documentation.

Advance pricing agreements (APAs) are allowed under Egyptian tax law.

Thin capitalization – A 4:1 debt-to-equity ratio applies. The tax deduction for any interest on debt exceeding this ratio is disallowed. In addition, the deduction is disallowed for interest paid that exceeds twice the credit and discount rate (announced by the central bank at the beginning of each calendar year).

The interest rate on loans between related parties must be on arm's length terms and supported by transfer pricing documentation.

Controlled foreign companies – Income from investments in nonresident companies is recognized under the equity method of revenue recognition and is taxed in Egypt if: (1) the Egyptian entity owns more than 10% of the nonresident company; (2) more than 70% of the nonresident company's income is derived from dividends, interest, royalties, management fees or rental fees (i.e. "passive income"); and (3) the profits of the nonresident company are not subject to tax in its country of residence, are exempt or are subject to a tax rate of less than 75% of the corporate tax rate applicable in Egypt.

Disclosure requirements – No

Other – A general anti-avoidance rule applies, under which, if any of the principal purposes of a transaction is tax avoidance or tax deferral, a tax audit may adjust the transaction's tax effects and subject the economic substance of the transaction to tax.

Compliance for corporations:

Tax year – Accounting year

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – Companies must file a tax return within four months following the end of the financial year. Tax is assessed on the basis of the information provided in the tax return.

Penalties – Various penalties apply for failure to apply the system of withholding, collection and remittance of tax; failure to file a return; and other offenses.

Interest is calculated at 2% above the annual credit and discount rate announced by the central bank.

If the amounts included in the tax return are less than the final assessed tax amount, an additional penalty may be imposed based on the difference between the amounts included in the return and those in the assessment. The rate is 5% if the difference ranges from 10%-20%; 15% if the difference is above 20% and up to 50%; and 40% if the difference exceeds 50%.

Rulings – Taxpayers may apply for an advance ruling by submitting a written request and copies of relevant documents to the Egyptian tax authorities. The tax authorities will issue a decision on the request within 60 days.

Personal taxation:

Basis – A resident individual is taxable on his/her worldwide income if Egypt is the "center of his/her commercial interests." A nonresident individual is taxed only on his/her Egyptian-source income.

Residence – An individual is resident if he/she is present in Egypt for more than 183 days in a fiscal year; is deemed to have a permanent abode in Egypt; or is an Egyptian national performing his/her work duties abroad but being paid for these duties from an Egyptian source.

Filing status – Each individual must file an annual return. Spouses are not permitted to file a joint return.

Taxable income – Taxable income includes income from employment, income from commercial or industrial activities and income from noncommercial activities (i.e. professional services). Mandatory profit sharing, pensions and end-of-service bonuses are not subject to salary tax.

Capital gains – Capital gains realized by a resident or nonresident individual on the sale of listed shares of Egyptian companies are subject to a 10% income tax rate in a separate income tax pool. However, this tax has been temporarily suspended until 17 May 2020.

Capital gains realized on the sale of unlisted shares of Egyptian companies by resident or nonresident individuals are subject to progressive tax rates up to 22.5%.

Income derived from the sale of assets in a sole proprietorship becomes part of an individual's taxable base (including the sale of a sole proprietorship's real estate). If owned as a personal asset and not classified as sole proprietorship assets, real estate sales are subject to a separate 2.5% tax on the gross proceeds.

Deductions and allowances – Available deductions depend on the type of income. Various allowances are available for items such as social security contributions and health insurance premiums.

Rates – Progressive rates up to 22.5% are levied on all types of income derived by individuals (including income from employment). A tax credit is available for three of the brackets: as from 1 July 2018, the credit is 85% (increased from 80%) for individuals who derive annual income greater than EGP 8,000 (increased from EGP 7,200) and up to EGP 30,000; 45% (increased from 40%) for individuals who derive annual income greater than EGP 30,000 and up to EGP 45,000; and 7.5% (increased from 5%) for individuals who derive annual income over EGP 45,000 and up to EGP 200,000. Only one of these tax credits will be allowed annually, based on the highest tax bracket to which the taxpayer is subject.

