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Cabinet Resolution No. 3 of 2023

Amending Some Provisions of the Executive Regulations of the Income Tax Law

Issued by Cabinet Resolution No. 36 of 2019

The Cabinet,

After reviewing the Constitution,

And the Income Tax Law issued by Law No. 24 of 2018, amended by Law No. 11 of 2022,

And the Emiri Decision No. 29 of 1996 regarding Cabinet Resolutions Submitted to the Emir for Ratification and Promulgation,

And the Executive Regulations of the Income Tax Law issued by Cabinet Resolution No. 39 of 2019,

And the proposal of the Minister of Finance,

Has decided the following:

Article 1

The following provisions shall replace Articles 1, 2, 7, Clause 3 of Article 37, Clause 4 of Article 37, and Article 51 of the Executive Regulations of the Income Tax Law referred to above:

Article 1:

1. "For the purposes of applying Article 1 of the Law, the term "permanent establishment" shall specifically include the following:
 - a. Offices
 - b. Factories
 - c. Workshops

- d. Sales outlets
 - e. Warehouses, in relation to a person providing storage facilities for others.
 - f. Mines, oil or gas wells, quarries, or any other place for the exploration, extraction, and exploitation of natural resources.
2. The term "permanent establishment" will also encompass the following:
- a. Construction sites, construction, assembly, or installation projects, or, related supervisory activities, provided that such sites, projects, or activities continue and endure for more than six months.
 - b. Provision of services, including consulting services, by a project, through employees or other personnel appointed by the project for this purpose, provided that such activities within the state continue for a total period or periods of more than one hundred and eighty-three days within twelve months that begin or end in the fiscal year concerned.
3. The term "permanent establishment" will not encompass the following:
- a. The use of facilities solely for the purpose of storage or display of goods or merchandise owned by the project.
 - b. Maintaining a stock of goods or merchandise owned by the project for the purpose of storage or display, or for the purpose of being processed by another project.
 - c. Maintaining a fixed place of business for the purpose of purchasing goods or merchandise or gathering information for the project, or for the purpose of carrying out any other activity of the project.
 - d. Maintaining a fixed place of business only for any combination of the activities mentioned in the preceding sub-paragraphs of this Clause, provided that this activity, or the total activity of the fixed place of business, are of a preparatory or auxiliary nature.
4. The provisions of Clause (3) of this Article do not apply to a fixed place of business used or maintained by a project if the same project or a project closely related to it carries out business activities at the same location or at another location in the state. Furthermore, neither that place nor the other location shall constitute a permanent establishment for the project or the closely related project according to this Article. Also, the total activity resulting from combining the activities carried out by the two projects at the same place, or carried out by the same project or a closely related project at both locations, are not allowed to be of a preparatory or auxiliary nature. It is required that the business activities carried out by the two projects at the same place, or carried out by the same project or the projects closely related to it at both

locations, perform complementary functions as part of a coherent commercial operation.

5. Notwithstanding the provisions of Clause (2) and subject to the provisions of Clause (6) of this Article, if a person acts in the state on behalf of a project, that project is considered to have a permanent establishment in the state in relation to any activities that person undertakes on behalf of the project, if the person does any of the following:
 - a. Habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely entered into without significant modification by the project, whether these contracts are in the name of the project, or for the transfer of ownership, or for granting the right to use property of the project or that the project is entitled to use, or for the project to provide services. However, should the activities of that person be limited to those mentioned in Clause (3), then, if they were conducted through a fixed place of business that does not comply with the provisions of Clause (4), then that place will be not considered a permanent establishment per the provisions of the referred Clause.
 - b. Regularly maintains a stock of goods or merchandise within Qatar, from which goods or merchandise are regularly delivered on behalf of the project.
6. Notwithstanding the preceding provisions, and subject to the provisions of Clause (7) of this Article, when it pertains to insurance, except in relation to reinsurance, a foreign project is considered to have a permanent establishment in the state if it pays insurance premiums or insures against potential risks within the state through a person.
7. Clauses (5) and (6) of this Article are not applicable when the person representing the foreign project, engages in business within the state as an independent agent and conducts such business as part of their regular operations.
Nonetheless, if the person primarily represents one or several closely related projects, they will not be deemed an independent agent for those projects under this Clause..
8. If a company resident in the state controls, or is controlled by, a company resident in a foreign country, or conducts its activities in that foreign country (whether through a permanent establishment or otherwise), this in itself does not make either of the companies a permanent establishment of the other.
9. For the purposes of this Article, a person or a project is closely related to another project if one has control over the other, or if both are under the control of the same persons or projects.
In all cases, a person or a project is considered closely related to a project according to the following:
 - a. If one directly or indirectly owns more than 50% of the beneficial ownership rights in the other (or in the case of a company, more than 50% of the total