Resident employees who derive income from a secondary employer are subject to tax at a 10% flat rate.

Dividend income received by resident individuals is taxed at a rate of 10%; the rate is reduced to 5% if the individual holds more than 25% of the capital or voting rights of the distributing entity for at least two years.

For capital gains tax rates, see "Capital gains."

Other taxes on individuals:

Capital duty – No

Stamp duty – See "Stamp duty" under "Other taxes on corporations."

Capital acquisitions tax – No

Real property tax – Most real property in Egypt is subject to a real estate tax. A 10% rate applies on the annual rental value after allowing a 32% deduction to cover related costs for nonresidential property, and a 30% deduction for residential property. Exemptions are provided for nonresidential property that is used for commercial, industrial and administrative purposes with an annual rental value of less than EGP 1,200, and for residential units with an annual rental value of less than EGP 24,000. The user of the property pays the tax, which is due in two installments. The annual rental value of real estate is assessed every five years.

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – The social security regime applies only to local nationals, unless a social security agreement with another country applies.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Individuals must submit a declaration of income before 1 April following the end of the tax year and pay tax based on the declaration.

The employer is responsible for withholding and paying salary tax to the tax authorities on a monthly basis. However, if the employee is paid from an offshore source, the employee must declare his/her income and benefits for the entire year and pay the applicable tax to the tax authorities with the annual income tax return before 31 January of the following year.

Penalties – A penalty of no less than EGP 5,000 and no more than EGP 20,000 is imposed for failure to file a tax return. If the amounts included in the tax return are less than the final assessed tax amount, an additional penalty may be imposed based on the difference between the amounts included in the return and those in the assessment. The rate is 5% if the difference ranges from 10%-20%; 15% if the difference is over 20% and up to 50%; and 40% if the difference exceeds 50%.

Value added tax:

Taxable transactions – VAT generally applies to the supply of all goods and services. Services are broadly defined as anything that is not classified as a "good," which means that intellectual property rights, consultations and management services, etc. will be subject to VAT. Input VAT may be offset against output VAT on most items.

Rates – The standard rate is 14% from 1 July 2017.

The VAT law contains a list of 57 categories of goods and services that are exempt. These include: basic food products; provision of natural gas; production, transmittal and distribution of electricity; banking services and other regulated nonbanking financial services and insurance services; rental of residential or nonresidential properties; and health and education services. In addition, certain Egyptian state bodies and entities are exempt from VAT, as well as entities exempted by virtue of an international agreement or special law.

The export of goods or services is subject to a zero rate.

Goods and services provided by companies located in the free zones are subject to a zero VAT rate.

Certain goods and services are specified as “tabled items” that are subject to a special rate, and their providers are not allowed to offset input VAT against output VAT. These items include professional services, petroleum products, media productions, etc.

Construction contracts also are included in the table, but input VAT paid to subcontractors may be offset against output VAT on the same projects.

Certain goods and services are specified as “double taxed” items and are subject to the general rate as well as the “table rate”; these include cars, home appliances, air conditioning equipment and mobile telecommunication services.

Registration – Resident providers of goods or services must register for VAT purposes only if their annual revenue is equal to or exceeds EGP 500,000. Voluntary registration is possible below this limit. No minimum registration threshold exists for providers of tabled items and double taxed items.

Filing and payment – All companies must prepare and file a monthly VAT return with the relevant Egyptian tax authorities.

A reverse charge mechanism applies on imported taxable goods and services from nonresident suppliers to a non-VAT-registered resident consumer (B2C transactions) or to a VAT-registered resident customer (B2B transactions).

Source of tax law: Income Tax Law, Law 91 (2005), Value Added Tax Law No. 67 (2016), Real Estate Law No. 196 (2008)

Tax treaties: Egypt has concluded 57 bilateral tax treaties. Egypt signed the OECD multilateral instrument on 7 June 2017.

Tax authorities: Egyptian Tax Authority (ETA)

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