voting rights and value of the company's shares or of beneficial ownership rights in the company).

- b. If another person or project directly or indirectly owns more than 50% of the beneficial ownership rights (or in the case of a company, more than 50% of the total voting rights and value of the company's shares or of beneficial ownership rights in the company) in the person or project, or in both projects.”

Article 2:

1. “Interests and banking returns, as stipulated in Article 4, Clause 2 of the Law, include income earned by a natural person from savings and deposit accounts and other investment instruments at banks, including Islamic banks.
2. Interests and returns on public debt securities and Islamic financial securities and bonds of public bodies and institutions, as stipulated in Article 4, Clause 3 of the Law, include profits derived from the disposition of these securities and bonds.
3. In applying the provisions of Article 4, Clause 4 of the Law, the term 'real estate and securities related to assets of a taxable activity' refers to those belonging to the assets of the taxable activity conducted by the taxpayer. This includes securities, shares and bonds of Qatari joint-stock companies and any other securities authorized for trading, and other investment instruments, and the like according to the provisions of current legislation.
4. For the purposes of applying Article 4, Clause 5 of the Law, in the event of a breach of any of the conditions stipulated in that Clause, the capital gains arising from the revaluation of the company's assets are taxable beginning from the year the exemption is utilized.
5. For the purposes of applying the provisions of Article 4, Clauses 6 and 7 of the Law, the following conditions are required:
 - a. The project must pay tax abroad on capital gains or directors' fees and other similar payments.
 - b. The project must meet, when appropriate, the material activity requirements stipulated in the Law and the decisions issued in implementation thereof and this regulation.
6. The exemption stipulated in Article 4, Clause 8 of the Law includes the surplus distributed by the liquidator to the partners after paying off the company's debts and returning to them the cash value of their shares of the capital, taking into account the provisions of sub-Clauses (a) and (b) of the referred Clause.

7. . For the purposes of Article 4, Clause 9 of the Law, 'machinery' refers to the tools and equipment used to produce the final product, and does not include small, handheld tools and equipment used to facilitate or complete a craftsman's work.

The average number of workers during the tax year is calculated by adding the number of workers multiplied by the number of days this number was provided and dividing the result by three hundred and ninety days. Facilities used solely for storage are not considered when calculating the number of facilities through which the activity is conducted.

8. The exemption stipulated in Article 4, Clause 10 of the Law, applies to the total income arising from agricultural and maritime fishing activities, and does not apply to any industrial or commercial activity that complements or is related to these activities.
9. For the purpose of applying Article 4, Clause 11 of the Law, the income tax exemption applies to profits earned in the state by an air or maritime navigation company resident in another country, arising from the operation of aircraft or ships in international transport, to the extent that a Qatari navigation company is exempt from tax in that country on its profits arising from the operation of aircraft or ships based on the nature of the activities generating those profits. This is based on a certificate issued by the tax authorities of that country or a mutual exemption agreement.
10. The exemption stipulated in Article 4, Clause 13 of the Law is granted provided that:
 - a. The legal person is a resident in the state.
 - b. The legal person keeps accounting books in accordance with the accounting standards in force in the state.
 - c. Qataris are residents of the state.
 - d. Qataris are the beneficial owners of the legal person.
 - e. Qataris own the entire capital during the accounting period in which the exempt income was earned.
11. The exemption stipulated in Article 4, Clauses 4 and 14 of the Law, is granted provided that the persons are residents in the state.
12. The exemption stipulated in Article 4, Clause 14 of the Law is granted under the following conditions:
 - a. The legal entity eligible for exemption and the legal entities mentioned in paragraphs (b) and (c) of Article 4, Clause 14 of the Law must keep accounting books in accordance with the accounting standards in force in the state.

- b. The persons owning the exempt profit shares must be residents in the state and must own them throughout the accounting period in which the exempt income was earned.
 - c. The natural Qatari persons must be the direct owners and beneficiaries of the legal entity mentioned in paragraphs (b) and (c) of Article 4, Clause 14 of the Law.
- 13. For the purposes of applying Article 4, Clause 16 of the Law, the exemption does not apply to the share of the non-Qatari investor, with respect to their share in the profits of companies owned by the company whose shares are traded in the financial market within the state.
- 14. The same exemptions apply to citizens of the Gulf Cooperation Council (GCC) states, according to the regulations prescribed for Qatari citizens under Article 4 of the Law, and Law No. 9 of 1989 concerning the Equality of GCC Citizens in Tax Treatment.”

Article 7:

- 1. “Subject to the provisions of tax treaties, if a foreign project conducts business in the state through a permanent establishment located there, the profits of the project are taxable in the state, but only on the portion attributable to the following:
 - a. The referred permanent establishment.
 - b. Sales in the state of goods or merchandise of the same or similar kind as those sold through that permanent establishment.
 - c. Other activities conducted in the state of the same or similar kind to the activities carried out through that permanent establishment.
- 2. Subject to the provisions of Clause (3) of this Article, if a foreign project conducts business in the state through a permanent establishment located there, the profits that are expected to be generated if it were a distinct and separate entity engaged in the same or similar activities under the same or similar conditions and dealing completely independently with the project that is considered to have a permanent establishment for it, must be attributed to that permanent establishment.
- 3. When determining the profits of the permanent establishment, deductions are allowed for expenses incurred for the purposes of the permanent establishment's business, including executive and general administrative expenses incurred, whether in the state or elsewhere.

However, exceptions are made for amounts paid by the permanent establishment (other than the reimbursement of actual expenses) to the project's headquarters or any of its other offices as royalties, fees, or similar payments for the use of patents or other rights, or as commissions for specific services provided or for management, or

as interest on funds lent to the permanent establishment, except in the case of a banking project.

Also, when determining the profits of a permanent establishment, amounts imposed by the permanent establishment (other than the reimbursement of actual expenses) on the project's headquarters or any of its other offices as royalties, fees, or similar payments for the use of patents or other rights, or as commissions for specific services provided or for management, or as interest on funds lent to the headquarters or any of its other offices, except in the case of a banking project, are not considered.

4. For the purposes of applying this Article, the profits attributed to the permanent establishment are determined in the same manner year after year, unless there is a justified and acceptable reason for doing so following a different type of procedures.”

Article (37 Clause 3):

3. “The Authority has the right to obtain information and documents for the purpose of conducting a tax inspection, or for the purpose of exchanging them with the competent authorities in other countries, in accordance with tax treaties and agreements related to administrative assistance and exchange of information for tax purposes.

The Authority is entitled to obtain information and documents from any person in the state who possesses or controls such information, even if there is a legal obligation on this person to maintain the confidentiality of the information.

Information is deemed to be under the control of a person if they have the legal right, authority, or ability to access the information or documents in possession of another person.

It is not required for the Authority to obtain information and documents intended for exchange with the competent authorities in other countries to:

- a. Need them for its own tax purposes,
- b. Conduct an examination of the taxpayer who possesses or controls that information, or who is concerned with that information,
- c. The acts about which information is sought to be criminal in the state. The competent authority has the right to obtain information, for the purpose of exchanging it with the competent authorities in other countries, on all tax matters, including information related to criminal tax matters.”

Article (37 Clause 4):

4. “Companies and other legal entities whose main headquarters or actual management location is in the state must, upon request by the Authority, provide information identifying their legal owners and beneficial owners, including information about persons on whose behalf the legal owners act as agents, or under any similar

arrangement, and information about persons in a chain of intermediary entities between the company or other legal entity concerned and the beneficial owner. Companies established according to the laws of the state or operating within it must, upon request by the Authority, provide information identifying their partners and beneficial owners.

Trusts established according to the laws of the state, managed in the state, or whose trustee or agent resides in the state, must, upon request by the Authority, provide information about the beneficial owners including the identity of the settlor or founder, the trustee or guardian or agent, the protector (if any), all beneficiaries or categories of beneficiaries, and any other natural person exercising actual control over the trust.

Non-profit organizations must provide the competent authority with information identifying their founders, board members, beneficiaries (if any), and any beneficial owners or persons who have the authority to represent them.

The information provided by entities and legal arrangements about the identity of their legal owners and beneficial owners must be adequate, accurate, and up-to-date. Entities and legal arrangements must maintain reliable accounting records according to the accounting rules adopted in the state, and must provide the related accounting information to the competent authority, if requested.

The accounting records must correctly reflect all transactions and sufficiently identify the financial position of the entity or legal arrangement at any time, and allow for the preparation of financial statements.

The accounting records must include original documents such as invoices and contracts, and must reflect details of all amounts received or paid and their purposes, all sales and purchases, and other transactions, as well as the assets and liabilities of the entity or legal arrangement.

Financial institutions must provide the competent authority, upon request, with information about the financial accounts they maintain for all account holders.

This financial information is to include all records related to financial accounts, as well as relevant transactions, including information concerning the legal owners of the accounts and the beneficiaries.”

Article 51

“All Qatari projects must carry out a substantive and material activity and have a real presence in the state. Residents in the state are not allowed to facilitate structures or arrangements aimed at achieving profits that do not reflect a substantive and material activity in the state.”

Article 2

The following two Clauses are added to the Executive Regulations of the Income Tax Law referred to herewith:

Article (26 Clause 6):

6. “The provisions of registration and notification contained in Article 10 of the Law apply to foreign projects conducting the activities specified in Clause (3) of Article (1) of these Regulations.”

Article (23 bis):

1. “Article (11 bis) of the Law applies to any project that meets the following criteria:
 - a. More than (75%) of the project's revenues in the previous two financial years are from the relevant income specified in Clause (3) of this Article.
 - b. More than (60%) of the book value of the project's assets are located outside the state in the previous two financial years, or more than (60%) of the relevant income for the project is realized or paid through transactions with foreign entities.
 - c. The project has outsourced the management of daily operations and decision-making on key functions in the previous two financial years.
2. To the exclusion of the provisions of Clause 1 of this Article, the provisions of Article 11 bis of the Law do not apply to the following projects:
 - a. Companies or entities that have transferable securities which have been accepted for trading or listed in a regulated financial market.
 - b. Licensed financial institutions.
 - c. Projects whose main activity is owning shares in businesses in the state, provided that the beneficial owners are also residents for tax purposes in the state.
 - d. Holding companies that are tax residents in the state, provided that the partners, shareholders, or the ultimate parent entity are tax residents in the state.
 - e. Projects that have at least five full-time employees who exclusively conduct the income-generating activities relevant to the income.
3. For the purposes of Clause 1 of this Article, "relevant income" means income that falls under any of the following categories:
 - a. Income from immovable property.
 - b. Dividends.
 - c. Interest.
 - d. Royalties
4. Any project that meets the criteria set forth in Clause (1) of this Article must disclose to the Authority, in the annual income tax return, for each financial year, whether it meets the following minimum substantive and material activity indicators:

- a. It has a dedicated headquarters in the state, which it owns or uses exclusively.
- b. It has at least one active bank account in the state.
- c. It has one of the following indicators:
 - 1) One or more directors of the project are tax residents in the state, authorized to make decisions regarding the activities generating relevant income for the project or concerning the project's assets, actively and independently uses the mentioned license regularly, and is not an employee or director of another project that is not a related project.
 - 2) The majority of the full-time employees in the project are tax residents in the state of Qatar.

Article 3

Clauses (2) of Article (10) and (4) of Article (50) of the Executive Regulations of the Income Tax Law referred to herewith are hereby repealed.

Article 4

All competent authorities, each within their jurisdiction, shall implement this resolution, which shall be effective from the day following its publication in the Official Gazette.

Mohammed bin Abdulrahman bin Jassim Al Thani

Prime Minister

**WE HEREBY APPROVE THIS RESOLUTION AND ENDORSE ITS
PROMULGATION**

**TAMIM BIN HAMAD AL THANI
EMIR OF THE STATE OF QATAR**